

Key Considerations for Traditional Residential Universities Intending to Offer Bachelor of Laws (LLB) through the Distance Mode of Tuition: A Case Study

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Abstract

This case study aims to provide key considerations that traditional residential universities should consider when deciding to offer a distance tuition programme alongside an existing contact tuition programme. The University of the Free State is the only residential university to offer the Bachelor of Laws through both contact and distance modes of tuition. Therefore, an evaluation of this programme serves as an ideal case study to extract specific and essential considerations that other institutions, faculties or departments may use when deciding to offer a distance tuition programme in addition to its contact programme.

The case study suggests that it is not feasible to merely duplicate an existing contact tuition programme and present it as a distance programme. A distinct pedagogical approach must be followed. It entails training, redesign of material, and rethinking assessment policies.

Faculties should weigh the potential benefits of presenting a distance LLB against the labour-intensive nature of distance tuition and its probable limited success in realising broader access and student success. The funding model for distance tuition remains problematic and is financially unfeasible and unsustainable for many higher education institutions. Rethinking the funding model will be one step closer to achieving the objectives set out in the distance tuition policy framework.

Keywords

Distance learning, distance tuition, higher education, LLB, quality, teaching and learning.

1 Introduction

The progressive development of South African university distance education is a crucial and integral part of the democratisation of our national post-school education system. To answer the call for broadening access to higher education, residential universities began incorporating distance tuition programmes in addition to their traditional contact tuition offerings. When deciding to offer an existing programme through distance education, there are a multitude of considerations. A literature search showed that there are few significant and definitive sources that can aid departments, faculties or institutions in their decision to take an existing programme and simultaneously offer it through distance learning. Specifically, with reference to the Bachelor of Laws (LLB) programmes, there are no South African resources available.

This study aims to identify key considerations that can guide traditional residential universities intending to offer the LLB programme through the distance mode of tuition. The specific issue in this study was to gain an understanding of the experiences and ramifications of offering an LLB programme via both distance and contact modes of tuition. To this purpose, an exploratory and explanatory case study approach was adopted. A case study is used to generate an in-depth understanding of a specific issue in a real-life setting.¹ The University of the Free State (hereafter UFS) is the only residential university to offer the Bachelor of Laws (hereafter LLB) through both contact and distance modes of tuition. Therefore, an evaluation of this programme serves as an ideal case to extract specific and essential considerations that other institutions, faculties or departments may use when deciding to offer a distance tuition programme in addition to its contact programme.

This case study is based on the researchers' experience of the distance LLB during their tenure as vice-dean and teaching and learning manager (first author) and LLB programme director (second author) in the Faculty of Law (hereafter Faculty), UFS. The researchers served in these positions during the offering of the Faculty's LLB via contact and distance tuition. It places

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¹ Thomas *How to Do Your Case Study* 10; Harrison *et al* *Forum* para 3.3.

them in an ideal position to reflect on the relevant practical implications of offering a distance LLB. This study integrates the experience of the insider researchers with empirical and narrative methods of research.

It was not foreseen at the time of the evaluation how pertinent these considerations would be in this time with the COVID-19 pandemic causing widespread disruption to face-to-face tuition across the whole spectrum of higher education. It is not suggested that all the conclusions reached, and considerations offered in this article would *mutatis mutandis* apply to the current shift of contact tuition to an online platform. However, certain aspects of the study could simultaneously apply in the current context of higher education. To clarify, the programme evaluated in this case study is an independent distance tuition offering that should not be confused with the migration to an online platform of teaching necessitated by COVID-19.

In the first part of the article, the historical development of the distance mode of tuition in the South African context is explored. This includes an explanation of the South African distance policy framework and highlights the contribution that distance tuition can make to achieving broader access, redress and equity. The second part of the study evaluates the UFS distance LLB against two broad considerations. First, an evaluation of the extent to which the distance LLB provides access with a reasonable prospect of success to previously marginalised² students excluded from participating in mainstream higher education because of the apartheid policies. To this purpose, qualitative data is used to calculate student success rates, achievement gaps, graduation-, and drop-out rates. Secondly, by reflecting on their experiences and insights, the researchers evaluated the distance LLB against a variety of quality delivery considerations that the Faculty faced in delivering quality distance tuition. The article concludes by making recommendations for the successful offering of a distance tuition programme in addition to a contact programme.

Permission was obtained from the University of the Free State Vice-Rector Academic to use and publish the results of the data and the General/Human Research Ethics Committee granted ethics clearance to conduct this study.

² White students were unfairly advantaged under the apartheid-rule. Therefore, the term "marginalised" refers to all students who are not White.

2 Part 1: The South African Distance Tuition Policy Framework

An evaluation of the UFS distance LLB will only be of value if one thoroughly understands government's rationale for enacting relevant policies and their envisioned effects. This section aims to provide a bird's-eye view of the South African distance tuition policy framework and its historical development.³ It explores the drive for the increased offering of higher education distance tuition programmes in South Africa and consider how higher education institutions responded to the call to increase the offering and quality of distance tuition programmes. The concept of distance tuition/education is also clarified. The framework serves as a guide for the evaluation of the distance LLB against the intended political and academic aspirations of the policies in the second part of this article. While the policies set out the goals, this study will evaluate the distance LLB against the policy objectives.

