Teaching, learning and assessment of law in social work education
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Suzy Braye and Michael Preston-Shoot
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Acknowledgements

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Introduction

This guide focuses on learning, teaching and assessing law in social work education. It is not the purpose of the guide to prescribe law curriculum content. Rather, its purpose is to set out the key choices that those engaged in learning, teaching and assessing law must consider. This is followed by examples of how that learning, teaching and assessment might be enriched, for example through the involvement of experts by experience, or the use of case studies.

The guide is primarily for use by social work law lecturers but it will also be useful for experts by experience (we prefer this term to ‘service users’), external examiners, care council staff, practice teachers and social workers in training at qualifying and post-qualifying levels. The intended readership is everyone with an interest, commitment and/or responsibility for ensuring quality outcomes from the social work degree in respect of social workers’ knowledge of, critical reflection on and skilled use of their legal powers and duties.

The guide continues the practice of bringing together social work law curriculum guidance (see Ball et al, 1995). It will help disseminate in an accessible format key messages from the Social Care Institute for Excellence’s (SCIE) Knowledge Review 08: Teaching, learning and assessment of law in social work education (Braye and Preston-Shoot et al, 2005), and builds on these by providing practical ideas and resources for educators. It was compiled by summarising the key curriculum questions that have emerged from the systematic review of the literature, from the practice survey and from dialogue with experts by experience, regulators, academics, students and practice teachers, whose views and key messages appear throughout. It draws on examples from the knowledge review but also includes new material illustrative of good practice from social work educators and from experts by experience.

Key messages

1. The participation of experts by experience in the teaching and assessment of law in social work education has been noticeable by its absence.
2. Law learning for social workers in training can be significantly enriched by engaging with the narratives of experts by experience.
3. Law learning can be enjoyable. Students learn effectively if their interest is engaged.
4. Law learning and assessment in the practice curriculum has been neglected.
5. Students’ understanding of law decays over time when their knowledge is not routinely used. Social work programmes and individual practitioners, when engaged in continuing professional development, must attend to updating social work knowledge and skills.
6. There is only limited research evidence on the outcomes and effectiveness of different methods of learning, teaching and assessing law in social work education. There is an urgent need to integrate research into the provision of teaching, learning and assessment.
7. The values underpinning the work of lawyers and social workers, and the goals to which they aspire with their ‘clients’, may be characterised by as much similarity
as difference. In professional education and in practice, social work and legal practitioners can learn much from each other’s perspectives and can integrate their knowledge and skills to achieve beneficial outcomes with experts by experience.

8. Individual practitioners and their employing agencies must ensure that continuing professional development in social work law is available, as laws do not remain static.

9. Law learning, teaching and assessment is more effective when closely aligned to the tasks, dilemmas and situations that social workers will encounter in practice.

10. Practice teachers would benefit from further training and support in helping students with law learning.

11. Using a range of teaching methods works well for students, who have diverse learning styles and preferences.

12. Law learning, teaching and assessment should have as its purpose a moral/ethical and rights-based framework to enable students to bring critical enquiry and reflection to their roles and tasks. Technical competence should not be the sole goal.

Purpose

The ‘systematic review’ (a systematic review is a systematic and rigorous review of all available evidence, designed to eliminate bias and assemble as complete as possible a picture of the knowledge available in social care) of teaching, learning and assessment of law in social work education (Braye and Preston-Shoot et al, 2005) did not identify ‘one right way’ to approach the task of promoting students’ learning. It did propose, however, a number of key issues to be addressed by those involved in social work law education. These may be phrased as questions.

• Why teach law? Social work educators must be clear why legal knowledge is a core requirement of professional qualification, and therefore what the purpose of teaching is. Law is often seen by students and practitioners as alien to social work values, a tool of oppression and control. However, it is possible to see law as a source of empowerment, if a way can be found through the maze where legal rules, organisational contexts and professional practice meet.

• What should the content of law teaching be? There is a balance to be found between communicating knowledge of, and developing skills in applying, specific laws relevant to particular client groups, and critically exploring the relationship between law and social work practice, for example by evaluating how far legal rules support or challenge social work’s values and ethical commitments.

• How should law be taught? The balance to be struck here is whether law should be taught separately or integrated with the rest of the curriculum. As when reflecting on content, one decision to be taken is whether the law learning journey begins with knowledge of legal rules or with social work practice. If the latter, knowledge of legal rules rests alongside social work values and other sources of knowledge to help explore and make sense of the dilemmas that social workers encounter. There are also questions here about the teaching methods to be used, including how to ensure that students benefit from the input and experience of service users and carers and experts by experience. There are questions too about the practice curriculum and the degree to which it focuses explicitly on the outcomes of law
related learning, both client group legislation and the skills involved in practising social work law, such as recording, advocacy, report writing and problem solving.

- **Who should teach law?** The challenge here is to balance the expertise brought by law and social work academics, legal and social work practitioners and experts by experience.

- **How should students be assessed?** Alignment is the core concept here, namely tailoring assessment methods so that they reflect the activities and judgements that are required of social workers. As when considering the content of law teaching, examples that enable students to learn from practice appear particularly useful in promoting deeper learning.

This resource guide explores these issues in four ways in order to support the planning and delivery of law teaching within social work degrees. First, it summarises the key messages from the knowledge review on teaching, learning and assessment of law in social work education (Braye and Preston-Shoot et al, 2005), crystallising the findings of both the international research review and the practice survey. It highlights what is known and not yet known about law teaching in social work education.

Second, the guide provides examples of innovative, exemplary or cutting-edge practice in law teaching for social work students, offering ideas that can be built on by others in their future practice.

Third, the guide summarises how knowledge, skills and values can be organised in education practice to ensure that students have:

- good technical knowledge of the law and the ability to apply it to situations encountered in practice
- sound awareness of the ethical and moral dimensions of applying the law in practice
- a critical understanding of the role of law in promoting human rights and social justice.

Finally, consideration is given to the importance of evaluating outcomes of learning, and to questions of post-qualifying continuing professional development. As ought to be the case throughout the curriculum, the effectiveness of learning, teaching and assessment of law in social work education should be evaluated. However involved in social work education, everyone has an obligation to appraise processes and outcomes, to engage in reflection and learning, to challenge, and to articulate standards. Drawing on Carpenter (2005), this should include focus on inputs – the learning opportunities offered and the alignment between teaching, assessment and practice – and on processes – the relationships between social workers in training, experts by experience, practice assessors and tutors. It should include focus on four outcomes – responses to learning opportunities, attitude change, knowledge and skill acquisition and retention, and practice development.

The authors of this resource guide believe that student learning outcomes must extend beyond simple knowledge and skilled application of the legal rules towards a sophisticated literacy that connects knowledge of the law with other knowledge.
relating to values, ethics, human growth and development, social contexts and research-informed methods of intervention.

The guide contains resources to assist all those involved in the education and training of social workers. These include the experiences of students, experts by experience, lecturers, practice teachers and assessors, external examiners and others involved in quality assurance, and employers. Aiming to present key messages and materials in an accessible and practical way, it:

• draws on a wide range of research evidence, including that from experts by experience
• identifies common anxieties about law held by students and practice teachers, and offers guidance on ways in which learning strategies can address these in order to promote a more positive perception of law in social work
• emphasises the importance of law learning being integrated with students’ practice learning
• promotes the importance and value of experts by experience being involved in educating social work students about law, identifying the distinctive nature of this contribution and offering guidance on ways in which its value can be maximised
• emphasises the importance of rigorous evaluation of education practice and offers guidance on ways in which the evidence base can be extended and improved
• makes recommendations for incorporating further law learning within the continuing professional development of qualified social workers.

A note on terminology

The phrase ‘experts by experience’ refers to service users and carers and is a term chosen by them.

Following Kearney (2003), the phrase ‘practice teacher’ refers to a social worker who holds the practice teaching award. The phrase ‘practice assessor’ refers to someone who offers and assesses the outcome of a practice learning opportunity to a social work student. Where content applies to both, and also to others such as experts by experience, the term ‘practice educator’ is used.

A note on legal frameworks

Key examples will specify from which of the four nations in the UK the illustrative material is drawn. The underlying principles in each example can be illustrated by inserting relevant legal rules and social policy connections from each national system. Indeed, for comparative purposes, four sets of legal rules and social policy goals could be juxtaposed. Helpful in this respect is, for example, curriculum guidance issued by the Northern Ireland Social Care Council (2005), which lists legislation for social workers in Northern Ireland, relevant policy guidance and regulations.
Section 1: Key messages from Knowledge Review 08: Teaching, learning and assessment of law in social work education

There were three elements to the knowledge review:

- a systematic review of international literature and research on law in social work education (and in allied professions), with analysis of 117 papers
- an empirical study of approaches to law teaching on social work programmes in the UK, involving a postal questionnaire, telephone interviews, focus groups and documentary analysis
- two stakeholder conferences bringing together experts by experience, policy makers and educators to advise on the research process, share perspectives and explore emerging data.

In this section, findings from the review will be presented in the context of the key questions facing teachers of law to social work students. The knowledge review found little evidence to suggest that one way of teaching law is more effective than others. It is suggested, however, that in planning the location and content of the law curriculum, and in determining what methods of learning, teaching and assessment to use, educators must give some attention to these key features.

1.1 Why teach law – philosophy or plumbing?

The first important question for educators is to reflect on the purpose of teaching law to social work students. What are you seeking to achieve? There are two trends in the literature, which are mirrored in education practice. One expressed aim is for students to become critical thinkers who can engage in critical analysis of the relationship between law and professional practice, interrogate the role of law in the lives of service users and use it to promote social change. A counter argument is that we should seek to produce skilled technicians, with reliable technical competence in the roles and tasks for which they are responsible, able to apply their legal knowledge accurately and effectively to practical problem solving. The same debate is found in legal education, where the critical thinker is likened to the Greek philosopher Pericles, and the skilled technician to a plumber (Twining, 1967).

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1 Further details of the methodology are available elsewhere (Braye and Preston-Shoot et al, 2005; Braye and Preston-Shoot, in press).

2 A third conference was subsequently held after the end of the original review period, data from which have informed this resource guide.
Debates in the purpose of law teaching for social workers

<table>
<thead>
<tr>
<th>Pericles</th>
<th>The plumber</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Engages in critical thinking</td>
<td>• Possesses technical know-how</td>
</tr>
<tr>
<td>• Questions the origin, organisation and purpose of legal rules</td>
<td>• Applies knowledge of legal rules to hands-on practice</td>
</tr>
<tr>
<td>• Reflects on purposes and values</td>
<td>• Carries out roles and tasks</td>
</tr>
<tr>
<td>• Promotes social change</td>
<td>• Engages in problem solving</td>
</tr>
</tbody>
</table>

These positions will have very different implications for the content of law teaching to social work students. The literature indicates that technical competence must be accompanied by critical competence, as only a broader critical and political perspective offers social workers the potential for tackling root causes of discrimination and oppression, as well as meeting individual need. Technical competence without context offers technical proficiency that fails to understand why the powerless are powerless. Thus it is important to understand how the legal rules disadvantage particular social groups, how the law regulates and affects institutions and social groupings, and how social workers may take corrective action. But in education practice, this broader political perspective is less commonly found, leaving the focus more on developing straightforward knowledge of legal systems and mandates for professional practice. While critical perspectives may be taught, they are not as commonly assessed – thus there exists a bias towards technical competence in the outcomes of learning.

Common themes in learning objectives

| Awareness of legal systems and the range and status of different sources of law | Understanding the broader legal frameworks (beyond those that mandate social work intervention or services) that influence the lives of service users |
| Understanding of how the law influences (guides, empowers and controls) social work practice | Using appropriate legal knowledge for the purposes of advocacy and representation |
| Knowledge of the legal frameworks for social work practice (professional law) | Knowing how to use legislation to support, defend, represent, challenge and advocate for human rights and justice |
| Critical analysis of that framework, to evaluate it from a political and moral perspective | Understanding the role of law in countering different forms of discrimination and recognising the contribution of law to anti-oppressive practice |
| Understanding of the application of law to practice | Understanding the underpinning values and ethical frameworks within which law and use of law are located and linkages with social work values |

Less commonly expressed learning objectives

3 With acknowledgement to material in Johns et al (2005)
Experts by experience who attended the stakeholder conferences for the knowledge review strongly supported the notion of technical competence. They felt that social work students did need to ‘know their law’. A persistent complaint was that qualified child care social workers claimed to know the law but often did not, consequently giving misleading information and failing to engage effectively with legal processes. Yet they also recognised that social work students need to think more broadly and more positively about the law, being able to use it to empower and promote access to resources. This meant developing knowledge of a wider range of legislation and developing a more critical perspective on the role and functions of law in society and in the lives of service users. In effect the plea from experts by experience was for ‘plumbers plus’, or ‘critical fixers’ – practitioners who were both skilled technicians and critical thinkers. They also emphasised that practitioners should involve people using services in determining what issues needed addressing, and in why and how this was to be achieved.

Learning outcomes are also related to the notion of academic levels. Social work qualifying training may be located at either undergraduate (H) or postgraduate (M) level within the Quality Assurance Agency (QAA) framework, thus making some differentiation appropriate. Some programmes locate critical perspectives on the legal framework more overtly at postgraduate level, or at least require a greater degree of complexity and sophistication of argument at this level. While clearly appropriate in academic terms, arguably critical competence in the professional sense is an appropriate learning objective regardless of the academic level at which a programme is located.

The subject benchmark statement for social work (QAA, 2000), coupled with the national occupational standards for the profession (TOPSS, 2002), supports this perspective. Students must be competent not just in identifying the need for legal and procedural intervention and in implementing legal and policy frameworks, but also in critically analysing the law and its application. Thus, educational objectives should include both the vocational and the critical/analytical aims.

1.2 What should the content of law teaching be?

1.2.1 Core knowledge content

A key decision is whether the content of law teaching should be confined to legislation that provides core mandates for service provision, or whether a broader framework should be constructed. In practice, the common core of content included in most programmes focuses on legal systems and structures and core mandates for child care, community care, mental health and youth justice. There are some national variations across the UK. For example, criminal justice is seen as integral to the curriculum in Scotland and Northern Ireland, but not in England and Wales. While all programmes include teaching on human rights legislation and anti-discrimination legislation, the depth of this coverage is variable.

The potential range of legislation for inclusion, however, is extremely broad, and extends far beyond legislation providing the core mandates for service provision. Examples include the following:
### Systems and structures
- Legal systems
- Sources of law

### Legislation mandating social work intervention
- Child care and child protection
- Adoption
- Community care – older people, disabled people and people with mental health needs
- Mental health
- Youth justice
- Criminal justice

### Legal frameworks that regulate aspects of social work practice
- Human rights
- Anti-discrimination legislation
- Data protection
- Confidentiality
- Capacity and consent
- Partnership and participation
- Interagency and interprofessional practice
- Complaints procedures
- Whistleblowing

### Legal frameworks affecting the broader lives of service users
- Human rights
- Anti-discrimination legislation
- Health
- Housing
- Education
- Matrimonial and partnership law
- Welfare rights

There is an inherent tension between breadth and depth of content, particularly given restrictions on curriculum time allocated to law.

#### Advantages of breadth
- Maps the broad territory for students
- Ensures they understand the broad range of law affecting service users’ lives
- Offers choices about where to develop in-depth knowledge

#### Advantages of depth
- Gives in-depth knowledge of core mandates
- Provides a sound understanding of what law practitioners will themselves be drawing on
- Facilitates the development of specialist expertise

It is clearly important for social workers to know the sources of their authority to act. Arguably, however, restricting the content of learning to the core mandates for social work and social services provision leaves students in ignorance of important aspects of the framework for accountability, and of law that can support service users’ access to a broader range of entitlements.
A related decision is how one defines 'legal framework'. While all programmes claim to describe sources of law, it is more common to find teaching that focuses predominantly on statute, and perhaps on guidance and regulations. The impact of case law, of common law, of local authority circulars and of international conventions such as the Universal Declaration on Human Rights, is less likely to be understood by students.

Experts by experience were keen to emphasise the value of breadth of learning, at least to provide a 'map' of possible areas of relevant knowledge. They did not, however, always share the same priorities as academics about the desired content of law teaching. While not disagreeing about the need for social workers to understand the framework for service provision, they felt this did not always go far enough, and that additional content was required. They were particularly concerned at the lack of focus on housing and homelessness legislation, pointing out that families have been known to have their children removed through lack of suitable housing.

1.2.2 Law and ethics

While law and ethics are explicitly linked in only a minority of programmes, strong arguments are advanced in the literature for this approach to become more commonplace in social work education (Roche, 1997). This is in part because ethics can be used as a lens through which to interrogate law and identify the broader social purposes that can be embedded within legal frameworks (Braye and Preston-Shoot, 1997). It is also because agency and professional practice has the potential to be at times either unlawful, unethical or both (Dickson, 1997), and practitioners must have knowledge and the skills with which to respond (Preston-Shoot, 2000a).

One problem, however, is the commonly held view of law as being contrary to social work values. Negative images of law pervade social work literature. Law is seen as contributing to the commodification of care and to managerialist–technicist practice.
that undermines professional judgement (Harlow, 2003), and as compromising social work’s value and professional autonomy (Manktelow and Lewis, 2005). While social work programmes indicate a strong values component to law teaching, it is not uncommon for law and social work to be presented as somehow oppositional, with more attention to its role in restricting autonomy than in promoting rights or social justice.

Social work students struggle to see law as a source of empowerment, either for themselves or for service users, tending to assume that the law is always oppressive in its curtailment of liberty (Dewees and Roche, 2001; Preston-Shoot, 2001). Law is commonly seen by practitioners as a trap, liable to catch them out or be used as a tool with which to blame them when things go wrong.

But such negative images underplay the space the legal rules create for practitioners to exercise discretion when implementing duties and powers, and to target individual and social change: they underplay the synergies between law and social work values (Preston-Shoot et al, 2001). Experts by experience in the knowledge review were keen to see social workers engaging with a more rights-oriented approach to law. Locating a more overt focus on ethics within law teaching opens up this potential.

1.2.3 Skills

While much of the focus of law teaching is on the acquisition of core knowledge, there is equally an emphasis on skills acquisition. Educators see the application of legal knowledge to practice as a key skill that students must develop. In many respects, this involves establishing law as a lens through which situations encountered in practice will be viewed. It is related first to skills in problem definition and analysis and the subsequent identification of tools for problem solving. Second it is about recognising where the law requires practice to be carried out in a certain way, for example in partnership, or with regard to the concept of proportionality. Third, there are situations in which practitioners are called on to give account of themselves, to explain why they have approached practice in a particular way, or to advance an argument or challenge to the actions of others. Fourth, reflection and critical analysis skills enable practitioners to integrate their experience of using the law within new frameworks for understanding.

Educators also believe that students must develop legal research skills. This is related to the recognition that it is impossible to include in the curriculum everything that a practitioner needs to know about law in the social work context. Equally, it is recognised that the legal framework frequently changes and that knowledge can be quickly outdated. Competent practitioners will know how to find and update their legal knowledge and understanding, and students must learn techniques and become familiar with resources that enable them to do this.
Law skills

- Identifying potential legal content in a case situation
- Working inductively from practice to legal knowledge
- Researching legal knowledge that is relevant to a case situation
- Critically analysing the options
- Constructing and advancing an argument for lawful practice
- Reflecting on practice
- Updating knowledge and understanding

Essentially ...

