

## **Delivering legal education through an integrated problem-based learning model – the nuts and bolts**

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Judging by the number of enquiries received, visits made and conference discussions wide interest has been shown by academics and students alike in the form and content of legal education at the York Law School (YLS). YLS has, since its inception, used a problem-based learning model for study across all foundation and most, if not all, optional modules and at both undergraduate (LLB) and postgraduate (LLM) levels. Following repeated requests to explain how PBL works in an integrated legal education context this contribution sets out to describe exactly how these programmes are structured and will hopefully promote further discussion on the rationale behind and effectiveness of such an approach to study.<sup>2</sup>

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<sup>1</sup> Richard Grimes is Director of Clinical Programmes at the York Law School (YLS), University of York. He would like to thank several colleagues at York for their vision, enthusiasm and determination in designing and implementing the York PBL model. In particular these are Stuart Bell (then then Head of Law), Caroline Hunter (the current Head), Lawrence Etherington and Ben Fitzpatrick (now Head of Law at the University of Derby and who was Director of Undergraduate Programmes for the first 6 years of YLS' existence).

<sup>2</sup> A more detailed account of PBL including the educational theory underpinning it can be found in *Problem-based learning and legal education – a case study in integrated experiential study*, in A. Font (ed.), *Models for legal education*, Revista de Docencia Universitaria, REDU, Barcelona, forthcoming December 2014. A more detailed description of the theory is set out in *Clinical legal education and problem-based learning: an integrated approach to study - fit for purpose?* in J. G. Anon (ed.), *Transformations in Legal Teaching and Learning: Proceedings of the Fifth National Spanish Conference on Legal Education*, Tirant lo Blanch, Valencia, 2013, 34. A further account in the context of using simulation in teaching and

At the start of Year 1 of the LLB programme each student at YLS is allocated to a group – the student law firm (SLF). Each student remains with his or her SLF for the entire study year. At the start of the following academic year students are assigned to a new firm. They work in their SLF for each of the 3 years of undergraduate study and, if relevant, on the YLS LLM programmes.<sup>3</sup> There are currently 12 SLFs in each year on the LLB programme. Each SLF is asked to discuss and formulate rules to govern how the group will operate, what it will do to ensure learning progression and how it will handle challenges and conflict.

The learning environment, both physical and philosophical, is significant in terms of PBL in general and learning at YLS in particular.

So far as geography and logistics are concerned YLS moved into purpose-built premises in September 2010. The focal point for learning is the PBL area which consists of a customised, large open space off which are satellite offices equipped with mini libraries (of key texts), *Smartboards* (to capture discussion and to aid collaborative research – key features of the PBL process), associated e-technology and boardroom furniture, including a large oval table. Each office has 3 SLF ‘tenants’ – one from each year of study. Each SLF has assigned slots when they have exclusive use of the room and for the remainder of the time the space is bookable or can be

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learning Law can be found in *Faking it and making it? Using simulation with problem-based learning in Legal Education: Simulation in theory and practice*, C Strevens, R Grimes and E Phillips (eds.), Ashgate Publications, 2014, Chapter 8. The reason it is reproduced and/or adapted in several places is that interest in the programme has been considerable and the requests to publish it many. As far as I am aware this breaches no copyright rules!

<sup>3</sup> The LLM portfolio currently consists of: International Corporate and Commercial Law, International Human Rights Law and Practice and (from October 2014) the Theory and Practice of Clinical Legal Education.

used on a casual basis. The open area is free for students to occupy as they wish and it is, in practice, taken up for informal study, group work and low-key social activity (some of which is part of the designed programme and the rest entirely student-generated).

As part of their induction in Year 1 students will have had the opportunity to observe their more experienced colleagues conducting PBL sessions and will have had student mentors sit in to assist them in their early PBL encounters. The first few weeks of study are also devoted to understanding group work and related dynamics – an integral part of the first year Legal Skills module.

Each SLF appoints a Managing Partner or chair and a scribe for every PBL meeting. The chair is responsible for facilitating the meeting and the scribe for capturing the discussion on the *Smartboard*. Both are also expected to contribute to the substantive discussion. The roles are normally shared by all SLF members on a rotating basis. Specific guidance is given by academic staff on the work of both chair and scribe.

In Year 1, each SLF has a Senior Partner – a member of the full-time academic team – who meets with the SLF at least termly (more in the first few weeks of study) to check on progress and to act as a focal point in the event of difficulty.

