

# The Shape of You, or in Other Words, why Teach Entrepreneurial Awareness as a Clinical Attribute?

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## Abstract

Commercial law clinics are not a new phenomenon, and indeed in this very journal reports and academic commentary have been presented which identify and explore the nature, formation and operation of such clinics.<sup>1</sup> However, these contributions focus on how clinics and their student volunteers can help commercial enterprises and start-up ventures with various legal issues they may encounter. Clearly, the need for such clinics and the value they provide to the students and community are immense. Where the clinical offer outlined in this report differs, and on which we hope a meaningful contribution to the body of scholarly knowledge is made, is in using a clinic setting with a simulated corporate client to operate two (elective)

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<sup>\*</sup> The authors would like to thank the reviewers for very helpful comments and advice in a previous draft of this report. Errors and omissions remain our own.

<sup>1</sup> See Collins, D., Klotz, E., & Robinson, B. (2016). Start-Ed: A Model for Commercial Clinical Legal Education. *International Journal of Clinical Legal Education*, 23(5) <https://doi.org/10.19164/ijcle.v23i5.566>.

modules that enable the students to gain a thorough appreciation of those issues which underpin the formation and operation of a corporate structure. A simulated law firm is the setting through which the modules operate, albeit most of the tasks and issues raised in the modules would equally apply to other professions. By using the simulated client approach we are able to guide the students in helping navigate the client through every aspect of the journey of the business – its inception, the legal sector in which it will operate, its mode of incorporation, its clients and the generation of business, legal policies and issues likely to be faced in respect of running a business, its marketing and advertisement, professional body regulation and compliance, the financing of the business, and an appreciation of the stakeholders (and underlying philosophies) with whom the business and its personnel will engage. This clinical perspective allows the students to proactively develop strategies to navigate the owner through myriad complexities, whilst gaining valuable feedback regarding the efficacy of their decision-making and being empowered to adopt revisions to accommodate numerous changes in the professional, legal and financial environments. The main aim of this clinical experience (which we describe in Section 3) is to develop in the students a commercial awareness and understanding of what is required to be an entrepreneur in a modern legal service setting. This requires moulding their ‘shape’ as a legal graduate.

## 1. Introduction

Law students in the UK have largely been freed from the constraints of the qualifying law degree and associated issues during the 'academic stage' of their education, at least with regards to their choice of subject/module learned and work-based learning opportunities in the curriculum. This has had, albeit recent, implications for both the students and educators. Education institutions have been provided with the scope to be considerably more creative about their offer to students,<sup>2</sup> resulting in modules which focus on the potential 'shape' of graduates.<sup>3</sup> The 'shape of lawyers' as graduates generally refers to their skills, and in particular their understanding of commercial and entrepreneurial matters, along with an appreciation of law firms as businesses. Obviously, commercial awareness underpins all business operations; knowledge of the environment and of the clients, competitors and social, economic and technological dimensions are all factors which impact upon a business and its decision-making. Yet it has not always been clear that law students and those who graduate and proceed (at least until recently) to the 'practice' component of their education through the Legal Practice Course, were particularly well versed of this aspect of law firms to whom they sought training contracts and/or employment.<sup>4</sup>

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<sup>2</sup> See Bowyer, R. (2019). Regulatory Threats to the Law Degree: The Solicitors Qualifying Examination and the Purpose of Law Schools. *Law and Critique*, 30(2), 117.

<sup>3</sup> Madison, M. (2020). The Shapes and Letters of the Modern Lawyer. *Future Law Works*. <https://madisonian.net/2020/08/03/the-shapes-and-letters-of-the-modern-lawyer/>.

<sup>4</sup> Baird, N., & Caldwell, J. (2016). How 'Work-Ready' are Today's Law Graduates? The Views of 15 City Employers. *New Zealand Law Journal*, 10, 390.

Despite the significance of commercial awareness as a desirable quality from the perspective of both employers and graduates,<sup>5</sup> it has often been omitted as a discrete module or an aspect of compulsory training in undergraduate law courses.

This is not to say that universities have excluded such courses from the reach of students,<sup>6</sup> rather many universities direct students to dedicated employability directorates<sup>7</sup> or identify the significance of an understanding of commercial awareness following formal study of a law degree and/or following graduation.

Leaving this important skill to a student when applying for employment or preparing for a job interview is wrong. It leaves the student/graduate with a gap in their performance which great knowledge of their discipline or a fundamental understanding of legal principles, theory and doctrine may not remedy.

It is necessary at this point to acknowledge that universities will often teach commercial law as a discrete topic through an elective module. However, this is based on the legal issues affecting businesses and does not, of itself, intend for the personal development of commercial awareness of those students studying this topic. Law clinics in the university sector in the UK will ensure their students have access to the fundamental lawyering skills including advocacy, interviewing, mooting

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<sup>5</sup> And certainly beyond graduates who intend to practise law given the majority of law graduates gain employment outside of this job-type.

<sup>6</sup> A commercial awareness module has been delivered at the University of Birmingham as part of its Personal Skills Award.

<sup>7</sup> University College London and University of Bristol have dedicated career resources portals to which students are directed.

and negotiation, leaving wider skills' development available through experience in pro bono law clinics.<sup>8</sup> Here, any commercial awareness the students derive would depend on the nature of the clinic itself,<sup>9</sup> the direction afforded to the programme through the supervisors, and the serendipity of particular aspects of commercial awareness inherent in the clinical provision transferring to the student through some form of legal osmosis. But these skills, whilst of course being of the upmost value to students in their development, are not the same as commercial awareness. Knowing how to interact with clients, to gain relevant information and being able to tease out the relevant information whilst maintaining the trust and confidence of the client<sup>10</sup> is not the same as a sectoral appreciation of the law firm and its geographic and intellectual purview. What is being discussed in this practice report is how we have taught and delivered law modules for students studying a law degree which is fundamentally concerned with developing knowledge and appreciation of the commercial dimension to law firms as a business.

