

Legal English Courses at Universities. Should We Prepare Students For Certificate Exams or Communication in the Work Place?

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Abstract:

International certificate exams are regarded as an objective, reliable and equal way of assessing the students' knowledge of foreign languages at the end of their university language course.

All stakeholders seem to be satisfied with this kind of assessment, i.e. students, school authorities as well as teachers. Certificate exams courses are quite easy to structure for teachers, students leave universities with internationally recognised diplomas - proofs of their language competence which also win renown for universities.

If we, however, think about the students' target needs, we may observe a divergence and may need to make difficult choices. The first and most striking variance concerns the content to teach. Legal English courses leading towards Legal English exams will develop vocabulary, reading skill, and to limited extent – writing. They prepare students for a British exam, so they acquaint them with common law concepts and procedures. However, Polish students come from a civil law tradition country and in the future they will most probably work in law office environment where they will have to explain the concepts of Polish or EU legal system in English or draft on these concepts in English.

Unfortunately, no objective measures, apart from these set by the teachers themselves, for assessing the learning outcomes of that part of Legal English courses exist. Perhaps, they will be verified in the long-run by the students themselves after they embark on their lawyer's careers. Today, however, we may only wonder, whether we teach them the right skills, how an effective Legal English course for law students should be structured, what outcome is more valuable – a lawyer with an English language certificate or a lawyer - an effective communicator.

Keywords: Legal English, English for Legal Purposes, ESP, needs analysis, course design.

1. Introduction

In the course of Bologna Process aimed at creating the European Higher Education Area by making academic degree standards and quality assurance standards more comparable and compatible throughout Europe, in the academic year 2007/2008 Polish Council of Higher Education¹ introduced the standards of education which defined the profile of a higher school

¹ The Council of Higher Education is a representative body of higher education in Poland which formulates Polish educational policy as regards higher education

graduate. According to them a graduate shall know a foreign language at Level B2 CEFR² and be able to use the specialist language typical of the discipline of his/her studies. Level B2 CEFR corresponds to the level of First Certificate in English examination.

Ministerial requirements, however, are only one of the constraints that have to be taken into consideration by teachers and course designers who will model tertiary legal English courses. During the process they will face the task of combining the needs, visions and wishes of all the stakeholders of the Legal English course including: the students, the school principal representing the university which organizes the course as well as the law firms which constitute future employers of the course participants. Moreover, in many cases the outcomes of the teaching process will be evaluated by the results of the international certificate examination, e.g. ILEC (International Legal English Certificate offered by Cambridge University) or TOLES (Test of Legal English Skills offered by Global Legal English).

Legal English certificate exams are supposed to enhance the educational offer of universities and attract more candidates. As a result, English language classes at universities are modelled as ESP (English for Specific Purposes) courses and are meant to satisfy the students needs and fit into the university's or faculty's profile. In practice, business schools will usually offer their students Business English courses, while law schools will offer English for Legal Purposes courses. These courses, however, are very rarely designed pursuant to the results of the needs analysis which is the key element of ESP course design process (Wilkins, 1976; Munby, 1978; Mackay & Mountford, 1978; Widdowson, 1981; Hutchinson & Waters, 1987; Robinson, 1991; Richterich & Chancerel, 1997; Jordan, 1997; Dudley-Evans & St. John, 1998; Graves, 2000; Long, 2005; Nation & Macalister, 2009).

2. Needs analysis

University foreign language course design is a huge challenge for foreign language teachers and course designers. Namely, students who enrol at a university are too young and inexperienced to be aware of their occupational language needs. As Strong (2003:1) points out, *they come unprepared to the study of law, since it is qualitatively different from the study of other subjects*. Moreover, very often they do not have a clear vision of what they would like to do in their future job, where they see themselves in 5 or 10 years' time. For that reason, the heaviest burden of responsibility for structuring the language courses at universities is shifted onto the shoulders of the language educators who will base on their experience, observation, detailed knowledge of the system of tertiary education and awareness of what students might need in the future.

