**The EU law ‘core’ module: surviving the perfect storm of Brexit and the SQE**

Cherry James and John Koo[[1]](#footnote-1)\*

Law Division, London South Bank University, 103 Borough Road, London SE1 0AA

This article seeks to examine the potential impact of the vote to leave the European Union (‘EU’) in the UK referendum in June 2016, together with changes to professional training, notably the imposition of a new Solicitors’ Qualifying Examination (‘SQE’) from 2019/20, on the teaching of EU law in law degrees in England and Wales. The history of the Qualifying Law Degree (‘QLD’) and the place of the EU law core module within it is explained. The likely continuing effect of EU law in the English Legal System is summarised, and the reduction in EU law content in the requirements for professional training as compared with that customary on a QLD is noted. In the light of these apparent threats to the EU law module, possibilities are explored for rethinking approaches to teaching law which would reinvigorate the significance of EU law in law degrees which may well undergo redesign in the light of the changes considered here.

Keywords: Brexit, SQE, EU law module

In 2016, the UK voted via a referendum to leave the EU. In 2017, pursuant to the vote, the UK government invoked Article 50 of the Treaty of the European Union, the first step in the process stipulated for a member state to leave the EU. This, the UK appears set to do in 2019: so-called Brexit. In 2017, the Solicitors Regulation Authority (‘SRA’) announced that from 2020, as part of a new approach to qualifying as a solicitor in England and Wales, it will abandon the qualifying law degree (‘QLD’), of which EU law is a core component. At first glance, one might naturally doubt the need to teach EU law in the UK in the coming years: certainly, this has been the initial assumption of many law students. However, consideration of the future of EU law on UK law courses is not a simple deduction from simple premises. Such decisions involve, of course, the Brexit factor, both the process and the outcomes, which are currently very uncertain, but they also necessitate working through a matrix of other factors around the drivers of law curricula, which certainly includes consideration of the impact of the SRA changes from 2020, but is not limited to this. This paper seeks to identify and critique this matrix of factors and in doing so contribute to the discussion about, and in the context of, an uncertain future, in which it is asserted that, from a number of perspectives, the study of the EU and its legal order will remain relevant and worthy not only because of its economic importance to the UK, but because such study provides a platform for, and a totem of, law courses which seek to be outward looking and relevant to our increasingly integrated but complex world.

**The Core**

Under the Courts and Legal Services Act 1990, the SRA and Bar Standards Board (‘BSB’) are responsible for laying down regulations for those seeking to qualify respectively as solicitors and barristers.[[2]](#footnote-2) While these two bodies regulate separate professions, they have up till now agreed a common set of regulatory rules for the Academic Stage of their respective qualifications. The Academic Stage is either completion of a (typically) three year undergraduate degree in law or completion of a one year full time post-graduate conversion course, commonly referred to as the Graduate Diploma in Law (‘GDL’) or Common Professional Exam (‘CPE’).

The common regulatory rules for completion of the Academic Stage are prescribed in the ‘Joint Statement’ by the Law Society and the General Council of the Bar on the ‘Academic Stage of Training’, (‘the Joint Statement’), which applied from September 2002.[[3]](#footnote-3) In the case of a standard three year qualifying law degree, half of it, equating to 180 CATs, and in the case of a conversion course, seven out of eight subjects, must be given to the teaching and assessment of a set of core subjects – the so-called Foundations of Legal Knowledge.[[4]](#footnote-4)

Over the years there have been debates about the merits, or otherwise, of the professions prescribing to universities a core set of law subjects. These debates have been part of a turf war with suggestions from some quarters that prescription of a core amounts to an illegitimate interference with academic freedom.[[5]](#footnote-5) While the professions have traditionally been in favour of a core, academics have been critical of it.[[6]](#footnote-6) In support of the academics, the national QAA benchmark statement for law does not dictate a core.[[7]](#footnote-7)  Nor is there any statutory requirement that there be a core.[[8]](#footnote-8) However, given that law schools wish their law courses to be recognised as part of the Academic Stage of training for qualification as solicitor and barrister, they have accepted professional accreditation and thus prescription of a core to attract students.

Despite the imposition of a core, universities do have considerable freedom in relation to content, delivery and assessment of the subjects of which it is comprised. There is no prescription of the content for each of the core subjects beyond a general requirement that overall they contribute to the imparting of ‘Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales’ including a ‘basic knowledge of the sources of that law, and how it is made and developed; of the institutions within which that law is administered and the personnel who practise law.’[[9]](#footnote-9) There is no prescription on the structuring or division of credits between the core subjects: courses do not have to ensure that equal weight is accorded to each core subject.[[10]](#footnote-10) Academic standards are maintained by tying in the requirements to the QAA Benchmark Standards for Law Degrees in England, Wales and Northern Ireland.[[11]](#footnote-11) The Joint Statement reserves the right of the SRA and BSB, after consultation with law schools, to amend the core.

The content of the core is a product of what have broadly been considered by the professional bodies as the necessary foundational legal subjects upon which the training for practitioners should be based. The important Legal Education and Training Review (‘LETR’) reported in 2013 that, across the legal sector, including academia, there was little appetite to change the core.[[12]](#footnote-12) The LETR report broadly supported the core and indeed seems to invite a debate about an expansion of it.[[13]](#footnote-13)

**EU Law and the Core**

EU law is one of the prescribed core subjects. The core represents at least half a law degree, and EU law is one of the seven core subject areas. Considered as a discrete subject, EU law may be thought to represent between 5%-8% or 20 or 30 CATS of 360 CATS of a typical law degree. It may represent more if options in EU law are taken, or if EU law contained in Legal Systems/Public Law or other modules is taken into account.[[14]](#footnote-14)

It took some time for EU law to be designated as a core subject. Between 1973, when the UK joined the EEC, (as the EU then was), to 1996, it was not part of the core. It is recorded by Francis Jacobs that by the late 1980s all law schools were teaching EC, (now EU), law as an option and a few had made it compulsory. By the early 1990s universities were said to be ‘considering anxiously the place of Community law within the law curriculum’.[[15]](#footnote-15) The 1996 Lord Chancellor’s Advisory Committee on Legal Education and Conduct Report, (ACLEC Report), endorsed EU law as a core subject being ‘an acknowledgement of the international dimension of legal education in a globalized world.’[[16]](#footnote-16) EU law was adopted as a core subject from 1996.[[17]](#footnote-17)

Since then, the EU has continued to evolve and grow with treaty changes, notably Amsterdam (1997), Nice (2000), and Lisbon (2007), which have added to its competences, increasing the scope, volume and complexity of EU law, with changes to the pillar structures, changing the ‘EC’ to ‘EU’, and related limits and transitional periods on the jurisdiction of its Court, CJEU, not to mention the complexities around so-called ‘opt-outs’ of obligations especially where the UK is concerned. The latter include opt-outs from the Euro currency, much of the law relating to Schengen rules of removal of border controls, and what is not so much an opt-out as a caveat in relation to application of the EU’s own Charter of Fundamental Rights.[[18]](#footnote-18) The enormous impact of EU law can be seen in the constant wide-impacting CJEU decisions, an ever-increasing range of literature and specialisation of EU law both as studied and as practised, and dilemmas for publishers and academics about what to cover in a core EU law module. Beyond a central set of topics that one would expect to be taught, viz: the European Communities Act 1972, the EU institutions, the sources of EU law and legal effects in the UK notably around direct effect and supremacy of EU law, inevitably academics are making choices about the rest of the syllabus and what to include and what to exclude. No doubt a survey of EU law syllabi would show a wide variation, especially in relation to substantive EU law, across law schools in England and Wales.[[19]](#footnote-19)