- Knowing what may or must be done
- Knowing how it must be done
- Being able to explain why
- Building new understanding from experience

Experts by experience felt strongly that social workers should be skilled in the use of advocacy, court craft, partnership working and interagency working. They should be skilled in bringing together different components of the legal rules, for example when involved with disabled parents and in discussing how the legal rules would be implemented.

1.3 How should law be taught?

1.3.1 Discrete or integrated?

One key question is whether law should be organised within discrete, separate modules of learning, or whether legal content should be integrated within other aspects of the curriculum. Related to this is the question of when law learning should take place – at what stage in the programme, and (in relation to academic modules) before or after placement.

Debates in the literature are played out in practice. Generally, the favoured approach to teaching law, at least initially, is through discrete modules. Educators commonly locate a module of law learning early in the programme, to be followed at later stages by law content revisited during other specialist modules addressing, for example, child care or adult services. A commonly held view is that although legal frameworks for service provision should be encountered by students prior to engaging in practice learning, greater understanding is achieved if law is taught, or at least revisited, after a period of practice.

Experts by experience felt strongly that whether discrete or integrated teaching methods were used, law should be encountered by students throughout the programme, rather than taught in just one year, and should be linked with skills in working with people, rather than seen as an isolated slice of knowledge.

There are a number of perceived benefits to both discrete and infused methods of learning law.
### Benefits of discrete teaching
- Provides a solid foundation of knowledge that is recognisably 'law'
- Tunes students in to law as a discipline and source of knowledge for social work
- Gives greater controls over the content of law learning
- Enables explicit focus on acquiring and using legal knowledge
- Helps to allay students’ anxieties about understanding
- Draws on specialist teaching expertise
- Enables law learning to be separately assessed

### Benefits of integrated teaching
- Ensures legal rules are understood in their social and professional context
- Facilitates more immediate links with practice
- Presents law as more relevant to the aims or purposes of social work intervention
- Ensures law is 'joined up' with other sources of knowledge that affect practice
- Encourages all tutors, regardless of subject area, to engage with law as part of their subject
- Responds to adult learning principles of 'utility'

### Problems of discrete teaching
- Challenges students’ stamina and perseverance
- Content can become dry and divorced from practice
- Information is difficult to digest and to apply to practice
- Discourages students from seeking law learning elsewhere in the programme

### Problems of integrated teaching
- Technical knowledge of the law may be given insufficient emphasis
- Risks dilution of and loss of focus on law content
- Allows students to avoid engaging fully with law
- Law learning may be difficult to assess

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#### 1.3.2 Alignment of teaching and learning methods

There are two key objectives for educators in choosing methods to promote social work students’ law learning. The first is to demystify law and deal with students’ anxieties about the subject. The second is to enhance its perceived practice relevance.

Students approach law learning with apprehension, even fear, perceiving it as specialist, riddled with technical jargon and difficult to understand. Conversely, they expect it to give clear answers to problems encountered in practice, and are disappointed to find it containing as many shades of grey as any other element of the curriculum. Educators are aware of students’ fears, and their tendency to find law more difficult than other aspects of the social work curriculum. Making law accessible, and allaying anxiety, is a key objective. Equally, drawing from principles of adult learning, there is a strong emphasis in law teaching for social workers on ensuring that material is perceived as relevant to professional roles and tasks.

Both these objectives give rise to different forms of alignment in teaching and learning, informing educators’ approaches and choice of methods on programmes.
### 1.3.3 Alignment between learning outcomes and methods

Virtually all programmes make use of lectures and small group exercises, with an expectation that students engage in independent individual study. Commonly, use is also made of tutor or student-led seminars, independent group work and simulation exercises.

Lectures are seen as an efficient way of delivering accurate core knowledge and of having a degree of control over what is taught, even if this may not equate with knowing what is learned. Students may be expected to undertake reading or research in preparation for the topic of a lecture. Use is made of aids to learning such as algorithms, decision trees and charts, which students can use as ‘maps’ when absorbing the finer details of legislation and when working through case studies. These typically break decisions down into a sequence, or gather together and present coherently information from a range of sources.

However, there is a range of other methods available, and reported in the literature (for references see Braye and Preston-Shoot et al, 2005, p 26).

<table>
<thead>
<tr>
<th>Method</th>
<th>Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of case law</td>
<td>To illustrate legal reasoning and to show that case law is not unambiguous or univocal</td>
</tr>
<tr>
<td>Case studies, critical incidents, problem-based learning</td>
<td>To analyse issues, locate law and integrate it with practice</td>
</tr>
<tr>
<td>Readings and source materials</td>
<td>To locate legal rules and the discourse surrounding them</td>
</tr>
<tr>
<td>Video and use of films</td>
<td>To develop observation and practice skills</td>
</tr>
<tr>
<td>Project work, social action work</td>
<td>To plan, participate in and evaluate an intervention</td>
</tr>
<tr>
<td>Research, library tasks</td>
<td>To find cases and statutes, to gain research confidence</td>
</tr>
<tr>
<td>Observation</td>
<td>To experience legal proceedings</td>
</tr>
<tr>
<td>Role play, simulation exercises</td>
<td>To develop practice knowledge and skills, for example through mock courts or tribunals</td>
</tr>
<tr>
<td>Use of web, computer-assisted learning</td>
<td>To develop research skills and knowledge</td>
</tr>
<tr>
<td>Distance learning and use of workbooks</td>
<td>To enable students to access law learning</td>
</tr>
<tr>
<td>Scenarios, extended case studies</td>
<td>To identify legal issues and develop decision-making skills, to work through dilemmas</td>
</tr>
<tr>
<td>Critical legal education</td>
<td>To join policy and practice and apply law to ‘everyday’ situations</td>
</tr>
<tr>
<td>Student presentations</td>
<td>To link knowledge with practice, to research topics, and to communicate professional role to others</td>
</tr>
<tr>
<td>Service user accounts</td>
<td>To hear and reflect on how service users and carers experience the law in action</td>
</tr>
<tr>
<td>Self-audits</td>
<td>To develop reflection</td>
</tr>
</tbody>
</table>
Students have mixed views about different forms of learning, seeing pros and cons in each:

<table>
<thead>
<tr>
<th>Case study discussions:</th>
<th>Lectures:</th>
</tr>
</thead>
<tbody>
<tr>
<td>make the law seem more ‘real’</td>
<td>present ‘hard knowledge’ in a tangible form</td>
</tr>
<tr>
<td>enable students to draw more on their own practice experience</td>
<td>give more structured information</td>
</tr>
<tr>
<td>give the opportunity to consider legal knowledge alongside</td>
<td>are better suited to the early stages of learning about the subject</td>
</tr>
<tr>
<td>other influences on practice</td>
<td></td>
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</table>

A plea from students was not to be left, following case study work, with a set of unanswered questions or issues. They were keen for tutors to provide ‘model answers’, which at least showed a recommended method of case analysis.

One key feature on some programmes is the notion of students needing to ‘learn how to learn’ about the law. If it is intended that students develop the ability to find and update legal knowledge independently, then activities in which they engage in independent legal research will support this aim more effectively than a sole emphasis on knowledge delivered through taught input or directed independent reading. While the number of programmes using solely approaches based on action and enquiry learning was very small, it is not uncommon for educators to use aspects of ‘problem-based’ approaches as part of a sequence of law learning. Students who have engaged in this type of research, particularly where it has been well supported by guidelines on how to research legal content, regard their learning outcomes as worth all the hard work they invest.

E-learning was used by slightly less than half of all programmes, but is clearly a developing field, particularly in Scotland and, more recently, elsewhere in the UK. Programmes may make use of computer-assisted learning packages, web-based learning and virtual learning environments. Respondents to Waldman and colleagues (2005) identified law as one priority for the development of e-learning materials, focusing particularly on court skills, child care law and a general introduction to law and legal systems.

<table>
<thead>
<tr>
<th>Perceived advantages of e-learning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourages and stimulates student-centred learning</td>
</tr>
<tr>
<td>Helps develop problem-solving abilities</td>
</tr>
<tr>
<td>Helps students keep up to date with changing legislation and policy</td>
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<tr>
<td>Enables tutors to respond directly to individual students</td>
</tr>
<tr>
<td>Encourages debate</td>
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<tr>
<td>Facilitates formative assessment</td>
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<tr>
<td>Facilitates self-evaluation by students</td>
</tr>
<tr>
<td>Students can work at their own pace</td>
</tr>
<tr>
<td>Knowledge can be consolidated through repetition</td>
</tr>
<tr>
<td>Students like it</td>
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</tbody>
</table>
1.3.4 Alignment between levels

A second form of alignment relates to the progression of learning through levels of a programme. In many cases, law appears at various stages of the programmes, in more than one year or in more than one module, with tutors demonstrating sensitivity to the notion of developing sophistication.

This typically involves an emphasis on locating building blocks of core knowledge early, to enable more sophisticated knowledge and skills to be developed later on. This supports the notion that students might gain a little knowledge about a broad range of law, followed by more in-depth knowledge of a restricted range.

<table>
<thead>
<tr>
<th>Ways of demonstrating progression of learning in law</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Early stages of learning</strong></td>
</tr>
<tr>
<td>• Tutor-led lectures</td>
</tr>
<tr>
<td>• Discrete law modules</td>
</tr>
<tr>
<td>• Assessment of knowledge</td>
</tr>
<tr>
<td>• Description of legal frameworks</td>
</tr>
<tr>
<td>• Knowing what the legal rules provide, allow or require</td>
</tr>
<tr>
<td>• Deductive approaches, applying theory to practice</td>
</tr>
<tr>
<td><strong>Later stages of learning</strong></td>
</tr>
<tr>
<td>• Student-led presentations or seminars</td>
</tr>
<tr>
<td>• Law learning integrated with other aspects of curriculum</td>
</tr>
<tr>
<td>• Assessment of application to practice</td>
</tr>
<tr>
<td>• Critical analysis and evaluation</td>
</tr>
<tr>
<td>• Knowing why and how to apply the legal rules</td>
</tr>
<tr>
<td>• Inductive approaches, building understanding from practice</td>
</tr>
</tbody>
</table>

1.3.5 Alignment with practice

In the search for practice alignment, teaching routinely covers not just the content of specific legal rules, but also the context of professional decision making in which they will be applied. Wide use is made of a number of different approaches, all of which seek to enhance alignment between knowledge and skills in its application in practice.

The use of case studies, to which students must apply legal knowledge by indicating how legal frameworks would affect what is done and why, is commonplace. At their most detailed, these approaches involve problem-based learning approaches, in which all the relevant knowledge content, including law, must be identified and researched by students. More common is the use of short case scenarios, either as part of lectures or seminars, which illustrate the type of situations in which legal knowledge and skills are required.
Ways of enhancing the practice relevance of law learning

- Case studies describing situations encountered in practice, from which students must work inductively to seek relevant legal frameworks
- Debating exercises where students research and present different sides of a legal issue and the conflicting imperatives that impact on practice (for example the use of compulsory powers to admit someone to psychiatric hospital)
- Simulated court work exercise
- Project work, researching law that is relevant to a given situation
- Study of case law that has arisen in the context of a specific situation

A number of programmes use court workshop exercises to train students in working within court systems. Such workshops vary in length from several hours to several days, and commonly take place in a working court, and involve legal practitioners taking the legal roles. A key aim is to give students a realistic experience of the language and culture of such settings. There were, however, no examples given of skills practice in other settings, such as complaints hearings or resource panels, where practitioners may need to use verbal presentation skills to argue a case within a legal framework.

Experts by experience were adamant that all students should have training in court work skills, given the importance and impact of such processes on far-reaching decisions about their lives. They want practitioners who are skilled in advocating for their rights and challenging agency practices that are not lawful.

1.3.6 Law in practice placement

One of the key findings is the neglect of social work students’ law learning while on practice placement. Only a minority of programmes set any law-related learning objectives for students on placement, and there are concerns about how consistently students encounter the law in placement agencies. Students were concerned to find that agency procedures were given more emphasis than the legal framework itself, and were sometimes shocked at the lack of knowledge and awareness of law shown by some agency colleagues. They found out-of-date policy and procedures being used, and had difficulty accessing legal information.

Practice teachers share students’ apprehension, in terms of both their own knowledge and their ability to promote students’ learning in the area of law on placement. Voluntary organisations and adult services settings were thought to be less likely to provide good law learning opportunities than child care or mental health settings. Equally, however, there was a view that the profile of law in a number of agencies left much to be desired. Some practice teachers expressed concern that performance targets were what mattered most to managers in local authorities, and that fear of failing to achieve these outweighed fear of potential legal challenge for unlawful practice. This gave rise to tensions in the practice teaching role. Some practice teachers felt their role was to encourage students to live with the reality of what was feasible in practice, while others felt they should encourage students to identify and challenge practice that arguably fell short of legal requirements.
The failure to carry law learning into placement represents a major missed opportunity to consolidate, reinforce and extend understanding of this aspect of the curriculum and to reinforce alignment with practice. As one student commented: “You can learn some of it in classes, but it is not until you’re actually doing it, and you’re in the situation, that you can understand it. Seeing it in practice makes it real”.

Key messages from students on how law should be taught

- Take student learning styles into account, adopting a variety of methods, so that students encounter law at least some of the time in a format they can absorb
- Ensure some standard of coverage of law in practice placements
- Integrate service user and carer perspectives on law in practice
- Encourage critical debate about the law, in the same way as in other areas of the curriculum – this enhances its perceived compatibility with social work
- Help students develop legal research skills – this gives confidence that learning can be kept up to date

1.4 Who should teach law?

In practice, a wide range and large number of staff contribute to law teaching on social work programmes. It is not uncommon for law modules to have a teaching team comprising between three and seven people. There is no common pattern to the skill mix. The contribution of law staff is valued for demonstrating interdisciplinary working, and for exposing social work students to the discourse and processes of law, although there is an emphasis on ensuring that where lawyers are involved they address the application of law in practice. Experts by experience and other stakeholders believe both lawyers and social work staff have important perspectives to contribute to law teaching. Paramount is the importance of ensuring that whoever teaches has knowledge and empathetic understanding of both law and social work, and of the relationship between the two.

It is now a core requirement that service users and carers are involved in all aspects of social work programmes. Their participation in law teaching, however, is noticeable by its absence, with only five programmes able to indicate how this was achieved. Many others saw it as important, and clearly had plans for development. Experts by experience and other stakeholders in the consultation workshops saw participation in law teaching as essential and as offering opportunities for understanding that cannot be developed through other means.

Benefits of service user and carer contributions to law teaching

- Broadening of students’ perspectives on the law
- Awareness from personal testimony of how law impacts on people’s lives
- Understanding of what service users expect of practitioners when acting within a legal framework
- Shifting students’ awareness towards a rights-based perspective
The contribution of social work practitioners and/or managers to law teaching is also seen as beneficial.

**Benefits of practitioner contributions to law teaching**

- Placing the focus on law in the practice context
- Issues and dilemmas raised by using law in practice
- The impact of agency accountability frameworks on how law is used
- Specialist knowledge, such as approved social work, youth justice, adoption, welfare rights, housing and asylum
- Topicality and relevance of case study material
- Command respect from students due to ‘street credibility’

**1.5 How should students be assessed?**

The concept of alignment is also seen as important in relation to assessment. It impacts on education practice in two major ways. First is the view that the method of assessment should test whether the sought learning outcomes have been achieved. So, if factual knowledge acquisition, application to practice and critical analysis all formed part of the desired learning outcomes, they should all be evidenced in assessment. Second, the notion of alignment with practice requires that assessment should test legal knowledge and competence in ways that mirror how they are used in practice and reflect the judgements and activities in which practitioners engage.

**Assessment tasks that test application of knowledge in practice**

- Essays based on analysis of hypothetical case studies
- Essays based on analysis of real case studies drawn from students’ practice
- Oral presentation of legal information relevant to a given scenario
- Assessed project work involving legal research

Programmes use a combination of methods of assessment. Law learning is most commonly assessed through coursework, but examinations figure in a significant minority of programmes, sometimes alongside coursework as part of a composite assessment.

**Coursework assignments**

- Commentaries on hypothetical case studies
- Case analyses of real situations encountered in practice
- Essays on aspects of the legal framework
- Assessed student-led seminars or presentations
- Law project work, perhaps involving students undertaking activities external to the university environment.
Case study approaches are the most common, and case studies also feature strongly in examinations, alongside other types of test.

### Examination content

- Commentaries on hypothetical case studies
- Essays on aspects of the legal framework
- Multiple choice questions
- Short answer papers

All types of examination had their advocates – those involving prior sight of the questions (seen papers), and those distributed at the start of the test (unseen papers), those in which students may use resources during the test (open book), and those to be answered from memory (closed book).

### Seen papers

- Allow students to engage in targeted research on relevant topics
- Test their use of sources and ability to integrate information over time
- Allow students to learn from each other whilst preparing

### Unseen papers

- Test the ability quickly to identify key legal issues
- Test the application of relevant knowledge to problem-solving under time constraints
- Test individual understanding rather than collaborative preparation

### Open book

- Set a test more akin to practice, where resources will be available
- Test whether students can use resources for accurate information
- Reinforce learning by ensuring the correct legal frameworks are used

### Closed book

- Test the ability to apply knowledge from memory to situations requiring quick action
- The most robust way of verifying that work is the student’s own
Different forms of assessment are seen as presenting a range of advantages and disadvantages.

<table>
<thead>
<tr>
<th>Coursework</th>
<th>Examinations</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Replicates practice reality – the need to identify and apply information gathered and synthesised over time</td>
<td>• Test essential and precise factual knowledge</td>
</tr>
<tr>
<td>• Avoids assessment being seen as a memory test</td>
<td>• Create a motive for students to retain knowledge</td>
</tr>
<tr>
<td>• Allows opportunity for the development of reflection and critical analysis</td>
<td>• Test time management and the ability to work under pressure</td>
</tr>
<tr>
<td>• Enhances opportunity for links to be made with other areas of the curriculum</td>
<td>• Controlled conditions guard against plagiarism, as submissions can be clearly identified as the student’s own work</td>
</tr>
</tbody>
</table>

Regardless of whether located in coursework or examinations, certain forms of assessment are viewed as providing particular alignment opportunities or challenges.

• **Multiple choice questions** were thought to assess detailed points of law and to encourage students to engage effectively with factual knowledge. They have been positively evaluated by students. Some respondents were critical, feeling that the knowledge tested is superficial.

• **Case studies** were believed to assess ability to apply the law to practice situations, ensuring that professional values are considered and decision-making processes are evidenced. They were thought appropriate for testing understanding as well as knowledge. They enable several areas of law to be tested, reflecting the breadth of knowledge that would be needed to respond to one situation in practice. Students may, however, need support to structure their argument in a coherent and logical manner.

• **Essays** were thought to enable students to consider more fully the dilemmas within, and philosophy of, the underpinning legislation. Students could be expected to integrate and critically evaluate information from different sources. Others felt that the concrete legal knowledge evidenced could be thin, and that a discursive ‘academic’ essay did not test the accuracy of legal knowledge or the ability to apply it in practice.

• **Group tasks** were believed to encourage key skills of cooperative learning, encouraging students to use collective organisation to cover a wide range of material in a short space of time. Group dynamics are unpredictable, however, and can sometimes interfere with students’ learning.