The PBL system at YLS runs on a weekly cycle. The students are handed each PBL scenario by their PBL tutor – a member of the full-time academic staff or a PBL Teaching Fellow. The Teaching Fellows are part-time appointments and include legal practitioners. All SLFs for each study year deal with the same problem at the same time

The SLF carries out the initial analysis of the problem following the 'steps' described below. In the process they agree learning outcomes and develop an outline research plan. This initial meeting takes around two hours. **Each** SLF member is then expected to carry out **all** of the research. They reconvene 4-5 days later to report on their research findings and to identify if further research and analysis is needed. This interim meeting is with limited tutor presence (for the first 30 minutes). They are free to work collectively and/or individually during the period between the initial PBL meeting and final PBL session in that cycle but must each produce an account of their findings (delivered orally on a 'call-on' basis). They meet with their tutor at the end of the week's cycle to report on a final version of their findings and to be given the next scenario. At any one point in time a Year 1 SLF will have 2-3 on-going PBL scenarios to handle. The numbers of formal PBL sessions diminish as the years progress as other module (both compulsory and optional) fill the programme. The bulk of these use PBL methods but the sessions are not necessarily designated as PBL slots. Nonetheless, as students become attuned to 'PBLing' issues, this process tends to dominate both form and content of the learning process.

The problems themselves are designed to address required curriculum content (for example covering the qualifying law degree foundation subjects) but the problems themselves will often cross legal topic boundaries thus requiring students to appreciate and distinguishing between concepts, for example principles of civil and criminal liability, sanctions and remedies or professional responsibility and ethics.

Each SLF member is given a guide to PBL in which the PBL process is explained. Indeed the sample scenario set out below has been taken from that guide although adapted for current purposes.

To summarise and paraphrase there are 10 'steps' to PBL at YLS.<sup>4</sup> These are:

1. **Read and clarify the problem** – the chair or other SLF members read the words of the problem out loud to see if any terms or words need to be explained or researched.
2. **Identify parties and interests** – the SLF identifies all of the relevant parties in the scenario and what their respective interests are.
3. **Set out chronology of events** – the sequence of events in the scenario is recorded to focus minds on the link between fact and law and to ensure that no significant development is missed.
4. **Mind-mapping what the problem is about including possible 'learning' issues** – the SLF looks in the broadest sense at what the scenario might encompass and to consider law in a non-compartmentalised way. ANY suggestions are recorded. They can be ignored later if deemed irrelevant.<sup>5</sup>
5. **Summarise and give problem a name** – this is part initial analysis and part fun – a break from the analysis and something the students enjoy. Often very

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<sup>4</sup> The YLS PBL Guide, which drew heavily on the model practised at the University of Maastricht and York's own Medical School, refers to 7 stages but this has been expanded to 10 here to make the process clear for the uninitiated. It is modestly suggested that this expanded 10-point plan is an improvement on the original version.

<sup>5</sup> The mind-mapping or, to use perhaps a more commonly understood term (but one that has attracted some criticism for its possible insensitivity on disability grounds), brainstorming stage is of critical importance. This is currently done at YLS as a group activity with the chair expected to encourage everyone to participate. As in all things 'YLS' there is currently a review of this process. Some have suggested that group brainstorming can exclude certain trains of thought as people may be collectively driven, through indirect peer pressure, to follow others ideas rather than pursue their own. For a discussion of this see: Sample J. *Nominal group technique: an alternative to brainstorming*, *Journal of Extension*, 22 (2), 1984, 21 and Pauhus P., Dzindolet M., Poletes G. And Camacho M., *Perception of performance in group brainstorming: the illusion of group productivity*, *Pers Soc Psychol Bull*, 19 (1), 1993, 78

silly names are proffered. As light-touch as this may appear it is also a means for recalling the problem when similar issues are discussed in the future.<sup>6</sup>

6. **Organise themes** – returning to the analysis this is the stage where the SLF has to manipulate all of the ideas produced by the mapping activity into research themes. This can be done in a number of ways and the task is made easier and more vivid if it is done on a *Smartboard* where the issues identified can be saved and then physically dragged around the board to group themes with commonalities.
7. **Define learning outcomes from themes** – once the themes have been identified and are clearly stated the learning outcomes should follow – one to a theme or in the case of broadly expressed themes more than one. Typically 4 – 5 outcomes are expected. Tutors are always present to ensure that the expected learning outcomes (which have been defined in advance at the curriculum design stage) are broadly identified by the SLF.
8. **Plan, agree and carry out research** – at the end of the initial PBL session all SLF members should document the learning outcomes and consequential research tasks and in the 4-5 days before the Interim session each member is expected to carry out the necessary research.
9. **Share results** – this is a two stage process. The SLF members report back on their research experience, their management of sources identified and any overt ‘findings’ at the interim meeting and then on those and any further results at the end of cycle meeting of the SLF, with their designated tutor.
10. **Check to see if learning outcomes met** – SLF members, guided by their tutor, go through each outcome to ensure that the ‘answers’ given are appropriate. This is NOT an exercise in problem-solving (although variants of PBL may include an element of this as in the YLS Clinic where advice may be given to real clients) but is more problem and issue analysis.

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<sup>6</sup> At YLS doctrinal issues are often revisited on future occasions in PBL and plenary sessions in what is termed the ‘spiral curriculum’

The process then begins again with the next PBL scenario. Typically a new problem is handed out by the tutor partway through the meeting that discussed the findings for the initial problem (that is at the end of the week's cycle) and the first stage of the PBL process (stages 1-7) are then followed in relation to the new problem. The process is completed for the new problem over the course of the week as described above.