**Brexit and its legacy[[20]](#footnote-20)**

Following the June 2016 referendum vote to leave the EU, the position of EU law in the UK and the law curriculum may, at first sight, seem stark and clear. The Government’s February 2017 Policy paper on its Brexit principles states: ‘We will bring to an end the jurisdiction of the CJEU in the UK’.[[21]](#footnote-21) The Secretary of State for Exiting the EU has stated that ‘The authority of EU law will end, and the UK will once again be in charge of its own destiny’.[[22]](#footnote-22)

Even if the UK leaves the EU in 2019 in the most absolute terms - the so-called ‘hard Brexit’ scenario[[23]](#footnote-23) - will the UK be able to cut off and delete from UK law and life the consequences and effects of forty-six years of EU membership and EU law? It is clear that even a government committed to some form of hard Brexit does not contemplate this as a realistic scenario. There are some interesting comments in the Government’s 2017 White Paper on the Great Repeal Bill, (‘the White Paper’), addressing the repeal of the European Communities Act 1972, which gave effect to UK’s membership of the EU,[[24]](#footnote-24) and the after effects of such repeal. By converting the vast bulk of EU law and obligations into UK law, the government’s aim is in principle to maintain the status quo, including approaches to the interpretation of ‘domesticated’ EU law.[[25]](#footnote-25) This is, the White Paper states, for the purpose of maximising certainty: the top priority of the government’s Brexit strategy. It is also clear from the White Paper that ending jurisdiction of CJEU, which is a key Brexit measure of taking back control,[[26]](#footnote-26) does not simply end the impact and influence of CJEU.[[27]](#footnote-27) This is illustrated by and relates to another key position set in the White Paper: the ending of the supremacy of EU law. This is not that simple: first, the White Paper states,

Our proposed approach is that, where a conflict arises between EU-derived law and new primary legislation passed by Parliament after our exit from the EU, then newer legislation will take precedence over the EU-derived law we have preserved. In this way, the Great Repeal Bill will end the general supremacy of EU law.[[28]](#footnote-28)

(Emphasis added)

However, the White Paper acknowledges an EU legacy that unless and until Parliament or the devolved legislatures effect change, EU law will prevail:[[29]](#footnote-29)

If, after exit, a conflict arises between two pre-exit laws, one of which is an EU-derived law and the other not, then the EU-derived law will continue to take precedence over the other pre-exit law.[[30]](#footnote-30)

(Emphasis added)

The position set out in the White Paper is an acknowledgment that the hard realities of leaving the EU will not lead to a soft landing outside: rather it is one that is very likely to have considerable complexities. As can be seen, the White Paper tacitly avers that it does not expect that after forty-six years of membership of the EU it will be straightforward to revoke the supremacy of the CJEU, despite the implications of the ‘taking back control’ mantra. Indeed, as suggested, it is more likely that the Brexit legacy will involve complex and protracted legal issues. The notion of ‘EU-derived law’, the application of pre-Brexit EU supreme law to preserved post Brexit ‘domesticated’ EU rights, let alone the effects of the final settlement with the EU, or indeed of the absence of one, are all likely to be sui generis and generate many legal questions relating to the legacy of EU law itself, as well as the constitutional settlement of repatriated law making powers, which will require interpretation in the years to come. It seems unlikely that the syllabus for public law modules, the core subject closest to and most cognate with the foundations of EU law, could satisfactorily accommodate more EU law based issues, when it already struggles to manage its own expansion as a result of considerable constitutional changes which have taken place in recent years, such as developments in judicial review, expansive human rights law, and devolution.[[31]](#footnote-31)

It would not merely be a step in the wrong direction to be removing EU law from law curricula at this time, it is argued here that on the contrary, close attention and careful education will be needed to keep up with and understand developments and their legal implications during and following Brexit. In addition, there will be a necessity to develop learning about the eventual EU-UK legal settlement (or the de facto and de lege consequences of a failure to reach a settlement) post Brexit. As an absolute minimum, EU law teaching will need to develop or transform to assist understanding of the changing and transitional relationship which may well engender the need for professional legal advice for many years to come.[[32]](#footnote-32) Expecting the implications of this transition to be mopped up by other modules is unrealistic. After more than twenty years of EU law comprising a discrete subject on law syllabuses, there is little reason to expect other modules to pick up Brexit legacies systematically or willingly.

The technical case for teaching EU law, albeit most likely in a revised form, is that it is necessary because the legacy will be complex and will require working through and understanding. A case has also been made that academics are familiar with the need to make choices and changes to the teaching of EU law and that they are capable to continue this and judge what changes are necessary as the Brexit saga unfolds.[[33]](#footnote-33)

**Changes to routes to qualification as a Solicitor and Barrister**

Brexit is not the only context raising questions about the future of EU law in the curriculum. Following the recommendations of the LETR in 2013, planned changes to the requirements to the routes to qualification as a legal professional, for both solicitors and barristers, could have considerable ramifications at the Academic Stage. The impact on the Academic Stage of these changes is driven by the changes planned by the SRA.

To align with the 2015 revised Statement of Solicitor Competence, and, in the opinion of the SRA, because of a need to re-establish the public’s confidence in the standard and consistency of the qualification of solicitor, and to reduce the financial barriers to entry, the SRA has approved changes, starting in 2020, to the route to qualification as solicitor, with a new national ‘Solicitors’ Qualifying Exam’ (‘SQE’).[[34]](#footnote-34) This will have consequences for law courses. Currently, would-be solicitors complete a qualifying law degree or law conversion course at a university or recognized provider, then complete a one year vocational course, the Legal Practice Course (‘LPC’), and finally undertake two years of supervised training with a regulated employer before qualifying as a solicitor. While accredited by the SRA, each provider of a degree and each provider of the LPC sets and marks its own assessments. The SQE changes will require aspiring solicitors to sit, unlike now, a centrally set and assessed exam regulated by the SRA, consisting of two parts: a SQE Part 1 testing legal knowledge through ‘computer-based objective testing, employing a range of question formats, including single best answer questions (SBAs) and extended matching questions (EMQs)’,[[35]](#footnote-35) and a SQE Part 2 exam consisting of skills assessments. They will also have to undertake 24 months of practical training. The SRA intends that the SQE Part 2 exam will be taken after the practical training, but there will be no such requirement, and it is already anticipated that some firms will prefer their incoming trainees to have passed both SQE Parts 1 and 2 before starting work with them, so that they do not have to release employees to prepare for and sit the SQE Part 2.[[36]](#footnote-36) It is expected that the SRA will permit practical training to take place in one or more blocks and in a wider range of organisations than currently, thus offering flexibility, unlike the current regime which normally requires completion of a single block of training over two years with a single supervisor.