## **2. What's in a shape?**

The title of this practice report is largely based on the work that has been undertaken previously by lawyers such as Peter Connor, who, since 2015, has embarked on a campaign of educating future lawyers and educationalists to prepare future lawyers

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<sup>8</sup> Wizner, S. (2000). Beyond Skills Training. *Clinical Law Review*, 7, 327.

<sup>9</sup> Pozios, J. (2013). Clinical Business Law Programs at Robson Hall. *Manitoba Law Journal*, 37, 497.

<sup>10</sup> Kiser, R. (2017). *Soft Skills for the Effective Lawyer*. Cambridge University Press, Cambridge UK.

for their careers. In a blog contribution written in 2020,<sup>11</sup> Connor identifies aspects to his career, which aided his success, yet were a consequence of opportunity, and had been amassed through experience. In a quite unstructured manner, the key elements of acting as a lawyer requires legal knowledge and legal skills; these are the primary requirements of any successful lawyer. Yet lawyers must be so much more rounded to be successful, whether in practice, or indeed in particular where they intend to establish their own business and deal directly with numerous stakeholders. This will entail many non-legal skills such as understanding business, partnerships, change management processes, and continuous improvement cycles. These have regularly been referred to as 'soft skills.' It is possible that such a term was not meant in the derogatory sense, yet its very nature tends to suggest that these are of lesser importance or they are skills which are not as necessary as the 'proper training' of a lawyer.<sup>12</sup> That being said, it is also true that several of the hard and soft skills of a lawyer overlap – negotiation, conciliation, the ability to effectively and actively interview and take and receive instruction are all aspects of the legal profession, which we would expect graduate lawyers to possess. Further, and as part of the graduates' continuing professional development are requirements to re-skill, up-skill, to develop new competencies and to ensure that these take place not only for career

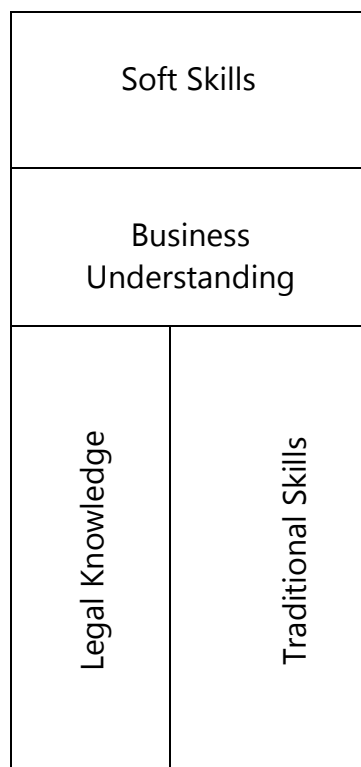
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<sup>11</sup> <<https://www.legalbusinessworld.com/post/the-shape-of-lawyers-in-the-future-t-o-or-delta>>.

<sup>12</sup> A matter discussed broadly in Lloyd, R. M. (2004). Hard Law Firms and Soft Law Schools. North Carolina Law Review, 83, 667.

survival, but also for career progression.<sup>13</sup> These factors bring us to the issue of how best to prepare lawyers for practice in the future. Training is available for lawyers for many of the skills which would come under the remit of soft skills, and some universities have begun to offer formalised unstructured training through module and credit bearing course assessments. However, it is worth identifying in the first instance, the recognised alphabet of shapes that have emerged over the recent past regarding our non-legal skills and how best to incorporate these in the lawyer of the future. The first is the 'I' shaped lawyer.

Figure 1: The 'I' Shaped Lawyer



<sup>13</sup> Legg, M. (2021, November). Legal Regulation in a Changing World. In Opening Keynote, 2021 Conference of Regulatory Officers (Vol. 8, pp. 21-68) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3961101](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3961101)>.