A reflection week is built into each term to give the students a break from the rigours of on-going PBL and to give Year 1 students the chance to meet with their Senior Partners to discuss personal and SLF progress.

Let us now consider how PBL at YLS works in detail. To do this let us take a fictional scenario and follow a typical SLF through the process of 'PBLing' eavesdropping, as they progress, on their work. For reasons of brevity, the dialogue is limited here to exchanges between the chair, scribe and up to 4 other students. If the full SLF discussion were set out here it would be likely to take much longer to describe.

The tutor has handed the following scenario to the SLF:

**Example dialogue**

**Today's problem**

Mr. Davison rings you up. He is a long standing client of your firm. He sounds very upset and reports that he has been interviewed by a policeman who wanted to know more about recent events at St Matthew's, the local Church of England (C of E) place of worship – where Mr Davison was, until recently, a regular member of the congregation.

The newly appointed Vicar is a leading member of a group which advocates gay marriage within the C of E. Mr Davison is theologically conservative and objected vigorously to the appointment of the new Vicar. For some weeks now he, along with a few like-minded people, has held silent vigils every Sunday outside the Church entrance. They have been asked to move by the Vicar and a passing police officer has told them not to block the footpath or road but Mr. Davison has maintained his right to protest. Last week, he sent an e-mail to all members of Parish Council which read:

*'Why listen to fornicators, blasphemers, hypocrites and liars? He who purports to lead the Church is a maker of*

*false statements to police in order to have innocent people arrested. What is he afraid of? The Truth should never be concealed.'*

On Sunday, things took a turn for the worse according to Mr. Davison. He says that the Vicar came out and started shouting and swearing at him in a very aggressive manner. Mr. Davison was called a 'bully' and the Vicar confronted the group as a whole shouting that he would not be subject to this sort of distress or harassment any longer. Mr. Davison said that he was overcome by the emotion of the situation and shouted back that the Vicar was 'The Whore of Babylon'.

The police were called by the Vicar and the local policeman came and warned Mr. Davison that he may have committed several Public Order offences particularly in relation to the harassment of the Vicar. Mr. Davison insists that he was simply exercising his right of free religious expression and that he feels that it is a reasonable position for him to criticise hypocritical religious leaders.

You ask Mr Davison to come in and see you later in the week to discuss the matter further.

How might the SLF might approach this problem? The dialogue, fictional but drawn from the collective experience of PBL tutors (including the author of this paper) and used as an induction device for students new to 'PBLing', is not exhaustive but gives a snap-shot - a flavour for what might be said. Typically this initial PBL process (stages 1-7) takes around two hours.

### **Stage 1 – Clarify unclear terms and concepts**

#### **Aims**

- To engage all members of the SLF
- To focus members on required task(s)
- To start the process of learning
- To ensure that everyone understands the terms used including technical expressions

The chair (or other person nominated) should read out the full problem. Sometimes this task is shared by group each member reading a section each. This can foster effective team work and the assumption of group responsibility. If the problem includes supporting documents, only the main problem needs to be read aloud at



this stage. Words where meanings or pronunciation are unclear should be identified. They can be looked up directly in a legal or other dictionary and/or the prior knowledge of the whole group can be pooled. If words remain unclear they become a learning outcome.

#### Example dialogue

Member(s) of the SLF has/have read the scenario out loud

**Chair:** Is anyone unclear about the meanings of some of any words?

**Student 1:** Well I'm not clear about Parish Council and also the words fornicator, blasphemer and 'The Whore of Babylon' – are they offensive?

**Student 2:** I think the Whore of Babylon is another name for the Devil and the other two are also religious in nature.

**Student 1:** I'll look them up in the dictionary or online.

**Student 3:** It seems to me that the definition of harassment might be important here?

**Student 2:** I think I know something about that - isn't it something to do with stalking people?

**Student 3:** But there is also a 'public' side to all of this – you couldn't say that the group outside the church were 'stalkers' but they could arguably be harassing the Vicar?

**Student 1:** It may have a specific legal meaning.

**Student 4:** Yes I don't fully understand that so can we make that a learning outcome?

**Chair:** That sounds like a good idea.

**Scribe:** So I'll write on the board 'Identify and understand a legal definition of harassment.'

**Chair:** hold on a minute did we put Parish Council on the board?

**Scribe:** Yes, we can look that up in a minute.

All- OK.

## Stage 2 – Identifying relevant parties and interests

Aims:

- To consider the relevant legal framework that arises in the context of the problem
- To identify who might be affected and how
- To create a basis for the application of substantive knowledge to the given scenario and if necessary provide advice to one or more parties

Certain key information needs to be extracted from the problem before it can be further defined and analysed. The nature of this information might vary from problem to problem but will most often involve identifying: who is the client (if

applicable); what are the client's interests; and, are there any other relevant people and interests that need to be considered?