The first implication of these changes is the end of what has been referred to as the ‘LPC gamble’. This means that students who have not secured a training contract will not need to pay up front for an expensive LPC, which is the case for many students currently. Instead, students who have not secured a training contract but are willing to gamble on securing one later, will pay less for what is promised to be a significantly cheaper SQE Part 1 exam. The SRA’s idea is that a student will not take SQE Part 2 and therefore the financial burden of it, without having secured and completed two years of training before doing so.

While it is clear that the SQE will eventually see the end of the LPC (at least in its current form), the SQE Part 1 will have a significant impact too on undergraduate law degrees and law conversion courses. The impact arises because the SRA will, when the phasing in of the implementation of the SQE commences in 2020, necessarily abandon the Joint Statement: it will no longer specify the need for either a law degree or a conversion course as a necessary step for qualification. In order to qualify as a solicitor, a student will need only to have a degree in any discipline, or an equivalent qualification, and to have passed SQE Parts 1 and 2 and satisfied a character assessment.

There is a growing expectation in the sector that what will emerge will be differentiated law degrees and courses, with some degrees adapted to prepare students for SQE Part 1, as well as some dedicated SQE crammer courses offered by some current LPC providers, and also SQE preparation courses offered by (new) private providers as well as by some universities. This is what the SRA expects and desires. The SRA’s intention is to have a diverse, market driven provision of legal education preparing for the SQE, including but not limited to SQE law degrees. The SRA stresses that one of the outcomes of the new system will be that students will have a choice about how to prepare for the SQE Part 1 exams. It is therefore expected that market forces will lead to changes to a number of law degrees and all conversion courses.[[37]](#footnote-37) It is also expected that some universities will choose not to take much notice of the SQE and continue to offer law degrees on much the same basis as they do now, though without the formal constraints of the QLD requirements.

While the SRA must abandon the Joint Statement, it has though nonetheless endorsed the current core as contributing to the content for Part 1 of the SQE. This is considered further below. The status of the 1999 Joint Statement remains unclear, as the BSB has recently endorsed the existing core as a necessary part of the Academic Stage of training to be a barrister.[[38]](#footnote-38) A propos the SQE changes and their potential impact on law courses, the BSB states: ‘The SRA approach will be different from ours, but compatible with it. For example, a law degree which includes preparation for the proposed Solicitors Qualifying Examination (SQE) is almost certain to meet the BSB’s requirements.’[[39]](#footnote-39)

So it could seem then that questions about the future of EU law on law degrees are moot given that both the SRA and BSB are, in effect, maintaining the position that presupposes the continuation of the core. However, it is suggested that the position is not so simple, as a SQE driven course, which as has been noted, the BSB has signalled it will endorse for its purposes as satisfying the Academic Stage, may have reasons, driven by the demands of the SQE syllabus, which is explored below, to water down the teaching of EU law.

If/when law schools start to adapt courses with the SQE in mind, and consider the detail of the syllabus, they will see that the changes required to prepare students for the SQE are very considerable. The format of the SQE assessment aside, law degree providers need to appreciate that the SQE Part I requires knowledge of procedure and ethics both currently taught on the LPC but not typically on law degrees. For EU law in particular, as explained below, there are other points to consider.

The SQE Part 1 proposes to be an amalgam of the academic core with the procedural parts of the vocational stage of the LPC. This amalgamation is described as the ‘Functioning Legal Knowledge’ required for effective practice – the ‘knows’ and ‘knows how’.[[40]](#footnote-40) Assessment of this Functioning Legal Knowledge is through six large exams plus a legal research and writing skills assessment, (and possibly, although it is still out to consultation, an advocacy exercise). The six large exams proposed are as follows:

* Principles of Professional Conduct, Public and Administrative Law, and the Legal Systems of England and Wales
* Dispute Resolution in Contract or Tort
* Property Law and Practice
* Commercial and Corporate Law and Practice
* Wills and the Administration of Estates and Trusts
* Criminal Law and Practice.

The exam which is relevant to the study of EU law is the wordily titled, Principles of Professional Conduct, Public and Administrative Law, and the Legal Systems of England and Wales. (PPCPALLSEW: what acronym can be made from that?)

The proposed PPCPALLSEW exam states that students are expected to draw on and apply knowledge from seven areas of law and practice:

* Ethics, professional conduct and regulation
* Legal services
* Constitutional law and EU law
* Public and administrative law
* Sources of law
* The Human Rights Act 1998 and Equality Act 2010
* The legal system of England and Wales.

This is a huge module, fusing English Legal System, public law, equality law, ethics, professional conduct, and EU law.[[41]](#footnote-41) It is proposed that it will be assessed through 120 computer based multiple-choice type questions over three hours.

Further information on the EU law content is identified in Competence C for this exam, viz:

Apply knowledge of the institutions and operation of constitutional law and EU law to develop and advise on options and progress cases.

It is noteworthy that EU law is placed alongside constitutional law. Further reading of the description of the required functioning knowledge of EU law in the Assessment Specification indicates that four areas are covered:

* EU institutions,
* types of EU law
* effects of EU law; and
* ‘The legal position following the UK's exit from the EU.’

It is evident, therefore, that for purposes of the SQE, EU law is to be assessed in the context only of constitutional law. There is no inclusion of any substantive EU law in this exam.[[42]](#footnote-42) There could be a small allocation of EU law in the Dispute Resolution in Contract or Tort module in relation to jurisdictional rules under CPR Part 74.[[43]](#footnote-43)

The extent of the diminution of EU law is further seen in the assessment weighting for Competence C of the PPCPALLSEW exam: EU and UK constitutional law amount to 15% of the exam;[[44]](#footnote-44) this corresponds to 2.5% of the total of the assessed knowledge on SQE Part 1. This contrasts with what has been seen is typically 5%-8% on a degree for a core subject. Given that the BSB is seeking to align its requirements with SQE training, it cannot be assumed that the BSB will resist decisions to water down the EU law (and Public law) content of the Academic Stage of training for its purposes.

**Other challenges**

The SQE aside, there are other pressures and claims for the precious spaces on the law curriculum. There are changes to the structure of the legal market and provisions of services which, considered from the standpoint of the employability agenda, rightly raise questions for law schools about the narrowness and insularity of their typical offering.[[45]](#footnote-45) Pressure from other subjects which could make a claim for a place on the law degree, such as ethics to name but one, and changes to the structure of society and to the funding of law, all legitimately raise questions about the currency of what is taught and what is or needs to be regarded as ‘core’.