Traditionally there was a clear distinction between contact and distance delivery of higher education programmes in South Africa. The same distinction also related to the institutions which delivered the two modes of delivery. The South African higher education landscape is mostly contact-based, that is, residential programmes offered to students who attend lectures in a single location. Historically, only the University of South Africa (Unisa), Technikon of Southern Africa, and the Distance Education Campus of the Vista University provided distance tuition. As a result of the drive for the transformation and restructuring of the institutional landscape for higher education,⁴ the resources, facilities, staff and programmes of these three institutions merged in 2004.⁵ A new University of South Africa (Unisa) was established, the only university dedicated to offering open and distance tuition. Unisa is Africa's largest open distance tuition institution,⁶ with a total of 381 483 enrolled students in 2018. Included in this figure were 57 013 law students.⁷

³ The discussion is limited to the most important policies specifically relevant to distance tuition.

⁴ CHE *Towards a New Higher Education Landscape*.

⁵ As announced in GN 1691 in GG 25737 of 14 November 2003 and GN 1715 in GG 25744 of 19 November 2003.

⁶ Unisa 2019 <https://www.unisa.ac.za/sites/corporate/default/About/The-leading-ODL-university>.

⁷ Unisa 2018 <https://www.unisa.ac.za/sites/corporate/default/About/Facts-&-figures/Student-enrolments>.

South Africa has a long history of severe forms of racial segregation and discrimination. Access to higher education did not escape the pervasiveness of racial discrimination. After the first democratic elections in 1994 and the subsequent adoption of the Constitution of the Republic of South Africa, 1996 the new South African higher education system faced critical challenges "to redress past inequalities and to transform the higher education system to serve a new social order, to meet pressing national needs, and to respond to new realities and opportunities".⁸ Redressing the racial inequalities were especially critical. The new democratic government was of the view that a progressive policy had to be implemented to realise the transformation of higher education. Six months after the first democratic election, then-President Nelson Mandela appointed the National Commission on Higher Education (hereafter the NCHE) to fundamentally restructure higher education in alignment with the Constitution⁹ and global trends. The NCHE report, titled "A Framework for Transformation",¹⁰ acknowledged South Africa's existing, well-developed distance/correspondence tuition infrastructure, but raised serious concerns about the costs, efficiency, effectiveness and relevance of distance tuition. The NCHE focussed specifically on distance tuition as a possible solution for the challenges faced by higher education in South Africa.

The 1996 NCHE Report¹¹ paved the way for the 1997 Department of Education White Paper on Higher Education, A Programme for the Transformation of Higher Education (hereafter the 1997 White Paper).¹² The paper placed higher education in the broader realm of "political democratisation, economic reconstruction and development, and redistributive social policies aimed at equity".¹³ It promoted an increase in the enrolment numbers of distance learning students and the diversification of the student body. It endorsed resource-based learning constructed on open learning principles within the constraints of limited resources.¹⁴

Besides incorporating distance learning methodologies into residential contact programmes – because of the development of information and

⁸ Currie and De Waal *Bill of Rights Handbook* 6-7; GN 1196 in GG 18207 of 15 August 1997 (Education White Paper 3: A Programme for the Transformation of Higher Education) item 1.1.

⁹ *Constitution of the Republic of South Africa*, 1996.

¹⁰ NCHE *Framework for Transformation*.

¹¹ NCHE *Framework for Transformation*.

¹² GN 1196 in GG 18207 of 15 August 1997.

¹³ Item 1.7 of GN 1196 in GG 18207 of 15 August 1997.

¹⁴ Item 2.57 in GN 1196 in GG 18207 of 15 August 1997. This was reiterated in the Preamble to GN 535 in GG 37811 of 7 July 2014.

communication technology (hereafter ICT) – the provision of distance tuition programmes by traditionally contact tuition institutions grew exponentially. The growth in distance tuition programmes¹⁵ occurred in response to the 1997 Education White Paper.¹⁶ The number of student enrolments in distance tuition programmes at residential universities increased with 492% from 1993 to 1999.¹⁷

The 2001 National Plan for Higher Education raised severe concerns about the increased number of distance student enrolments at residential universities. Some well-resourced residential universities established satellite campuses for the delivery of distance tuition programmes in the localities of under-resourced residential universities. Between 1993 and 1999, African student enrolments decreased from 49% to 33% in the historically black institutions and increased from 13% to 39% in the historically white institutions (excluding Unisa and Technikon SA). The decline in enrolments, combined with a range of other factors such as growing student debt, governance and management failures and general instability, has resulted in the rapid erosion of the sustainability of several the historically black universities.