This approach allows the SLF to concentrate on the relevant issues in the problem by setting out the real-world context for the learning. A problem in this sense is anything relevant to the interests of affected parties and may include social, moral or commercial issues as much as purely legal ones. At YLS, PBL problems are often presented as client-focused. This gives a sense of reality and purpose. However in order to fully appreciate the client's position and, pedagogically, to address the full range of doctrinal issues encompassed in the problem/curriculum it is essential that all parties' interests are taken into account. Some problems may be 'clientless' but the same process of identifying interests and basic facts/issues is important because it sets out a framework for further work. In the live-client Clinic the same process is followed albeit that the end result addresses the client's specific concerns, through an advice letter.

**Chair:** Let's look at the parties and their interests. First, who is the client?

**All:** Mr Davison.

**Chair:** What are his interests here?

**Student 2:** Clearly he wants to know whether he's committed a criminal offence, doesn't he?

**Student 3:** He may also want to know whether he has a lawful right to protest against what he considers to be immoral.

**Chair:** What about other interests?

**Student 4:** Well the policeman and the Vicar also want to know whether an offence has been committed. The Vicar may also want to know whether he can stop the protests and disruption.

**Scribe:** What about the others who are protesting? Are they allowed to continue?

**Chair:** What do people think?

**Student 2:** Well, the Church authorities may have a view on this. I know that there is a big division in the C of E about things like women priests and gay marriage.

**Student 1:** The villagers – they could be affected by the protests and what about the Parish Council whoever they are

**Student 4:** And then there is the policeman – if he is a village bobby he won't want trouble on his patch

### Stage 3 – Facts and chronology

#### Aims:

- To identify key information which will set the context for the problem
- To ensure that all of the problem is considered
- To see the facts as a pattern that has developed and has produced, through its various stages, the given problem
- To ensure that everyone has a similar understanding of the situation described in the problem
- To understand that facts (and evidence) affect the application of legal doctrine

When collating key facts the students (through the PBL guide) are advised to be careful only to record the basic information which can be gleaned from the problem.

It is important to state the facts as read and make no assumptions or inferences. It is also to get the facts in the order in which they occurred to build an accurate picture of what happened as well as to capture all the relevant events.

**Chair:** Let's get a time line here. What are the basic facts?

**Student 2:** Let's call the client 'D'. D along with others holds protest vigils over a period of several weeks

**Student 3:** Didn't the appointment of the Vicar come first and then there was D's protest?

**All:** Ah yes, that's right

**Student 1:** So then, after D objected he and others start the vigils

**Student 4:** The Vicar tells them to move and the policeman tells them not to block the path and road.

**Student 3:** D then sends offensive e-mail to the Parish Council

**Chair:** Hold on there is an assumption there – shall we just say that he sends an e-mail

**Scribe:** Last Sunday, the Vicar becomes upset and confronts D and the group.

**Student 1:** Then D shouts at the Vicar and calls him 'The Whore of Babylon'

**Student 3:** D is told by Policeman that Public Order offences may have been committed and D then comes to ask us for advice.

**Scribe:** Great, I've captured those key facts on the *Smartboard*.

## Stage 4 – Analyse the Problem

### Aims

- To produce as many ideas as possible which assist in understanding the problem.
- Draw existing knowledge out of memory and apply it.
- Form and test links between law and facts.
- Encourage deeper thinking by analysing and synthesising recalled knowledge.
- Pool the knowledge of everyone in the group.

Having read through the problem, gathered the key information and attempted to see the problem as broadly as possible the next stage of the process involves an analysis of the problem at a much more detailed level based upon a range of ideas and assumptions that can be formed by the SLF as a whole. Students should now try to think about which specific areas of law may be relevant. Some of these ideas may be based upon pre-existing knowledge and some from working with the facts or logical conclusions or even informed guesswork. This will involve initial brainstorming, where students are actively encouraged name anything they think may be relevant, followed by a detailed analysis where they discuss everything they've put down and figure out what is actually relevant and what may not be. Many groups find this easiest by drawing a 'mind map' or spider diagram on the *Smart*/white board. The main aim is to try to get down enough ideas to provide a solid base upon which to build further refinement.

It is important that students feel comfortable to raise whatever points they feel are

relevant and not to be inhibited by thinking there is a right and wrong answer. Each student may have a different perspective on the problem, all of which may be equally valid. The pooling of ideas is designed to stimulate others and allow comparison and discussion which is an essential part of the process. The result is a 'list' or 'collection' of ideas and possible issues. Note that this is not (necessarily or likely to be) the definitive set of learning outcomes. It is starting point for further discussion.

**Chair:** OK, let's brainstorm the issues in the problem?

**Student 1:** The policeman talked about Public Order offences and harassment so that must be a major focus for the problem.

**Student 4:** How can this sort of stuff become a criminal matter involving the police? Isn't it more of a personal dispute?

**Student 3:** The protest has been silent – no threatening or abusive language used, in the protest at least. Has anyone been hurt? Do we need to have a victim for a crime?