Identifying actual language needs of the first year students which theoretically helps design more attractive syllabuses for the tertiary language classroom in practice rarely provides any meaningful information. Namely, first year students are hardly ever have a clear vision of their future language needs. Most of them have never attended an ESP course before. They may be aware of what they do not know and what their weaknesses are, what activities they like participating in or what they dislike learning. They may be conscious of some effective learning strategies which they adopt when learning the language, but – even though they can

² The Common European Framework of Reference for Languages Learning, Teaching, Assessment, abbreviated as CEFR, is a guideline used to describe achievements of learners of foreign languages across Europe.

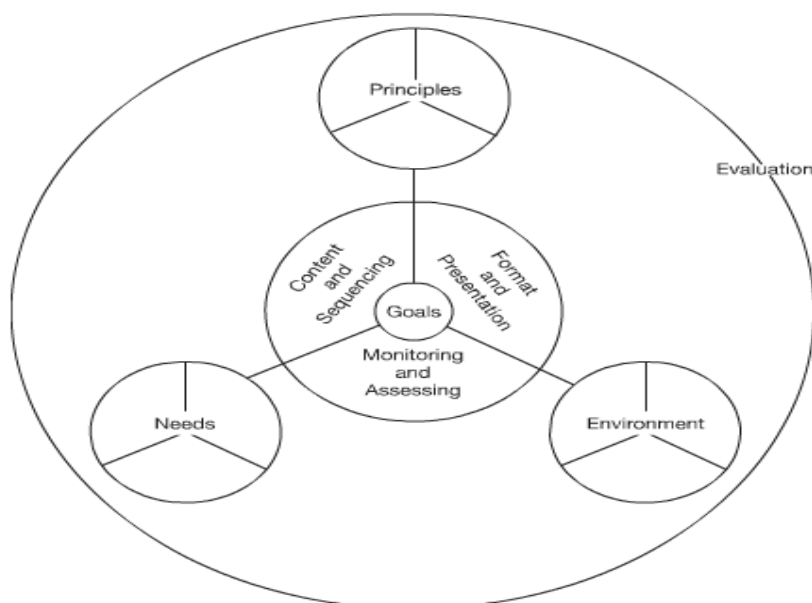
profile their predispositions, strengths and weaknesses – most of them will not be able to list their specific linguistic needs related to their future profession.

2.1. Present Needs Analysis

Therefore, a needs analysis conducted at the beginning of a language course at university should concentrate on **the present and the learning needs of the learners**. It should be designed to help the course designers gather some information about the learners themselves: their likes and dislikes, learning strategies, general English deficiencies and wishes, learning motivators and demotivators. This kind of analysis will concentrate on identifying factors which will affect the learning process.

At this stage of the course design process course designers may identify that what learners need is General English or English for Academic Purposes rather than a strictly ESP/ELP course. However, learners are not the only source of information at this stage of the needs analysis process. Another, sometimes more influential, source are the school authorities with their beliefs, objectives and vision, all of which must be taken into consideration. School authorities may insist on providing a strictly ESP or ELP course, or they may claim that students should be prepared to sit international certificate exams, which will require the teachers to run ‘exam classes’. A present needs analysis will also concentrate on identifying technical constraints such as the large size of groups, the small amount of time available, the lack of appropriate teaching materials or the teachers’ lack of specialist training (Macalister & Nation 2009: 4).

Macalister and Nation postulate that during a needs analysis the nature of the learners, the teachers and the teaching situation should be taken into consideration.



A model of the parts of the curriculum process (Macalister & Nation 2009: 3)

A positive consequence of carrying out a needs analysis will be the fact of involving learners in the syllabus negotiation process and letting them feel responsible for it. On the other hand, the question of more specific target needs, which will constitute the basis for the course

content, will remain open and other techniques and sources will have to be used in order to identify them.