These changes come at a time when the effects of moves in the UK to make higher education more of a ‘marketplace’, with students as consumers, are felt increasingly keenly. There are many factors here, but high fees and consequent student debt mean that students are looking for, and indeed are being encouraged to look for, a ‘return’ on their investment. This potentially feeds into the perfect storm created by the unknown impact of Brexit and the SQE. Universities will have to seem surefooted in treading an uncertain path, and evince a clarity of purpose about the changes they make to their curriculum. Students deserve honesty that the legal and educational landscape surrounding them is changing fast, but also need, and expect, universities to guide them through it.

Changes to the EU law syllabus forced by Brexit and by changes to professional qualification, can, as has been noted, pose several risks to the quality of the academic endeavour.[[46]](#footnote-46) But the case has also been made for the need to continue teaching EU law in the face of Brexit, because the ensuing complexities will mean that tomorrow’s professionals need to know and understand how it works.

**Making the strong case for EU law in the curriculum: the need for a more internationalist dimension**

The final part of this paper considers the prospect of building a stronger and more imaginative case for EU law in the law curriculum.

In responding to the challenges of Brexit and providing substance to the rhetoric about UK’s place in the world, it is suggested that there is an opportunity for a revised EU law subject to be a platform to ensure a dimension to law learning which addresses some of the weaknesses of an inward looking curriculum. It has been said that the internationalist outlook is poor and historically weak in common law courses.[[47]](#footnote-47) Against this charge, EU law has been the most obvious and constant international perspective on English and Welsh law courses, but the way this issue is contextualised is uneven, and according to some, the subject has not necessarily been taught effectively.[[48]](#footnote-48)

A new approach to EU law on the curriculum could offer a necessary and better internationalist dimension to rebalance better our traditionally national focus.[[49]](#footnote-49) This would be valuable in itself as a necessary component of learning law today, but also as a vehicle for students to develop critical faculties in relation to law. As Bruno de Witte has written, understanding international systems helps students exerting their thinking and convinces them there is no single and sacrosanct way of understanding law and its structures.[[50]](#footnote-50) Internationalisation of the curriculum can take many forms and it is beyond the scope of this paper to address them in detail, but in the context under discussion, could include more widespread study of comparative law and private international law and more attention to public international law and the operation of international legal orders such as the WTO and the various Geneva Conventions. The contextualization of legal studies has always had an important role to play, and no less so today: discussions about environmental regulation and data protection, for example, reinforce an understanding of the transnational nature of many current issues and therefore the need for legal solutions which are effective across national borders. The Brexit fusion of law and politics is of course a context par excellence. The ‘ambitious mobility strategy’ recommended by the House of Commons Education Committee[[51]](#footnote-51) would do much to enhance such an approach to teaching and learning, as well as potentially ushering in wider benefits to a variety of student skills and employability, the results being particularly noticeable in widening participation students.[[52]](#footnote-52)

**UK-EU relationships after Brexit: it’s not just about trade**

It is suggested then that a post Brexit EU law offering should provide students with strong context-enabling, context-facing learning, which enables them to develop skills and outlooks to operate in environments of uncertainty and change which encompass Brexit, Europe and beyond. Yet to conceptualise the alterations purely in terms of Brexit risks overlooking the wider implications of the UK’s withdrawal from the EU: the recalibration which is likely to be needed to its relationships with other countries and groupings of countries throughout the world. This is most evident in the context of trade, the UK’s trading relationships with the rest of the world having since 1973 been made and conducted exclusively in its capacity as a member of the EU.[[53]](#footnote-53) Prior to the June 2017 election, the UK government made it clear that a priority for the UK would be to enter into free trade agreements with many countries across the world; until such agreements were concluded, however, the UK would trade with such countries on WTO terms: furthermore, in the event of the failure of the UK and EU to conclude an agreement about the terms of its future trading relationship, UK-EU trade would fall to be governed by WTO rules. At the time of writing, it is unclear whether this priority will be retained or be recalibrated, but there has been no explicit change to this stated position.

So does this mean it would be appropriate to introduce the law of international trade into any void left in EU law modules particularly by the removal of substantive EU free movement of goods law? This would arguably be a useful addition to the knowledge of many legal practitioners, but here two points are relevant.

First, just because it might well be a useful addition, this is not sufficient for it to claim a place on the core. The core is to an extent an arbitrary confluence of areas which have developed organically and over time. It contains many topics which will never be encountered in practice by many practitioners.[[54]](#footnote-54) However, this does not of itself cast aspersions on their value as elements of a core legal knowledge: there is much to be said for the view that greater prominence should be given to the overall interconnectedness of legal subjects, something not assisted by their conceptualization in separate ‘silos’ which follows from degree modularization. The laws of the UK develop not as separate entities but in relation to each other and interdependent on each other and an effective understanding of UK law is predicated on awareness of the reach and implications of different legal principles over any scenario which emerges.

Conversely, there are many important areas of law which keep legal practitioners gainfully employed but with which they may only become conversant when practising, perhaps not even having studied them as optional subjects at undergraduate or postgraduate level. Such may be the case with the law governing the trading relationships the UK will have with countries around the world after Brexit. Some lawyers will need to know and understand it in detail; many will only need to know that it exists. No doubt optional modules, entire Masters courses, and new areas of academic legal study will develop on the back of this need, and in time it may become apparent that certain issues are so integral to UK law that they should be taught to aspiring lawyers as early as possible. They might then become susceptible to a future realignment of the SQE syllabus, but they may not. Some subjects of considerable importance, such as family law, do not appear on the SQE syllabus, and conversely, as is the case with the current LPC, there are some subjects which, whilst of great significance, many solicitors will never encounter in practice, such as wills and the administration of estates.

Second, warnings have been made against conceptualizing European Legal Studies as ‘limited to the study of European trade relationships.’[[55]](#footnote-55) As Armstrong notes, equating European Legal Studies in the future as merely encompassing the study of European trading relationships is too blinkered a view. Other aspects of European legal studies will remain relevant. The most obvious such aspect is the law of the European Convention on Human Rights, but simply to list ‘European legal topics’ of continuing relevance to UK legal studies is to miss the point.[[56]](#footnote-56) And that point is this. Perhaps it is time that that more note was taken of de Witte’s reminder that ‘the isolated national legal order is an invention of the nineteenth century and not an eternal state of things…[i]t is now gradually superseded by the development of a network of transnational legal rules and the maturing of common legal principles.’[[57]](#footnote-57) Arguably, the Establishment of Lawyers’ Directive 98/5[[58]](#footnote-58) and other related EU legislation presupposes just such a network and just such common legal principles as the intellectual rationale for facilitating so far as is possible the cross-border establishment of lawyers qualified in one EU member state. Whilst the motivation of such legislation is the furtherance of the single market, the minimizing of restrictions on lawyers qualified in one jurisdiction practising in others is arguably predicated on the assumption that there is a growing ‘common law of Europe.’[[59]](#footnote-59) Of course, it is as yet highly uncertain what will be the fate of the current arrangements facilitating the cross border practice of lawyers in other EU states and indeed for their cross qualification, but any change in these arrangements wrought by Brexit would not of itself cast doubts upon the intellectual coherence of the assumption on which they are based.

