

Question 1

Do you agree with the proposal to move to five price groups, by splitting price group B?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments on question 1:

The Society of Legal Scholars (SLS), formerly The Society of Public Teachers of Law (SPTL), is the foremost learned society in the U.K. for legal academics and jurists. Its purpose is the advancement of legal education and scholarship in the United Kingdom and Ireland. The Society was founded in 1908 and currently has over 2,300 members worldwide.

Law is currently in Band D; in the Consultation Paper it is included in Cost Centre No. 29 (Social Studies), which would fall within price group D. However, paragraph 27 of the Consultation Paper points out that under the proposed new system, since the base price would increase, the rate of resource for the old Band D subjects would thereby increase. The Society of Legal Scholars welcomes any increase in the unit of resource available to be passed on by HEIs to their Law Schools. The Society acknowledges that this discussion is taking place in the context of a 'zero sum constraint', but would still wish to point to what it regards as considerable shortfalls in the resources available for the teaching of law.

Question 2

Do you agree with the proposed assignments of individual academic cost centres (for HEIs) or learndirect codes (for FECs) to price groups?

Agree to all

Mostly agree

Neither agree nor disagree

Mostly disagree

Disagree

Comments on question 2:

The Society of Legal Scholars believes that there is a strong case to be made for the transfer of law out of price band D into price band C. Law has been historically under-funded; the funding mechanism has never reflected the true costs of legal education. Legal study involves iterative analysis of cases and statutes, in a way which is unique to the discipline, as well as analysis of other materials drawn from the social sciences and humanities. Costing processes for law, both historically and in the current Consultation Paper, wrongly assume that the use of legal texts is the same as the use of texts in the social sciences and humanities generally. This is not the case; the Society will argue that unlike other apparently similar disciplines, the library is not only a resource for research and learning; it is a site of investigation. In addition, practices such as experiential and clinical learning methods, which some legal academics wish to introduce into undergraduate programmes, are thwarted because of the additional costs of lower SSRs, the expenses of practical materials and the lack of specialist facilities.

The Distinctive Nature of Law

The case for increased funding for Law is thus based upon the distinctive nature of legal method, which involves the following costs, peculiar to Law:

- The provision of core data in hard copy on a regular basis (law reports and statutory materials, Government and EU publications).
- Specialised facilities for the storage and retrieval of such data.
- Access to an increasing variety of electronic databases under licence.
- Provision of dedicated environments for the investigation and learning of legal expertise, and, where appropriate, for the development of authentic problem-based learning opportunities, virtual learning environments and experiential learning situations.

The plant and raw materials of legal study

The basis of the discipline of law is texts - cases and statutes, in which the law is to be found. The reading and analysis of legal cases and statutes are the core activities on which the study of law is founded. Law schools are required to purchase, store, update and supply mass access to legal information in ways which render the study of law akin to the laboratory and workshop methods prevalent in languages, psychology, geography, archaeology, mathematics and education (all proposed Price Group C subjects).

The raw materials of law are constantly expanding. The Common Law notion of precedent was founded upon cumulative authorities in England and Wales. Knowledge of the law of other Common Law jurisdictions (such as Australia and Canada) and of the law of the United States has long been part of legal education, but in the last fifty years or so the need to access a much wider range of legal materials has become pressing. There has been enormous growth in the number of areas which fall under the shadow of the law. A few examples would be the regulation of emergent technologies, the development of European law, the expansion of international treaties and human rights discourse, the effects of globalisation upon legal phenomena. This growth in the subject-matter of legal discourse brings with it an additional cost in terms of the resources needed to provide an effective legal education. Obvious costs would include increases in the variety and quantity of law reports (over and above those which can be accessed by means of the two main legal databases, Lexis and Westlaw), as well as increases in the number of specialist legal journals and other commentaries. Expenditure on law materials per student is currently estimated to be £148 in old universities and £101 in new universities (SPTL/BIALL Academic Law library Survey 200/2001 (2003) 3.2 *Legal Information Management*). The actual cost of supplying students with access to law reports and periodicals, including licences for databases for a medium-sized law school is estimated to be £150 per fte undergraduate student (data supplied by United Kingdom Centre for Legal Education). The purchase of legal materials brings with it additional costs for storage and retrieval. The constant paper-based publication of legislation and tribunal decisions involves the costs of updating loose-leaf volumes, managing access and the regular expansion of shelving space. Access to electronic databases incurs the inevitable additional costs of mass provision of networked computer terminals and their maintenance.

Thus the law library has a much more significant role in legal study than the use of the library in other disciplines which might otherwise be regarded as cognate with law. Whilst it is true that other subjects in the humanities and social sciences require access to the internet and specific databases, their usage is as a tool of research rather than as a source of

core knowledge. This is the fundamental difference between the relationship of legal education to the library and that of other apparently similar subjects. The law library as a site of investigation and learning has invariably been understood as an adjunct to classroom instruction rather than a laboratory where law finding occurs. The implications of law's disciplinary distinctiveness have not been taken into account in the calculation of central funding provision.

The Society would argue that the assumption that the study of law is similar to that of the Humanities and Social sciences generally is based on a fundamental misunderstanding of the nature of legal education. The process of discovering legal authority and identifying the elements of legal significance within them is akin to laboratory experiments. It is essentially a process in which all law students must participate in order to be able to study law. In addition, they, like students in other apparently similar disciplines, need to use the library for learning and research purposes. It is the nature of legal materials as raw data which has hitherto been ignored in the calculation of funding and which, in the Society's view, justifies the placing of Law in Price Group C.

Innovations in Legal Education

Opportunities for legal academics to develop experiential, problem-based and reflective learning activities are currently hindered by the high demand on resources which these innovative approaches involve. QAA reports have frequently praised the strengths of existing initiatives in law teaching, such as virtual learning environments, role plays, placements etc. Employers value highly the transferable skills which law students acquire when they are exposed to such learning methods. Some legal academics would like to develop clinical legal education, where students, as part of their learning experience, interact with real clients. All these innovative learning experiences are plainly far from the traditional seminar/lecture model which applies to other subjects which will be placed in Price Group D, and strengthens the case of Law to be placed in Price Group C.