Some aspects of the present needs analysis which are significant in the case of ESP courses at universities, such as the identification of students' likes and dislikes concerning their present situation in the classroom and the learning process itself, can also be successfully researched during the course by means of short questionnaires carried out at the end of the class with a few 'True/False' statements such as: *I like working in groups; I like role-plays/acting out scenes/simulations; learning grammar is easy; I have been active today*, etc. Such mini-questionnaires will provide the teacher with immediate feedback and are probably more reliable than the results of one formal questionnaire administered before the beginning of the course when the students may not be aware of what the activities they are asked about look like.

2.2. Target Needs Analysis

Apart from the learning needs analysis, there should also be carried out a target needs analysis which concentrates on defining the skills that the learners should obtain by the end of the course.

Target needs analysis is the best known type of needs analysis and was first described in 1978 by John Munby who presented a communication needs processor (CNP) that consisted of a number of questions concerning the main variables in the process of communication between people, e.g. topics, interlocutors, setting, interaction, dialect, target level, communicative event, communicative key, etc. These variables can be used to identify target language needs of any group of learners by analysing the following points:

- reasons for learning the language;
- type of language that will be used;
- kind of language that will be used (e.g. spoken language);
- level of language;
- content, interlocutors, recipients;
- physical aspects of the target situation;
- time and frequency of the language use.

The advantage of Munby's model consisted in combining two operations – needs analysis and course design – into one. A very constructive criticism, however, was presented by R.R. Jordan (1997:24) with a postulate *that the language items chosen for practice in ESP/EAP should reflect those used in the real world (Munby's classifications of language were derived from social English)*.

Keeping this in mind the postulate for conducting a needs analysis among practitioners and not university students should be stressed. In the case of ESP courses course designers can try and reach their university graduates, track and analyse their professional careers and identify how they use foreign languages at work. Universities often create data bases in which they store information about their graduates, so in some cases carrying out this kind of research may not be difficult. Another possibility is using as the sample part-time students who follow extramural courses at the university, since they are often young professionals who have

already got some work experience, have a clearer vision of their future careers than full-time students, know their job responsibilities and duties, and realise how foreign languages might be or are used in the office environment. A very good sample might also be formed by young managers working in companies which are oriented at employing university graduates or final year students. Very useful research which will provide information on the use of foreign languages among junior management employees can be conducted on such a sample. The research will concentrate on answering the following questions:

- What foreign language is used at work?
- How often is the foreign language used at work?
- How proficient are the research subjects in a given language?
- What language skills are necessary in a workplace?
- In what situations is the foreign language used at work (telephoning, face to face contacts, negotiating, taking part in meetings, listening to/making presentations, reading specialist texts; writing e-mails/reports/letters)?
- What topics are discussed (travel, selling, politics, entertainment, finance, etc.)?
- Who are the interlocutors (native speakers, people using the language as a foreign language, supervisors, superiors, co-workers, etc.)?
- Where is the foreign language used (in the workplace, abroad, during trainings/conferences, on the phone, in writing/correspondence, when travelling)?

2.3. Legal English Certificates

Polish students, especially those who study at private universities, have very high expectations of foreign language courses. Ph.D. thesis research conducted by the author of this article has shown that on the one hand students are interested in taking certificate examinations, as these will give them an advantage over other university graduates on the job market. On the other hand, they want to participate in attractive classes during which they will take a breather after specialist classes and lectures. According to the students English course at university should be a combination of General and Specific English with the special emphasis put on the development of the speaking skill.

Surprisingly, the research subjects who completed a three-year English course at a private university in Poland, felt that there was not enough time devoted to developing the knowledge of grammar. This statement was in contradiction with the results of the needs analysis conducted among first year students who considered grammar as the least important aspect of the language.

The above findings, however, do not match the comments provided by the leading international law firms from the so called "Magic Circle". They stress that the weakest point of law graduates who begin to work for them is the inability to draft legal documents in English. This point was emphasized many times by Catherine Mason of Global Legal English in her presentation: *The Problem Is: They Can't Draft* delivered at 3rd International Legal English Conference in Warsaw on 14 November 2009 as well as during her presentation for students of Kozminski University on 18 May 2010.