**Student 1:** Well that may be true at least until the 'Whore of Babylon' line. Also 'other like-minded people' have been involved

**Student 2:** It seems to be a bit over the top to call standing silently outside a Church harassment.

**Scribe:** But it depends upon how many were with him – I'm not sure I would be happy crossing a 'picket line' of objectors.

**Student 1:** It's obviously been going on for some time now – it says 'some weeks'. They've been asked to move along by the Vicar and a Police officer and seemingly they've refused.

**Student 3:** The Vicar is obviously upset about the various goings on.

**Chair:** But it doesn't suggest that he's more or less upset about any particular aspect does it?

**Student 4:** The e-mail sent to Parish Council: it says some offensive things – particularly in the context of a Vicar. Also there's a suggestion that he had made false allegations to get the Police to arrest them.

**Student 1:** What about his right to express his own religious views? We did that problem last term where we discussed the freedom of expression under Article 10 of the European Convention on Human Rights. You remember the 'don't tell me what I can say' case.

**Student 2:** Yes that's right, that included legitimate protest didn't it?

**Scribe:** But what about the individual harassment? I seem to recall that there is legislation to protect people from stalkers – I read about it in the papers in relation to that actress. You can get a court order to stop people from harassing you.

**Student 1:** Yeah – I remember that – there is definitely some legislation which prevents you from individually harassing people and wasn't that order called an injunction?

**Student 2:** What about the Vicar's right to privacy? Isn't he entitled to lead his life in peace without demonstrators standing outside his Church? Also can an e-mail be defamatory?

**Student 4:** But that doesn't concern the police does it?

**Chair:** No, but we should note both of those down in case we need to look at it later. We can always ignore it or defer looking at it once we have our learning outcomes.

## **Stage 5 - Summarise and name the problem**

### **Aims**

- To define the tasks ahead and further engage the whole group.
- To stimulate intrinsic interest and curiosity.
- To encourage people to think deeply rather than just memorise.
- To broaden the horizons of the discussion.
- To provide an initial framework and starting point for the rest of the discussion
- To give the problem a name so that it can be recalled later when other, related or similar legal principles are being discussed
- To provide a natural break from the rigours of the process

Ideally this should be a fast-moving and involved analysis where the group contributes their views and thoughts to problems under discussion. This links back to the key information gathered at Stages 2 and 3. How do the facts and the various interests relate to one another? What exactly lies at the root of the problem? Sometimes the problem is clear right from the start – has X committed a criminal offence? Has a contract been formed? If this is the case the group may come up with a summary and name quite quickly and will move to the next stage without further consideration. In many problems however the relationships between different elements of the problem may not be clear. Certain facts may raise questions rather than clarify matters. Sometimes the problem needs to be considered from different angles. The students may need to categorise the information and set it out diagrammatically. Looking at the parties involved, the relationships between them and the key issues which link them, can often prove to be a good starting point.

Once the basic issues have been identified, it is important to try to 'encapsulate' the focus of the problem in a memorable sentence or phrase. This helps direct the relevance of the problem analysis. As time goes by, these summaries will become increasingly "legalised", but at the initial stages they may not necessarily be. This step is important, nonetheless, as SLFs need to get into the habit of forming a preliminary idea of what the problem is about before they start doing a detailed analysis.

**Chair:** Now, let's try and summarise this. What is at the heart of this problem?

**Student 1:** Well it seems to me to be whether what the Client did was criminal or whether he has a right to express his views

**Scribe:** But there seems to be at least two issues here – there is the individual 'harassment' of the Vicar by the Client as evidenced by the e-mail and the shouting match and then there is the issue of the group as a whole and their 'protest' outside the Church

**Student 3:** Don't forget though that there is the issue of the Client's right to express his religious views

**Chair:** How shall we summarise this?

**Student 1:** How about 'Bully or Righteous Indignation'?

**Student 2:** Or what about 'Public Disorder and the Right to Protest – the case of the Bullied Vicar' – or just 'the Bullied Vicar' – we might remember that!

**Chair:** Yes, I like that one but let's have a question mark at the end as is it really bullying?

**Scribe:** Shall I write that down then?

**All:** Yes, thanks!

## **Stage 6 – Arrange ideas in a systematic way and consider them in-depth**

### **Aims**

- Streamline and organise the list of issues.
- Actively process and restructure issues.
- Form and test links between facts and law.
- Encourage deeper thinking by analysing and synthesising information.
- Define the limits of knowledge
- Prepare to define learning outcomes
- Identify basic research resources

Stage 4 should have resulted in many different ideas which relate to the general interests identified at Stage 2. These will, however be relatively unstructured, although the process of capturing them on a board may have identified tentative links. The key now is to scrutinise these ideas in greater depth and try to sort out the ideas into some sort of systematic order and coherent constituent parts. Some things may be discounted as irrelevant or not related to the main problem. Some concepts will need to be linked and priorities identified. The process should end with a schematic representation of the problem and 'legal considerations'. This starts to define learning outcomes but writing them down too soon should be resisted as they could be misleading or too general.

