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The Only Way is Information Literacy

Abstract: This article, written by Natasha Choolhun, follows the progress of submitting a proposal to BIALL Council on the topic of devising a 'Legal Information Literacy Toolkit' following discussion at the 2011 BIALL conference.
Keywords: legal research; information literacy

INTRODUCTION

In 2009, I investigated the growing trend of lawyers, both qualified and prospective, relying on Google for legal research.[1] Whilst I was able to conclude that information professionals in the legal sector had acknowledged the trend and were actively redressing the issue, I was prompted to revisit the topic after attending the 2011 BIALL conference.



Natasha Choolhun

A mainstay of the BIALL conference is 'Have your Say'. The session is an opportunity for members to raise any items for discussion. The tone is informal and contributions from law librarians working across all sectors are welcomed. 'Have your Say' 2011 was marked by a lengthy discussion on legal research standards with a distinct complaint from practice librarians about declining standards amongst new trainees which led them to challenge their academic counterparts present to re-examine how legal research skills are being taught. One BIALL member working in the commercial sector summed up the situation when they reported that partners at their firm no longer trusted the research presented by trainees and were asking library staff to double check their work.

Despite 'Have your Say' turning a little into 'What's gone wrong?' attendees were proactive in volunteering suggestions to address the decline, with the most frequently cited solution being information literacy. As information literacy has remained my personal interest, I was prompted by the discussion to write a proposal for BIALL. The proposal asked BIALL to consider whether it is feasible to build upon existing work in the field to produce a subject specific toolkit, specific to legal research rather than generic research to create a BIALL endorsed 'legal information literacy toolkit'. Such a toolkit could then be adopted by BIALL members to help address the reported decline in legal research standards amongst trainees.

This article is a summary of what has happened since the 'Have your Say' session.

TAKING ACTION: WRITING A BIALL PROPOSAL

The definition of information literacy I used for the proposal is the CILIP definition which I have used previously. "Information literacy is knowing: when and why you need information, where to find it, and how to evaluate, use and communicate it in an ethical manner".[2]

My initial research revealed that librarians working in other countries and sectors had pursued similar ideas by creating practically tailored guidance for their users. I then carried out a thorough literature review to research developments in information literacy, specifically aimed at law or with a strong vocational perspective. Having completed this, I was encouraged to pursue the proposal after finding existing information literacy models which could serve as a framework for a potential legal information literacy toolkit. The two models which my literature search uncovered are a toolkit for the nursing sector[3] and one for the US legal sector[4]. I suggested the US model should form the model for a BIALL toolkit.

As well as researching how information literacy was being applied practically in other sectors, I also looked at the aims of the regulatory boards in respect to legal research training. This involved looking at documentation produced by the Society of Legal Scholars (SLS), Solicitors Regulation Authority (SRA) and Joint Academic Stage Board (JASB). This part of the literature review was very enlightening as I was surprised to learn that information literacy in law already exists! It is already advocated by the SLS in the recognised standards[5]. Whilst the literature review did throw-up this big surprise, I was still encouraged to write a proposal as the findings still confirmed that sector specific guidance was needed. Whilst the SLS do refer to the principles of information literacy as outlined by the Society of College, National and University Libraries (SCONUL),[6] the SCONUL framework is aimed at academic researchers in Higher Education. The SCONUL pillars are made up of seven headline skills:

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1) Identify: able to identify a personal need for information
2) Scope: can assess current knowledge and identify gaps
3) Plan: can construct strategies for locating information and data
4) Gather: can locate and access the information and data they need
5) Evaluate: can review the research process and compare and evaluate information and data
6) Manage: can organise information professionally and ethically
7) Present: can apply the knowledge gained, presenting the results of their research, synthesising new and old information and data to create new knowledge and disseminating it in a variety of ways

Whilst the skills above clearly support the CILIP definition of information literacy, the SCONUL pillars envisage students progressing from novice researcher to expert by working through different levels within the seven skills.

Webb and Powis, writing on the teaching of information skills, highlight how the SCONUL model has been taken as a long term view in order for it to be successful in supporting development. "First year undergraduates will largely be at the bottom of the [model], perhaps only practising the first four skills, whilst postgraduate and research graduates will aim to be towards the expert end and will be aspiring to be seventh".[7]

INFORMATION LITERACY FOR TODAY'S TRAINEE

This note on how the SCONUL framework functions, shows clearly that it is not well suited to the needs of hard pressed law students on vocational courses (such as the LPC or BPTC), who need to equip themselves with skills ready for the workplace in a very short space of time. It is essential for law students to master all seven skills by the end of their course. As the SCONUL pillars are also generic guidance they do not deal with the unique character of practical legal research; for example the trainee who needs to carry out a case law search with a half hour deadline, a distinctly different scenario to say a PhD student who may need to research a topic in order to be published in a peer reviewed journal or present a conference paper.