Similar conclusions were drawn from the Ph.D. research conducted by the author of this article among young professionals who use foreign languages at work. The weakest points

identified by them are speaking and writing. They also stressed the importance of developing specialist terminology as it greatly facilitates communication in the workplace. Not surprisingly, most of the respondents agreed that successful communication at work is only possible after achieving the overall competence in a foreign language at at least intermediate level.

Universities and other teaching establishments which decide to prepare Legal English students for the TOLES Foundation examination design the syllabus, they will concentrate mostly on developing the reading skill and building legal vocabulary. More advanced students planning to sit TOLES Higher will also develop writing and listening skill, since this level of the examination consists not only of Reading and Writing but also of Listening component. However, the preparation for the written part of the examination does not necessarily allow to develop the kind of writing which law firms recruiting law graduates expect. They expect the lawyers-to-be to be able to draft legal advice in English but dealing with the aspects of Polish or European Union law and not common law which is binding in the UK.

In order to satisfy the present students' needs, their wishes and to make up for their lacks, communicative activities should be included in the syllabus, since they will prepare students for the effective functioning on the everyday basis in the work environment and outside. Grammar cannot be ignored, even though students insist they dislike it. Undoubtedly, a lawyer representing an international or Polish law firm can under no circumstances produce texts which are inaccurate in terms of language. A preparation course for TOLES examination will definitely help students improve their linguistic skills. TOLES examination syllabus is very strongly oriented on the language work which concentrates on the correct use of prepositions, collocations, countable and uncountable nouns, and on TOLES Higher level the formal register of the written documents.

The weak points identified among Polish students of Legal English will, apart from the above mentioned problems, also include difficulties with the correct use of articles, since they do not exist in Polish. In addition, Polish law students have a tendency to produce lengthy, verbose, loaded with empty words sentences which reflect the structure of Polish legal texts rather than English ones, since they constitute calques of typically Polish constructions and barely fit into the Plain Language Movement, i.e. the campaign aimed at simplifying the legal jargon (legalese).

3. Teaching the right content and skills

As it has been stated above an ideal ESP/ELP course should be designed pursuant to the results of the needs analysis which is the key element of the ESP/ELP course design process. However, in case of tertiary courses the course participants are young, pre-experienced learners who are unaware of their target professional needs. Therefore, a needs analysis conducted at the beginning of a language course at university should concentrate on the present and the learning needs of the learners.

Another very important piece of information that should form the basis of the ESP course syllabus is the overall studies curriculum which the students participating in an English course will follow. A teacher or a group of teachers responsible for the course design are advised to consult the university authorities for the details of curricula of the study programmes which students in the language groups in question will pursue. Such information can be easily

obtained from the dean's office or even more easily from the university website where studies curricula are uploaded.

Combining the content of the foreign language course with the content the students will study during classes and lectures in other subjects is vital. Students will be able to base on the knowledge they acquired earlier during the course of their studies and it will help avoid the situations when students hear about some business or legal concepts first time during their English classes. It will help teachers feel less intimidated, as they can rely on their students and their knowledge and treat them as "experts" who can explain the intricacies of some specialist terms. The teachers will fulfil the role of foreign language specialists, while the students will use this language to deal with the doubts concerning the subject matter.

The above element of the course design process is especially important in the case of English for Legal Purposes (ELP) courses. Offering the students a strictly ELP course from the very beginning seems problematic. Secondary school graduates who start studying law usually have a very vague idea of legal concepts. It would be extremely difficult to talk with them in a foreign language about legal systems, the nature of law or the sources of law when they have not gone through these topics in their native language yet. The situation may change dramatically for the better after the first few months of their Roman Law course which will always be offered at the beginning of the law studies.