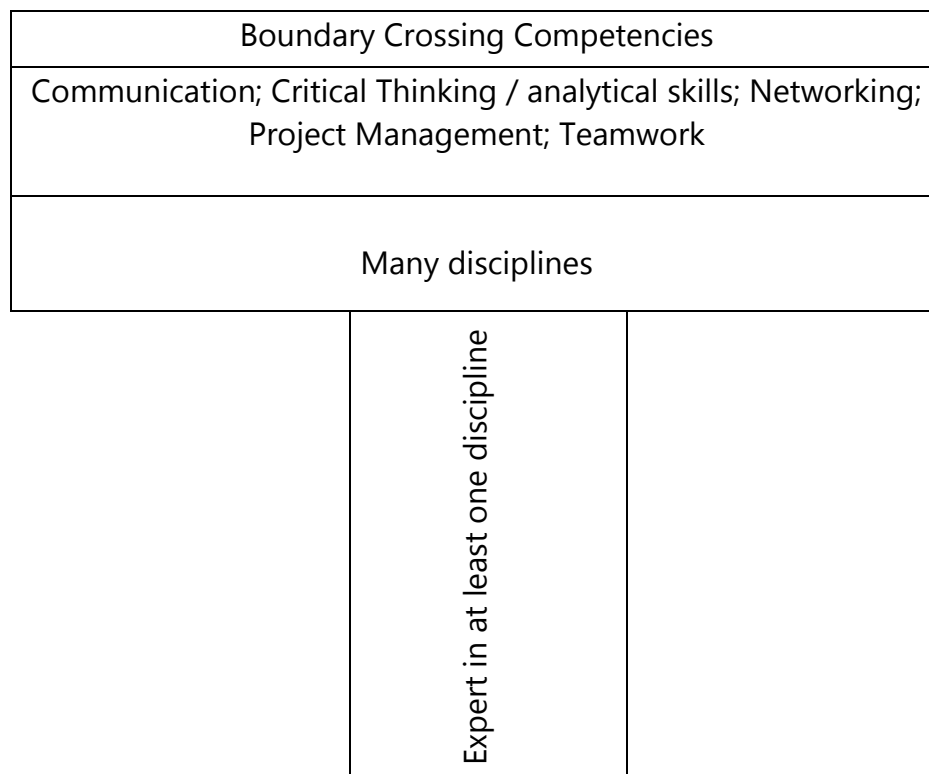
This model has been widely identified as encompassing the majority of professional lawyers, and indeed other professionals, where the lawyer in our case, has a specialism, an established expertise in a specific area, but little knowledge, experience, or indeed skills outside of this specialism. This is not uncommon with lawyers, and indeed for academic lawyers it has often been touted as a means of establishing oneself in a particular field to gain notoriety or acceptance as the leading expert in a particular area or jurisdiction of law. Many barristers, and academics with desires to hold chairs in universities, have spent careers developing a niche area to which they are an established expert, and these dominate the type of lawyer they are. The legal knowledge and skills as a lawyer establish the majority of their professional make-up, with soft skills and business knowledge accounting for a considerably smaller proportion of their professional 'self.' Where this has become a problem for businesses is in the skills and knowledge possessed by a team, and of the individuals within such teams, to be able to work collaboratively, to innovate, and to solve problems faced by their organisation, and, naturally, the clients. Such broader thinking, and the ability to problem-solve and to be intellectually and organisationally agile may be lost if too many key personnel are 'I' shaped.

Thus was born, the 'T' shaped lawyer, who, as Figure 2 demonstrates, possesses a deep expertise in one particular area, but also a broad range of skills and competencies. The soft skills of teamwork and communication, critical thinking and



project management are exhibited. Further, an awareness is present, not as deep as their subject expertise but sufficiently broad to appreciate the nuance and linkages between these different areas, to produce a more holistic lawyer, who is adaptable, resilient, and able to acclimatise to changes in a fast, developing economy and industry.

Figure 2: The 'T' Shaped Lawyer



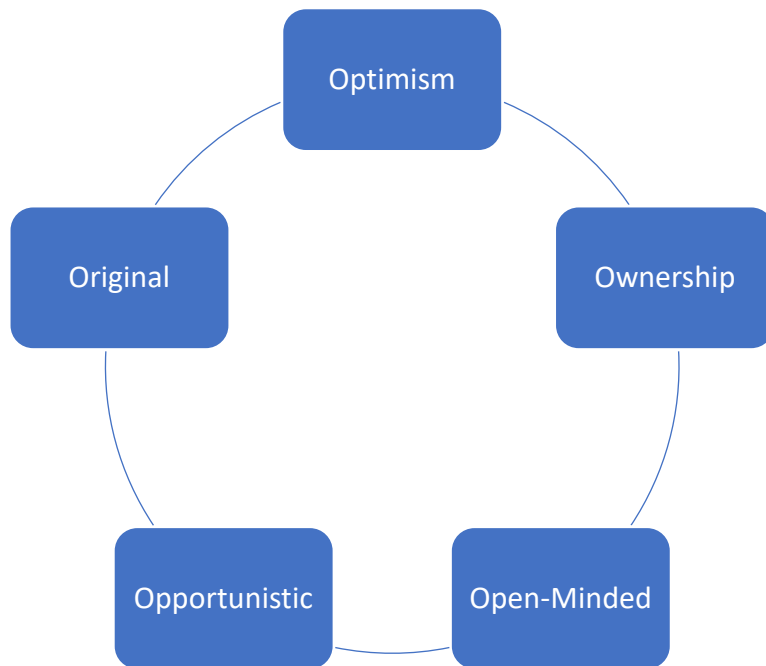
Perhaps what is interesting about this development is the natural metamorphosis from the 'I' shaped lawyer to the 'T' shaped professional where the broadening of key skills is quite evident and easy to conceptualise. The use of the term 'T' shaped

lawyer is also adopted quite broadly simply because it is used in many other professions (and hence is valuable to law graduates who consequently work in other professions), and this has the significant advantage of demonstrating how lawyers can work with professionals in other fields who will recognise the range of skills possessed. The interchangeability of each makes integration into those teams and across disciplines so much more fluid and effective, particularly when we think of the next phase of lawyer and legal service across England and Wales with the development of the Solicitors Qualifying Examination (SQE), the Legal Services Act 2007 and the advent of Alternative Business Structures. Moving forwards, law firms as legal businesses are much more than simply law firms, rather they may offer a range of professional services which would have been much more difficult to envisage as a reality, perhaps even as recently as 20-years ago.

Ultimately, Connor identified a framework through which lawyers could be trained for the key skills that are necessary between legal teams, firms and individual lawyers. This framework is interesting, and whilst the training we have provided in our modules is not specifically based upon this framework – indeed, we have only come to identify this framework specifically after running modules for the previous three years – it does resonate with much of the work that we have done to establish commercially-minded lawyers and entrepreneurial legal professionals upon graduation.