**A new perspective? The UK, the EU and the wider [legal] world**

It is suggested, therefore, that far from it being an appropriate time to question the place of EU law in law school syllabuses in the UK, it is more appropriate to stand back and survey the European, not just EU, legal scene from a wider perspective, noticing the realignment of the place of EU law, its readjustment, refinement and remodeling once the new arrangement with the EU is known (or it is known that there will not be one) and once the Great Repeal Bill has been passed and the many issues which are likely to arise under it have started to emerge.[[60]](#footnote-60) This wider survey would acknowledge the place of UK law, and EU law, and the laws of the countries of Europe, and the law of the ECHR, as interrelated pieces of an organic jigsaw which requires a further step back to appreciate its place in the global legal order: for what are is it said that Brexit is for if not so that the UK can realign itself with a view to a more open and global future?

It is further suggested that what this requires, for futures of varying and as yet uncertain possibilities, is a legal education which moves away from the common current model of English and Welsh law with a rather separate EU law module, with possibly other optional modules covering specialist areas of EU related law, European and international human rights law, and international business or trade, towards one which explicitly studies the connections which link these subjects not only in the context of the UK legal order but more widely, looking at common themes, and contrasting treatment of such themes, within the national legal systems of European countries and indeed of others across the world. After Brexit, whatever the settlement or storm, perhaps, paradoxically for some, there will be an even greater (national and economic) need for lawyers who can deal with scenarios which involve a complex matrix of interlinking jurisdictions, national and international, and who can handle and analyse situations of a multi-layered texture: cross border situations both commercial and personal, which present questions of competing national jurisdictions, EU law in its current form or post-Brexit ‘legacy’ form, international legal orders such as the ECHR or WTO. Such lawyers will also have to be able to identify and operate within the fora appropriate for the resolution of ensuing disputes, with their varying procedures, cultures, and working languages. And of course, whilst resetting the focus globally, the variable geometry evinced by the different devolution settlements operating in the constituent parts of the UK itself must not be overlooked.

This is not a novel suggestion. The Maastricht University European Law School aims to prepare ‘a new generation of law graduates: ‘European’ law graduates who are comfortable with different jurisdictions, who can quickly understand a new legal system, who can identify the common European or international origins of divergent national laws and who can solve transnational legal problems.[[61]](#footnote-61) In Canada, McGill University’s Faculty of Law claims to have become a ‘leader in innovative legal education, that offers a unique bilingual and bijural undergraduate program that rests upon a dialogue between two major legal traditions, the civil law and the common law…..[i]n a world of borderless human interaction…a localized legal education is insufficient. McGill’s unique transsystemic model of legal education ensures that students graduate with a cosmopolitan understanding of the law, one that is not confined to specific jurisdictions, or even legal traditions.’[[62]](#footnote-62)

Law degrees designed along lines like those at Maastricht and McGill are few and far between in this country, though there are law degrees such as those at the University of Kent at Canterbury, at Sheffield University, and at King’s College London, which incorporate the study of the law of certain other European jurisdictions, and include a spell at a university in another country. Other UK universities offer law degrees which afford the opportunity of an additional year at another European university as an Erasmus student, without being particularly specific about the modules to be studied whilst abroad. At this point it is pertinent to note that the UK’s participation in the Erasmus Programme after Brexit is far from being a foregone conclusion.[[63]](#footnote-63) Whilst this would not prevent students from UK universities spending time at other universities in Europe, most probably under bilateral arrangements entered into between the respective universities for such purposes, it may have profound implications for the funding of such study periods, with the loss of the Erasmus grant and concessionary fee arrangements furnished by the Erasmus Programme, and therefore for their accessibility to an increasingly diverse law student body.

These concerns about diminishing practicalities and opportunities are very real, and should be of concern to a SRA which has made increasing the accessibility of the legal profession a primary driver in reforms of legal education. However, whilst everything possible should be done to ensure these concerns are not overlooked, is it not timely to make a virtue out of necessity and seize the chance afforded by the apparently unhappy coincidence of Brexit and the inception of the SQE? This paper concludes by proposing that law schools in the UK should respond in a manner which is not defensive and which does not simply emanate from the claim of continuing relevance of EU law to UK law students. This is a claim which is entirely justified but far from simple to explicate. It also risks introducing a straw man: is there really a desire to rerun arguments of the sort which Newman[[64]](#footnote-64) sought to put to bed, and seek to justify the place of EU law on the law curriculum on grounds of utility? Is not the law of the bold endeavour represented by the EU, this new legal order, forged in the spirit of the Schuman Declaration, a worthy study in its own right?

Surely it is better to approach the issue from a different angle, and make the case for law degrees more suited to the UK’s aspiration to forge a place in an uncertain world. Such law degrees would introduce not only discrete modules which study other jurisdictions from a comparative law perspective, but moreover would also consist of courses which establish their focus from a perspective less beholden to one jurisdiction, which seek to discern common themes and principles which are all the better understood by means of contextualization in relevant philosophical, historical, political and linguistic traditions. They would recognize that tomorrow’s lawyers need to be able to peel apart interlocking layers of law, of which they need to be cognizant but in respect of all of which they cannot be expert. They therefore need to be able to operate with professionals from different jurisdictions and cultures, appreciating commonalities of approach and of law, and taking heed of differences. This certainly indicates that the opportunity to incorporate a period of study in a different jurisdiction, with all the cultural capital such study periods bestow,[[65]](#footnote-65) should become more common than it is at present, despite the challenges presented by the possible loss of membership of the Erasmus Programme. This would be a legacy worth the pain of the adaptation forced by Brexit and the reductionist approach of the SQE to the current EU law core module: a step in the education of a lawyer better educated and better equipped to deal with the many both commercial and personal matters today which have a cross border dimension. Can the challenge be met?

1. \* Corresponding author: email jamesci@lsbu.ac.uk [↑](#footnote-ref-1)
2. SRA Webpages: Joint Statement 1999 available at

<https://www.sra.org.uk/students/academic-stage-joint-statement-bsb-law-society.page> >Accessed 14 June 2017.

Since the Legal Services Act 2007, the SRA is the regulatory arm of the Law Society and the BSB is the regulatory arm of the Bar Council. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Ibid. Schedule 2; The Foundations of Legal Knowledge are ‘The key elements and general principles of the following areas of legal study: i. Public Law, including Constitutional Law, Administrative Law and Human Rights; ii. Law of the European Union; iii. Criminal Law; iv. Obligations including Contract, Restitution and Tort; v. Property Law; and vi. Equity and the Law of Trusts.’ (1999 Joint Statement Schedule Two) [↑](#footnote-ref-4)
5. Academics on the side of an autonomous law school free to teach a liberal law degree have been severely critical of the notion of core. Twining and Birks have both argued strongly against a fixed core:

W Twining, Blackstone’s Tower (Sweet and Maxwell 1994) 162-166: at 164: ‘Perhaps the biggest error was not to challenge the assumption that the “core” of undergraduate legal education could be defined in terms of coverage of subject-matter.’ See also P Birks, Reviewing Legal Education (OUP 1994), Ch 3. [↑](#footnote-ref-5)
6. Though there have been mixed signals from the Bar. The BSB consultation of Future Bar Training 2015 summarising the current position in relation to core states at paragraph 60: ‘Under the present arrangements, students must study certain subjects that began as a list of what were regarded as “core” over 40 years ago, plus some that have been added since then in an ad hoc manner. The list of required subjects contains things that some barristers may never use (for example trusts, crime) and does not contain other subjects which are of great importance.’ And the consultation goes on, paragraph 61: ‘It is hard to find concrete evidence that knowledge of most of the required subjects is any more “essential” than knowledge of many other subjects. These arrangements tend to give prominence to the acquisition of knowledge, rather than understanding of principles and concepts and the development of transferable intellectual and legal skills.’ Available at

<https://www.barstandardsboard.org.uk/media/1676754/fbt_triple_consultation_9_july_2015.pdf>> Accessed 13 June 2017. [↑](#footnote-ref-6)
7. 2015 QAA benchmark statement conceives undergraduate study of law as an academic discipline in which variety and pluralism are valid outcomes across the sector. The notion of core is rejected. According to the QAA the common denominator for law studies is ‘the requirement on the student to apply their understanding of legal principles, rules, doctrine, skills and values.’ Available at

[www.qaa.ac.uk/publications/information-and-guidance/publication?PubID=2966#.WUK-fCMrLZs](http://www.qaa.ac.uk/publications/information-and-guidance/publication?PubID=2966#.WUK-fCMrLZs)> Accessed 14 June 2017. [↑](#footnote-ref-7)
8. Despite the existence of ‘reserved activities’ in section 12 of the Legal Services Act 2007, which may only be undertaken by those who are authorized as provided in the Act, or exempted from the need for such authorization. [↑](#footnote-ref-8)
9. Joint Statement 1999 (n 1) Schedule 1: QLD/GDL includes: (i) Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales particularly in the Foundations of Legal Knowledge. [↑](#footnote-ref-9)
10. Legal Education and Training Review (‘LETR’) Report 2013: paragraph 2.13 There is little prescription of how subjects are organised, or the stage of the degree at which they should be delivered, so the same subjects may be taught at any of levels 4, 5 or 6 by different institutions. In practice, however, the majority of the Foundation subject credits tend to be concentrated in the first two years of the programme. Available at

< <http://letr.org.uk/the-report/index.html>> Accessed 15 June 2017. [↑](#footnote-ref-10)
11. Joint Statement 1999 (n 1) paragraph iii. [↑](#footnote-ref-11)
12. LETR 2013 (n 9) paragraph 2.55: If prescription were to be retained on similar terms, are the ‘right things’ being prescribed? Overall, both qualitative and quantitative data tend to support the status quo. In the quantitative analysis, support for the existing Foundation subjects is notable amongst the Bar, 80% of whom regarded the existing ‘core’ as providing a (more or less) sufficient knowledge base for the academic stage. This view was also held by a majority of solicitor respondents. See also paragraph 4.96. Available at

[www.letr.org.uk/the-report/chapter-2/what-is-valued-and-required-by-the-legal-services-sector/index.html#\_ftn5](http://www.letr.org.uk/the-report/chapter-2/what-is-valued-and-required-by-the-legal-services-sector/index.html#_ftn5) accessed 12 June 2017. See also Bar Standards Board Future Bar Training: Consultation on the Future Training of the Bar: Future Routes to Authorisation, Summary of Responses, October 2016: summary of key findings paragraph 1.3; available at

< <https://www.barstandardsboard.org.uk/media/1731328/fbt_consultation_response_doc.pdf>> Accessed 12 June 2017. [↑](#footnote-ref-12)
13. LETR 2013 (n 9): Recommendation 10 and paragraph 4.143: while LETR considered that evidence and opinion of the core was overall neutral with no ‘clear-cut case for reducing or extending the core’, it did acknowledge that changes made at the vocational stage could impact on the academic stage. In this respect, it considered that there could be additional content prescription and guidance on the balance between the core subjects; secondly, though it did not propose an eighth subject, the clear recommendation for substantial development of the place of ethics in training could give law schools reason to expand the list of modules they deem compulsory in their own institutions. [↑](#footnote-ref-13)
14. EU law represents 8% of the LLB at London South Bank University, or 14% if students take an option in EU Criminal and Migration law. [↑](#footnote-ref-14)
15. F Jacobs ‘Preparing English Lawyers for Europe’ (1992) ELRev 232. [↑](#footnote-ref-15)
16. As noted in LETR literature review paragraph 38: the First LC ACLEC Report in 1996 sought to end the polarisation of the debate and to seek a consensus of direction and value of the role of both the academy and vocational training. In this it is pertinent to note that the impact of EU membership was seen as an opportunity to bridge the divide: it describes a ‘new partnership’ based, in the words of the Chair (Lord Steyn), on ‘a broad and intellectually demanding legal education, attuned to the context and needs of a modern European democracy’. In particular, the ACLEC Report mentions of European and democratic dimensions were significant, one being an acknowledgement of the international dimension of legal education in a globalized world…’

Available at < <http://letr.org.uk/wp-content/uploads/LR-chapter-2.pdf>> Accessed 13 June 2017. [↑](#footnote-ref-16)
17. There was some debate about how to teach EU law: whether it should be pervasive/integrated into other modules or stand alone. B De Witte, ‘The European Dimension of Legal Education’, in P Birks (n 4) 68 at 74 considered the case for teaching EU law separately or integrated, and concluded that to teach it separately around institutions and to leave out substantive law was problematic. He noted that a lot of the substantive law does not fit in with traditional branches of law. This view was also expressed by Jacobs (n 14). [↑](#footnote-ref-17)
18. #  TFEU Protocol (No 30) on the application of the Charter of Fundamental Rights of the EU to Poland and the United Kingdom, OJ115, 9/5/08, 0313-0314, and on this see E Spaventa, 'Fundamental rights in the European Union' in Catherine Barnard and Steve Peers (eds), *European Union Law* (1st edn, OUP 2014) 245.

 [↑](#footnote-ref-18)
19. At London South Bank University in the compulsory modules which cover EU law, broadly speaking, six areas are covered:

1. History and development of the EU; 2. EU institutions; 3. Effects of EU law including ECA 1972 and the supremacy of EU law; 4. Some substantive law: free movement of persons, goods and services 5. EU equality law; 6. Some procedural law: preliminary reference and Commission enforcement actions. Competition law, Environmental law, financial regulation/banking law and free movement of capital are not taught. The Area of Freedom Security and Justice, including Schengen law, measures to combat cross border crime and terrorism, and asylum law, is taught as a year 3 option, ‘EU Criminal and Migration Law’. [↑](#footnote-ref-19)
20. The term ‘Brexit’ is used to refer both to the formal exit of the UK from the EU, at the time of writing expected to be 29 March 2019, and to the process to achieve that outcome. [↑](#footnote-ref-20)
21. #  The United Kingdom’s exit from, and new partnership with, the European Union (2 May 2017). Available at:

[www.gov.uk/government/publications/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union-white-paper/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union--2](http://www.gov.uk/government/publications/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union-white-paper/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union--2);

# Also, Government White Paper on Great Repeal Bill, 30 March 2017: Paragraph 2.12, ‘The Government has been clear that in leaving the EU we will bring an end to the jurisdiction of the CJEU in the UK. Once we have left the EU, the UK Parliament (and, as appropriate, the devolved legislatures) will be free to pass its own legislation.’ Available at:

#  <[www.gov.uk/government/publications/the-great-repeal-bill-white-paper](http://www.gov.uk/government/publications/the-great-repeal-bill-white-paper) > Accessed 13 June 2017.