Therefore, it is advisable for the teachers to spend the first semester of ELP course at university discussing general business topics related to law, e.g. employment, types of business organisations, ethics or finance before burying themselves and the students in Legal English.

Another important aspect of the language which needs developing at an early stage of ELP course are communication skills, i.e. interpersonal skills, conversation, discussion, presentation, negotiation, persuasion or summarising which every student will need in their professional careers after graduation. Northcott (2008:28) advises *that the common core of any ESP course can always constitute elements of EAP (study skills), as they are used consistently across disciplines*. Later, along the course, the teachers should consult the studies curriculum as it will be much easier to cover the language of company law after the students have already earned the credits for this subject in their native language. Therefore, course designers must always keep in their minds that ESP/ELP courses at university cannot function in isolation from the curricula of other subjects the students learn.

Therefore, in such cases course designers can rely on ELP teachers experience and knowledge. Experienced language teachers who have taught different groups of learners in different institutions will probably constitute the best source of knowledge on how to structure ESP courses. A few years of teaching ESP courses can give English teachers confidence that what they teach is what their students need. Most ESP teachers in Poland are laymen, so the content they teach is also new for them at the beginning. They must study business or law textbooks gaining the knowledge of the subject matter which they teach, but which they have never been trained at before. A several years of experience in teaching ESP courses may guarantee that the teachers will become successful course designers who will understand the needs of the new generations of students better than they do themselves.

The biggest dilemma of ELP courses at universities is the content to teach, since most of the teachers are laymen who have not been trained at law and have got a limited knowledge of the subject matter. Course designers argue whether it is reasonable to aim at developing students' knowledge of law and lean towards extending their linguistic and communicative competence, language functions and then professional vocabulary. No lawyer will be able to function successfully in an international environment if his/her linguistic competence is below Level B2/C1 CEFR. On the other hand, any university graduate whose linguistic competence exceeds Level B2 CEFR will easily and quickly grasp legal English on the job. However, being thrown at the deep end is not what university graduates expect from ELP courses they attend during their studies. Therefore, course designers and teachers must identify the lawyers'-to-be language requirements. Moreover, the observation shows that students' motivation to learn rises sharply the moment they start learning aspects of Legal English. Therefore, as it has been postulated earlier, ELP courses at universities should be synchronised with curricula of other subjects and should evolve into Legal English course as soon as the students gain some knowledge of law at lectures and classes in their native language.

3.1. ELP course design – An example of procedures

An example of procedures undertaken to identify target needs of lawyers is a Leonardo da Vinci project, CEF Professional (www.cefpro.org). The project was carried out in 2005/2006 by eleven partners from Finland, Bulgaria, Hungary, Germany, the Netherlands and Poland and aimed to describe *language needs of seven professional groups of secondary school, vocational college and university graduates, employed in the areas of health care, business, engineering and law.* (Górska-Poręcka, 2007: 37)

The research in the area of law was conducted among ten young law professionals who worked for international law firms in Warsaw, Poland, and who described their knowledge of English as good or very good, which by observation of the researchers was classified as Level B2(+) CEFR. The research allowed for producing a list of areas of law within which young lawyers communicate in English. The list encompassed:

- commercial law;
- company law;
- competition law;
- banking law;
- tax law;
- employment law;
- real property law;
- capital law;
- civil law.

The project aimed at unveiling what professional skills need to be practised with university law students and managed to produce a very detailed list of the skills divided into competences which can be summarised under five question-headings or downloaded in a full version from the project website:

What do lawyers read?

- correspondence (e-mails, letters, briefs, reports, memos);
- Memoranda;
- Articles of Association;
- contracts, contract clauses and agreements;
- statutes and case law;
- directives;
- law related articles;
- corporate documentation (e.g. financial statements).

What do lawyers write?

- case-related letters/e-mails;
- formal letters of advice;
- Memoranda;
- contracts, contract clauses and agreements (lease, trade, sale, loan);
- legal opinions;
- court filings (writs);
- case briefs and reports for supervisors;
- corporate documentation.