SCONUL state that in order for the seven pillars model to be relevant to different user communities and ages, a 'lens' representing different groups of learners, can be applied. It is possible that instead of creating a BIALL endorsed 'toolkit', a 'law lens' could be created to provide tailored information literacy guidance for the sector. It is interesting to note that the Royal College of Nursing chose not to create a "nursing lens" but instead independently created an information literacy toolkit for their sector with input from CILIP.

Currently no lenses have been formally launched, but two lenses have been created and these are available in draft form. It is interesting to note that one lens concerns information literacy in the online environment, "The SCONUL Seven Pillars of Information Literacy through a Digital Literacy lens", (updated January 2012)[8]. The digital lens is an important step forwards which acknowledges the extensive changes to the online learning environment since the pillars were first created in 1999.

What I have seen from personal experience (working in a law firm supporting trainees and currently supporting students) and what I stress in the proposal, is that we need to act and produce information literacy guidance specifically aimed at our sector, be it a toolkit based on the US standards[9] (as I suggest) or a 'law lens' to be used in conjunction with the SONCUL framework. In my first article,[10] I frequently cited the findings of the report 'Higher Education in a Web 2.0 World'[11] produced by The Committee of Inquiry into the Changing Learner Experience which looked a the effects of the online environment on research skills. One key conclusion of the report was the fact that the increasing use of online environments is causing a decline in these skills: "Information literacies, including searching, retrieving, critically evaluating information from a range of appropriate sources and also attributing it – represent a significant and growing deficit area".[12] If the report is identifying information literacy as a deficit, as our colleagues in commercial practice are also reporting, then I believe the production of a BIALL endorsed 'Legal information literacy toolkit' would be a step in the right direction in addressing the deficiency. Allen, discussing online learning environments in 2002, draws a similar conclusion stating how information literacy should be promoted to ensure success in the online environment; "the growth in e-learning and the use of integrated learning systems is an important driver to ensuring that information workers and their customers are information-literate".[13]

GOOGLE IS NOT THE REAL ENEMY, BUT IT IS NOT YOUR BFF*

***BEST FRIENDS FOREVER!**

When I first looked at the impact of Google on legal research skills in 2009[14], I was careful to point out that I do not intend to dismiss the online revolution; that is still my perspective. The continued growth of e-learning is leading to new skills being developed, such as digital literacy, to combat research pitfalls that are exacerbated by the online environment. For example, it is all too easy to cut and paste online and whether you do so consciously or not, plagiarism is still plagiarism if you do it unintentionally. A high-profile victim who fell foul

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of this error is German minister Karl-Theodor zu Gettenberg, (formerly known as Dr.) but now nicknamed 'Baron von Cut & Paste' or Dr. Googleberg by the German media, after being stripped of his PhD due to plagiarism. It was alleged that over half of his 475 page thesis, (written in 2006) was copied without correct attribution.[15]

As it is equally possible to do bad research with printed resources (books), the finger of blame cannot be pointed solely at Google. However, we must acknowledge the large extent to which the online learning environment has added to the problem. Whilst desktop resources, not just Google but authoritative legal databases, promote self-sufficiency or independent learning they also create optimum circumstances for the formation of bad search habits and technique. It is this possibility, of independent research with little supervision or guidance, which I feel is the crux of the issue, not whether legal research resources are printed or online. This issue of non-supervision or guidance highlights two issues; the difficulty in instinctively learning how to think critically and how online research with little or no instruction reduces the chance of embedding critical thinking skills into the learning experience of a novice legal researcher. As a prominent law lecturer said to me:

> *The problem begins long before a student sits down to a PC. Using a legal database is not the problem, it is working out what exactly what they need to do.*

THE TRAINEE OF YESTERYEAR…

The reminiscences below are from a lawyer who began their training contract in September 1994; it paints a very different landscape to the trainee experience of 2012:

> *The computers were only on the Partner's desks and all research was paper based – rarely did you use electronic sources. If we did use a legal database we needed partner permission to do so and it had to be charged to a client matter; which meant that the librarians double checked your search terms before you used it. The reports that we wrote up were invariably sent to the partners and I had a number sent to counsel … it wasn't uncommon to produce something that was anything up to 30 pages*

However, despite learning in a paper-based, Google-free environment, another lawyer training during the same period has a vivid memory that will strike a chord with today's trainees:

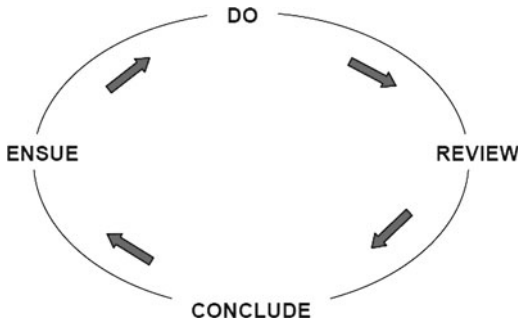
> *Once, I did get it completely wrong and spent 10 hours producing something I wasn't really sure about. My supervisor did do me the courtesy of reading my research, but I later found it in the bin.*

Whilst this anecdote may be amusing to recall now, it does confirm that whatever the format of the resource being used, either online or printed, whether the research outcome is a success is dependent on the information literacy abilities of the researcher.

HOW CAN INFORMATION LITERACY AID CRITICAL THINKING SKILLS?

Kolb & CILIP

Whilst today's practice librarians are reporting that legal research standards have declined, it is important to realise that trainees and pupils are allowed to make mistakes during their training contracts or pupillages, as it is their learning period; in other words an opportunity to develop and improve. In respect to how the skill of information literacy is learned, it can helpful to outline the most recognised learning theories, 'Kolb's Learning Cycle'.



This cyclical process emphasises how students learn in a continual process.

Doing: carrying out a range of activities following demonstration and preparation
Reviewing: reflecting on them, assisted by feedback
Concluding: drawing conclusions from the experience
Ensuing: acting differently in the future as a result of these conclusions

When the Kolb learning cycle is mapped to the eight CILIP component strands, or separate skills which support the CILIP definition of information literacy, it is clear that they both follow a 'learn by doing' pattern which suggests they can support one another.

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Kolb	CILIP components
"Doing" e.g. carrying out a search	• a need for information • the resources available • how to find information
"Reviewing" e.g. reflecting on search results	• the need to evaluate results
"Concluding & Ensuing" e.g. drawing conclusions from the search results which may prompt the student to use a different search technique in the future	• how to work with or exploit results • how to communicate or share your findings • ethics and responsibility of use, • how to manage your findings

In 2005, Cathie Jackson mapped information literacy components against the law benchmarks outlined by the Quality Assurance Agency for Higher Education[16]. An option for the BIALL toolkit could be to update Cathie's initial work and map information literacy components to course outcomes; for example the learning outcomes for legal research as identified by the SRA for the LPC and the BSB for the BPTC. This would follow the methodology of the US standards[17] which I advocate in my proposal, where the components of an US definition of information literacy are mapped to course objectives.

LEARNING STYLES

Another aspect of Kolb's learning theories are learning styles. Previously, David Grantham has mapped the four Kolb styles to how students learn legal skills.[18] The four styles are:

Observers: like to know about how the subject is applied in practice
Thinkers: like to read the theory
Deciders: like to work by the book
Doers: learn by making mistakes and discovering for themselves

Grantham uses the example of teaching case law research to illustrate how this task favours some learning styles but not all. Grantham concludes that ideally a learner should make use of all four styles by working with other students, or by using learning materials which support a combination of all four styles.

It is also important to note as Grantham does, that there are a multitude of learning styles which may be useful to identify. For example, another popular theory of learning styles is the VARK theory[19] where students fall into the following categories:

Visual: learning through the meaningful presentation of information e.g. illustrations, symbols, spider-diagrams and so on
Read/write: learning by words (able to digest text)
Kinaesthetic: learning in a 'tactile' way (e.g. role-playing), not passively receiving information (e.g. listening to a lecture).
Aural: learning by hearing (lectures) or speaking (discussion)

(Complete the VARK questionnaire, footnote 19 to determine your VARK learning style).

If a BIALL toolkit is produced then learning styles could be incorporated to the guidance so that learning styles shape how legal research questions and training exercises are devised. If 75% of a junior lawyer's time is spent writing, drafting or researching[20] then it is essential that each research experience is a learning one, so that skills are continuously improved.