• **Assessed presentations** enable verbal skills in discussing the legal framework to be developed. However they are time intensive, particularly if done in small groups, and pose the challenge of how to moderate the results.
A further consideration is whether assessment should cover a wide range of knowledge or whether students may select and specialise in the focus of material on which they are assessed. England, Wales and Northern Ireland differ from Scottish social work degree programmes, emphasising the requirement for breadth of understanding.

The timing of assessment is also important. Students tend to support the view that being assessed in law either during or after they have undertaken at least one practice placement gives them an opportunity to demonstrate a more rounded and informed perspective.

Overall it was common for programmes to use mixed method assessment of law, perhaps an examination in one year, followed by essays or case studies later. This was linked overtly by some to the required development in students’ learning from knowledge acquisition, through application, to evaluation and critical analysis. By others it was linked to the need to test different levels of learning: surface layers (technical knowledge), application, conceptual and deep learning that would enable students to adapt their understanding when technical knowledge changed as the legal framework developed. However, it was more common for assessment to test factual knowledge and application to practice than critical analysis of the legal framework or its contribution to rights-based practice.

### 1.6 Conclusion

This section has detailed the choices to be considered and the key components for a distinctive, relevant and comprehensive social work law curriculum. It has been informed by contributions from academics and practitioners, policy makers and managers, experts by experience and students. Their perspectives have also informed the tools and unfolding analysis that follow.
Section 2: Innovation in learning, teaching and assessment of law in social work education

In this section, a number of practical ideas will be presented. They arise both from good practice identified as part of the knowledge review and from subsequent analysis of the data. They are intended as seeds to stimulate educators’ own imagination and innovation in helping social work students learn about the law.

The presentation will follow the same sequence of five key questions that provided the framework for presentation of the data in Section 1.

- Why teach law?
- What should the content of law teaching be?
- How should law be taught?
- Who should teach law?
- How should students be assessed?

The resources and ideas are intended to support educators in developing content and processes that take into account the findings of the knowledge review on the key dimensions of an effective curriculum, notably:

<table>
<thead>
<tr>
<th>Dimensions of the curriculum</th>
<th>Questions for consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Degree of infusion</td>
<td>To what degree is law learning integrated with other subject learning? To what degree is learning from practice an integrated part of the overall curriculum and how is law learning reinforced and assessed in placement?</td>
</tr>
<tr>
<td>Developmental strategies</td>
<td>To what degree is learning cumulative, building through ‘learning to learn’ and ‘learning for practice’ towards final learning goals, with time for consolidation (Kearney, 2003)?</td>
</tr>
<tr>
<td>Alignment</td>
<td>To what degree does teaching and assessment reflect the evidence that learning is enhanced when students see tasks as relevant to their future professional lives (Braye and Preston Shoot et al, 2005)?</td>
</tr>
<tr>
<td>Application</td>
<td>To what degree does the curriculum enable students to discuss their experiences of applying the law in practice? How do they learn from their experiences of negotiating conflicting imperatives, practice dilemmas and organisational demands?</td>
</tr>
</tbody>
</table>

continued
How does the curriculum enable social workers in training to consider social work law practice from the perspectives of experts by experience?

To what extent does the curriculum enable students to engage in critical reflection on the legal framework and its application, as well as with technical knowledge? How are perspectives informed by ethics brought to bear on the legal framework and its application?

To what degree is law learning informed by perspectives from both social work and law, and drawing widely on knowledge from other disciplines?

### 2.1 Why teach law?

#### 2.1.1 Helping students engage with law as a component of social work education

Law is a prescribed element of the curriculum (DH, 2002). However, in presenting to students the rationale for law learning, educators can include a broader range of factors than merely those relating to technical knowledge.

Discussion with social workers and students has identified that in practice the legal rules are open to manipulation, abuse and unlawful interpretation. Preston-Shoot (2000a) has provided some examples. Instances of this provided by experts by experience include:

- social workers exploiting people's lack of knowledge to deny them access to assessment, services (such as direct payments) and complaints procedures
- managers providing misleading advice and direction about when and how an agency can balance resource considerations against need, or about what particular legislation mandates, requires or enables
- an agency's refusal to listen to another's concerns about risk to a young person or adult
- agencies failing to connect child care with adult services legislation in respect of disabled parents
- agencies enforcing blanket policies and practitioners being uncertain whether and how these can be challenged
- uncertainty about what information can be shared and with whom, for instance about sex offenders or people who have been investigated but not prosecuted.

It is important not to underestimate the space created by the legal rules for practitioners to promote individual and social change. For instance, there are few absolute duties in social work law. Most are discretionary and the key task is to ensure that students and social workers know how that discretion should be exercised, drawing on values, knowledge and statutory guidance, and are skilled in its use to support sensitive, innovative and informed practice. The legal rules can be used to promote social inclusion, human rights and citizenship, to enhance human
caring and to counteract discrimination and exclusion, providing this discourse is revealed in learning about the shape, content and application of the legal rules. This understanding can help students to understand the complexity of the relationship between law and social work.

### Why study law?

- Law can both enshrine and curtail rights, and is therefore an important component of ethical practice
- Law is a core mandate for social work practice, and as such demands critical analysis and understanding
- Law is a social construct reflecting society and culture
- Law is an outcome of politics and ideology
- Social work should be commenting on social conditions from which legal rules emerge or change
- Legal knowledge and skills enable social workers to work alongside service users, to help them secure their rights and achieve positive outcomes
- Legal knowledge enhances negotiating powers and helps promote lawful agency practice
- Social workers need to engage authoritatively with legal practitioners and settings
- Knowledge can decay over time and practitioners need skills in updating their legal understandings
- Practice in agencies is influenced by other imperatives that can lead to practice that is, knowingly or unconsciously, unlawful
- Practice can be lawful but unethical, and practitioners need to be able to engage with the interface between law and ethics

### Objectives for law learning

- To acquire technical knowledge of the legal rules and skills in researching law
- To locate law learning and practice in an ethical base
- To locate law learning and practice in a rights-based framework
- To acquire knowledge and skills to critique the use of legal rules

### 2.1.2 Understanding the purpose of legal knowledge

The social work law curriculum is, in part, about enabling knowledge acquisition. However, knowledge for what? By applying one model (Shaw et al, 2004), which conceives of four uses of knowledge to social work law learning, the purpose of learning might be presented as:
To develop understanding  

How do the legal rules strike a balance between conflicting imperatives, such as autonomy versus protection and rights versus risks, which social workers must routinely navigate?

To develop, analyse and review policy  

How is judicial interpretation of human rights legislation impacting on policy?

To develop, analyse and review practice  

How do organisational policies, procedures and cultures compromise lawful and ethical practice? How can practitioners draw on legal knowledge, such as policy guidance, to support ethical practice?

To develop research-mindedness  

How can legal research skills be used to identify and update relevant knowledge? What research evidence exists on the outcomes of action using legal powers and duties?

Such knowledge, applied in practice situations, might challenge lack of confidence, for example when working alongside legal practitioners, and assist practitioners in negotiating difficult encounters with service users. So, taking the impact of restrictive organisational policy on practice as an example of a dilemma encountered by social workers, learning might focus on the legal rules relating to employer/employee relations, professional registration, whistle blowing and accountability/duty of care, how they contribute to understanding, policy analysis and practice development and where research effort might focus to uncover helpful sources.

2.1.3 Staging students' learning and building critical competence as a learning objective

In two and three-year programmes, educators have an opportunity to visit and revisit law in different ways. Learning outcomes should enable students to acquire and build on knowledge and skills in a developmental way as they progress through a programme, and from one (undergraduate) programme to another (postgraduate). This necessitates a phased approach to the introduction of critical perspectives on the core knowledge base as students develop their subject-specific understanding and their generic intellectual skills. The example below illustrates how differentiation is preserved between two different undergraduate levels, incorporating critical reflection as students progress from level 1 to level 2, while still leaving potential for further development at postgraduate (M) level.
Staged learning – Liverpool John Moores University

Level 1: Introduction to Social Work Law
This module aims to provide a general introduction to the English legal system and to key areas of social work law, and a consideration of legal rights and values. After completing the module students should be able to:

• demonstrate an understanding of the legal system
• access and use legal resources
• discuss ways in which the law can provide and protect rights, and counter discrimination
• demonstrate an understanding of the key principles of child care law, community care law, mental health law and criminal justice.

The module is assessed through a two-hour, seen exam, consisting of case studies for which students are able to gather relevant legal information and plan their answers.

Level 2: Law for Social Work Practice
This module aims to build on existing knowledge of social work law, to provide a greater insight into the legal context of social work practice and thus help provide the legal skills and understanding expected of a social worker. After completing the module students should be able to:

• demonstrate an ability to apply relevant law in social work practice and have a critical and analytical understanding of service delivery standards and the powers and duties of social workers
• demonstrate a working knowledge and understanding of key areas of welfare law that are significant to service users
• analyse the tensions and dilemmas that arise in the implementation of the law in social work practice
• demonstrate a commitment to the anti-oppressive practice of social work law.

The module is assessed through coursework consisting of two case studies of 1,500 words.

Level 4: Law for Social Work Practice
In this module students critically examine current social work law and its underlying principles and values, to evaluate the legal context of social work practice and thus help provide the legal skills and critical understanding expected of a social worker. After completing the module students should be able to:

• demonstrate expertise in knowledge and understanding of the significance and limitations of the law in providing and protecting rights and countering discrimination, and the ways in which the law might be used to promote anti-oppressive social work practice

continued
2.1.4 Helping students to develop a critical perspective on law

If we accept that students should be critical thinkers as well as plumbers, how might critical perspectives on law be reflected in learning and teaching? One way is to provide a conceptual frame for understanding the complexity of the relationship between law and practice.

It is not uncommon for law to be presented as the clear map which should, above all else, guide social work practice. Students can be introduced to a critique that interrogates this assumption (explored in greater detail in Braye and Preston-Shoot, 2006b).

- display competence in handling a complex area of legal knowledge and skills;
- display understanding of the key principles and legal framework for child care law, community care law, mental health law, criminal justice law and key areas of welfare law that are significant to service users; apply relevant current law to social work practice, and know how to independently update and research legal knowledge and understanding
- critically analyse the tensions and dilemmas that arise in the implementation of the law in social work practice.

1. There is no single legal map, but multiple legal maps
2. The maps are being constantly redrawn
3. Some maps contradict each other
4. Some maps are incomplete
5. Maps other than the legal maps are also important
6. The map is not the territory

Law as the map to guide social work practice
1. Library exercises and quizzes can be used to illustrate how law is drawn from a range of sources, such as government guidance and judicial decisions. Such research should cause students to look beyond statute (an example of a quiz follows later in this section).

2. The redrawing of the legal maps, through the evolution of the legal framework, can be demonstrated by comparing and contrasting different areas of law. The development of youth justice law since 1991, for example, can be juxtaposed with the evolution of provision for children in need since 1989. A time line can be drawn to show what factors contributed to the framing and subsequent reform of a legal mandate. For instance, significant research studies, policy imperatives, critical incidents, inquiry reports and practice evaluations have all impacted at various times on the development of the Children Act 1989 and subsequently the Children Act 2004.

3. The contradictory nature of legal maps may be illustrated by reference, for example, to definitions of disability (National Assistance Act 1948 and Disability Discrimination Act 1995), or by contradictions in the extent to which children and young people may exercise choice over medical assessment and treatment.

4. Anti-discrimination legislation provides an example of an incomplete legal map, with only very recent additions under European Directives on age and sexuality adding to longer-standing UK statutory provision on discrimination on grounds of ‘race’ or gender. Equally, many aspects of social work practice stand outside any obvious legal mandate.

5. The reliance on law to overcome perceived shortcomings in practice indicates the extent to which other maps for practice may be overlooked. Professional values and ethics arguably provide an equally important map, which at times may lead practitioners to oppose legal rules, such as those on asylum and immigration.

6. In practice, legal rules must compete with other features of the professional landscape – the reality of daily lives that do not neatly fall into boxes, the conflictual nature of claims to rights and allocations of responsibilities, the impact of organisational resources and priorities.

The process of exploring critical perspectives with students involves challenging assumptions about the law’s clarity, while also encouraging students to see this feature as an opportunity (for rights-based interpretations) rather than as a constraint.

2.1.5 Helping students to identify the links between law and ethics

In the early stages of learning, it is useful to engage interest in the relationship between law and ethics through the use of examples with which students may already be familiar, perhaps as a result of press coverage. Asking students to discuss the ethical dilemmas inherent in such a case assists in illustrating that the law has as many shades of grey, and therefore potential for debate and critical analysis, as any other aspect of the social work curriculum. Some high profile examples are given below, but it is recommended that the content of this type of exercise be made as topical as possible.
Diane had motor neurone disease. She had little movement and no mobility, and was dependent on 24-hour support for all her physical needs. She was aware of the terminal prognosis for her condition, and wished to end her own life before she entered the final stages, in order to avoid the inevitable distress to herself and her husband, who cared for her. She did not, however, have the physical capability to take her own life, but her husband was willing to assist her suicide. She asked the court to guarantee that her husband should not be prosecuted after her death, claiming that the right to life (Article 2 of the European Convention on Human Rights [ECHR]) implied also a right to die, and that preventing her from exercising this right was in breach of her right to protection from inhuman and degrading treatment (Article 3, ECHR). The court ruled against Diane's application.

Babies Jodie and Mary were conjoined twins. Mary, the weaker twin, was reliant on Jodie's heart to keep her alive. If the twins were separated, Mary would die. Jodie was in better health, but Mary's dependence on her was sapping her strength. If the twins were not separated, Jodie's heart would keep both of them alive for a while, but the strain would eventually overtax her system and they would both die. Their parents argued against medical intervention on religious grounds. The doctors responsible for the babies' care asked the court to rule on how they should proceed. The court ruled that the twins should be separated.

- What rights and responsibilities do you think the people involved here have?
- What principles might you use to balance the competing claims?
- Why do you think the judges made the decisions they did?

Similarly, examples may be drawn from literature. 'The Caucasian Chalk Circle', a play by Bertolt Brecht, dramatises the judgement of Solomon, describing a process of decision making about disputed 'ownership' of a child. Written at a time of intense disillusion with how justice was expressed, the text engages the audience with tough questions about the ethics of legal decision making.

2.1.6 Exploring the development of students’ knowledge and attitudes

The prospect of studying law commonly provokes anxiety among social workers in training. This self-audit invites them to focus on their images of law and legal practitioners, and on their knowledge and skills for practising social work law. Self-audits are a useful beginning for reflecting on the interface between law and social issues, for highlighting connections between law, values and professional practice, and for facilitating discussion of experience and feelings. They also provide a baseline against which learning can be reviewed and change in perception can be mapped as the self-audit is used during, on conclusion and after formal learning (Preston-Shoot, 2000b).
## Self-audit

<table>
<thead>
<tr>
<th>Images of law(yers)</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law can be used to achieve social change</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law is unsuitable for resolving welfare issues</td>
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<tr>
<td>My anxiety increases when using the law</td>
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<tr>
<td>Law endorses social work values</td>
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<td>Law protects vulnerable people and meets their needs</td>
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<td>Law provides redress and promotes accountability</td>
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<td>Lawyers have a low opinion of social work(ers)</td>
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<td>I am anxious about how to keep up to date</td>
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<td>Law is more punitive than helpful for disadvantaged people</td>
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<td>Law compounds inequality</td>
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<tr>
<td>Legal rules can be used creatively</td>
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### Self-audit

<table>
<thead>
<tr>
<th>Skills for practising social work law</th>
<th>Not difficult</th>
<th>A little difficult</th>
<th>Moderately difficult</th>
<th>Considerably difficult</th>
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<tbody>
<tr>
<td>Identifying legal rules in Acts, regulations and guidance</td>
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<tr>
<td>Applying these legal rules</td>
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<td>Recording</td>
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<td>Managing the relationship between law and social work values</td>
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<td>Making decisions – when, why and how to act</td>
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<td>Instructing lawyers</td>
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<td>Consulting lawyers</td>
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<td>Assessing risk and needs</td>
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<td>Reviewing risk and needs</td>
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<td>Using evidence – advocacy</td>
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<td>Using evidence – taking protective action</td>
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<td>Working in partnership</td>
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<td>Using authority in an anti-oppressive way</td>
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<td>Maximising people's rights</td>
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<td>Challenging your agency</td>
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<td>Challenging other organisations</td>
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<tr>
<td>Using coercive aspects of law, against the wishes of service users</td>
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2.2 What should the content of law teaching be?

It is not the purpose of this guide to prescribe law curriculum content. Indicators of the range of legislation and other aspects of practice in applying law that might be included are covered in Section 1 (and may be found in further detail in the knowledge review itself; see Braye and Preston-Shoot, et al, 2005). Here we have highlighted aspects of the curriculum that are being newly developed in response to developments in the legal framework, or ideas for raising the profile of skills in using the law.

2.2.1 Developing the human rights content of law teaching

The incorporation of the ECHR into the UK legal framework (through the Human Rights Act 1998) has enormous importance for social work. It merits specific and detailed focus in law teaching.

**Human Rights Act 1998 – University of Manchester**

Please work individually on the tasks below. By the end of the three-week period of guided study you should have a reasonable understanding of the Human Rights Act and the way in which it is judicially applied under particular circumstances.

Go to www.dh.gov.uk/PolicyandGuidance/EqualityandHumanRights/HumanRights/fs/en and click on ‘Questions and answers’. Read the text and consider the relationship between the Human Rights Act and the ECHR.

Follow some of the links provided to explore the Act further. In particular you should visit ‘Human Rights case studies’, which details some important European and domestic cases. You will find further detail on the cases at www.echr.coe.int/ (European Court of Human Rights). Of particular interest in relation to child care and protection is *Z and Others versus United Kingdom*, 10 May 2001 (Application No 29392/95).


In the newspaper database in the library, find the article titled ‘Law, the rights stuff’ by Clare Dyer in *The Guardian*, 2 October 2001, p 16. What does the article tell you about the impact of the Strasbourg Court on domestic law?


From your research, can you think of any potentially negative implications of the Human Rights Act?

Now try and answer the questions below. We will discuss what you have learned in a whole group session at the end of this period.

1. When was the Human Rights Act 1998 implemented?
2. Has the Act been implemented fully or only in part?
3. The Act is designed to protect human rights. Where are these rights identified?
4. What does Section 3 of the Human Rights Act say?
5. What action can someone take under the Act if they think one or more of their rights has or will be violated? Does the Act cover violations of human rights by any action of the Houses of Parliament?
6. What remedies are available under the Act for someone whose rights have been or will be violated by the actions of a public authority? What is the relevant section of the Act governing remedies?
7. What rights does Article 6 protect?
8. What rights does Article 8 protect?
9. What rights are particularly relevant to social work intervention?
10. Think of some examples where social work intervention might be in danger of violating an individual’s human rights.
11. Is the Children Act 1989 compatible with the rights protected by the Human Rights Act? What would a court do if it decided part of the Children Act was incompatible?
12. Can a court be called to account for the violation of someone’s human rights?