When do lawyers speak?

- during firm meetings (discussing legal issues, chairing meetings);
- during meetings with clients (expressing opinions, explaining legal concepts, advising clients);
- in seminars and conferences;
- during negotiations;
- when summarizing written texts;
- when networking;
- on the phone;

What do lawyers listen to?

- face to face professional interaction (formal and semi-formal);
- presentations;
- TV and radio programmes;
- lectures and seminars;
- telephone conversations;

What else can lawyers do?

- translate:
- parts of legal documents;
- parts of contracts;
- talks and negotiations;
- correspondence;
- summarise:
- various legal texts;
- spoken language (presentations, negotiations);

- switch codes:
- formal;
- informal.

The guidelines provided by the CEF Professional project confirm the belief expressed above that teaching legal terminology is definitely not enough, even though it is probably the easiest part of an ELP course. What Legal English students need is communicative competence and language specific skills which they might encounter in their legal work in the future when they embark on careers in an international environment. Legal English teachers should allow their students to practise complex, highly interactive and, therefore, highly demanding professional skills which will help the future law graduates hold face-to-face meetings, negotiate trade agreements, accompany clients to court or arbitration hearings, etc.

4. Conclusions

Each teaching situation, even within the context of tertiary English for Legal Purposes, is different. In the process of course design many other constraints should be taken in to consideration apart from the results of the needs analysis. Course design is always a negotiation process which should consider not only the needs or wishes of all the stakeholders but also other limitations such as available resources, e.g. the length of the course, the number of teaching hours, teaching materials; potential and experience of the learners, the expected outcome of the course, the form of the final assessment, etc.

However, in each case the options are manifold. Law students, i.e. lawyers to be, need to obtain comprehensive education in terms of foreign language skills. Above all they need to achieve at least intermediate level of General English skills to be able to communicate freely with clients or other lawyers in their future workplace. Consequently they will need to develop their overall knowledge of the foreign language in order to attain at least CEFR B2 level as required by the Council of Higher Education.

Students and school authorities wishes as regards international certificates are also justifiable. Preparation for a certificate examination has been proven to act as a very important motivator for university students who usually are not very highly motivated to study foreign languages. Above all, it provides them with a internationally recognized document which confirms their knowledge of specialist variety of English at a certain level. For university graduates who usually do not possess much professional experience to include in their CVs, foreign language certificates are documents which they are usually very proud of.

All in all, the most important aspects which course designers and teachers modelling Legal English courses must take into consideration are very practical skills which lawyers-to-be will need in their future jobs. Even though the today's students might protest, their foreign language instructors must remember that the weakest point reported by international law firms commenting on their expectations towards law graduates is the writing skill. The core of Legal English course should constitute the development of legal drafting and accuracy (i.e. prepositions, collocations, articles) as it accounts for the quality of a written text.

Needs analysis results show that students usually identify speaking as their weakest point and most essential problem. Speaking activities have a great potential and the part of the syllabus which can enliven the classes and increase the students' satisfaction. In the case of Legal

English lessons, however, speaking activities should be localized, i.e. based on the context of local law. Namely, Polish students will most probably work in the context of Polish or European Union law. They do not really feel the need to discuss the aspects of common law. It is the teachers' task to create opportunities for communication based on local law which often will demand creating their own teaching materials/incentives for meaningful communication.

Legal English classroom is a place of numerous opportunities and challenges both for the students and the teachers. On the other hand, it is probably one of the most complex ESP contexts which requires a lot of engagement and experience on the part of the teachers and hard work and stamina on the part of the students. Structuring such courses to the best advantage of the students is a constant negotiation process between the constraints imposed by the teaching institution and the needs of the students which mature and emerge along the course. Experienced teachers will be able to combine the sometimes mutually exclusive needs of the stakeholders and prepare the lawyers-to-be for the challenges of the job market.

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