The SLF members may, by now, have a lot of potential themes for study but, especially during the early stages of Year 1, may not be clear about which are relevant or have priority in terms of importance to, or overall place in, their learning. They should be cautious not to rush on to define (often unmanageably large) chunks of learning. If they have a list of more than 6 or 7 key themes tutors will probably need to narrow down the issues to make subsequent work manageable. Students are told they should look to their PBL guide and at any module guide for help in narrowing down their list. These will give pointers as to what is being studied that week. It is important, however, that they do this at the relevant stage of the overall PBL process (that is, the relevant cycle in terms of where it sits in the curriculum timetable) as it is the process of generating ideas, links between those ideas and the plenary sessions which provide students with the initial platform for group and self-



directed learning.

**Chair:** Right – let’s try to make sense of all this.

**Student 1:** There seem to be two main themes related to whether harassment is a criminal offence.

**Student 4:** One seems to be connected to group activities and public disorder and the second to individual harassment.

**Chair:** OK....let’s group and link the various relevant facts to each of those issues.

**Student 2:** We should probably also note the likely existence of criminal statutes in relation to both – we need to find out what they are because they will define the elements of the offence – which in turn links to the facts

**Student 3:** I think there is a third issue which seems to be related to the right to free religious expression. Where does that come from?

**Scribe:** Isn’t it in the ECHR – Article 9 or 10 I think or is it the Human Rights Act now?

**Student 2:** We should put the relevant Article or Section down and I think from what we did in an earlier PBL problem, or was it the plenary on human rights, that there were a few important cases on that too?

**Chair:** I wonder whether we can link these three themes?

**Student 3:** The underlying question seems to be: ‘When does your right to freedom of religious expression turn into actions which might be deemed to be criminal?’

**Chair:** Yes, there do seem to be two competing interests here – on the one hand why should the Vicar have to put up with personal attacks on his integrity and on the other why shouldn’t our Client have the right to say what he believes to be right and protest against what he thinks to be wrong?

**Student 1:** I wonder also whether there might be any difference between the two different types of harassment?

**Student 2:** Yes, there seems to be a real difference between the two situations but together they form a pattern of behaviour – perhaps the same facts can lead to two different offences?

Once that has been done it is possible to move on to identify (where relevant) basic primary resources. This should help students to refine the issues further and provide a clear platform upon which to construct precise and specific learning outcomes.

**Chair:** We should try to identify any relevant statutes and key cases we should be looking at.

**Student 1:** I looked in the back of Smith and Hogan under ‘harassment’ and it seems as if there is the Protection against Harassment Act 1997 which seems to be on the point.

**Student 4:** I’ll look that up on Westlaw.

**Chair:** We should also start with *Halsbury’s Laws*. What about the public order issue?

**Student 2:** We talked about some elements of the Public Order Act 1986 in the Plenary last week, I wonder if it covers harassment?

**Student 3:** Let’s also look that up in *Halsbury’s*.

**Scribe:** There seem to be a number of possibilities to do with ‘threatening or abusive behaviour’ as well as intentional harassment. These are all in sections 4 to 6.

**Student 1:** Let’s link the Public Order Act section 4-6 and the Harassment Act with the relevant issues. We’ll also need to consider the various cases listed.

**Student 4:** We also need to look at Article 10 of the ECHR again.

**Chair:** Let's check on Westlaw on the actual wording and leading cases. Could you (the scribe) capture those different issues please?

For reasons of brevity, the full content and subsequent manipulation of what was recorded in the brainstorming session (Stage 4) is not included here. This process is however important as the grouping of ideas and concepts leads directly to the identification of learning outcomes. On the *Smartboard* this is done by dragging and dropping content into groups and themes. It is a vivid demonstration of through processes at work. If less sophisticated technology is used a similar, if less striking, impression can be gained, perhaps using colour coding to link the identified ideas.

## **Stage 7- Define learning outcomes**

### **Aims**

- Define the way ahead in terms of knowledge and understanding required.
- Define appropriate resources for self-directed learning.
- Produce a list of learning outcomes, mostly in the form of questions that will have to be answered.

The SLF should now agree on a set of focused and clear (SMART)<sup>7</sup> learning outcomes.

This stage uses the expertise of the entire SLF to discuss appropriate and attainable learning outcomes and concludes the initial discussion. The YLS PBL guide

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<sup>7</sup> The SMART concept – objectives or outcomes that are variously described as: Specific, Measurable, Achievable, Relevant and Time-bound/timely was first discussed in a management context. The earliest mention appears to be by Doran in: Doran G.T., *There's a S.M.A.R.T. way to write management's goals and objectives*, *Management Review*, 70 (11), 1981 , 35–36. The value of SMART learning outcomes in legal education is, it is suggested, just as relevant and something YLS students are encouraged to consider and adopt.

recommends that the learning outcomes should, where possible, be in the form of **specific** questions that address the problems or issues identified in earlier stages and address the gaps that students have identified in their knowledge.

The outcomes produced can be divided into three categories, primary, secondary and deferred to assist structuring and prioritising learning.