Students can be expected to access material through use of web-based resources that will maintain an up-to-date perspective, for example:

**Websites useful for human rights material**

- **Human Rights Unit** ([www.humanrights.gov.uk](http://www.humanrights.gov.uk)): government unit set up to ensure the successful implementation of the Human Rights Act 1998
- **Northern Ireland Human Rights Commission** ([www.nihrc.org](http://www.nihrc.org)): raises awareness about human rights in a Northern Ireland context and seeks to promote and protect human rights in law, policy and practice
- **United Nations** ([www.un.org](http://www.un.org)): an international organisation formed to promote peace, security and cooperation
- **United Nations Children’s Fund** ([www.unicef.org](http://www.unicef.org)): gives assistance particularly to developing countries in the development of child health and welfare services
- **International Federation of Social Workers** ([www.ifsw.org](http://www.ifsw.org)): a global organisation striving for social justice, human rights and social development through social work and international cooperation between social workers and their professional organisations
Human rights analysis can be usefully developed through guided study of legal cases.

Legal case analysis – University of Manchester

Students are asked to read the following case commentary in preparation for the class:


Students are then asked to discuss in small groups one of a range of questions:

• What were the legal and ‘care’ issues informing relationships between local authorities and the courts that provided the context for these appeals? (Group 1)
• What were the grounds of appeal to both the Court of Appeal and the House of Lords in these cases? (Group 2)
• What do the appeals tell us about the judicial interpretation of human rights as these are identified in the ECHR and protected by the Human Rights Act? (Group 3)
• What did the Court of Appeal do in relation to these cases and arrangements to protect relevant human rights more generally? (Group 4)
• How did the House of Lords respond to the case(s) and to the decision in the Court of Appeal, and what were the grounds for its reasoning? (Group 5)
• Consider the reasoning in these cases and see if you can identify situations involving adult service users where the law might be informed by similar principles and decisions. (Group 6)
Other examples of fruitful cases studies appear below, but again it is important that cases used are as up to date as possible.

*Mabon versus Mabon and others [2005] WL 1185500 EWCA 634.* A case that established that children of sufficient age and understanding can have representation separate from the children’s guardian.

*JD (FC) (Appellant) versus East Berkshire Community Health NHS Trust and others and two other actions (FC) [2005] UKHL 23.* A case that by a majority decision determined that a duty of care is owed to children but not to parents in child protection investigations.

*W and Others versus Essex CC and Another [2000] 2 AllER 237.* A case that established that local authorities could be sued for negligence and that, in exceptional circumstances, individual social workers might also be liable where their practice significantly departed from what a reasonable practitioner would have done.

*Z and others versus UK [2001] 2 FLR 612.* A case that found breaches of Article 3 and Article 13 of the European Convention by a local authority failing to protect children from abuse and neglect.

*R (SSG) versus Liverpool CC and Secretary of State for the Department of Health and LS (Interested party) [2002] 5 CCLR 639.* A case that resulted in a change to the Mental Health Act 1983, as a result of Article 8 of the ECHR, so that the nearest relative rules did not discriminate against same gender partnerships.

*R versus North and East Devon Health Authority, ex parte Coughlan [1999] 2 CCLR 27.* A case that outlines the procedures to be followed by authorities when they are seeking to close residential and nursing care homes. The case also clarifies the relationship between rights under Article 8 of the ECHR and decisions about care provision.

**2.2.2 Teaching students how to reason and advance a legal argument**

Rarely in social work will there be a single ‘right’ answer in a given situation. Instead, social workers will be bringing together evidence that points to one course of action or another, and weighing this in the balance – such is the nature of professional judgement. The law will not give prescriptive answers, but can nonetheless contribute to constructing a sound rationale for whichever course of action is chosen, as recognised in this module outline.
Developing professional judgement – University of Wales Institute, Cardiff

The law is not as clear and prescriptive as may be believed. The dilemma for the practitioner is knowing when to apply a piece of legislation. This requires a breadth of knowledge of what legislation may apply in a given practice situation, and the skills to decide what, if any, legislation is the most appropriate. How will the application of particular pieces of legislation impact on the service user? How does the legislation help or hinder the work of the social worker in that particular practice situation? There is not always necessarily one right answer. Each situation is different and what is required of the practitioner is that they are clear and accountable about what legislation they applied, and why they chose to apply it in that particular instance.

The following questions enable social workers in training to critically reflect on practice incidents and then to reason through and advance a social work law argument. The legal rules can be set alongside professional values and knowledge for practice. Skills in presenting practice judgements can be developed. Tensions between agency policy, legal rules, values and knowledge bases, for example surrounding confidentiality or duty of care, can be explored and resolved.

Critical reflection on case studies

- What is the legal status of those involved – what legal definitions might apply to their situation (for example 'child in need', 'disabled person')?
- What statutes permit involvement?
- What statutes require involvement?
- What powers and duties are relevant here?
- How do they frame the social work role and task?
- What are the purposes of involvement here, with reference to the law, professional values and knowledge for practice?
- What rights and responsibilities do people involved here have?
- Who has what needs?
- What risks exist?
- What knowledge would be useful and why?
- What are the legal issues here (for example, capacity, evidence)?
- What skills are needed here (for example, advocacy, recognition, analysis, assessment, decision making)?
- What is the agency's policy here and what issues does this present with reference to the law, professional values and notions of good practice?
- What does the law say about competence, vulnerability, discrimination, childhood, disability etc? How does this compare with professional values and social work’s understanding of good practice? What are the implications for practice here?
- What practice dilemmas may arise and how might they be negotiated with reference to the legal rules, values and knowledge-informed practice?
- What would you do here? What is your justification (law, values, knowledge, definitions of good practice)? What intervention may be appropriate and why? What are the benefits and costs of this intervention, in comparison to others which might be equally feasible and lawful?
2.2.3 Connecting social work law learning with the policy and practice context

The modernisation agenda has been underpinned by legal rules, together reshaping the organisational context and skills for social work practice. Tracing the connections between government objectives as expressed in policy, the legal rules devised to further those objectives, and the impact on social work practice can help students see the importance of their legal understanding. The following example draws on the English legal system. Different legal contexts can be used here to illustrate the position in respect of all four nations within the UK. For example, if examining the principles of ‘quality’ or ‘protection of users’ in relation to Northern Ireland, the relevant legal rules would include the Health and Personal Social Services (Quality, Improvement, etc) (NI) Order 2003 and the Protection of Children and Vulnerable Adults (NI) Order 2003. ‘Responsiveness and flexibility’ in a Northern Ireland context would include the Carers and Direct Payments Act (NI) 2002.

<table>
<thead>
<tr>
<th>Modernisation agenda principles</th>
<th>Legal rules</th>
<th>Impact on social work</th>
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</thead>
<tbody>
<tr>
<td>Protection of users from abuse and poor practice</td>
<td>Public Interest Disclosure Act 1998</td>
<td>Changing the balance of power between social workers and their employing agencies</td>
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<tr>
<td></td>
<td>Care Standards Act 2000</td>
<td>Authority to challenge unethical, unlawful and unreasonable policies</td>
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<td></td>
<td>• Workforce registration</td>
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<td></td>
<td>• Registering/inspecting provision</td>
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<td></td>
<td>• Registers of people unsuitable for social work</td>
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<tr>
<td>Clarity of role</td>
<td>Quality Protects Community Care (Direct Payments) Act 1996</td>
<td>Promoting choice and independence</td>
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<tr>
<td>Responsiveness and flexibility in meeting need</td>
<td>Health Act 1999</td>
<td>New skill mixes Mandate for multiagency working</td>
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<td>Health and Social Care Act 2001</td>
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<td>Children Act 2004</td>
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<tr>
<td></td>
<td>• Creation of trusts</td>
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<td>• Pooled budgets and staffing</td>
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<tr>
<th>Modernisation agenda principles</th>
<th>Legal rules</th>
<th>Impact on social work</th>
</tr>
</thead>
</table>
| Consistency of services        | Fair Access to Care Services  
Framework for Assessment of Children in Need  
Care Standards Act 2000  
• National service frameworks | Researching and using current knowledge of best practice  
Standards for provision |
| Quality                        | Human Rights Act 1998  
Care Standards Act 2000  
• Creation of regulatory councils and SCIE  
Local Government Act 1999  
• Best value | Evidence-based and research-informed practice  
Deciding levels of intervention  
Managing use of resources  
Continuing professional development |

2.2.4 Identifying the content of the practice curriculum

If opportunities to maintain students’ law learning while on placement are to be maximised, it is important for programmes to give thought to the practice curriculum. Practice learning provides unique opportunities to promote learning, which need to be maximised in relation to law, hitherto often a ‘lost element’ of the practice curriculum.

The following diagrams (Braye, 1993) illustrate a student’s learning processes in placement and indicators for how competence to practise social work law develops during practice learning.
First it is important to note the transition from creating ready-made solutions to 'cases' in the classroom, towards more custom-built solutions based on learning from doing in the reality of the placement context.
Pathways to competence and confidence in using the law are by no means uncomplicated. Students on placement must negotiate a number of challenges in their learning: myths, assumptions and stereotypes about the law; the shift in styles of thinking from deductive application of knowledge to inductive processes based in practice experience; practice dilemmas arising from the lack of clear 'right' answers; value dilemmas arising from the nature of the legal mandate and its impact upon peoples' lives.
Within the familiar processes of gathering information, reflecting, decision-making and intervention, it is possible to integrate legal knowledge and skills, ensuring that this dimension of practice is considered alongside other features of assessment and decision-making.
The outline below identifies the law learning outcomes that might be sought through practice learning (adapted from Ball et al, 1995).

<table>
<thead>
<tr>
<th>Law learning outcomes for students on placement</th>
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<tbody>
<tr>
<td><strong>Student and agency</strong></td>
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<tr>
<td>• Ability to identify and understand the law that informs the work of the agency</td>
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<tr>
<td>• Ability to identify social work law within agency procedures and to distinguish agency policy from social work law</td>
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<td>• Ability to implement the relevant legislative framework and to evaluate its impact</td>
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<td>• Skills in recording and report writing, demonstrating awareness of rights of access to records and the purposes of and case law standards for records and reports</td>
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<tr>
<td><strong>Student and service user</strong></td>
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<tr>
<td>• Ability to identify the key legal concepts, areas of law, powers and duties in each work situation</td>
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<td>• Ability to consider alternative ways of using available legal mandates in a case and, from this, to negotiate a role with the service users involved</td>
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<td>• Ability to use different forms of authority appropriately</td>
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<td>• Ability to recognise and manage the dilemmas or conflicts derived from the application of social work law to practice, such as the potential for conflict between autonomy and protection</td>
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<td>• Skills in maximising service users’ rights to choice, privacy, confidentiality, autonomy, access to services and participation</td>
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<tr>
<td>• Skills of assessment, decision making and intervention, which demonstrate engagement and working in partnership with service users where the legal mandate requires particular action</td>
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<tr>
<td><strong>Student’s own professional development</strong></td>
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<tr>
<td>• Ability to differentiate between statute, regulations, policy and practice guidance, and case law</td>
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<tr>
<td>• Ability to evaluate social work law critically in relation to anti-discriminatory practice</td>
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<tr>
<td>• Ability to enquire into and explore legal and social work issues and knowledge in relation to work being undertaken</td>
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<tr>
<td>• Ability to understand how social work law contributes to role conflict, uncertainty and ambiguity in practice, with subsequent development of skills in managing the dilemmas and conflicts between different roles and sources of authority</td>
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<tr>
<td>• Ability to question how personal values, beliefs and experiences influence views of law, assessment and options being considered, and interactions with service users</td>
</tr>
<tr>
<td>• Ability to identify how legal rules and codes of conduct guide social workers when reviewing the lawfulness and ethics of agency policies, procedures and requirements, with subsequent skill development in presenting arguments to managers</td>
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</table>
2.2.5 Analysis of critical incidents

Practice learning arises from cases, group work and community development. Social workers in training can derive law learning from working through scenarios or critical incidents, or from an audit of agency policies and procedures against statute, guidance and case law. Critical incidents might arise, for example, around questions of confidentiality and information sharing, or from questions about the duty of care owed to children and their parents when engaged in child protection investigations, or from intervention to restrict liberty. Practice dilemmas arise, for instance, when investigating older age abuse and can be analysed by reference to legal mandates, professional values, messages from research and inquiries, and different orientations to practice. Irrespective of the content of the learning opportunity, it is important to maximise its law learning potential.

Questions for practice teachers, to facilitate law learning from a practice context (building on Preston-Shoot, 2000b)

1. What areas of social work law might be relevant in this critical incident/case/exercise?
2. What areas of social welfare law might also be relevant?
3. What professional values might be relevant and how might they interface with the legal knowledge required?
4. What legal skills will this learning opportunity require of the student?
5. What tensions might arise between the law, professional values and agency policy?
6. How will you approach the first and subsequent supervision sessions in relation to integrating law learning with this learning opportunity?
7. What resources might the student find useful?
8. What would your expectations be of the legal knowledge and skills demonstrated by a first/second year student?

2.3 How should law be taught?

Involving students as active learners is as important in law as in any other aspect of the curriculum. Law learning presents plenty of opportunity for this, through individual and group work that encourages students to present the outcomes of their independent, albeit guided, work. The following are examples.
2.3.1 Student-led seminar presentations

Student seminar presentations – Glasgow Caledonian University

Each group should prepare a presentation on a case study, lasting approximately 15-20 minutes, which will form the basis for discussion within the class as a whole. When examining the case study, students should attempt to explore the following:

- What legal issues are involved?
- What needs, rights and risks are involved?
- What do you consider to be the most appropriate response?

The aim of the group presentation is to explore the options available within the legislative framework, not to look for practice solutions. Discussion of options should be supported by ideas from across the theoretical framework covered by the programme so far, for example poverty, family and lifespan, social work practice, key concepts and values. As it is sometimes difficult to grasp ideas quickly from spoken word presentations, groups should consider also using limited visual aids such as flipcharts or acetates. All class members should come to the seminar having read the case studies in advance, and prepared to discuss the issues raised, not merely to listen. Attendance at each seminar is required by the whole student group.

Students work on one of four studies, covering a range of legal issues.

Sample case: Brian (27) has been convicted of assault following a fight with three other men after a local football match. All had been drinking heavily and the police charged all four with assault, as each made statements incriminating the others. Brian has a history of violent offences, usually while under the influence of alcohol. He has been unemployed for the past three years, having lost his last job because he was frequently arriving drunk at work. He has, until now, lived with his parents, but they are fed up with his behaviour and have asked him to move out unless he seeks help with his excessive drinking. You have been asked to prepare a social enquiry report for the court to provide information and advice as an aid to sentencing.

2.3.2 Getting students to work as a group

Student seminar presentations – University of Manchester

Students work in small groups to undertake the research necessary to make a presentation to the whole group on one of the case studies. Guidance is given as follows:

1. First, decide what the relevant issues in the case are. Allocate between your group members the task of researching particular aspects of law. You will need to list the relevant statutes pertaining to your part of the case study and then work on deciding which Acts and sections are most relevant.

continued
2. When you have completed this phase of the work, you should meet and debate the pros and cons of various interventions. You should think about the requirements of anti-oppressive practice alongside the more philosophical discussions, and try to think what you would really want to do in this case.

3. You should aim to produce a 20-minute presentation that discusses the law and makes some recommendations for action.

Case 1: George D is black British, aged 75. He lives with his daughter Simone and her children Jenny (10) and Joe (15). George is known to the local services for older people with mental health problems. He has had Alzheimer’s Disease for the past five years and is becoming increasingly anxious and confused. The social services department provide home care for George while Simone is at work. Simone has called social services saying she is very concerned about her father and is not sure whether she can cope any longer. He is becoming verbally and physically abusive and has recently attempted to strike out at Jenny. He has also been getting up in the night and leaving the gas switched on, which means Simone is unable to get any rest.

Case 2: Lisa is white British and 19 years old. Between the ages of 10 and 18 she was looked after by the local authority. She was placed with foster carers for a short time but her behaviour proved too challenging and she was moved to a children’s home. Lisa has some learning difficulties and mental health problems, and is supported on medication. She has a history of aggressive behaviour and self-harm that is well controlled as long as she takes her medication. She has minimal contact with her parents, who have never been able to accept or cope with her disability. She is currently living alone in a local authority flat. She is known to the aftercare team and the community mental health team, who provide support to enable her to live independently. Lisa has just discovered she is 16 weeks pregnant, and says she does not know who the baby’s father is. Health professionals are concerned she may not be able to cope with the pregnancy and that she may not be capable of looking after a child alone.

Case 3: Gary is 16 years old and white British. He lives with his mother, Anne, who has recently been diagnosed with multiple sclerosis (MS). Gary has recently been excluded from school, following an incident in which he threatened a teacher with a knife. Gary’s teachers say he has always been ‘a loner’, but recently seems to have become very agitated and disorientated at times. Anne says he is ‘not the boy she knows’. He is spending all his time in his bedroom, will not communicate and has shouted at her and pushed her a number of times. This is out of character and Anne is worried that Gary is either on drugs or has inherited his father’s mental illness. Gary’s father, who no longer lives with the family, has a diagnosis of schizophrenia. Currently Anne’s symptoms associated with the MS are quite severe and she is desperate for help.

Useful resources:
www.carersuk.org
www.careandhealth.com
www.opsi.gov.uk/acts.htm
http://nchacti01.uuhost.uk.uu.net/carelaw
2.3.3 Problem-based learning

Skills-based workshops – University of Paisley

We have abandoned the formal lectures with a social work lecturer and a law lecturer at the front of the class and moved to a skills-based workshop approach. We begin with several classes that set the context, looking at key concepts and a framework for understanding and practising social work law. The students are introduced to the legal resources available in our library/learning resource centre. A list of required weekly reading is circulated. Following this, each week students are introduced to a scenario highlighting law and social work practice issues in a specific area of work – for example, in relation to community-based disposals for the courts. A lecturer ensures that students understand the task. The students then work all morning in small sub-groups on answering questions related to the scenario. In the afternoon the class reconvenes with the lecturer present. Each sub-group presents their responses to the scenario questions, with discussion. The lecturer’s role is to ensure that the key concepts, themes, issues, etc are emphasised, that the most accurate and up-to-date material is highlighted and that the class goes away having met the learning outcomes for the day.

Feedback has been increasingly positive. Most students do seem to like to work in this way. Results have not been significantly different as a result of the introduction of this new approach. It is not yet clear how durable the knowledge acquired in this way is, but anecdotally students seem to be able to make good use of the knowledge while on practice placement.

2.3.4 Developing independent legal research skills

Library exercise – University of Edinburgh

This exercise is an opportunity to look at a range of statutes, guidance and one or two cases, to begin to familiarise yourself with this type of legal material. You need to go to the main library and the law library to examine the material and consider the questions set out below. Choose one of the exercises below and have it completed to bring to class.