More recently, a further shaped lawyer has emerged.

Figure 3: The 'O' Shaped Lawyer



The 'O' shaped lawyer is an idea of developing a well-rounded lawyer, a person who is trained beyond the technical legal skills, but one through which the legal profession 'will provide its customers with a better service in a more diverse, inclusive, and healthier environment'.<sup>14</sup> This too has led to the formation of a framework (see Figure 3) which has found its identity in the training for the SQE. The framework will enable lawyers to develop 'O' behaviours by having a proactive mindset with legal, business and customer knowledge and skills. To this end the

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<sup>14</sup> <<https://www.oshapedlawyer.com/overview>>.

programme operates around five mindsets. The first is optimism, where, it is explained, historically lawyers have been trained in a traditional manner to find faults and problems – essentially they are programmed to critically analyse scenarios, but in so doing are not necessarily trained with a positive mindset.<sup>15</sup> The optimism 'O' is designed to relocate a lawyer's mindset instead of as a 'blocker' to more of a business partner.<sup>16</sup> The second 'O' is ownership where lawyers will be trained to take accountability for the outcomes of decisions rather than being seen as a distant provider of advice. The third element is to be open-minded, where the lawyer will adopt a growth-mindset, rather than the typical defensive and fixed mindset in respect of practising law. Opportunistic is the fourth element, and here traditional risk avoidance is removed and the lawyer will identify and focus on business opportunities rather than the avoidance of the risks associated with new ventures. They thereby adopt an entrepreneurial spirit.<sup>17</sup> The fifth 'O' is for the lawyer to be original, meaning changing the traditional perspective instilled in students' training, exemplified in the study of judicial precedent, which has had the effect of establishing lawyers as backwards-looking professionals. This final element of the O-shaped lawyer again seeks to establish lawyers as creative, innovative and problem-solving members of a team.<sup>18</sup>

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<sup>15</sup> Stout, R. L. (1910). Where the Law Fails. *Law & Banker & Bench & Bar Review*, 3, 102.

<sup>16</sup> Markfort, R. (2017). Legal Advisor–Service Provider–Business Partner: Shifting the Mindset of Corporate Lawyers. In *Liquid legal* (pp. 47-58). Springer, Cham, Switzerland.

<sup>17</sup> Jones, S. R. (2007). Supporting Urban Entrepreneurs: Law, Policy, and the Role of Lawyers in Small Business Development. *Western New England Law Review*, 30, 71.

<sup>18</sup> Menkel-Meadow, C. (1999). The Lawyer as Problem Solver and Third-Party Neutral: Creativity and Nonpartisanship in Lawyering. *Temple Law Review*, 72, 785.

The framework is supplemented by the establishing of various skills at the training stage for lawyers. Lawyers should be adaptable and they need to have the skills to thrive in emerging and developing environments throughout their legal career.<sup>19</sup>

Hence the lawyer of the future should have courage and the skills to take action in the face of uncertainty; resilience in respect of setbacks and disappointment, with the ability to recover quickly and to learn lessons in a positive manner; to be able to receive feedback and to use this with a constructive mindset for improvements to future practice; and have an ability to seek to develop new skills and techniques through a process of continuous learning. Lawyers should also be trained to build relationships and these long-term connections need to be made with a wide range of people.<sup>20</sup> Of course, networking and relationship building is not a particularly new facet of developing a legal career. Indeed, many universities devote significant resources to enable undergraduate and postgraduate law students to network with a range of professional contacts within the legal community. Where this training scheme differs slightly is in the range of professionals with whom the future lawyer should have an ability to network. This requires empathy training, where the lawyer can understand the perspectives and agendas of others – not restricted to other

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<sup>19</sup> Menkel-Meadow, C. J. (2012). Too Many Lawyers? Or Should Lawyers be Doing Other Things? *International Journal of the Legal Profession*, 19(2-3), 147.

<sup>20</sup> Freeman, A. (2015). Teaching for Change: How the Legal Academy Can Prepare the Next Generation of Social Justice Movement Lawyers. *Howard Law Journal*, 59, 99.

lawyers.<sup>21</sup> They should be able to influence the actions and mindsets of others and to communicate their message to a variety of audiences and to collaborate effectively with people from various teams and on the basis of short, medium and long-term goals. Finally, the future lawyer will be required to create value through their skills as a lawyer and through legal initiatives.<sup>22</sup> Legal challenges will always be present in business opportunities, yet the lawyer should have the capacity to see the opportunity in respect of the challenges, to identify problems and to be able to provide a legal solution.<sup>23</sup> Hence, they combine their business and entrepreneurial acumen with their understanding and knowledge of the law and legal processes. Through synthesising these challenges and their place within processes, the lawyer will be able to simplify complexities and understand and communicate these most critical of elements into an understandable form, depending upon the audience.

The most recent model that has emerged and been applied to lawyers is that of 'Delta' which, based on a series of empirical studies, and across a range of professions<sup>24</sup> – not simply lawyers – will produce a competency model that can be used by anyone in the law firm, regardless of the stage of their career and whether they act in a legal or non-legal capacity.