LEARNING DURING THE CREDIT CRUNCH

One thing that struck me about the recollections from a trainee of 1994 was the participation of library staff. A factor that should not be overlooked in the decline of legal research standards are the cuts to internal library services in the commercial sector because of the credit crunch. There are various issues connected to the outsourcing of information services, including the role of the legal information professional and whether the work being outsourced should be the work of a trainee, but what I would like to question is that whilst some information services can be outsourced, for example collection management, knowledge management, routine legal research, can legal research training be successfully outsourced? As some firms with outsourced information services departments rely heavily on training provided by database providers to plug training gaps, how can we ensure that the credit crunch is not adversely affecting the training experience of pupils and trainees in respect to developing legal research skills?

INFORMATION LITERACY AND THE LAW LIBRARIAN

There has been a recent review of the training required for members of our own profession.[21] The table below shows the top ten generic competencies for our profession as identified by legal information professionals

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themselves, (on a 5 point scale, 5 being the greatest). The findings confirm that information literacy is viewed as an essential skill. Should the credit crunch continue to affect the presence of qualified library staff in firms and chambers then the professional staffing cuts resulting from the recession will only add to this increasing deficit in information literacy standards.

Top ten generic competencies for legal information professionals[22] *Note:* n = *63*

Competency areas	Average score (out of 5)	Number rating as 'Essential' (5)
Database searching	4.87	58
Communication	4.77	51
Team-working	4.58	44
Prioritisation	4.57	42
Information literacy	4.51	43
Confidence	4.48	39
Motivation	4.33	31
Training	4.29	29
Business awareness	4.13	31
Collection management	4.08	28

PROPOSAL OUTCOME – CREATION OF A BIALL 'TOOLKIT WORKING PARTY'

I am pleased to report that BIALL think the initial proposal to develop a legal information literacy toolkit is worth pursuing! After lengthy discussion at Council, a 'Toolkit working party' was established to brainstorm the proposal in depth. Below is a summary of the issues creatively explored at the first meeting.

INITIAL DISCUSSION ON THE STATE OF LEGAL RESEARCH SKILLS

- Legal research being treated as a 'tick-box' exercise by students;
- Legal research regarded as a 'Cinderella' skill by trainees – preference for client meetings and transactions;
- 'Minding the gap' – similar problem being addressed in Australia and US;
- Google effect – change in the student 'mindset' due to prevalent use of technology in personal, educational and professional domains. Accessing information online is eroding the 'academic' practice of ensuring accuracy and currency when sourcing information;
- Growing trend of student preference for a 'one-stop shop' solution to legal research (Google effect);
- Decline of literacy in a broader sense: drip-by-drip effect of losing 'traditional' learning methods in general education e.g. formal writing skills, (grammar & punctuation), research using print, (indexes, Encyclopedia Britannica).

BIALL ACTION PLAN

It was agreed that BIALL should take the responsibility of addressing a legal research skills deficit rather than leaving it to individual legal firms and law schools. An investigation by BIALL would also allow the association to bring any significant findings to the attention of the regulatory bodies. In respect to whether a legal information literacy toolkit could be produced using the US model as a framework[23], it was decided that evidence should be collected to firstly justify the production of such a toolkit. Evidence will also ensure that should a toolkit be created it will meet the needs of BIALL members and the wider legal profession. As evidence to date, on the scale of the problem regarding the decline of legal research skills (including the premise of my proposal) has been anecdotal it was decided to collect qualitative and quantitative data in the form of a survey.

BIALL 'toolkit' survey

The current plan is to survey selected law librarians in chambers and practice in January 2012. Following this, a second survey may be devised for the attention of law school librarians. Whilst the survey content has yet to be confirmed, questions are likely to include the following:

Question:
Do you as a librarian or information officer take part in legal research skills training of new recruits?

Question:
Which of the following specific areas of legal research skills do you think the recruits lacked?