1. Children and families

Exclusion order

• Look at the Children (Scotland) Act 1995. What are the grounds for applying for an exclusion order?
• Look at the guidance. What advice does it offer?
• Look at the case report of Russell versus W 1998 FamLR 25. What are the facts of the case? What was the court’s decision?

continued
2.3.5 Using a quiz to engage students with sources of law

Introductory law quiz

1. What is the primary source of law?
2. Which is the highest court in the UK?
3. What does parental responsibility refer to?
4. Which role has the Children Act 2004 created?
5. What is the difference between policy guidance and practice guidance issued by the Department of Health and the Department for Education and Skills?
6. Is the right to privacy and family life in the Human Rights Act 1998 absolute?
7. Is private law concerned with the relationships between people?
8. Can a woman who gives birth to a child ever lose parental responsibility?
9. Does adoption transfer parental responsibility from birth parents to adoptive parents?
10. What change in the rules on parental responsibility did the Adoption and Children Act 2002 make?
11. What orders did the Crime and Disorder Act 1998 introduce?
12. Does an unmarried father who contributes financially to his child’s upbringing automatically have parental responsibility?

continued
13. What is the definition of a child in need according to the Children Act 1989?
14. How should a local authority provide services for children in need?
15. What is the age at which a child can be prosecuted in England?
16. Is a disabled child automatically a child in need?
17. Can parents be prosecuted if they fail to ensure that their children under the age of 16 receive full-time education?
18. When a local authority is granted a care order in respect of a child, does it obtain parental responsibility and can it limit how the parents of that child exercise their parental responsibility?
19. Can children of sufficient age and understanding choose the school that they attend?
20. When does a child have special educational needs?
21. When may police reprimands and warnings under the Crime and Disorder Act 1998 be used?
22. With what is criminal law concerned?
23. Towards whom does the Children (Leaving Care) Act 2000 enhance the responsibilities of local authorities?
24. Do young people aged 16 and 17 who are homeless have a priority need for housing under the Homelessness Act 2002?

2.3.6 Making law accessible/supporting decision-making skills

Responding to the challenge of students’ fears about law requires educators to be creative in interpreting legal content, enabling it to be shaped in a way that mirrors the questions that arise in practice. Decision trees can help. The following example again draws on the legal rules applicable in England. However, the principle could be illustrated by the legal framework available in each of the four nations of the UK. For example, in Northern Ireland the relevant legal context through which students need to be guided when considering assessment for community care services and assessment of carers would instead include:

- Carers and Direct Payment Act (NI) 2002 – rights of carers to assessment, services for carers, direct payments and information.
- Disabled Persons (NI) Act 1989 – assessment of disabled person for services under the 1978 Act, and taking the needs of the carer into account.
Does the person appear to be in need of community care services?

No

No action required

Yes

Assessment of need under section 47, NHSCCA 1990

Is the person disabled within the definition in section 29 NAA 1948?

No

Is there a need that calls for provision of services?

No

No service

Yes

Does the level of need meet the eligibility criteria?

No

No service

Yes


Has an assessment been requested by a disabled person?

Yes

Is there a carer?

Yes

Assessment of carer’s needs (CRSA 1995/CDCA 2000) and take needs into account (section 8, DPA 1986)

Does the carer need services?

Yes

Arrange carer’s services (CDCA 2000)

No

No action required

No

No action required

Is there a need for services under section 2?

Yes

Is it necessary to meet the need?

Yes

Arrange services s.2 CSDPA 1970

No

No service

No

No service
2.3.7 E-learning

Law has been identified as a suitable focus for the development of e-learning materials, and their use is set to become more widespread as a result of further work being undertaken by SCIE. Some such materials have already been developed and are embedded in students’ learning.

E-learning package – Glasgow Caledonian University

‘The Law Relating to Children in Scotland’ is a computer-assisted learning package which enables students (and practitioners) to understand the legislative context of work with children and families, and to begin to critically evaluate the legal concepts within practice. It aims to assist students to develop their practice by better understanding the context within which it takes place. It does not seek to provide a comprehensive understanding of the law in relation to children and is therefore an adjunct to learning rather than a substitute for other reading. Indeed, it is vital that students make reference to appropriate statutes and wider reading to gain maximum benefit from the package. The programme has been constructed in three sections:

2. Self-assessment: this section is intended to provide a light-hearted test of legal knowledge on the questions set, without implying that successful completion indicates any broader understanding. The user has access to randomised questions about four key aspects of child care legislation, mainly based around the children’s hearings system, and must decide whether each option offered is ‘True’ of ‘False’. In the ‘easy’ version, the user may continue to select responses until the correct response is achieved. In the ‘harder’ version, the correct answer needs to be selected in order to proceed.
3. Case study and report writing: the case study is based on the structure and content of a fairly typical social background report for a children’s hearing. The user must make ‘real time’ decisions in response to the options posed by the report. The computer then selects an outcome at random, requiring the user to make further choices, culminating in the construction of a report by the user that explains the reasons behind the choices they have made. When working with the case study, the user may access additional information via hypertext links to the legislation section of the programme. The completed report can be saved on to disk for future discussion with student colleagues or tutors.
Students will use the programme in a number of ways:

- accessing information about the law
- testing out their current legal knowledge
- examining existing case law in respect of particular issues
- exploring available legal options
- examining practice dilemmas
- improving report writing skills
- using the Conference Centre, which allows interactivity among networked users.

The programme is designed to allow users to make their own decisions about what they wish to explore and in what order. A student may, for example, decide they have adequate working knowledge of the legislation and decide to begin working at the self-assessment stage in order to test their understanding. It is also possible for students to begin working on the case study stage, and subsequently decide to refresh their understanding of the legislation, and retrace their steps accordingly. The user is able to work at a pace acceptable to them, and suitable to their own style of learning. As steps can be retraced, this allows knowledge to be consolidated more effectively.

2.3.8 Interdisciplinarity

A key challenge is to ‘translate’ law, rendering it accessible for students from other disciplines while retaining a sense of its complexity. Ways forward might include:

- An integrative approach (Dellgran and Höjer, 2003), emphasising the extent of exchange between the disciplines of law and social work, creating a new integrated discourse relevant to the context in which they must co-exist. The concept of ‘social work law’ (Preston-Shoot et al, 1998) is an example.
- Models for interprofessional learning at pre-registration level. There is currently little evidence of social work students and law students learning alongside each other. Interprofessional education developments in social work tend to emphasise linkages with health (and to a lesser extent education) rather than law.
- Development of practice placements for social work students in legal or quasi-legal settings.

There are several pedagogical dimensions thrown into sharp relief by social work law education. One dimension is that between discrete modules and integrated learning. Another, reflecting the driver within the modernisation agenda towards coordination, is that between a single discipline, multidisciplinary and interdisciplinary focus. These dimensions suggest that academic tutors and practice educators should consider the degree to which learning opportunities build from a discrete knowledge foundation to a framework where social work law knowledge and skills are integrated with other maps for professional practice. The next question is how far social work and law tutors and practitioners are teaching and assessing social workers in training together, and then how far social workers in training are enabled to learn and practise alongside other professionals in training.
Social work and law tutors and practitioners working together, and social workers in training studying and practising alongside legal and other professionals in training should promote mutual understanding. It will enable the identification of commonalities in terms of knowledge bases used, skills deployed and values shaping practice. It will also enable dialogue about how differences in the conceptualisation of values, use of knowledge, and objectives of skill use, can be utilised for the benefit of service users.

2.4 Who should teach law?

2.4.1 Involving experts by experience

From the experience of experts by experience participating in the systematic review, a number of important issues emerged, which may be applied to participation in law teaching. Key findings were as follows:

• Participation must be underpinned by a clearly stated principle, identifying the value of contributions from different sources to students’ learning. Thus service users’ and carers’ knowledge and expertise is different from, but as valuable to social work students as, knowledge from other sources such as research, policy and practice wisdom. In moves to ensure that social work education and practice become more evidence based, it is vital that definitions of evidence are broad enough to encompass perspectives gained through personal experience.

• Alongside this is the notion of non-hierarchical relationships, in which expertise is fully acknowledged and respected. This is not to deny that different levels of responsibility for teaching and learning will be held. Employees of a university, for example, cannot avoid accountability within procedures for quality assurance. There may be organisational constraints on how far the power of decision making can be shared. Nevertheless a commitment to full participation will challenge traditional structures and exploit any flexibility within relationships to maximise the degree of equal partnership in teaching and learning.

• Participation can take any or all of a number of forms: participation in preparing the content and objectives of learning; direct live involvement with students in the classroom or on placement; preparation of video material; preparation of case study material for use in the classroom and in assessment; marking students’ assessed work.

Experts by experience taking part in the systematic review gave examples of the value of their participation in these different aspects of students’ learning:

<table>
<thead>
<tr>
<th>Learning objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Faced with the dilemma of whether students should become skilled technicians, able competently to apply knowledge of the law in practice, or critical thinkers, able to reflect on the nature and role of law, experts by experience emphasised the importance of integrating these abilities – in effect that we should aim for students to become critical technicians (or skilled thinkers).</td>
</tr>
</tbody>
</table>

4 For further details see Braye and Preston-Shoot (2005)
Curriculum design
Experts by experience in the systematic review, reflecting on the information from the practice survey, were concerned at omissions from the taught curriculum that they would have placed centre stage. For example, complaints procedures were not routinely covered in social work programmes, whereas experts by experience felt these were essential for students to know about and understand.

Live involvement with students in the classroom
People with experience of living in long-stay hospital and of using learning disability day centre provision described the impact on students of their personal testimony, given live in the classroom. This included students feeling very moved, ashamed and inspired, with comments such as “I thought all that was in the nineteenth century”. They described how you could hear a pin drop in the classroom, and how afterwards they felt their relationship with the students was changed to one of greater equality and respect.

Preparation of video material
A young person with experience of growing up in care told how a video made by young people was used to share their experiences with students.

Preparation of case study material for use in teaching
There was agreement that experts by experience should be involved in commenting on case studies used in the classroom to ensure they reflected adequately the reality of people’s lives when in contact with services.

Marking students’ assessed work
Experts by experience felt that if students are making presentations about their learning, the panel of assessors could include service users and carers, who would contribute perspectives not only on content but also on process of presentation, such as communication and inclusion skills.

* There is much to be gained through dialogue and debate between those with diverse experiences. It is one thing for a service user’s perspective to be presented alongside a social worker’s or a lawyer’s perspective. It is infinitely richer for students to witness and/or participate in exchanges of views that can result in new shared understandings which take account of difference. Such debate can be in live or recorded format.

* Experts by experience were keen to emphasise that diversity of views is important, and that service users whose views might be particularly challenging to professionals should equally be included in invitations to participate. By definition, however, participants will inevitably have a will to engage with the profession through dialogue with students in training. One service user recounted how he had himself been criticised for “talking to social workers” by others in the disability movement.

* It is important to dedicate resources and responsibility for ensuring that the practicalities of participation work smoothly. Particularly important are:
  > preparatory information and negotiation to establish a clear sense of purpose, and of the role that participants are being invited to play
Teaching, learning and assessment of law in social work education

> practical considerations on the format of information provided, accessibility and suitability of venues, public and private transport, personal assistance, dietary preferences, which take account of diverse needs
> Prompt payment of fees and reimbursement of out-of-pocket expenses.
• In addition to the appropriate financial recognition of the contribution of experts by experience, it is vital to recognise additional 'costs' for experts by experience of participating in law learning. For example, those involved, through choice, in giving personal testimony to students spoke of the emotional impact for them of revisiting experiences that had been traumatic and of responding to students’ curiosity, however respectfully framed. This extended sometimes to managing a high degree of preparatory anxiety, and subsequent exhaustion after the event, and the need for them to deal at a personal level with the physical and psychological costs of this roller coaster. They judged that the benefits to the future of the profession were worthy of their investment, but sought recognition of the very personal and sensitive nature of their contribution.
• Linked to this, it was clear that there are a number of very different motivations for participation by experts by experience. One common theme, however, was the wish to 'make a difference' to the profession, and to protect future service users from the pain they had themselves experienced in professional hands. Some wished to give personal testimony – for example of the impact of statutory intervention to curtail liberty or autonomy, for reasons of mental health or child protection. Others wished to contribute a conceptual framework for law learning, emphasising the importance of not segregating areas of law into, for example 'child care' or 'community care', because “families don't come in boxes”, so neither should the law. Others wished to contribute core factual knowledge – for example, teaching on the provision of the Mental Health Act 1983 – without placing centre stage their own experience.
• Inviting personal experience into the classroom, where this is part of service users’ contribution, requires attention to the needs of those who listen. For students who as practitioners often have long experience of doing their best in sometimes hostile organisation territory, hearing stories about experiences that have sometimes been negative, and are forcefully expressed perhaps with distress or anger, can be hard. It requires a shift beyond professional defensiveness to open-minded listening, seeing anger as energy and motivation to change things for the better. Students need preparation and reflection time after the event in order fully to integrate such learning. This has implications for teaching time allocations and the breadth of learning that can be covered.
• Equally personal narrative can challenge current expectations in higher education – that students' learning processes can be managed in a rational and logical manner, through the articulation of clear learning objectives and the choice of controlled processes and activities that support their achievement. In reality, learning is a much more complex and unpredictable process (Cooper et al, 2004) and educators need skills in managing unpredictable processes as well as rationally conceived tasks in the classroom. In part this can be achieved through preparation of options for responding to, for example, distress, anger or hostility, drawing on established approaches in the theory and practice of groupwork. In addition to spontaneous discussion, more structured techniques can be used to draw positive learning from negative experience. The use of a ‘three wishes’ exercise, for example, can direct those relating their experiences to what they would hope would be different in similar future situations. Here social work students and experts by experience might be asked to work together on sharing hopes and aspirations, and identifying
Service user involvement – University of Lincoln

The Service User Participation Group has contributed to law teaching in a number of ways:

The group has produced a video, from which a 10-minute clip is used in law teaching to focus discussion on the Care Standards Act 2000, and how this might influence services. The video extract shows Alice, who is in her 90s, waiting for her home care assistant, who is late. She talks about how this makes her feel anxious. She also talks about how important it is for her to be able to remain in her own home, as she has lived there for over 50 years. Students are asked to consider the following questions with regard to the Care Standards Act 2000:

1. Alice has a home care assistant. Think of three standards that would be important to ensure her home care is of good quality.
2. What systems would you put in place to measure these?
3. If Alice entered a residential care home, think of three standards that would ensure her care in the home is of good quality.
4. What systems would you put in place to measure these?

Young people who have had experience of the care system present a session related to the Children (Leaving Care) Act 2000. In the presentation, they interviewed each other about their experiences, using a script of specific concrete steps toward their achievement. As one expert by experience commented, it is about “getting it right for the future”.

• An important principle is that participation should leave experts by experience stronger, or better resourced, than before. Strengths and resources may be seen in the widest sense, including access to training and other developmental opportunities. A powerful analogy for participating in social work education, made by an expert by experience, is of a bus journey in which everyone gets off the bus further down the line and nearer to their destination, apart from the service user who gets off at the same stop as before.

Participation in teaching and learning may be seen as a process of raising awareness, in which the aim is to seek understanding, not consensus (Harding and Oldman, 1996). It is that understanding that ultimately enriches knowledge and practice. Education of this nature requires a shift of mindset that creates the will to work for a fundamental shift in the power relations of knowledge production and thus of professional practice. It requires respect and a common passion for the task, and attention to process that generates a sense of safety to speak up. It requires the creation of an environment where experts by experience feel valued, where all those involved are open to learning from each other, and where there is a commitment to action based on understanding derived from that learning. Lastly, it requires thoughtful preparation and groupwork skills (Braye and Preston-Shoot, 2005) – attention to information and agenda setting, facilitating non-hierarchical relationships and close attention to group process and structuring the task.

2.4.2 Developing contributions to teaching by experts with experience
questions (see below). This took a lot of preparation by the young people. Active preparation with the students is also necessary to ensure that their responses to the young people are not intrusive.

Billy, thinking about when you left care ...

1. How old were you when you left care?
2. What support did you want when you left care?
3. Did you know what support you were entitled to? Did anyone tell you?
4. What support from your social worker did you actually get when you left care? What about other people?
5. How were decisions made about your life? How were you involved?
6. When you left care, where did you want to live? What actually happened?
7. What career did you want when you left care? What training did you want to do? What has happened?

So how are things now ...

1. Where do you live now?
2. What about work or training? Do you get any support (financial, or advice, for example)?
3. What about support as a care leaver? How have the changes in the law about care leavers affected you? Do you have a pathway advisor?
4. What about decisions now – are you in control? How are you involved?
5. What are your career plans and plans for the future now?

Kelly, thinking about how things are now ...

1. Where do you live now?
2. What are you doing at college at the moment?
3. Do you have ideas about what you would like to do for a career in the future?
4. What kind of support do you get from your social worker? What about your foster carers?
5. Do you have a pathway plan personal advisor? What sort of things do you talk to him/her about? Are you in control of things, do you make the decisions?

Thinking more about the future ...

1. What do you want to do when you leave care?
2. Where do you want to live?
3. What support do you want to have when you leave care?

2.4.3 Learning from personal narratives

Experts by experience consider that students can learn much from reflection on users’ experiences of being on the ‘receiving end’ of legal interventions, and have contributed materials as examples of the type of source material that can be used.
Grace’s experience
“...My son has two children. His wife took them, along with the children she had before they met. She farmed them out, and then neglected them, so they were taken into care. My son wanted them but they would only let him see his own two children. The social worker accused him of taking drugs so he did a drug test that was clear. Then he was accused of drinking so he did a further test that was clear. Then the social worker said that his wife’s children had told her that six years ago he had broken his wife’s arm. He had not; she had fallen down steps and, as she is big, she broke the arm she landed on. The social worker wants to take the word of the children from when they were four years old and to get his children back he has had to go into a residential unit costing thousands of pounds a week to prove he is a good parent, despite the school saying he was. He is not allowed to take his children out for more than two hours a day. They sent his oldest to a special school without being statemented, are keeping him short of money and have denied us contact. Now the local authority solicitor is trying to stop my son seeing his files as he is trying to sue them for neglect of duty of care since the children had 24 homes in 18 months.”

Question to Grace: What do you want social workers in training to learn from this experience? What would be your key messages?
“I would want them to be honest and to work with us, not against us. I would want them to recognise when their plan is not working, to accept that it is not, and to make sure that when a child is placed out of the authority, they keep tabs on them and not to trust an agency in another authority and not to sit back and forget the child. This social worker took her eye off the ball for 18 months. Social workers must try to work with families, not alienate them. For the best interests of the child, the social worker and family must be partners. The social worker must not listen to hearsay and make accusations without proof. A four-year-old child must never be used or relied upon to make statements against one or other parent. If you cannot work with a parent, the child suffers. The social worker must accept that she is not always right. The best interest of the child must always take precedence over any animosity on either side.”

David’s experience
“I first had experience of social services over 20 years ago. My then wife suffered a nervous breakdown. She was ill for a short period of time and then ran away to Ireland with our two children without informing me. This was a harrowing situation for me. After six weeks I found out where she was. I took some time off work and went to Ireland to hopefully resolve the situation. After tracing my wife I informed social services and had a lengthy discussion with them. I then had to return to [my town] to keep my job. For about the next eight days I spent every day asking social services in [my town] to contact Ireland for any news. I felt that social services in Ireland thought that my wife had just left me and did not take me seriously. The attitude of [my town’s] social services was quite supportive but the situation was very worrying and I was concerned for my children’s safety and welfare.

“I then received a phone call from social services in Ireland informing me that my wife had been taken into custody by the police and admitted to hospital.
I was very angry with this and felt this situation could have been avoided if I
had been listened to and believed in the first place. I then had to go back to
Ireland to return the children to [my home town]. On my return social services
were involved and happy with the situation as I lived with my mother and two
children to enable me to work.”

“My wife was returned to [my town] a short time later and sectioned under the
Mental Health Act. What followed was a lengthy stay in the old asylum, which
I was not happy about. She gradually improved and was then discharged. She
would not live in our home and we had to rent a property to live in. My third
child arrived about a year later and family life was quite settled.”