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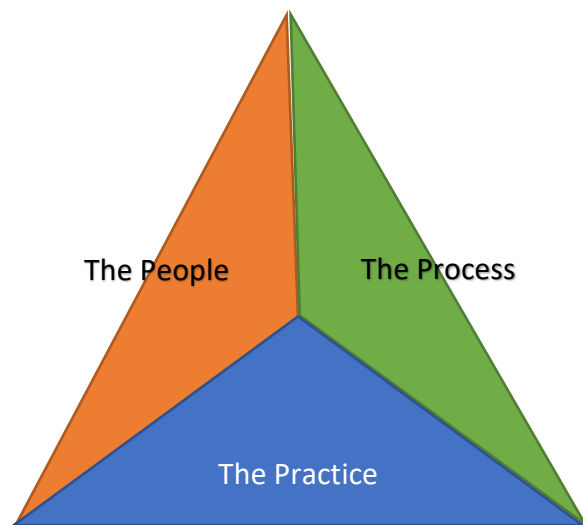
<sup>21</sup> Fletcher, L. E., & Weinstein, H. M. (2002). When Students Lose Perspective: Clinical Supervision and the Management of Empathy. *Clinical Law Review*, 9, 135.

<sup>22</sup> Gilson, R. J., & Mnookin, R. H. (1995). Foreword: Business Lawyers and Value Creation for Clients. *Oregon Law Review*, 74, 1.

<sup>23</sup> Brest, P., & Krieger, L. H. (1999). Lawyers as Problems Solvers. *Temple Law Review*, 72, 811.

<sup>24</sup> Hax, A. C., & Wilde II, D. L. (1999). The Delta Model: Adaptive Management for a Changing World. *MIT Sloan Management Review*, 40(2), 11.

Figure 4: The Delta Model



The Delta model was created in response to the 'T' shaped lawyer model, which it was felt lacked the people dimension/personal effective dimension. It is arguable whether this was actually a feature lacking in the previous model development, and indeed Connor refers to such a dimension being present in his 'boundary crossing competencies' aspect of his 'T' shaped lawyer framework.

A simplified understanding of the Delta model identifies people competencies as being the first aspect of skills development. Here the lawyer (in our case) will develop an understanding of business, collaboration, communication, emotional intelligence and creative problem-solving.

They will develop an entrepreneurial mindset, adopt a human centred design, and understand their role in leadership and relationship management. Hence, the lawyer of the future will possess accountability, common sense, integrity and

professionalism, they will be possessed of active listening and conflict resolution skills. They will be able to undertake change management and persuasive communication, they will have self-awareness and self-regulation, and they will be adaptable and proactive in their problem-solving. Further, they will take initiative in strategic planning, they will possess curiosity and be able to provide and to receive feedback along with their role in developing others through coaching. Secondly, the Delta model identifies process competences such as business development, data analytics, process design, improvement and delivery, and project management along with an understanding and use of the technology underpinning these. Finally, there are practice competences whereby the lawyer will revert to the skills that underpin legal training – case analysis, issue identification, critical legal analysis, sound legal judgement, research, legal writing and a subject-matter expertise.<sup>25</sup>

Having identified the various models it is perhaps relevant at this stage to identify which model might fit best to a lawyer with the intention to proceed to a commercial and/or entrepreneurial career. It is first only reasonable to identify that the T shape lawyer is the most established and developed of the models explained in this piece. The O shape and the Delta frameworks are still being developed by various parties, and this requires refinement and empirical assessment following the development and rollout to identify successes and areas where further work is needed. Indeed, the

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<sup>25</sup> Carrel, A. (2018). Legal Intelligence Through Artificial Intelligence Requires Emotional Intelligence: A New Competency Model for the 21st Century Legal Professional. *Georgia State University Law Review*, 35, 1153.



skills and competencies identified in the Delta model are very wide-ranging and it may be quite conceivable that developing such skills to a sufficiently high standard may require several years of experience and be beyond the ability of the most committed training phase at undergraduate and postgraduate levels. Perhaps the most compelling aspect of Conner's own assessment of his T-shaped lawyer framework is the movement away from digital transformation which appears to be so in vogue with current understanding of legal training and the future of legal work.<sup>26</sup>

The development of the lawyer as a person, their human transformation in establishing a comprehensive idea of skills, competencies, capabilities, knowledge, mindset, and vision is what is so remarkable about this transformation in legal education. Again, this is not to say that some of these features were not present in traditional legal training, nor could it possibly be argued successfully that educators did not already identify many of these traits as being worthy of discussion, reproduction and indeed assessment within the various modules and courses offered to law students these past several decades. Why this is so important as a framework currently, is because of the formal and explicit recognition of the need to develop a framework around which legal training and instruction will take place. These are not competencies and skills which will be developed in an ad hoc manner or as part of some specific module to be passed and then resigned to a folder in the student's portfolio. Rather the entire course, the entire training and instruction of the students

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<sup>26</sup> Janoski-Haehlen, E. (2019). Robots, Blockchain, ESI, Oh My!: Why Law Schools Are (or Should Be) Teaching Legal Technology, *Legal Reference Services Quarterly*, 38:3, 77, DOI: [10.1080/0270319X.2019.1656456](https://doi.org/10.1080/0270319X.2019.1656456).

should be based around the skills and they should be central to the lawyer as being part of a business, not merely that aspect of a business which provides details and understanding and guidance as to the legal parameters in which a particular course of action may or may not be taken. They are central figures who work cooperatively with the entrepreneurs, technicians, managers and employees to bring to life the business opportunities available in the new century, which has been marked thus far by uncertainty, crises and a fundamental need for agility and creativity – along with a positive and forward-looking mindset.