 [↑](#footnote-ref-21)
22. D Davies, ‘Leaving the EU gives us a once-in-a-lifetime opportunity to forge a new role for the UK in the world - The authority of the EU law will finally end and the UK will once again be in charge of its own destiny.’

The Sun (UK, 26 March 2017):

<[www.thesun.co.uk/news/3179516/leaving-the-eu-gives-us-a-once-in-a-lifetime-opportunity-to-forge-a-new-role-for-the-uk-in-the-world/?platform=hootsuite](http://www.thesun.co.uk/news/3179516/leaving-the-eu-gives-us-a-once-in-a-lifetime-opportunity-to-forge-a-new-role-for-the-uk-in-the-world/?platform=hootsuite)> Accessed 13 June 2017. [↑](#footnote-ref-22)
23. This term is open to interpretation and differentiation but broadly represents the desire that the UK leaves the EU keeping very few if any of its current obligations; for many it also corresponds to the UK being outside both the single market and the customs union. Eg see BBC webpages and the Conversation webpages respectively:

[www.bbc.co.uk/news/uk-politics-37507129](http://www.bbc.co.uk/news/uk-politics-37507129);

<https://theconversation.com/hard-soft-smooth-rough-we-need-better-words-if-brexit-is-going-to-work-67739> Accessed 13 June 2017. [↑](#footnote-ref-23)
24. R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union [2017] UKSC 5, [2017] 2 WLR 583 [14], [15], [60]. [↑](#footnote-ref-24)
25. While the principle and aim is clear enough, the implementation of this is highly complex given the different types of EU law and the different ways they become part of the corpus of law in the UK; of particular note are the principles of direct applicability and direct effect of EU law, as well as UK legislation derived from obligations set in EU directives and EU Treaties. Further complexity is added by devolution of law-making power to countries within the UK, which has taken place since the UK entered the EU, and there will need to be agreement on the consequences of these settlements vis-à-vis repatriated law-making powers to the UK. [↑](#footnote-ref-25)
26. Government White Paper on Great Repeal Bill, 30 March 2017 (n 20): 2.13 The Great Repeal Bill will not provide any role for the CJEU in the interpretation of that new law, and the Bill will not require the domestic courts to consider the CJEU’s jurisprudence. In that way, the Bill allows the UK to take control of its own laws. [↑](#footnote-ref-26)
27. White Paper on Great Repeal Bill (n 20) para 2.14: However, for as long as EU-derived law remains on the UK statute book, it is essential that there is a common understanding of what that law means. The Government believes that this is best achieved by providing for continuity in how that law is interpreted before and after exit day. To maximise certainty, therefore, the Bill will provide that any question as to the meaning of EU-derived law will be determined in the UK courts by reference to the CJEU’s case law as it exists on the day the UK leaves the EU. [↑](#footnote-ref-27)
28. Ibid paragraph 2.19. [↑](#footnote-ref-28)
29. It is not made clear whether such changes would have to be express changes or whether implied changes would be similarly covered by this arrangement. Presumably changes deemed by the courts to be implied would have to be treated similarly to express changes. [↑](#footnote-ref-29)
30. White Paper on Great Repeal Bill (n 20): paragraph 2.20. [↑](#footnote-ref-30)
31. Eg V Bogdanor, The New British Constitution (Hart Publishing 2009). [↑](#footnote-ref-31)
32. Whilst continued membership of the single market or customs union seems, at the time of writing this (Summer 2017) increasingly unlikely, the UK government appears hopeful for an arrangement which replicates to some extent many features of the current arrangements, including probably some continued role for the influence at least of EU law, whether via the EFTA Court as some have suggested, or arbitration or a bespoke tribunal as suggested by the UK government: see the HM Government Future Partnership Paper ‘Enforcement and Dispute Resolution’ published 23 August 2017, available at <<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639609/Enforcement_and_dispute_resolution.pdf>> Accessed 23 August 2017. See also, for example, ‘Project Fear to Project Reality – Professor Michael Dougan one year on from the EU Referendum’, available at <<https://news.liverpool.ac.uk/2017/07/31/watch-project-fear-to-project-reality-prof-michael-dougan-one-year-on-from-eu-referendum/>> Accessed 23 August 2017 [↑](#footnote-ref-32)
33. See, for example, the various events sponsored by the Society of Legal Scholars on ‘Brexit and the Law School’ during 2017, which took place at the Universities of Strathclyde, Northumbria, Bristol and Liverpool: <<http://www.legalscholars.ac.uk/news/brexit-and-the-law-school-a-new-funding-initiative-for-regional-workshops/>> Accessed 23 August 2017 [↑](#footnote-ref-33)
34. SRA website: Training for Tomorrow 25 April 2017 available at

[www.sra.org.uk/sra/policy/training-for-tomorrow/work-streams.page](http://www.sra.org.uk/sra/policy/training-for-tomorrow/work-streams.page)>

Accessed 13 June 2017. [↑](#footnote-ref-34)
35. SRA Website: SQE consultation documents: Annex 1 – Assessment Specification available at

[www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page#download](http://www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page#download)> Accessed 13 June 2017. [↑](#footnote-ref-35)
36. SRA Website: What will qualifying look like – available at

[<www.sra.org.uk/home/hot-topics/Solicitors-Qualifying-Examination.page](https://www.sra.org.uk/home/hot-topics/Solicitors-Qualifying-Examination.page)>

Accessed 13 June 2017. [↑](#footnote-ref-36)
37. See SQE first round consultation responses October 2016: Training for Tomorrow – Assessing Competence

available at [www.sra.org.uk/sra/consultations/t4t-assessing-competence.page#download](http://www.sra.org.uk/sra/consultations/t4t-assessing-competence.page#download)>

Accessed 13 June 2017. [↑](#footnote-ref-37)
38. BSB Policy Statement on Bar Training, 23 March 2017, paragraph 11: ‘The law degree and GDL must cover the seven “Foundations of Legal Knowledge” as they currently stand, and the skills associated with graduate legal work such as legal research. We will, however, be encouraging innovation by academic institutions in the ways that these subjects are taught: through their provision, for example, of opportunities for students to gain work based experience or undertake clinical legal education.’