“Sometime later I suffered a road traffic accident. All the family were injured,
including me. I did not seem to recover from the accident and I gradually
became ill, suffering paranoid delusions, palpitations and insomnia. This took
several months to present itself and I was then admitted to the old asylum, my
worst fear. The admission was a very unpleasant experience, most of the staff
on the ward were very aggressive and I felt like they acted like prison wardens
rather than nurses. Before discharge I was interviewed by a social worker and
I am still waiting for a follow-up visit. What then followed in my life was quite
devastating. My marriage broke up and I was made redundant due to ill health
and told I would never work again. With the break up I was alienated from my
children. I had to build my life from nothing again.”

Question to David: What do you want social workers in training to learn from this
experience? What would be your key messages?

“The first social work value is human dignity and worth. It is very important
that people retain their dignity when faced with a possibly life-changing
situation both for their psychological well-being and to help with self-esteem.
When people have suffered a traumatic experience, after time they can reflect
how they were treated and whether they were listened to and their wishes met.
This can make the memory of this situation less psychologically scarring. It can
also assist people in the recovery process and help them move on more quickly.”

“Social justice is another value that I feel is important as a social worker has a
duty of care to deliver to their clients. They must work within the framework
of the law but attempt to be as unintrusive as possible into a person’s life.
This involves sometimes very close judgement after long or short periods of
assessment. It is also important for reassessment to take place on a regular
basis when a client has been in a crisis situation. A social worker in their role
has a great deal of responsibility and works in the service of humanity. It is
extremely important that they are impartial as regards to their own sense
of values and the way they were socialised. They must comply with all the
relevant legislation and be open minded but professional in their approach.
It is also important that service users’ and carers’ views are considered when
assessments are made.”
2.5. How should students be assessed?

The range of methods of assessment is represented in examples given here, which highlight diverse approaches that educators may find useful to adopt or adapt.

2.5.1 Assessed project work

Courtroom observation report – University of Illinois at Urbana-Champaign, School of Social Work

For this paper, students will attend court for at least two hours as an observer. If you are involved in a case as a witness or a party, you should not report on this experience. You may select federal or state court in any locality that is convenient for you. Please describe your experience and what you observed, thought and felt.

Weave into your paper answers to the following questions:

• When and where did your observation occur?
• What kind of case did you see?
• What was the legal issue that the court was deciding?
• Who was present in the courtroom?
• How did the people involved treat one another?
• How did the case relate to social work?
• Did it invoke for you any issues related to social work values or ethics?
• How did you feel about what you observed?
• How do you think a vulnerable client would feel in the same situation?

Your paper should be 2 to 3 pages long, typed and double-spaced. It should not report on the content of the case (other than where indicated above) but instead should focus on your attitudes, beliefs, feelings and reflective thoughts about what you observed. It should be written in a clear, concise and comprehensive manner.

“A social worker could be responsible for some profound changes in a person’s life and therefore integrity is a very important consideration that should be taken very seriously. High profile cases in the media have highlighted the importance of competence within a social care setting. A social worker is answerable to firstly their line manager, then the departmental head, the head of social services and ultimately the courts. Professional competence is a very important issue. If a client thought they were not being treated fairly, it would reflect on the rest of the team and the whole department. It is also crucial to maintain a very high standard of care and adhere to all social work values.”
Coursework case study – University of Bangor

This assignment is in two parts, both of which are based on the following case study.

This case has been assigned to you following referral by a health visitor, who is concerned about Josie and her children. Josie has just been discharged from hospital having had the initial diagnosis of multiple sclerosis (MS) confirmed. She is the single parent of four children aged between 3 and 14, since her husband died in an accident on a building site 12 months ago. Over the last few months Josie has been feeling ill and very depressed by the possibility of long-term sickness. Her mother, Marguerite, has been travelling 10 miles by bus three times a week to help her with housework and shopping. Delroy (14) and Elaine (12) have taken over much of the responsibility of looking after their younger siblings Sandra (3) and Milly (7).

The health visitor is concerned particularly in relation to Josie’s physical and emotional condition and the effects of those on her parenting skills. She is also very suspicious that Josie is smoking cannabis to relieve the pain of the MS. However, Josie denies this and also denies she is unable to cope with looking after herself and the children. The health visitor is also concerned about the pressures on Marguerite, who is in her early 70s and suffers from asthma, and about Delroy and Elaine, who have been missing school. Delroy is under threat of exclusion because of his frequent absences and his aggressive behaviour in the classroom when he does attend.

Part 1 (2,000 words): This part of the assignment asks you specific questions about the law, which you should answer fully, citing the relevant legislation (including sections of Acts) and making reference where appropriate to regulations, policy and practice documents and judicial cases.

- List the main duties and powers, if any, that a social work authority may have in relation to Josie, and discuss how and why you might use them in this case.
- List the main duties and powers, if any, that a social work authority may have in relation to Marguerite, and discuss how and why you might use them in this case.
- List the main duties and powers that a social work authority may have in relation to Delroy, Elaine, Milly and Sandra, and discuss how and why you might use them.

Part 2 (1,500 words): For this part of the assignment you should choose any member of this family and offer a critical discussion about his/her situation, relating the use of law to practice. Your answer should fully consider: conflicting imperatives; compulsion and negotiation; partnership and empowerment.
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Coursework case study – Glasgow Caledonian University

It is not enough for social workers to have some knowledge of the legislation that governs their work, without that knowledge being tempered by an awareness of the potential range of its discretion and the potential consequences of its use. This exercise is intended to give students the opportunity to explore some of the complexities of the social work task within the legal framework. It is not therefore sufficient for students to quote the statutory basis without placing this within the overall social policy context, taking full account of issues of racism and discrimination. Students must not only say what legislation applies, but why they have chosen it and what its potential consequences might be.

In your answer to the case study, address the following three issues. These are of equal importance in terms of the requirement to demonstrate an understanding, but this does not mean they will be of exactly equal length. The overall word limit is 3,000 words.

• **The statutory law and the range of possible options available to the social worker within the legislation:** select the legislation you consider to be the most appropriate response. This should involve some discussion of the wider context within which this decision has been made. For example, if you are suggesting that the child in Case Study 1 should be the subject of compulsory social work intervention, what does research tell us about the possible outcomes of such an action? Are there gender issues? How might the mother’s learning difficulties affect her choices? On the basis of this information, why are you making a particular choice of legislative option?

• **Roles and responsibilities imposed by the legislation:** having selected the legislative option, you should then examine the roles and responsibilities of the social worker and the agencies involved. There will be combinations of roles and responsibilities imposed by the legislation. For example, you would be expected to state that preparing a report for a court is a statutory responsibility. There are also social roles involved in the collation of the report. How these are discharged will be affected by other issues, including the potential for racism and discrimination.

• **The rights of those involved:** in deciding on a particular course of action, a social worker would have to be alert to the rights of service users, their families and the community. This will be influenced by external factors, drawn from wider reading.

Anti-racist and anti-discriminatory perspectives should permeate your work, rather than be ‘tagged on’ at the end. The way to approach this is to examine the decisions you are taking and the options you are choosing from an understanding that different groups in different situations experience the legal context differently. For example, how might this affect decision making in relation to a young woman with a disability? What do we know about the impact of poverty on people’s access to the law?

*continued*
In order to examine the range of issues raised within the questions, you will be well advised to look beyond the basic legal texts. Try to link in with the teaching on other modules to provide a broader range of analysis for your work. If a residential option is inappropriate in terms of a legal option, why is this the case? Would it matter if the person were of a different age, sex, culture, income level? What does the literature say about the issues? Obviously within the word limit set for this assignment you will not be able to explore everything in detail. Where sacrifices need to be made, try to reduce the description and retain the analysis.

Sample Case Study 1: Alan Brown (47) and Sue Smith (23) were referred to the social work department by their GP when Sue was eight months pregnant with their first child. The GP was concerned about Sue's ability to understand the implications of her pregnancy and the responsibilities of parenthood, as she has learning difficulties. She attends the Resource Centre run by the local authority.

When the social worker visited, she found the family home sparsely furnished with poor standards of hygiene and no apparent signs of preparation for the baby. The flat is on the 14th floor of a local authority high-rise block, soon to be renovated but currently damp and draughty. Alan Brown was hostile, insisting they did not need any 'interference' – they had everything under control and would be able to provide adequately for the child.

Three weeks later the social worker received a call from the hospital, expressing concerns about Sue's handling of her baby son, born two days previously. They felt she was not feeding or handling the baby properly and was not responding to attempts to help her. Now Sue had been seen by staff to smack the baby because he was not feeding quickly enough when her favourite TV programme was about to start. She had become agitated and frustrated with her son, and staff had had to intervene. When Alan Brown had arrived he had been told of the referral and had become very angry. He stated his intention to remove Sue and the baby from hospital immediately, and had said he wanted to ensure his child did not end up in care “like the others”. A check of child protection records had revealed that he had two children from a previous relationship with whom he was denied contact, having committed a Schedule 1 offence against one of those children. His behaviour at the hospital had become so difficult that the police were called and he was charged with breach of the peace and assault. Sue had told hospital staff she did not feel ready to go home just yet.
### Multiple choice examination (November 2003) – University of Hull

#### The duty which is placed on local authorities by Section 47(1)(A) of the NHS and Community Care Act 1990 requires them to:

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Assess everyone who asks for assessment</td>
</tr>
<tr>
<td>b</td>
<td>Assess everyone who appears to them to be in need of a service that they may provide or arrange</td>
</tr>
<tr>
<td>c</td>
<td>Assess everyone who is referred by a doctor or other professional</td>
</tr>
<tr>
<td>d</td>
<td>Screen all applicants in order to decide whether to assess them</td>
</tr>
</tbody>
</table>

#### Which of the attached statements best describes the decision of the House of Lords in *R v Gloucestershire CC ex parte Barry*?

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Local authority resources were not to be taken into account when assessing need</td>
</tr>
<tr>
<td>b</td>
<td>Resources were not to be taken into account when the local authority had exhausted them</td>
</tr>
<tr>
<td>c</td>
<td>Need for services cannot be assessed without some regard for the cost of providing them</td>
</tr>
<tr>
<td>d</td>
<td>Need is an absolute concept and qualitatively different from questions of resource</td>
</tr>
</tbody>
</table>

#### A person wishing to challenge a local authority by requesting Judicial Review must normally first:

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Apply to the local government ombudsman</td>
</tr>
<tr>
<td>b</td>
<td>Exhaust the local authority complaints procedure</td>
</tr>
<tr>
<td>c</td>
<td>Apply to the social care tribunal</td>
</tr>
<tr>
<td>d</td>
<td>Ask the social worker for a formal review and reassessment of care package</td>
</tr>
</tbody>
</table>

#### Under Section 4, of the Disabled Persons (Services, Consultation and Representation) Act 1995 carers are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Entitled to a service</td>
</tr>
<tr>
<td>b</td>
<td>Entitled to practical assistance in the home</td>
</tr>
<tr>
<td>c</td>
<td>Entitled to an assessment</td>
</tr>
<tr>
<td>d</td>
<td>Entitled to a holiday</td>
</tr>
</tbody>
</table>

#### Under the Carers (Recognition and Services) Act 1995 carers have:

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>An entitlement to a service</td>
</tr>
<tr>
<td>b</td>
<td>A right to have their needs assessed alongside that of the person for whom they are caring</td>
</tr>
<tr>
<td>c</td>
<td>An entitlement to have their needs assessed</td>
</tr>
<tr>
<td>d</td>
<td>A right to an independent assessment</td>
</tr>
</tbody>
</table>
Under Section 114(1), of the Mental Health Act 1983, approved social workers are appointed by:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>A local health authority</td>
</tr>
<tr>
<td>b</td>
<td>A local social services authority</td>
</tr>
<tr>
<td>c</td>
<td>The government</td>
</tr>
<tr>
<td>d</td>
<td>The mental health tribunal</td>
</tr>
</tbody>
</table>

Admission for assessment (Section 2, Mental Health Act 1983) lasts for a period not exceeding:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>72 hours</td>
</tr>
<tr>
<td>b</td>
<td>28 days</td>
</tr>
<tr>
<td>c</td>
<td>6 months</td>
</tr>
<tr>
<td>d</td>
<td>6 hours</td>
</tr>
</tbody>
</table>

Before compulsory admission for treatment under Section 3, of the Mental Health Act 1983, the patient must be seen by at least:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>One consultant psychiatrist</td>
</tr>
<tr>
<td>b</td>
<td>An approved social worker</td>
</tr>
<tr>
<td>c</td>
<td>An approved social worker and a doctor</td>
</tr>
<tr>
<td>d</td>
<td>Two doctors and an approved social worker</td>
</tr>
</tbody>
</table>

Admission for assessment in cases of emergency (Section 4 Mental Health Act 1983) may be made by:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>A hospital manager</td>
</tr>
<tr>
<td>b</td>
<td>A magistrate</td>
</tr>
<tr>
<td>c</td>
<td>An approved social worker or nearest relative</td>
</tr>
<tr>
<td>d</td>
<td>The police</td>
</tr>
</tbody>
</table>
2.5.4 Exam – case study

Case study examination – University of East Anglia

Candidates have already received the case scenarios excluding the questions and will answer questions from two out of three sections. The percentage of available marks is shown at the end of each question. Copies of UEA Law Files may be brought into the examination. Students are examined in three distinct areas of law – mental health, child care and community care. An example of the type of questions set is given below.

Section 1 – Mental Health Law
1. Tamsin (23) has lived with her half sister Alison (28) for the last year. Both women have fallen out with their mother, Sheila, since she disapproves of their partners. Tamsin is involved with her employer, Mike, who has a wife and two children aged three and five years. Alison has a relationship with Maria (25) who works in London during the week and returns to her parents’ home every weekend.

Under the Mental Health Act 1983 who is the nearest relative for:
(a) Tamsin; (b) Alison; (c) Maria? Give your reasons. (10%)

2. Tamsin’s relationship with Mike is volatile and causes her much distress. She has walked out of her place of work following arguments, has gone missing with no memory of where she has been, and has slept all night in his garden to be near him. Mike has suggested the relationship should end but Tamsin has refused to accept this and has threatened to harm herself. She has a history of self-harm. Mike’s wife, on learning of the relationship, has telephoned Tamsin telling her to stay away from her husband. She says that he wants nothing more to do with her. Tamsin has cut her wrists. Although the injury is slight she appears to be out of control, threatening to kill Mike’s wife and children, or herself. Alison is used to Tamsin’s outbursts but is frightened as she feels that this episode is more pronounced than others. She has called Maria’s parents who are now at the house preventing Tamsin from leaving. Alison phones the GP who judges that Tamsin’s mental state requires assessment under the Mental Health Act 1983.

Which professionals may be involved? What are their roles? (20%)

3. The professionals arrive and undertake an assessment.

What must the approved social worker do in order to assess Tamsin under the Mental Health Act 1983? (10%)

continued
4. It is decided to admit Tamsin to hospital.

Under which section of the Mental Health Act 1983 might it be appropriate to admit Tamsin? Give your reasons and explain why you consider other sections to be inappropriate. (20%)

5. When Sheila learns of the situation, she arrives at the hospital in a fury and demands that Tamsin be discharged immediately.

What rights do (a) Sheila and (b) Alison have under the Mental Health Act 1983? (20%)

6. Tamsin remains in hospital and it is agreed that she requires treatment for a mental illness.

What treatments may be given to Tamsin without her consent? Describe the legal bases and processes under which these treatments may be given. (20%)

2.5.5 Integrated assessment

Integrated law assessment – University of Bristol

The ‘Society, Social Need and Social Work’ unit aims to provide students with a beginning understanding of the development of social work, a critical analysis of the ways in which social problems may be constructed and social need and social welfare conceptualised, and an awareness of how these issues link with expectations about social workers’ professional tasks. The unit introduces students to the legislative framework within which social work operates, the major functions of social work agencies in different settings and the profession’s value base. The Unit consists of a series of study group themes and a programme of lectures. Working with a facilitator in study groups of about 12, students will explore issues of social need in society, the role of social welfare agencies in relation to three groups – children and families, older people and offenders. For each group a study theme is provided, which includes study outlines on which to plan a study programme using a range of resources including books, articles, videos and consultations. The study group meets twice a week for 1½ hours.

Assessment of the legal component is undertaken through:

a) an assignment in which law must be integrated alongside other components;
b) a law assessment task.

a) Sample assignment titles

1. Write an essay outlining the reasons why homeless families are housed in temporary accommodation, the problems and needs they face and the role of social work and social welfare agencies in providing assistance.
2. Write an essay outlining the impact of disability on family life, the needs of such families and the role of social work and social welfare agencies in providing assistance.

3. Write an essay about older people with medical and social care needs who live alone. Outline how and why their needs arise, and the range of ways in which these can be met, including the different roles and perspectives of health and social services. You should indicate how older people’s rights to self-determination and independence could be balanced with the duty to provide care.

4. Write an essay about the issues in family-based care for older people. This should include relevant policies, the needs of older people and their carers, the relationship between those in need of care and carers, and the role of social work and social welfare agencies in providing assistance.

5. Write an essay on the way the criminal justice system deals with women offenders. Outline the problems and difficulties faced by women as a consequence of imprisonment and the role of social work and social welfare agencies in providing assistance.

6. A voluntary agency has expressed an interest in starting up a project for unemployed young people on an estate. Write an essay setting out possible reasons why young people offend, and the potential role of probation and social welfare agencies in providing assistance. Your essay should include an outline of the form the project could take.

Marking criteria are that the assignment should:

- meet the requirements of the question
- use clear and accurate English
- be well organised with an appropriate structure
- use and critically evaluate relevant theory, research and literature
- use and critically evaluate relevant policy and legislation
- make effective use of relevant experience and/or practice
- integrate core social work values, including anti-oppressive practice.

b) Sample law assessment tasks
Division of the task within the study group is encouraged. However, each student’s submission must be an individual one.

**Question 1**
In relation to the assessment matrix on pages 134/135 of the Area Child Protection Committee’s Multi-Agency Procedures (of which all groups will have a copy), assume you have undertaken an initial assessment on the child/children described there and answer the following:

a) What need code would you allocate and why?

b) What level of response/priority would you decide on? What evidence would you require to demonstrate this? Are there any other relevant factors not included in the matrix?

c) What would be the ‘range and level of services’ appropriate to the needs identified and who might provide them?
d) Discuss the extent to which the matrix facilitates a holistic assessment of the needs of children and their families.

Question 2
a) Outline the legal requirements on social services departments to produce individual care plans for people assessed as in need under the NHS and Community Care Act 1990.
b) Identify the difficulties likely to be faced by a care manager in drawing up such care plans.
c) Discuss the significance of the above for anti-oppressive practice for older people.

Question 3
a) As a group, produce a summary of the contents of the Crime and Disorder Act 1998 and discuss its provisions. Include in the summary and discussion your responses to questions (b) and (c) below.
b) Outline the overall aims and provisions of the Act and provide more detail on the sections of the Act which provide for ‘detention and training orders’ and ‘anti-social behaviour orders’.
c) The Crime and Disorder Act attempted to establish a coherent new approach to work with young offenders. Outline that new approach. Discuss the extent to which it enacts the government’s policy commitment to be ‘tough on crime and tough on the causes of crime’.