### **3. Teaching Law as a Business through Elective Modules**

In considering how we can shape the future education of law students and prepare them better for careers in commercial and entrepreneurial enterprises, we began with a consideration of the key factors that future graduates should possess. For law firms, commercial awareness is a much sought-after skill<sup>27</sup> and an area which can often be neglected by students who have, for the previous three/four years of academic study, concentrated on the minutiae of legal texts, judgments and solving practical problems of fictional scenarios in seminars. It might only be after this period of study that they truly begin to focus on employment and what skills and graduate attributes the employer may want. Even in a traditional law clinic setting, many of the

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<sup>27</sup> McConnell, S. (2022). A Systematic Review of Commercial Awareness in the Context of the Employability of Law Students in England and Wales. *European Journal of Legal Education*, 3(1, June) 127.

discrete areas of legal advice provided surround issues of social justice and access to justice. Consequently, most do not focus on providing commercial advice or in helping to create entrepreneurial businesses – accepting of course that such dedicated and specific clinics, as we acknowledged at the start of this report, do exist and provide this very experience.

In order to provide the students with an appreciation of not only law firms and the legal sector as a business and profit-orientated enterprise, but also providing them with sufficient information so they can make an informed choice as to whether, with the broadening of access to legal services, they wished to establish a business in the legal sector, it had been contemplated at one of the authors' universities how this might be achieved. At the outset, modules were developed (broadly referred to here as 'Law as a Business') aimed at providing this very educational experience. These were rolled out, not only to law students studying for a traditional LLB award, but also to students studying in the business schools where such entrepreneurial endeavours had been well established – albeit perhaps not in such a clinical setting. The modules also would act as pilot data as to the efficacy of educating students in an (albeit simulated) entrepreneurial setting, pending conversations surrounding its inclusion at a more strategic and fundamental level in subsequent course programmes.

This led to the establishment of modules specialising in introducing the students to the most significant aspects of running a law firm as a business. The modules were delivered over two semesters to undergraduate law students in one module, and non-law students in the other module. In each, the students were tasked over the course of the semesters and in the formative assessment with assisting a simulated client from a small, high street law firm. The client required advice on a number of issues as outlined in the abstract of this report. A simulated client was used in this clinical programme given the advantages it gave to the teaching staff and the students in their pedagogic development. For example, using a simulated corporate client provides a controlled environment where legal and non-legal issues, designed to present students with specific challenges that align with the curriculum and learning objectives, are raised. Through this method, the teaching staff can ensure that the development of the T-shaped skills are identified, considered and tested. We did not have to wait until clients presented individual issues which aligned to these pedagogic criteria, thereby we avoided the unpredictability and complexities that come with real clients. Further, we were able to monitor the progress of the students whilst ensuring that each student received the same opportunities to learn and practice essential skills.

An important aspect of the entrepreneurial nature of the modules was in the innovation in the creation, expansion and the exploitation of the resources of the simulated law firm. This method allowed us to focus on the interdisciplinary

dimension to the T shaped lawyer in the students' learning. We were able to incorporate elements from fields including finance, management, corporate governance, advertising and marketing. With real clients, such instances must be cautiously exercised based on the instructions of the client. Here we did not have to fear damaging the client's interests or breaching confidentiality. Students were allowed to exercise their freedom of creativity and to learn from their mistakes without any real-world consequences. For the students, this interdisciplinary approach helps stimulate a more comprehensive understanding of the legal and business landscape.

The modules go beyond seeking to produce the typical lawyer who would be expected to graduate with excellent legal knowledge, appropriate practical legal skills, and the ability to demonstrate transferable skills across a range of assessments and activities. Our students are exposed to the understanding of the legal profession in its business and entrepreneurial contexts – how law firms make money, how its personnel deal with internal and external factors that affect the firm and the people/organisations with whom they engage, how firms control their finances, how they advertise and promote their services, how they maintain their standing in the communities in which they are situated, what role law firms play (and can play) across entrepreneurial endeavours and across industries, and what can clients and the regulators reasonably expect from such a business. Thus were married together practical legal skills and commercial awareness, based on a series of in-class

workshops, independent research and wider reading, and access to experts who provide a real-world perspective on these factors.

Perhaps one of the greatest challenges to the students studying Law as a Business is the movement away from the typical academic, legal research focus that underpins much of the work to which they are exposed. Similarly, in other clinical modules to which the students had already been exposed, they would provide advisory services, and typically in the form of a letter of advice, to clients who present themselves seeking help. This in many ways limited the strategic development exercises regarding the students' individual learning – they helped clients who walked through the doors of the clinic. Where our Law as a Business modules are different is in the scaffolding of client issues including a board of directors and/or partners to whom the students were to offer advice and guidance. Hence, not only were there differences in the type of advice our clients required, but also the outputs of the students' work were focused at board and strategic levels, ensuring a more entrepreneurial mindset was used to creatively resolve issues between businesses, between the business and regulators, and in ensuring client satisfaction. Further, the students were also tasked with using these skills in one aspect of their summative assessment to pitch their own idea for a commercially-focused business. Here the students used their knowledge and the skills gained following interactions with colleagues, external experts, legal and non-legal research activities and the legal

sector to demonstrate the very T shaped lawyer skills necessary for a modern legal business concept.