**Primary outcomes** are those which every member of the group should study. They are of direct importance to the issues raised by the case and support the objectives laid out in the course study guide.

**Secondary outcomes** are issues of lesser importance to the case and that week's objectives (in terms of expected curriculum outcomes) but that may hold interest for some students. These can be researched by those in the group who wish to pursue them.

**Deferred outcomes** are important issues that will be addressed later in the course and thus can be deferred until later.

**Student 1:** Well we need to know whether our client has committed a criminal offence. I think we should look at 'harassment as a public order offence'

**Student 4:** I don't think that's specific enough.

**Chair:** We need to consider the offences we've just looked up in more detail and what we want to know about them.

**Student 2:** So the outcome should be to describe and understand the offences of harassment in the Protection against Harassment Act 1997 and the Public Order Act 1986.

**Student 3:** That sounds like two learning outcomes to me.

**Student 4:** Also the Public Order Act doesn't necessarily mention harassment as an offence so we need to look a little bit more broadly at that.

**Chair:** We mustn't forget the Article 10 issue – freedom of expression.

**Student 2:** And the critical overlaps between all of these issues.

**Scribe:** So we have three main learning outcomes.

**Student 1:** There seems to be a lot of case law in relation to these statutes so we will need to consider the principles the Courts have adopted when interpreting these provisions

**Student 3:** So that's a fourth primary learning outcome.

**Chair:** I think that there is a more general and interesting question about the way society seeks to

balance fundamental rights such as the right of religious expression as against the protection of the individual – I mean what does this problem say about life and law in the 21<sup>st</sup> Century?

**Student 2:** That also raises the question of privacy and defamation which everyone seems to be ignoring.

**Student 3:** Let's look at the Block learning outcomes in the Study Guide again – none of these seem to map onto to privacy or defamation.

**Chair:** I think we may well cover that in a later problem so let's defer that as a learning outcome.

**All:** OK.

## **Potential learning outcomes from the problem**

Let us look at the learning outcomes that the SLF may have come up with. As seen above students are encouraged to express the outcomes they have identified in the form of research questions. These may be set out as follows:

### **Primary**

1. What are the elements of the offence of harassment under the Protection against Harassment Act 1997?
2. Are any offences likely to have been committed under the Public Order Act 1986 and if so what are the constituent elements?
3. How is the right of freedom of expression under Article 10 of the ECHR and/or the Human Rights Act 1988 relevant to these offences?
4. How have the Courts interpreted these offences and what principles have they adopted when applying the law to specific facts?
5. What issues are raised when trying to balance the competing rights of individuals to freedom of religious expression and the need to protect others from harassment?

### **Secondary**

1. How does the criminal law and civil law overlap in cases of harassment?
2. What sanctions may apply in the event of a conviction for public order or harassment offences?
3. What remedies may be available under the civil law for defamation or

harassment?

### Deferred

1. What are the constituent elements of the law on defamation and the protection of privacy?
2. How does the law on privacy and defamation protect an individual's reputation?
3. How does the law on privacy and defamation overlap with freedom of expression?

Students are given the following guidance on defining their learning outcomes:

#### Producing learning outcomes

A common problem is the setting of outcomes that are unclear or too broad to be realistically covered. Writing an outcome as say, 'offence of harassment', or 'liability for defamation', is a waste of the preceding discussion and will present great difficulties when you set about tackling it. When setting the outcomes try to make them **focussed**, not on broad areas of study, **possible to achieve** in the time available and **clearly phrased**. It is good practice to focus learning by phrasing the **outcomes as questions**. This gives direction and aids the attainment of a deeper level of understanding during private study. The other advantage of phrasing the outcomes as questions is that you should know you have accomplished the task when you have found a relevant answer! Do not be afraid to leave some objectives to be formulated on the midweek interim session for feeding back at the final session of the PBL cycle. This is a good way to avoid work overload. (emphasis in bold added)

It is also vitally important that each member of the SLF understands what is required of them at this stage before embarking on their self-directed study otherwise focus will be lost.

### Stage 8 – Planning and conducting the research – using different resources in self-directed study to meet learning outcomes

#### Aims

- To develop students' ability to research, pursue their individual learning needs and provides material for pooling, discussion and critique at following sessions (interim and end of cycle report back).

- To promote private study – an essential complement to the PBL group sessions. Where the first PBL meeting serves to activate and explore prior knowledge, private study provides the real opportunity to enhance the depth and breadth of your knowledge.
- To gain familiarity with a broad range of research resources including primary sources such as statutes and cases; and other secondary sources such as text books, practitioner texts, journal articles and official publications

As has been previously implied a particular strength of PBL is its capacity to integrate and encourage the actual application of learning. To make the most of PBL students must acquire knowledge in parallel with skills and values. Self-directed learning combined with the PBL sessions should help students to build up their own repertoire of competence.