2.5.6 Combining assessment methods

Because the knowledge and skills to be assessed vary, it is sometimes appropriate to use mixed methods of assessment that test different aspects of learning and together make up a more comprehensive assessment overview.

Mixed assessment methods – University of Lincoln

*Professional Practice and the Legal Framework (Level 1)*: this unit concentrates on giving students practice-relevant knowledge of key aspects of the legal framework, a critical understanding of the debates on applying the law, and skills in finding out about and understanding new and existing legislation. The unit will examine the key philosophy and principles underpinning the legal framework. There is particular emphasis on applying the law in an anti-oppressive way that promotes service user participation at the highest possible level.

The assessment will be in two parts:

- A series of three multiple choice class-based tests testing students’ knowledge of specific legislation.
- A written assignment of not more than 2,500 words in which students are asked to demonstrate their understanding of the legal framework for
professional practice through a response to case material. The assessment criteria reflect the learning outcomes for the unit, rewarding evidence of:

- understanding the key philosophy and principles underpinning legislation
- selection and accurate description of relevant legislation
- knowledge of statutory responsibilities and powers of social workers
- description of how the legal framework affects decision making in social work practice
- identification of legal dilemmas and relating these to professional practice
- consideration of how the law can be used anti-oppressively in order to promote service user participation.

**Mixed assessment methods – North-East Worcestershire College**

*Law for Social Work Practice (Level 2):* the academic assessment comprises two elements:

- Open book examination to test legal knowledge.
- Written assignment in which students choose one piece of social welfare legislation and plot its route from inception to enactment. They will research its origins (from Private Member's Bill or Parliamentary Committee) through its passage to statute, looking at objections and amendments to its final stages. They will be required to critically evaluate its intent and purpose, whether the final Act achieves the original aims and whether it is controlling or empowering to service users.

**2.5.7 Assessing social work law practice**

Assessment of practice learning outcomes will be undertaken in the context of the national occupational standards. While law is mentioned explicitly in only one of the key roles addressed in the standards, law learning can be more overtly mapped into many others, and used as evidence for developing expertise in line with the standards.
<table>
<thead>
<tr>
<th>National occupational standards key roles</th>
<th>Evidence indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prepare for, and work with individuals, families, carers, groups and communities to assess their needs and circumstances</td>
<td>Identify authority, the powers and duties related to the reason for involvement, and to the function of assessment</td>
</tr>
<tr>
<td>Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals</td>
<td>Integrate the requirement of legal mandates within intervention plans. Awareness of legal review requirements. Share information in line with legal requirements. Explain people's rights and also the powers to protect and control</td>
</tr>
<tr>
<td>Support individuals to represent their needs, views and circumstances</td>
<td>Assist service users to participate in decision making. Awareness of the legal requirements for participation. Engagement with advocates. Provide information in accessible formats. Complaints and representation</td>
</tr>
<tr>
<td>Manage risk to individuals, families, carers, groups, communities, self and colleagues</td>
<td>Identify duties to assess. Analyse the legal implications of information collected. Record according to legal requirements. Use legal procedures when balancing rights and risks</td>
</tr>
<tr>
<td>Manage and be accountable, with supervision and support, for your own social work practice within your organisation</td>
<td>Data protection. Interprofessional working. Challenges to unlawful practice</td>
</tr>
<tr>
<td>Demonstrate professional competence in social work practice</td>
<td>Clarity about reasons for decisions. Awareness of legal requirements on decision making, anti-discrimination legislation. Communicate legal frameworks in an understandable format. Review how legal duties are interpreted by courts and perceived by service users and carers</td>
</tr>
</tbody>
</table>
### Differentiating between interim and final learning outcomes

Social workers in training must complete a minimum of 200 days in practice in at least two settings. An outline practice curriculum has been published (Ball et al, 1995) but practice assessors have to be clear about what level of readiness for practice is required at different stages of student learning. The following summary (Preston-Shoot, 2000b) is one way of capturing the distinction between different stages of social work law learning and practice.

<table>
<thead>
<tr>
<th>Interim competence</th>
<th>Ready for practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability to identify legal concepts and to understand the division between legislation, regulations and guidance</td>
<td>Ability to be confident, credible, critical and creative in using social work law and social welfare law</td>
</tr>
<tr>
<td>Ability to understand the legal framework and the principles underpinning it, in relation to cases</td>
<td>Being conversant with the relevant legal rules and skilled in using them</td>
</tr>
<tr>
<td>Ability to use authority in practice</td>
<td>Ability to explain one’s authority to service users and professionals</td>
</tr>
<tr>
<td>Ability to identify what anti-discriminatory practice requires in a legal context</td>
<td>Ability to integrate anti-discriminatory practice with practising social work law</td>
</tr>
<tr>
<td>Ability to identify the roles of different professionals and agencies, and where these are located in legal powers and duties</td>
<td>Ability to manage the interprofessional context of work – negotiating roles, networking and teamwork</td>
</tr>
<tr>
<td>Ability to use off-the-peg responses to assessment for services</td>
<td>Ability to plan an intervention on the basis of assessment; ability to construct individually designed solutions</td>
</tr>
<tr>
<td>Ability to identify people’s rights</td>
<td>Ability to balance the rights of different individuals involved and the interests of society</td>
</tr>
<tr>
<td>Ability to identify the relationship between legal responsibilities and professional values; ability to identify points of multiple accountability</td>
<td>Ability to manage the tensions between welfare and other considerations, such as resources and justice; ability to manage multiple accountability by clarity of which values guide practice in what circumstances and reference to knowledge for informed decisions</td>
</tr>
<tr>
<td>Ability to collect information and analyse it against the legal mandate and social work role</td>
<td>Ability to use evidence in constructing a case; ability to engage in effective advocacy</td>
</tr>
</tbody>
</table>
It is vital that assessment of law learning and application is undertaken in placement. The following are examples of how this can be achieved.

### Placement-related assignment – Cornwall college

*The Social Worker in the Legal System/Law In Practice*: following an academic assessment by examination, students are required to undertake a law-related task during their practice learning placement. This is the preparation of an analytical learning diary.

Students should aim to produce about six entries, depending on the nature and depth of the work they are undertaking from a legal perspective. The intention should be for each entry to focus on a different client, and on the way in which the law impinges on the work undertaken with that client. However, it is recognised that some aspects of the law are likely to be common to many pieces of work the student undertakes, for example, working in partnership. In this case, this aspect should be addressed in depth in one entry and can then be referred to in others.

Students are expected to make their diary entries in relation to work they are undertaking themselves. However, as wide a range of entries and opportunities as possible should be sought and these may include observation of or involvement in work that is not the student’s own, for example, court work, mental health admissions. More than one such entry would be exceptional and should be discussed in advance with the tutor.

The format for the diary entries should include:

- The date
- A brief overview of the work undertaken
- A summary of the legislation that is relevant to the situation
- The way in which the legislation has an impact, or is likely to have an impact, on the lives of the service user/carer/family
- A detailed description of those aspects of the legislation/guidance that the student needed to be aware of in order to undertake the work and/or a detailed description of the procedures, systems and guidelines relevant to what was observed
- A description of what the student actually did and/or a description of what they observed happening in response
- An evaluation of their practice and/or the practice observed:
  > Was their practice aided by the legislation, or did it impose constraints?
  > Were guidelines followed and what impact did that have on the service user/carer/family and on the aim and purpose of the intervention?
  > How did the student view their practice in using the legislation (give examples and critique)?
  > What were the value issues/conflicts?
Short answer paper – University of Luton

Social Work and the Law: this module is in part assessed through a short answer paper, which students have 6 weeks to complete. The paper is set prior to the start of the practice placement, with the intention that students use resources and discussion with personnel on placement to assist their research. The paper consists of 23 questions, of which the following are a sample.

1. What is the difference between a power and a duty? Give an example of each.
2. What is meant in law by the 'burden of proof'? Explain the difference in the burden of proof in criminal and civil law.
3. Ivy is 15 and has cerebral palsy. She lives with her parents, grandmother and brother. What legislation would inform your work in this situation? What services might be provided? What principles would guide your work?
4. Ron is 80 and lives alone in a second-floor flat. He is recently widowed. He has difficulties coping at home and is at risk through forgetfulness and falls. What legislation would inform your work with Ron? What conflicting imperatives might be involved?
5. How would you enable a dissatisfied client to complain about services they had received? What is the legislative base for this procedure?
6. What duties does the Race Relations (Amendment) Act 2000 place on local authorities?
7. Give a brief analysis of your placement agency's anti-racist and anti-discriminatory policies. How are these connected to the legislation?
8. What is the difference between the nearest relative as defined in the Mental Health Act 1983 and next of kin?
9. A gay man who lives with a long-term partner requires admission under Section 2 of the Mental Health Act 1983. His mother lives nearby and sees him regularly. Who is the 'nearest relative'?
10. In what ways does the Children Act 1989 seek to empower children and young people?
11. Under what legislation may the local authority provide residential accommodation and for whom (excluding children).
13. In what way does the Carers and Disabled Children Act 2000 add to the Carers (Recognition and Services) Act 1995?
14. What are the implications of Article 8 of the European Convention on Human Rights for practice in your placement agency?
Students are required to take one case, or one other significant piece of work from their placement. Ideally, the work chosen should be capable of tracking over time, to allow for recording both the impact of early actions and the development of practice learning. Students may concentrate on the major feature(s) of the case but MUST state explicitly in their answer what other issues have been identified but not addressed.

Distinction between legal powers, official guidance, agency policy and professional responsibilities should be clearly made. Attention must be paid to issues of discrimination and oppression in the operation of the law.

Students are advised to consult with their practice teachers on this assignment, particularly in choosing suitable work and to ensure that both knowledge and applicability of the law in practice are adequately demonstrated in the assignment. Please note that accuracy in the area of the law is essential and lack of accuracy will be heavily penalised. Where legislation provides a choice of action for practitioners, students must make explicit what the choice is and why they chose their particular course of action. Answers should contain an analysis of the law and its application to the case and should avoid the use of descriptive listings.

Overall length should not exceed 2,000 words.

2.5.8 Taking responsibility for professional development

Given the importance of legal research skills to the ongoing professional task of continuing and updating legal knowledge, it is legitimate to assess how well students have identified sources of information and laid foundations for integrating law within their own future professional development.
Developing the skills for constructing and updating social work law and social welfare law materials (drawn from the postgraduate programme described in Preston-Shoot, 2003)

Students are required to begin the construction of a personal set of social work law and social welfare law materials appropriate to their professional interests. This is to be presented together with a critical discussion of the methods (organisational and editorial) and skills employed. Assessment will test understanding of the range of status of law materials for social work practice and the acquisition and development of the skills necessary for this task.

1. Establish the social work law subject matter of your collection.
   • What classification system have you used?
   • How have you organised cross-references in order to capture overlaps?
   • What choices have you made regarding inclusion and exclusion, and why?

2. What materials are you going to collect and which materials are you going to reference?
   • How are you managing issues concerning the bulk and expense of materials?

3. How will you update the materials?
   • Materials will need to be updated and obsolete materials discarded. Wrong information can be dangerous.

4. The sourcing of materials is crucial. Where will the materials come from and how will you organise access and receipt?
   • Materials from papers, law reports, statutes, regulations, guidance, research reports, inquiries, journals, books.

5. How will you use the materials to improve your practice and to disseminate to colleagues?

6. Reflecting back, which of the resources that you have collected had been made available already by your practice agency? What might be the implications for practice of the lack of access to law reports, journals covering legal issues, research and inquiry reports, guidance etc?

7. What models of good practice can be extracted from the materials collected?

Students are asked to present their materials to the student group.
2.5.9 Other assessment tools

Kearney’s list (2003) of learning to learn tools can be used for assessment:

<table>
<thead>
<tr>
<th>Assessment Tools</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workbooks</td>
<td>These can help students to link social work law teaching and learning from the academic curriculum with practice learning opportunities. Specific questions can be asked, for example about parental responsibility or children in need in the Children Act 1989, assessment duties in the NHS and Community Care Act 1990, complaints procedures, or guardianship under the Mental Health Act 1983. Students can then be asked to outline and evaluate their own practice, or of that of their agency, in cases where parental responsibility, children in need, community care assessments, complaints procedures, or guardianship have been at issue.</td>
</tr>
<tr>
<td>Observation reports</td>
<td>Students undertake visits to courts, case conferences, placement allocation panel meetings, and reviews. They then complete a report that describes their observations and audits this experience against their knowledge of the legal rules, especially policy and practice guidance.</td>
</tr>
<tr>
<td>Learning logs</td>
<td>Students evaluate their learning from statutory functions undertaken on placement.</td>
</tr>
<tr>
<td>Research and enquiry</td>
<td>Students undertake a review of the literature on a particular area of practising social work law.</td>
</tr>
<tr>
<td>Learning from the perspectives of experts by experience</td>
<td>Students interview and evaluate their learning from experts by experience who have encountered legal rules in action.</td>
</tr>
</tbody>
</table>
Section 3: Organising law knowledge, skills and values in education practice

This section will build on the material presented earlier to develop a conceptual frame for approaching law learning that combines three core objectives for students’ learning:

- good technical knowledge of the law and the ability to apply it to situations encountered in practice
- sound awareness of the ethical and moral dimensions of applying the law in practice
- a critical understanding of the role of law in promoting human rights and social justice.

From both aspects of the knowledge review – the research review and the practice survey – there emerged three distinct orientations to law teaching for social work students – orientations that also mirror aspects of the relationship between law and social work practice. These orientations are in effect different ways of organising the necessary knowledge, skills and values associated with effective learning about the law, each prioritising different aspects of the relationship.

They may be viewed as a form of triangulation.

In the centre of the diagram are located the legal knowledge and skills and the professional values that inform and drive practice. Depending on the ways in which these are configured, they give rise to different ways of conceiving the law/social work relationship, represented by the points on the triangle. These orientations demonstrate key differences in what is viewed as the driver for practice (law, ethics...
or rights), what kind of knowledge students need (technical or critical), and what legal frameworks are taught (those for responding to individual need or those promoting collective rights and justice). Explored in detail elsewhere (Braye and Preston-Shoot, 2006a, 2006b), they are summarised below.

The rational/technical orientation views the law as a clear, uncontested framework for action. Practitioners must have factual knowledge of the ‘nuts and bolts’, the powers and duties that provide the mandates for intervention. The process of application to practice is deductive, seeking in situations encountered the signs and symptoms that meet the legal thresholds and trigger action. From the starting point of knowledge of the duty to protect children, for example, what does this mean for a particular child? What features in the child’s circumstances can be recognised as meeting legal criteria? Typically, organisations produce procedural guidance aimed at ensuring that decisions made by individual practitioners are consistent and that intervention is procedurally correct.

The moral/ethical orientation views the law as one of a set of tools available to practitioners in the pursuit of ethical practice. It recognises conflicting imperatives in the legal mandates, and the practice dilemmas that can arise for social workers in balancing rights and risks, needs and resources. Ethical principles, expressed perhaps as professional values, are what guide practice. The law at times will be experienced as supportive of these but at times also oppositional. The process of application to practice is more inductive, starting from awareness of a child’s needs, for example, and reaching to law, among other resources, to secure ways of meeting those needs.

Both these orientations are located to a large extent within models of intervention that prioritise the identification of individual need, and seek in law, and elsewhere, remedies at an individual level.

The structural/rights orientation takes both a more rights-based view, and a more collective perspective. It starts from the position that the purpose of social work is to promote social justice and human rights (IASSW, 2002). Accordingly, law may be used to secure resources for individuals and groups, to promote social inclusion, to challenge oppression, to preserve fundamental rights. Thus a wider knowledge base of law is necessary, beyond mandates for social work intervention, to include frameworks for challenging inequality and injustice.
In summary

<table>
<thead>
<tr>
<th></th>
<th>Rational/Technical orientation</th>
<th>Moral/Ethical orientation</th>
<th>Rights-based/Structural orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Views law as ...</td>
<td>A set of rules to be applied, a toolkit</td>
<td>Part of the professional toolkit</td>
<td>A resource for service users</td>
</tr>
<tr>
<td>The driver for practice is ...</td>
<td>Legal mandates</td>
<td>Ethical goals</td>
<td>The search for social justice and human rights</td>
</tr>
<tr>
<td>Practitioners need ...</td>
<td>Technical legal knowledge</td>
<td>To locate law within their professional morality</td>
<td>Critical understanding of law</td>
</tr>
<tr>
<td>The key practice question is ...</td>
<td>Are the criteria for legal intervention met?</td>
<td>How does law contribute to achieving ethical goals?</td>
<td>How can law confront exclusion and oppression?</td>
</tr>
<tr>
<td>The emphasis is on ...</td>
<td>Procedurally correct practice – “doing things right”</td>
<td>Negotiating dilemmas – “doing right things”</td>
<td>“Rights thinking”</td>
</tr>
</tbody>
</table>

It is important to point out that no one orientation is 'right' while the others are 'wrong'. Arguably, all three are important, and have a contribution to make to practice that is lawful and ethical. On current evidence, however, it appears that the rational/technical orientation is the most dominant in education practice, whereas a stronger emphasis in teaching on the other two orientations would give practitioners a more comprehensive understanding of the law/social work relationship and therefore of the possibilities for action.

It is not a question of dismissing the importance of technical legal knowledge, or of procedural correctness. If practitioners are to promote rights, they need to know the technical aspects of the legal frameworks they use to do this. Equally, professional decision making must be pursued in a way that meets the requirements of administrative law, namely that it is lawful, characterised by procedural fairness, offers reasonable reasons, and is based on a defensible interpretation of the available evidence. But rational/technical practice that is not located within an awareness of structural factors relating to power and oppression leads at best to individualised solutions rather than to social change. It is important to define technical knowledge more widely and approach it more critically. Ethical frameworks can be used to
interrogate both the legal framework and the purpose of legal intervention, and to justify one course of lawful action in preference to another. Rights-based notions can also be used to subject law to critical analysis, identifying the extent to which it erodes or supports people's rights. Similarly, the notion of rights is inextricably bound up with ethical questions, and ethics form part of the fundamental social frames of reference within which rights are promoted or restricted.