#### 4. Embedding Legal Skills

Given that both the Solicitors Regulation Authority<sup>28</sup> and the Bar Standards Board<sup>29</sup> require lawyers to demonstrate a range of skills, these are incorporated into the modules to ensure the students can identify how they complement the T shaped lawyer being developed. Legal research is a central component in the modules, underpinning the students' appreciation of the broader range of contemporary and traditional academic skills needed for a modern entrepreneur/lawyer. The research is focused on issues affecting the legal sector, businesses and their operation, and how effective research and its critical analysis can not only lead to the correct identification of trends, issues and problems, but also the planning (such as through creating mind maps) which can provide a structure to help direct this research in the most appropriate way. We spend time with the students developing their research skills, especially the planning phase. Here the students learn the process of identifying and preparing research trails, noting the issue being researched, the reason and its importance, maintaining records of what has been found, where, the full sources, and assessing their reliability. This last stage is particularly important for

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<sup>28</sup> SQE 2 Assessment Specification, Solicitors Regulation Authority,  
<<https://www.sra.org.uk/sra/policy/sqe/sqe2-assessment-specification/>>.

<sup>29</sup> BPTC Syllabus and Curriculum, Bar Standards Board  
<<https://www.barstandardsboard.org.uk/uploads/assets/ae901caa-5529-45b4-9631e3ab9e8fad00/2019-20-BPTC-Syllabus-FULL-SYLLABUS-January-2020.pdf>>.

legal research where business/entrepreneurial matters are being assessed. This necessitates a much broader range of research sources than the typical legal databases and law reports materials the students are typically asked to use. When webpages, news reports, on-line commentary, and even information from law firm websites are accessed, the need to develop a keen eye to identify sources of potential bias and to ensure these are countered through wider reading and critical analysis are paramount. This skill has the ability to impact on the students' entire study of the law and something to which we have previously argued is missing in law-specific modules.<sup>30</sup> Students must be trained not to accept opinions, be they business-based or expressed by those interested in the legal professions, and this approach applies especially to legal opinions which should be assessed and critiqued to ensure full consideration to all sources is provided.<sup>31</sup> By avoiding the approach of replicating and simply reciting the opinions of others, the entrepreneur lawyer can add significant value as a business partner by being aware of legal opinions and laws, but by avoiding becoming entrenched in acceptance of the status quo. Encouraging

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<sup>30</sup> Marson, J., & Ferris, K. (2016). Delaney and the Motor Vehicle Insurance Directives: Lessons for the Teaching of EU law. *Law Teacher*, 51(4), 411.

<sup>31</sup> This is an approach we have adopted in our publishing. See for example Marson, J. & Ferris, K. (2022). When is an Insured Vehicle an Uninsured Vehicle? In *Colley v MIB the Court of Appeal Continues its Struggle with EU Motor Vehicle Insurance Law*. *Modern Law Review* <<https://doi.org/10.1111/1468-2230.12762>>; Marson, J., & Ferris, K. (2022). From Insurer of Last Resort to an Insurer of Convenience: The Court of Appeal and the Recanted Policy. *Law Quarterly Review*, 138, 546.



disruptive and challenging behaviours is a skill to be developed and nurtured, something we respectfully advance is not always evident in university courses.<sup>32</sup>

When analysing cases and wider business issues, the students are taught to use analytical tools to assess the impact both internal to the law-firm business and with its external environment. This instils in the students a need for careful and thoughtful consideration of the ways in which their decision-making can impact the business, understanding investigating matters from several angles and in respect of the various stakeholders to the business can ensure full consideration of the impact of decision-making has for a business. In this regard we ask the students to use analytical frameworks such as SWOT,<sup>33</sup> and PESTLE to ensure they have thoroughly assessed issues. SWOT is an analytical method which is adopted in the evaluation of the strengths, weaknesses, opportunities and threats within an organisation, an activity taking place within the business, and it can also be adopted for use in reference to plans, projects and even an individual. It has been used in the examination of resources, trends and patterns, and is extended to business strategies and organisational policies, albeit that the success and efficacy of a SWOT analysis rests with the quality and detail of the information and data used in the generation of

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<sup>32</sup> Ehtiyar, R., & Baser, G. (2019). University Education and Creativity: An Assessment from Students' Perspective. *Eurasian Journal of Educational Research*, 19(80), 113. Retrieved from <<https://dergipark.org.tr/en/pub/ejer/issue/43338/548913>>.

<sup>33</sup> See Leigh, D. (2009). SWOT Analysis. *Handbook of Improving Performance in the Workplace: Volumes 1-3*, 115.

results.<sup>34</sup> As such, its main deficiency is in the complexity of the problem, organisation or business structure itself, and that it is essentially inward focused and is prone to be implemented incorrectly resulting in poor, and potentially misleading, results.<sup>35</sup> Ultimately our students are exposed to the critical application of SWOT methods of analysis, they are provided with a simulated organisation through which they can assess a proposed strategy, they are tasked with exploring an inter-operability framework and then explaining how the conclusions drawn from this model can be used pragmatically to influence internal policies, strategies, and procedures.

From there we proceed with exposure to the PESTLE mode where students identify businesses as open systems, with subsystems and interrelationships between decisions and effects. Appreciating that law firms are businesses and their aim is to maximise profits, whilst also appreciating the value of the model for pro bono operations where the measurements will be focused on relevance, effectiveness and efficiencies. The value of PESTLE lies in its external focus and ensuring the students have an appreciation of the political, economic, social, technological, legal and environmental dimensions to the territories in which they exist and operate. This might also be applied to the macro environment, as well as the micro environment.

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<sup>34</sup> Gurel, E. (2017). SWOT Analysis: A Theoretical Review. *Journal of International Social Research*, 10(51), 994.

<sup>35</sup> Valentin, E. K. (2001). SWOT Analysis from a Resource-Based View. *Journal of Marketing Theory and Practice*, 9(2), 54.