Analysing the problem effectively
Understanding the general area of law
Selecting the correct source for the problem set
Selecting appropriate search terms
Constructing an appropriate search string (combining terms, using connectors)
Understanding how to use major commercial databases
Selecting the most appropriate results
Managing the results

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Understanding the difference between abstracts and full-text results
Updating legislation effectively using an electronic source
Updating case law effectively using an electronic source
Understanding the limitations of free search services such as Google, BAILII etc
Use of printed indexes
Use of printed encyclopedias
Use of print directories
Use of practitioner works in print
Updating legislation effectively using print sources
Updating case law effectively using print sources
Understanding how to resolve citations and abbreviations correctly
Presenting the results of the research in an effective manner
Understanding the ethical and legal constraints on the use of information
Use of more than one source to cross-check/verify information
Other – please state

Question:

In general, do you think the latest set of new recruits taken in by your organisation were better equipped by law schools to undertake effective and efficient legal research in a practice environment than those taken in five years ago?

It was also agreed that the BIALL President, Susan Scorey, would take the opportunity to respond to the 'Legal and Education Training Review' (LETR) as BIALL have been formally invited to comment on the LETR consultation. As LETR is partly evidence based, BIALL will report on its investigation into a skills deficiency as identified by its members (legal research standards) as part of its response.

THE LEGAL EDUCATION AND TRAINING REVIEW (LETR)

The 'Legal and Education Training Review' (LETR), is a joint project of the SRA, BSB and the Institute of Legal Executives Professional Standards (IPS). It is a review of education and training requirements across regulated and non-regulated legal services in England and Wales. It will publish final recommendations in December 2012. In order to give a brief overview of some of the issues connected to this review of legal education, it is helpful to add a note on the recent LexisNexis debate; 'Do lawyers need to be scholars?' During the event several speakers stated that legal education had become too employability-driven and that it should be more 'well rounded'. A key statistic quoted was that in 1998 approximately 5000 law degrees were awarded. This had more than doubled, (nearly trebled) to 13,000 in 2010.

It is interesting to note that the US law librarians who have already decided to act and create their own set of subject specific information literacy standards did so partly in response to the MacCrate Report's 23, which chiefly sought to determine 'what skills, what attitudes, what character traits, what qualities of mind are required of lawyers?'.

Dennis Kim-Preito, Law Librarian at Rutgers University presented a paper, 'Law Student Information Literacy Standards (LSIL)'[24] at the 2011 Association of American Law Schools' Annual Meeting. The paper presented a set of standards formulated by a Joint Special Interest Section Committee (made up of law firm librarians and academic librarians, so similar to the BIALL toolkit working party), from the Association of College and Research Libraries. The paper has subsequently been published in the *Law Library Journal* under the title, 'The road not yet taken: how law student information literacy standards address identified issues in legal research education and training'.[25]

Before I conclude I would like to express sincere thanks to Dennis in allowing me to access his paper before publication and for his encouragement in helping me pursue the idea for a proposal.

CONCLUSION

I am really pleased that information literacy is being investigated with specific reference to the legal sector by BIALL. Whilst I wrote the initial proposal, my literature review revealed there are many current and former law librarians who have promoted how information literacy can support legal research skills. The success of my proposal owes much to the good foundations laid down by others.

I am also cheered by the experience of law librarians in the US. It is fascinating to note that information literacy is no longer a term solely restricted to the information profession across the pond. In 2009, President Obama declared October as 'National information literacy month' highlighting how, "Though we may know how to find the information we need, we must also know how to evaluate it… We now live in a world where anyone can publish an opinion or perspective whether true or not, and have that opinion amplified within the information marketplace.[26]

President Obama's advocacy of information literacy is connected to the American's government's efforts to fix their education programme, known as 'No child left behind'. This use of information literacy to promote learning, supports the UNESCO interpretation of information literacy where it is seen as a human right, so that individuals may contribute and participate in the knowledge society.

Whilst my focus is on practical information literacy guidance for law students and trainees, perhaps greater promotion of information literacy as a whole could assist the profession by promoting this skill to a wider audience. Whilst the US legal education system and resources may be different to those of England and Wales, the creation of the US standards were prompted following a

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report on legal education. Whilst the LETR have yet to report, if BIALL are feeding into the consultation and highlighting this core skill which affects the performance of future lawyers and barristers, then perhaps with BIALL as the professional body representing law librarians, information literacy stands a good chance of finally getting onto the agenda.

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Footnotes

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Biography

Natasha Choolhun graduated in a Google-free era where handwritten essays were the norm. Her first experience as an online learner was at City University during qualification. After starting her library career in architectural libraries, she joined the legal sector in 2005 where she has been refining her legal research skills ever since. She is currently employed as Library Coordinator at the College of Law. Natasha has a good peer network in the City and is now developing links with information literacy specialists. She is currently a member of the BIALL PR & Promotions committee.

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