<table>
<thead>
<tr>
<th>Broadening the vision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developing rights-based practice in social work law</td>
</tr>
<tr>
<td>A wider definition of technical legal knowledge</td>
</tr>
<tr>
<td>• Looking beyond the national context for legal frameworks</td>
</tr>
<tr>
<td>• Observing international conventions and protocols</td>
</tr>
<tr>
<td>• Emphasising the impact of case law, policy and practice guidance in addition to statute and regulations</td>
</tr>
<tr>
<td>• Emphasising mechanisms through which practitioners owe accountability and service users may seek redress</td>
</tr>
<tr>
<td>A more critical perspective</td>
</tr>
<tr>
<td>• Engaging in critical reflection on the purposes of law</td>
</tr>
<tr>
<td>• Engaging in critical reflection on its ability to empower and to oppress</td>
</tr>
<tr>
<td>• Incorporating the perspectives of service users and carers</td>
</tr>
<tr>
<td>Viewing law as a means of</td>
</tr>
<tr>
<td>• Addressing widely defined needs and risks, beyond those of individual need and protection</td>
</tr>
<tr>
<td>• Securing beneficial resources across a range of services</td>
</tr>
<tr>
<td>• Challenging the erosion of rights</td>
</tr>
<tr>
<td>• Addressing the social, economic, political and cultural contexts of people's lives</td>
</tr>
<tr>
<td>Emphasis on the law/ethics relationship</td>
</tr>
<tr>
<td>• Setting legal rules alongside moral rules</td>
</tr>
<tr>
<td>• Exploring how practitioners can handle practice dilemmas</td>
</tr>
<tr>
<td>• Challenging unethical legal frameworks</td>
</tr>
<tr>
<td>• Engaging with international ethical codes</td>
</tr>
</tbody>
</table>

The following table highlights the connections that can be made between social work values, rights and sources of law (Preston-Shoot et al, 2001). The reference to practice dilemmas directs social workers to engage with the complexity of evaluating by reference to knowledge bases skilfully applied to a situation, when limits to a values principle should be imposed, how competing rights might be weighed, and what outcomes are being sought. The table clearly reveals that social work law and social welfare law are not necessarily oppositional to social work values or to rights-based practice. It also demonstrates that values, rights and law cannot be divorced from each other in social work practice.
<table>
<thead>
<tr>
<th>Values</th>
<th>Rights</th>
<th>Legal provisions</th>
<th>Practice dilemmas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-determination</td>
<td>Right to liberty</td>
<td>Human Rights Act 1998</td>
<td>Principles and rights are conditional – courts and local authorities have discretion to overrule the wishes of ‘clients’ but, when doing so, must act proportionately</td>
</tr>
<tr>
<td></td>
<td>Right to respect for private and family life</td>
<td>Children Act 1989 (no order principle)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Community Care (Direct Payments) Act 1996</td>
<td></td>
</tr>
<tr>
<td>Partnership</td>
<td>Right to involvement in decision making</td>
<td>Data Protection Act 1998</td>
<td>Emphasis in youth justice provisions on the responsibility of, rather than partnership with, parents and children</td>
</tr>
<tr>
<td></td>
<td></td>
<td>National Assistance Act 1948</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Choice of Accommodation Directions 1992</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Children Act 1989</td>
<td></td>
</tr>
<tr>
<td>Openness and transparency</td>
<td>Right to a fair trial</td>
<td>Human Rights Act 1998</td>
<td>Obtaining redress is difficult</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Case law on duty of care in adoption and child protection</td>
<td></td>
</tr>
<tr>
<td>Confidentiality</td>
<td>Right to respect for private and family life</td>
<td>Data Protection Act 1998</td>
<td>Principles and rights are conditional – other values and principles such as the welfare of the child might prevail; one person’s right must be balanced against another’s</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Human Rights Act 1998</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Children Act 1989</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Children Act 2004</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Working Together (2006)</td>
<td></td>
</tr>
<tr>
<td>Respect for persons</td>
<td>Right to protection from abuse</td>
<td>Human Rights Act 1998</td>
<td>Images of competency and behaviour can act as barriers. Provisions in social work law to protect vulnerable adults limited</td>
</tr>
<tr>
<td></td>
<td>Right to a fair hearing</td>
<td>Public Interest Disclosure Act 1998</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PACE 1984 (appropriate adult provisions)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mental Health Act 1983 (Section 13(2) assessment standard)</td>
<td></td>
</tr>
<tr>
<td>Equal opportunities</td>
<td>Right to live free of discrimination</td>
<td>Mental Health Act 1983 (least restrictive alternative)</td>
<td>Children’s standing conditional on the views of courts and professionals</td>
</tr>
<tr>
<td></td>
<td>Right to express views freely and to have</td>
<td>Human Rights Act 1998</td>
<td></td>
</tr>
<tr>
<td></td>
<td>them considered</td>
<td>Children Act 1989 (competent young people can request orders and refuse assessment)</td>
<td>Focus on individuals rather than systems</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Race Relations Act 1976 (duty to avoid discrimination and powers to develop provision)</td>
<td>Images of competence a barrier</td>
</tr>
</tbody>
</table>
The examples given in the above table connecting legal provision to social work values have been drawn from England. Some of these examples also apply in Wales, Northern Ireland and Scotland, for example, the Human Rights Act 1998 and the Data Protection Act 1998. In other respects there will be specific legal provision that supports social work values in these nations. Examples in relation to equal opportunities include the Welsh Language Act 1993 and the Fair Employment (NI) Act 1989. In relation to partnership, social workers in Northern Ireland should refer to the Children (NI) Order 1995 and the eight volumes of regulations and guidance issued subsequently. Those in Scotland should refer to the Children (Scotland) Act 1995.

3.1 Linking law learning with other sources of knowledge to create integrated understandings

![Diagram]

Law, knowledge and values are all required because:

- Research sometimes finds little evidence of any clear and transparent application of legislation, rules and guidance (Bradley, 2003), and variable attitudes towards and use of discretion.
- Commitment to values appears insufficient to ensure ethical behaviour.
- Knowledge helps practitioners to determine how to frame issues presented by cases.
- Values and knowledge can help to counter a technical approach that emphasises managerial and gatekeeping procedures.
All three elements are required when responding to individual and collective needs because faith in one alone is misplaced. This is because:

- Codes of practice and values have had limited success in guaranteeing that professionals will undertake their ethical responsibilities, especially when codes are ill-defined or lacking in sanctions (France, 1996).
- Research evidence has found that practitioners sometimes collude with organisational misuse of power and authority, and that organisational processes can compromise employees and the legal rules (Machin, 1998; Horwath, 2000; Preston-Shoot, 2001).
- Rights can fail to address the nature of social power in society and how certain groups are excluded by its exercise (France, 1996).
- It is difficult to enforce social rights that have no clear underlying basis in civil rights (Rummery and Glendinning, 1999). The European Convention on Human Rights and Fundamental Freedoms, which is integrated into United Kingdom law, is limited to civil and political rights. United Nations’ Conventions, which are not integrated into United Kingdom law, are more expansive in their scope, including social and economic rights.
- Legal rules can be transformative but can also perpetuate power relations or prove to be a blunt instrument (Charlesworth et al, 2000).
- Social work law and social welfare law can focus on social issues, such as human rights and discrimination, and the wider systems that impact on experts by experience, but more usually focuses on individuals, their needs and the risks they present to themselves and to others. Many of the legal rules are residual in their scope and contain discretion as to when they are triggered.
• Legal entitlements can be seriously compromised by managerial and professional processes (Rummery and Glendinning, 1999).
• The track record of law is hardly commendable on people's rights (Swain, 2002).

Reading the national occupational standards (TOPSS, 2002) and the social work benchmark (QAA, 2000) finds endorsement for the tripartite linkage of law, rights and values. Also endorsed is the view, strongly articulated by experts by experience (Braye and Preston-Shoot et al, 2005), that social workers should be 'plumbers plus', competent technicians and well-rounded critical professionals. Experts by experience want to be involved in determining the issues that require fixing, as well as how and why, but they expect social workers to also have a view on both. They should have practical legal knowledge, a willingness to debate ethical dilemmas with service users, and an ability to defend their judgements. They should demonstrate a keen awareness of how the law impacts on people and they should scrutinise and speak about how the legal rules are constructed and used. Thus, the subject benchmark (QAA, 2000, at paras 2.5 and 2.2.4) urges social workers to think critically, whilst the national occupational standards (TOPSS, 2002, passim) require social workers to understand, critically analyse, evaluate and apply the law.

<table>
<thead>
<tr>
<th>Moral or ethical orientation; law linked with values</th>
<th>Social work is a moral activity (QAA, 2000, at para 2.4).</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Social work engages with service users with openness, reciprocity, mutual accountability and explicit recognition of the powers of the social worker and the legal context of intervention (QAA, 2000, at para 1.12).</td>
</tr>
<tr>
<td></td>
<td>Social workers exercise authority within complex frameworks of accountability and ethical and legal boundaries (QAA, 2000, at para 2.5).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rational or technical orientation; knowing the legal rules</th>
<th>Social work education should enable students to acquire, critically evaluate, apply and integrate knowledge and understanding of the significance of legislation and legal frameworks (QAA, 2000, at para 3.1.2).</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Social work education includes the relationship between agency policies, legal requirements and legal frameworks (QAA, 2000, at para 3.1.1).</td>
</tr>
<tr>
<td></td>
<td>Social workers must be able to identify the need for legal and procedural intervention, including the ability to explain to people their rights and the social worker's powers, and to justify the need for intervention (TOPSS, 2002, at para 4.2).</td>
</tr>
<tr>
<td></td>
<td>Social workers must be able to implement legal and policy frameworks for access to records and reports (TOPSS, 2002, at para 16.3).</td>
</tr>
</tbody>
</table>

continued
Emancipatory or rights orientation
Social workers must be able to challenge discrimination and to help people regain control, if compatible with their own and other people’s rights (QAA, 2000, at para 2.4). Social work must uphold the law on discrimination (QAA, 2000, at para 3.1.3).

The tripartite connection between law, values and knowledge, skilfully applied to a situation, is also endorsed. Thus, in the subject benchmark (QAA, 2000, at para 2.3 and 3.2) legislation is only one factor when assessing human situations. Resources and service user views are also mentioned in this context. Similarly, the national occupational standards (TOPSS, 2002, at para 3.2) require that assessment of need, risks and options takes into account legal and other requirements. Service users’ needs and preferences are mentioned here.

Thus the invitation to social work educators is to broaden the vision of law teaching, to encompass the three orientations triangulated above, and use these as a means of configuring the legal knowledge, skills and values that form the core of the law curriculum.

Dilemmas – a student’s experience

The necessity of linking legal rules with rights and with values, and of drawing on other knowledge bases in addition to the law, is illustrated by the following case.

When I first started my second year placement I observed my practice assessor, who is an approved social worker, working with a street homeless African-Caribbean 67-year-old man. I was based in a statutory mental health team for the homeless. My practice assessor had been working with the service user for a year. Very little was known regarding the service user’s history and he was refusing all offers of support, for example assistance in gaining accommodation, stating that it was his choice to sleep on the streets and that he was very happy with this. He would often draw attention to other service users whom he felt were in much more need than himself. The service user would, however, happily sit and chat over day-to-day issues. My practice assessor was concerned due to the service user’s vulnerability. This was predominantly related to his age, unclear physical health status and his mental health state, the latter because of concerns that the service user may have been deluded, thought disordered and experiencing auditory hallucinations.

Although the evidence for this was low, there were two meetings which I observed with my practice assessor, a consultant and a senior house officer present, in which the service user’s presentation was considered to be ‘possibly psychotic’. The service user stated that he had a higher purpose that was waiting for him after death. This might not be unusual since he was a committed Christian. The service user also stated that he heard tourists singing love songs to him which he wrote down. It was decided to assess the service
user under the Mental Health Act 1983. The consultant who was responsible for the ward on to which the service user would be admitted if detained was not prepared to section him because he felt that the service user’s difficulties were more personality and socially related. However, he was prepared to accept the service user on to his ward if another Section 12 approved doctor was willing to section him. As I was leaving my placement an alternative doctor to conduct a second assessment was being sought.

I never felt comfortable with this situation and I raised my concerns with my practice assessor to a limited degree at the time. I was concerned because the service user had survived again the coldest part of the year. He had also not experienced victimisation at the hands of other street homeless individuals, which is fairly common, so I felt that his survival/coping skills were quite high. Although many of the conversations with the service user that I had observed were different, I found very little evidence of psychosis in comparison with the other service users that I met. This does not necessarily mean that the service user would not have benefited from being detained in hospital for further assessment, particularly when considering his age and unknown physical health status. However, would this have justified his loss of rights and choice when he was not a risk to himself or others?

I accept that there may have been an underlying mental health problem. I felt that the most appropriate course of action was to continue with case work and the establishment of a relationship, in order to understand the service user socially and psychologically. Although a relationship did exist, space for reflection and understanding was not being given. This could have been much more effective and supportive of the service user’s rights than an enforced spell on a psychiatric ward. The other reason why I was concerned lay in the options open to the service user after he had been sectioned as it seemed to be a value judgement that this would lead to an improved quality of life.

- What legal knowledge might guide decision making in this case?
- What legal knowledge might provide assessment and service delivery options in this case?
- What knowledge bases might be useful in order to understand the service user’s presentation?
- What ethical frameworks and values might be useful guidance?
- What skills could a social worker in training use when working with the service user and with the other professionals involved?
- How might legal knowledge, ethical models and other types of knowledge be useful in helping a social worker in training to balance competing imperatives and to negotiate dilemmas in this case?
Section 4: Evaluating learning and continuing to learn

Law appears to lend itself to multifaceted approaches, with little evidence to support 'one best way' of promoting students' learning. While educators have a clear sense of the need for alignment, and a strong rationale for the approaches adopted, more robust evidence is required. Social work education is now poised to move on from providing descriptive and conceptual accounts of teaching and learning, to engage more empirically with evaluation of processes of learning (Carpenter, 2005).

Assessment of learning is typically formative and summative. However, assessment might also usefully focus on measuring the distance travelled by individual students in their learning. This may enable academic tutors and practice assessors to identify more effective approaches to teaching and assessing law in social work education. Some of the learning and assessment tools presented in Section 2, when used at various points before, during and after teaching, enable the measurement of change over time. For example, repeated use of the attitude scales, whether administered by individuals themselves or in conjunction with their supervisors, opens up discussion of what has impacted on the outcomes of such an audit. The collection and analysis of social work law and social welfare materials collected by students can be assessed at several points throughout their learning, for example during each practice learning opportunity.

Recent evidence is equivocal as to whether standards of competence for social work law practice are improving. Barnes (2000) found that, while most students were competent when answering questions on law, carers reported that social workers were ill-equipped with practical legal skills. Mathias-Williams and Thomas (2002) found that almost half the students surveyed believed that they did not have sufficient knowledge of relevant legislation. They were hoping to gain additional legal knowledge, and experience of its practical application, in their first year of practice in order to strengthen their understanding.

Lyons and Manion (2004) found that 75% of students ranked their law teaching as good or better. However, Willis (2002) reported that the majority of one sample had received no training in court skills on social work courses and only limited in-house opportunities subsequently. The majority rated management support as poor or very poor, and argued that it was difficult to work with lawyers when they lacked training in law and legal proceedings.

Research on priorities for the development of e-learning materials (Waldman et al, 2005) also identified court skills alongside child care law, adult and mental health law, knowledge of law and the legal system, and the interactions between different areas of law.

Insecurity in one’s knowledge base and uncertainty about one’s skills in applying it can result in practitioners inappropriately deferring to supervisors and to exaggerating hierarchical distance between social workers and legal practitioners. The potential exists for social work thinking to be overshadowed.
The national occupational standards (TOPSS, 2002), in key role 6 on demonstrating professional competence in social work practice, require social workers to review and update their own knowledge of legal, policy and procedural frameworks. Practice teachers in the knowledge review (Braye and Preston-Shoot et al, 2005) had a range of unmet needs in relation to developing and updating their legal knowledge, many feeling that it was left to individual, personal responsibility and that not everyone fulfils this. Some blamed the lack of explicit legal focus in their work for the absence of easily available knowledge updates. Those working in sectors where recent legislation had been introduced, or those in specialist roles such as approved social workers, felt in a favoured position. The constantly changing nature of law was experienced as a problem, along with the challenge posed by the complexity of legal information, and it was seen as difficult to secure up-to-date, clear information that was not mediated through agency interpretation.

The literature provides little evidence of whether and how universities and organisations with social services responsibilities are enabling practitioners to avoid learning decay, and to retain, develop and integrate legal knowledge and skills into their practice. Read and Clements (1999) describe one approach to continuing professional development. This connects law learning with policy and practice development. It also connects training with performance review and follow-up, and practitioners with their managers. Preston-Shoot (2003) describes a taught programme for practice teachers, designed to facilitate their own continuing law learning and that of their students.

However, protected title and registration mean that social workers must maintain their knowledge base and skills. Keeping up to date in law forms part of this requirement, which adds further impetus to researching what works in terms of student retention of law learning. Here the approach by Read and Clements (1999) seems promising. Their workshop participants engaged not only in updating their legal knowledge but, with their managers and course leaders, reflected over time on how they had applied their new learning in practice. Several of the tools in Section 2 of this resource guide can be used to orientate social workers in training towards continuing professional development, for example the collection of materials and the use of self-audit.

This review of the evidence highlights the importance to continued law learning of:

- induction
- joint training with legal practitioners
- opportunities for continuing professional development
- evaluation of different approaches to learning, teaching, and assessing law in social work education at qualifying and post-qualifying levels.

The legal rules never remain static and neither should reflection and research on learning, teaching and assessment of law in social work education. The knowledge review (Braye and Preston-Shoot et al, 2005) identified the paucity of evidence for the effectiveness of different methods of teaching and assessment, and the relative neglect in the literature of law learning and evaluation in the practice curriculum. It is to these areas that the authors of this resource guide have now turned for further
research (Braye et al, 2006), alongside the development of e-learning objects that might assist social workers in training and those engaged in post-qualifying education to retain competence in practising social work law.

Law learning is a challenging journey. However, it is also an exciting and stimulating journey. This is partly because it engages with profound social issues that lie at the heart of professional practice. It is also because those same social issues will affect individuals, including quite possibly ourselves. Hopefully, this resource guide will have communicated not just the challenge but also the feasibility and richness of the journey.
References


**Useful legal resources on the www**

In addition to the Human Rights web resources listed in section 2.1, the following web links may also be useful examples of resources that students might be expected to use. Some examples are UK-wide resources, others provide sources to English law and policy making. Students can be encouraged, as part of compiling a portfolio of materials and of resources with which to ensure that their knowledge is up to date, to identify web links appropriate to the particular geographical context of their study.

www.kent.ac.uk/library/lawlinks/default.htm
Lawlinks – annotated list and links to legal websites

www.sosig.ac.uk/law/
Gateway to legal information on the Internet

www.opsi.gov.uk/acts.htm
Acts of Parliament, Regulations and Orders appropriate to each of the four nations of the UK
www.doh.gov.uk
Department of Health publications database

www.dfes.gov.uk
Department for Education and Skills website

www.homeoffice.gov.uk
Home Office website

www.dh.gov.uk/PublicationsAndStatistics/LettersAndCirculare/sfs/en?ReadForm
Entry point for COIN database of government circulars

www.parliament.uk
House of Lords Judgments; status and text of legislation

www.echr.coe.int/
European Court of Human Rights

www.childrenslegalcentre.com
Children's Legal Centre

www.imhl.com/
Institute of Mental Health Law

www.nacro.org.uk
National Association for the Care and Rehabilitation of Offenders

www.clsdirect.org.uk/index.jsp
Community Legal Service Direct information and advice pages

www.equalityni.org
Equality Commission, an independent public body that works for the elimination of discrimination and to promote equality of opportunity, for example by keeping legislation under review

www.dhsspsni.gov.uk
The Department of Health, Social Services and Public Safety – an entry point for the legal rules applicable to social work in Northern Ireland
Other SCIE publications within the field of social work education

TEACHING, LEARNING AND THE ASSESSMENT OF LAW IN SOCIAL WORK EDUCATION (KNOWLEDGE REVIEW 08)
Suzy Braye and Michael Preston-Shoot with Lesley-Ann Cull, Robert Johns and Jeremy Roche
This knowledge review looks at how law is taught in social work education and to what effect. It describes what knowledge is available, highlights the evidence that has emerged and draws practice points from the evidence.
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