Whilst political and legal elements should be quite familiar to students studying law and applying their practice in a legal clinic, it would not be uncommon for these same students to not fully appreciate the economic, social, technological and environmental factors which affect all businesses. Even the political and legal factors are considered from a different viewpoint when applied in a business or entrepreneurial perspective.

For example, through the most basic of modules where the English legal system is studied, students will appreciate the law-making system including Parliament, international treaties and the separation of powers. Yet through PESTLE, the political factors considered by the students include government policies and policy making, the impact of political leadership and change and the effect this can have for business planning and regional, national and international collaborations. There will certainly be foreign trade policies which can affect the application of goods and services, and there are policies, regulations and deregulation in areas including immigration, human rights, privacy, tax and safety which will affect businesses and through which they have, largely, little control.

In respect of legal factors, the students are exposed to laws and to providing advice in problem-based scenarios or in the critical assessment of the particular law in question through, for example, essay-based assessment, yet for businesses, Equality, Diversity and Inclusion, advertising standards, consumer rights, advertising, labelling

and consumer safety, health and safety and so on are all aspects of the business which need to be assessed before embarking on a course of action.

The four remaining elements of PESTLE require the students to think much more strategically about the business and environment in which they will be operating. Economically, current and projected growth, inflation, interest rates, employment and unemployment, labour costs, consumers and businesses as clients, changes in demographics, even the impact of globalisation are each assessed in respect of the business. This continues through the social factors which focus on demographics, client and consumer attitudes and opinions, buying patterns, living standards, population growth rates, and employment trends. The environmental factors not only include the environmental impact of the business and aligning the interests of clients and customers with those of the values of the business itself, but also access to materials, sustainability and carbon footprint targets and emissions all form part of the students' assessments. Technological factors for law firms are of saliency given the distribution of services which is the fundamental aspect of law firms as businesses, and it provides new ways of communicating with target markets and even the production of the particular service that is available. This has certainly come to the fore following the pandemic, forced lockdowns, and the new ways of working in the previously archaic legal service in the UK.

Having completed the research and analysis of the business matters, the students are instructed on the presentation of the results. Law students are typically taught how to advise on legal issues and apply the law to problem-based scenarios. In a clinical setting, students advise clients, and most commonly these are based on a social-justice issue (debt, employment, immigration and so on). In entrepreneurial clinics, the client for the students is markedly different and with different needs. Typically these are businesses, corporations and the contact is either a lawyer representing the business or a senior member of the organisation. Consequently, the communication and advocacy elements of the students' learning is different and, almost, bespoke for the module. The students will undertake standard clinical tasks including drafting letters to clients, opponents, experts, and the court, they also experience writing memos to senior staff within a law firm, preparing and maintaining files and producing reports based on the SWOT and PESTLE analyses previously completed.

Finally, an important part of this module is requiring the students to complete a record of reflection, using established models. This exposes the students to the philosophical underpinnings of reflection and understanding the purpose it serves. They appreciate that identifying what has happened during their studies, identifying new experiences and where they have challenged themselves; where they went beyond their comfort zone; and in exploring the lessons they learned from this experience, before commenting on what they plan to do in the future to address these issues all help to shape themselves as lawyers of the future. Of course,

reflection is an important aspect of any professional role and is specifically required of solicitors by the SRA.<sup>36</sup> With these modules, the students are assessed on their reflection and the emphasis is on how their commercial awareness and understanding of the various aspects of being part of an entrepreneurial enterprise in a legal setting have changed following completion of the module. Indeed, the annual reviews of student experiences collected by the universities where the authors are employed has demonstrated this value to the students. They note improvements to their understanding and appreciation of law beyond the identification of legal problems and the dissemination of legal information. They expressed their increased understanding of the commercial world where businesses are located, and identified their own development in areas including communication to differing audiences; critical thinking and the experience of applying this to specific projects and across the teams in which they worked; and the networking opportunities where they met lawyers who could talk about their business, the new demands faced in a post-covid business world, and what traits an entrepreneurial lawyer needs, to be competitive, in this emerging marketplace.

## 5. Conclusions

It has been our aim in this practice report to explain the nature of how commercial awareness can not only be a part of the training and education of modern law

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<sup>36</sup> <<https://www.sra.org.uk/solicitors/resources/cpd/tool-kit/identify-learning-development/>>.

graduates, it is increasingly a necessity for those with intentions of entering the legal profession or engaging in entrepreneurial activities. We began by outlining the current awareness of commercial lawyers and the skills and competencies they possess depending upon their 'shape.' We have explained how we have advanced the commercial awareness and entrepreneurial training of our students, instilling in them an appreciation of those factors to which law firms and their key personnel must have an understanding. By adopting these provisions through the lens of a simulated client at a law firm, it has allowed us to explore essential factors of the inception of a business and business idea, the legal sector and the community in which it operates, a business's clients, the generation of business, the effects of legal policies including professional body regulation and compliance, marketing and advertisement, and stakeholder theory. We have incorporated in these tasks the development of the students' own skills, aligned with the T shaped lawyer framework, and are beginning to produce strong evidence that compulsory commercial awareness is a key factor to be incorporated in university programmes. Not only is such training interesting and stimulating for the students, it adds authenticity to their assessments, increases employability skills upon graduation, ensures universities meet their targets of producing professional graduates who progress to graduate employment, and at this stage of its roll-out, can offer a strategic advantage to universities in their recruitment of students. Embracing commercial / entrepreneurial clinical education into law school programmes leads to

positive results across communities and encourages a skills-set which all future lawyers should possess.