Available at <www.barstandardsboard.org.uk/media/1825162/032317\_fbt\_-\_policy\_statement\_version\_for\_publication.pdf> Accessed 13 June 2017. [↑](#footnote-ref-38)
39. Ibid: paragraph 39, ‘Ensuring alignment between our plans and those of the Solicitors Regulation Authority (SRA) wherever possible within our own principles has been a constant in our development work. Neither our new approach nor that of the SRA will drive students to make inappropriately early decisions as to whether to become either a barrister or solicitor, as some have suggested. … We will continue to work with the SRA to develop a set of principles for recognising qualifications, including across jurisdictions.’ [↑](#footnote-ref-39)
40. The depth and breadth of legal knowledge required of candidates in any of the assessments is that of Functioning Legal Knowledge. This means that a candidate should be able to:

identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources - and

apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice. Candidates are not required to recall case names or cite statutory authority except where specified. [↑](#footnote-ref-40)
41. SQE Assessment Specification (n 29): 11-17. [↑](#footnote-ref-41)
42. The SQE reduces the EU law content in comparison with typical current law degrees; cf the Qualified Lawyers’ Transfer Scheme, which currently includes substantive EU law. [↑](#footnote-ref-42)
43. SQE Assessment Specification (n 34): 18-23. [↑](#footnote-ref-43)
44. Ibid 16. [↑](#footnote-ref-44)
45. Surveys suggest employers anticipate significant changes to skills required for work forces of the (not too distant) future; with ‘disruptive’ changes having the potential to widen the skills gap and mismatches between what is taught at one moment and what is needed next; in this context complex problem-solving and social skills are expected to become increasingly needed as core worker skills, see World Economic Forum, Future of Jobs: Employment, Skills and Workforce Strategy for the Fourth Industrial Revolution report, available at

< [http://reports.weforum.org/future-of-jobs-2016/skills-stability/> Accessed](http://reports.weforum.org/future-of-jobs-2016/skills-stability/%3E%20Accessed) 13 September 2017. [↑](#footnote-ref-45)
46. LETR Report 2013 (n 9): one cannot but think of the SQE when the LETR final report warns of risks to the provision of law degrees:

‘Further regulation could reduce innovation and narrow the focus of university legal education if it forced the academic law schools to focus more specifically on preparation for vocational requirements, especially if the imposition of standardised entry testing, or an equivalent to the US Bar Examinations, created pressure on law schools to “teach to the test.” It might also have an undesirable impact on access and diversity if it created a secondary market in ‘cram’ courses preparing students for access to professional school.’

It has to be said that whilst the analysis of such impact is uncontroversial, the development of a market in such ‘cram’ courses is widely anticipated, particularly in the light of the continuing deregulation of the UK higher education market.

Paragraph 4.96. [↑](#footnote-ref-46)
47. eg G Simpson, ‘On the Magic Mountains: Teaching Public International Law’ (1999) 10 EJIL 70-92, 73. [↑](#footnote-ref-47)
48. J Marson and K Ferris, ‘Delaney and the Motor Vehicle Insurance Directives: lessons for the teaching of EU law’ The Law Teacher, 50, 1-17. [↑](#footnote-ref-48)
49. B de Witte (n 16 at p58) says that ‘[t]he isolated national legal order is an invention of the 19th century and not an eternal state of things.’ [↑](#footnote-ref-49)
50. Ibid 70. [↑](#footnote-ref-50)
51. House of Commons Education Committee Report ‘Exiting the EU: Challenges and opportunities for higher education’, 19 April 2017, available at <<https://publications.parliament.uk/pa/cm201617/cmselect/cmeduc/683/683.pdf>> Accessed 20 August 2017 [↑](#footnote-ref-51)
52. There is a wide literature on the benefits of student mobility (n 64 below), but see, for example, the European Commission’s Erasmus Impact Survey, September 2014, available at <<http://ec.europa.eu/dgs/education_culture/repository/education/library/study/2014/erasmus-impact_en.pdf>> Accessed 23 August 2017, and for evidence of the particular benefits for widening participation students, see the Report by Universities UK International, ‘Widening Participation in UK Outward Student Mobility’, 3 August 2017, available at <<http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/widening-participation-in-uk-outward-student-mobility-a-picture-of-participation.aspx>> Accessed 22 August 2017 [↑](#footnote-ref-52)
53. The Treaty on the Functioning of the European Union Article 3(a) gives exclusive competence to the EU in the area of the customs union and Article 3(e) in the area of the common commercial policy. [↑](#footnote-ref-53)
54. The BSB consultation of Future Bar Training 2015 (n 5). [↑](#footnote-ref-54)
55. K Armstrong ‘Editorial – Brexit and the Future of European Legal Studies’ (2016) 18 CYELS 1. [↑](#footnote-ref-55)
56. However, apart from trading relationships, it is becoming increasingly evident that there may well be specific EU-UK relationships in the future concerning cooperation in the areas of security and transnational crime, data protection, citizens’ rights, and the mutual recognition of judgments, amongst others, all such agreements potentially to be subject to specific monitoring and enforcement regimes. These matters penetrate many areas of life and the framing of future EU-UK relations as a ‘deep and special partnership’ points strongly to the need to equip law students with the tools to advise on and manage their clients’ affairs on matters arising such arrangements. [↑](#footnote-ref-56)
57. B de Witte (n16 at p58) [↑](#footnote-ref-57)
58. Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, OJ L 77, 14.3.1998, p36–43. [↑](#footnote-ref-58)
59. See B De Witte and G Forder (eds) The Common Law of Europe (Kluwer 1992). [↑](#footnote-ref-59)
60. At the time of writing the Great Repeal Bill, formally entitled the European Union (Withdrawal) Bill, has started its passage through Parliament: European Union (Withdrawal) (HC) Bill (2017-19) [5]. [↑](#footnote-ref-60)
61. Website of the European Law School at the University of Maastricht, available at <https://www.maastrichtuniversity.nl/education/bachelor/bachelor-european-law-school-english-track>> Accessed 12/6/17. [↑](#footnote-ref-61)
62. Website of the Faculty of Law at McGill University, available at <http://www.mcgill.ca/law/>> Accessed 12/6/17 [↑](#footnote-ref-62)
63. C James, ‘Brexit: What now for Study Mobility between the UK and the EU?’ (2016) II Pécs Journal of International and European Law 7. [↑](#footnote-ref-63)
64. J Newman, ‘The Idea of a University’ in F Turner (ed) The Idea of a University (Yale University Press 1996). [↑](#footnote-ref-64)
65. There is a huge literature on this: see, for example, though there are many others, B Feyen, ‘The Making of a Success Story: The Creation of the ERASMUS Programme in the Historical Context’ in B Feyen and E Krzaklewska (eds), The Erasmus Phenomenon – symbol of a New European Generation? (Peter Lang GmbH 2013); International Centre for Higher Education Research, University of Kassel, ‘The Professional Value of ERASMUS Mobility’, Final Report, 2006; U Teichler and K Janson, ‘The Professional Value of Temporary Study in Another European Country: Employment and Work of Former ERASMUS Students’ (2007) 11 Journal of Studies in International Education 486; K Mitchell, ‘Student mobility and European identity; Erasmus study as civic experience?’ (2012) 8(4) Journal of Contemporary European Research 490. [↑](#footnote-ref-65)