At Stage 8, students come to the end of the initial PBL session for that problem and begin their private study for the week. Students are encouraged to use a range of resources to meet the learning outcomes set in Stage 7. The module guides list recommended reading for the week, and the electronic support system (the Virtual Learning Environment - VLE) will often have pointers to additional resources. Although the problems used in PBL sessions usually cross legal subject boundaries the support students receive in module guides is directed at each of the foundation (or optional) subjects. The students therefore consider problems in the 'messy' world of a replicated reality but then have to bring their attention and research back to the fundamental concepts enshrined in subject-specific material.

At York plenary sessions are also an important additional resource. As indicated

above they do not purport to give 'answers' but are structured in such a way as to promote further collaboration and draw attention to relevant considerations and resources. These are delivered in relation to the defined modules of the syllabus.

One of the critical points to understand is that there are no 'right' or 'wrong' resources; students should use whatever they personally find useful. Thus the module and PBL guides and VLE provide suggestions. That said over-reliance on Internet sources is discouraged unless that source is, in fact, authoritative.

It is important however that students keep a note of all resources used as they will need to be able to reference the material used when feeding back at Stage 9. Notes should be made and adequate active learning conducted to be able students to feedback their findings to the rest of the SLF.

### **Stages 9 and 10- Sharing the results of self-directed study with the rest of the Firm and checking to see if learning outcomes have been met**

#### **Aims**

- To consolidate knowledge by putting it into words and discussing it.
- To assist each other in understanding difficult concepts: A student who has come to understand a difficult concept is often the best person to help a peer who is struggling with it.
- To elaborate and enhance each student's pool of knowledge. Sharing different answers to the same questions elaborates upon the learning of individual students and produces a sum that is greater than its component parts.
- To critique and correct any misconceptions. Pooling information provides opportunity for students and the academic/PBL Teaching Fellow to correct each other, resolve conflicts raised by the literature found and add new

learning.

- To define new questions and the limits of existing knowledge through critical reflection on the answers the group has found.
- To train students in the discipline of citing and criticising resources. Students should start to be able to judge the credibility and weight of information by its source, critically appraise strength of evidence and learn 'triangulation' of information by cross checking different sources.

After conducting private study on the learning outcomes, students reconvene for interim and end of cycle feedback sessions and to pool and synthesise the information they have gathered. Each student is expected to come prepared to talk through and share the work done on each of the set learning outcomes.

The key to this session is to emphasise **understanding** over repetition of unanalysed notes. The aim of pooling information from private study is to help each other grapple with concepts, to expand on each individual's knowledge base and to identify areas where confusion or uncertainty still exists. It is possible that during the discussion not all issues will be resolved and new ones may appear. These are dealt with in the same way as for the first session, by identifying fresh learning outcomes. These are then studied privately for the remainder of the week and the results brought back and shared with the group at the following PBL session before the new problems are seen.

Again tutor guidance is given on how to manage and extract the maximum benefit from feedback. The degree of involvement from the PBL tutor at this stage depends on the extent to which the SLF has 'answered' the question posed by the learning



outcome questions determined earlier in the process. It will be recalled that the learning outcomes are, in this guided discovery model of PBL, broadly predetermined, with each tutor ensuring that their SLF covers the ground required. The feedback session is there to allow the students to demonstrate to themselves, their colleagues and the relevant tutor that they have addressed the substantive and/or normative issues raised by the set problem. Depending on the framing of the learning outcomes this tends to take the form of problem-addressing rather than problem-solving as such – although the latter is a key feature of the live-client clinic elective. In practice, given that the students have already received interim feedback, tutor intervention at this stage is relatively light-touch.

Running a recap and feedback session is primarily a matter for each individual SLF. There are many different approaches that can be taken and each firm and its members may need to experiment to find a method that works best for them.

They could go round the group asking individuals to lead the discussion on a particular outcome and the rest of the group can then be invited to follow. The SLF may feel it appropriate for an individual or a sub-group to ‘major’ in a particular outcome and make a short presentation on it again with group discussion following.

This may be a useful way to practice presentation skills and also can be helpful in controlling time for each outcome. Where the outcomes of the week are heavily detailed and related to substantive topics, the SLF could use games or cards with key words or concepts written on them for definition purposes or to test each other.

Equally the group could use other imaginative ways of making the feedback

interactive, engaging and challenging.

It may pay to experiment with different methods. Students can be encouraged to talk to other SLF members about how they are 'feeding back' and to consider different methods according to the topics and findings that have been identified. For example they may find that they require a different way of describing detailed substantive law learning outcomes to more discursive topics outcomes. It can be very useful if students feel able to share how their group conducts feedback sessions by using social networking sites (e.g. Facebook) or by using a thread on the PBL electronic virtual learning environment site.

So there it is – PBL at YLS in a nutshell. Much could be said here about the 'why' as well as the 'how' but space does not currently permit. The publications referred to in a previous footnote may assist those wanting to know more.

If you are still curious, come and see for yourself. Feedback from students, tutors, external examiners and visitors is generally highly positive. The PBL process and the ethos of the law school certainly seems to create a very different dynamic in terms of learning and teaching – one built on a shared vision of how legal education can be delivered and on a shared responsibility for doing that.