Outcome 10¹⁸ of the National Plan for Higher Education focused on the regulation of distance tuition programmes. It also supported the CHE's recommendation to develop a clear policy that includes conditions and

¹⁵ The University of Pretoria offers distance learning education programmes (University of Pretoria 2020 <https://www.up.ac.za/distance-education>). The University of Johannesburg introduced 100% online master's programmes in 2017. In 2018, four more programmes were introduced, which is only offered as distance learning programmes. See University of Johannesburg 2018 <https://www.itweb.co.za/content/O2rQGMApKRD7d1ea>. The University of the Witwatersrand offers online programmes in the Wits Business School and School of Governance. See University of the Witwatersrand 2020 https://online.wits.ac.za/online-programmes-with-wits/?utm_source=google&utm_medium=search&utm_campaign&utm_term=wits+pd&utm_content=414738529130&matchtype=b&network=g&device=c&devicecd=1&creative=414738529130&placement&target&adposition&feeditemid&gclid=CjwKCAiAhc7yBRAAdEiwApIGxXyQBaBDnoS-R3Noz5UTTUFdKb6mFfo0UpX5anwHBiYp3ZHiF3O5mfBoCOKYQAvD_BwE. North-West University offers various programmes as distance learning, e.g. BSc IT, programmes in the Faculty of Theology and the Faculty of Education. See North West University 2020 <http://distance.nwu.ac.za/content/unit-open-distance-learning-support>.

¹⁶ GN 1196 in GG 18207 of 15 August 1997.

¹⁷ GN 230 in GG 22138 of 9 March 2001 para 2.1.2.

¹⁸ Item 4.4 in GN 230 in GG 22138 of 9 March 2001.

criteria for the provision of quality distance tuition programmes by traditional contact institutions.

The 2014 White Paper for Post-School Education and Training (hereafter the 2014 White Paper)¹⁹ again raised concerns about the quality of distance tuition provision and underscored the importance of improving the standard of programmes. These concerns were ominous when one considers that approximately 40% of South Africa's higher education students were studying via the distance mode of tuition in 2013. To enhance the quality of distance tuition, the 2014 White Paper proposed the equitable provision of ICT resources,²⁰ continuing professional development of full-time academic members of staff,²¹ and the establishment of a post-school distance tuition landscape based on open learning principles.²² The 2014 White Paper again emphasised the government's drive to increase access to higher education via distance tuition. It noted the need for more students, especially those who work and study part-time, to have access to higher education. Consequently, it implied establishing more "satellite" premises (also in rural areas) where universities could present classes at venues and times that were convenient to students.²³

The Policy for the Provision of Distance Education in South African Universities in the Context of an Integrated Post-School System of 2014²⁴ "seeks to resolve areas of uncertainty and provide strong support for the progressive development of South African university distance education as an indispensable and integral component of our national post-school education system".²⁵ The policy identified three challenges for distance tuition. Firstly, universities needed to increase access to distance tuition, not only in terms of numbers but also in diversity. Secondly, a learning environment had to be created, and proven quality measures implemented that would provide students with a reasonable opportunity of completing their studies successfully. Lastly, by distributing the costs for curriculum design, material development and teaching among a more significant number of students and requiring a smaller infrastructure when compared

¹⁹ DHET *White Paper for Post-School Education and Training* 52.

²⁰ DHET *White Paper for Post-School Education and Training* xvi.

²¹ DHET *White Paper for Post-School Education and Training* xvi.

²² DHET *White Paper for Post-School Education and Training* xv.

²³ DHET *White Paper for Post-School Education and Training* 8.

²⁴ GN 535 in GG 37811 of 7 July 2014.

²⁵ Item 1.1 in GN 535 in GG 37811 of 7 July 2014.

to contact tuition, institutions would be able to provide affordable distance tuition to students.

The Policy for Distance Education confirmed²⁶ the CHE's requirement to have programmes re-accredited if the mode of delivery changed from contact to the distance mode of tuition. The Distance Higher Education Programmes in a Digital Era: Good Practice Guide – published by the CHE – if programmes offered through distance tuition should meet the same accreditation criteria as contact tuition programmes. However, some criteria will require a distance tuition perspective.²⁷ This Guide makes a meaningful contribution to understanding the influence of technology on distance tuition provision, the evaluation of distance tuition provision and the interpretation of the existing quality requirements of programme accreditation in a digital era.

At this stage, it is appropriate to explain what is distance tuition. To qualify as a distance tuition programme, the Policy for Distance Education requires that students spend 30% or less of the stated notional learning hours in staff-led, face-to-face, campus-based structured learning activities for courses²⁸ on National Qualifications Framework (NQF) Level 5 and 6. For courses on NQF Levels 7 and 8, it must be no more than 25%.²⁹ Several legislative, policy and other documents define distance tuition. In addition to these requirements, the researchers support the definition provided in the 2014 Policy for the Provision of Distance Education in South African Universities in the Context of an Integrated Post-School System:³⁰

Distance education is a mode of provision based primarily on a set of teaching and learning strategies (or educational methods) that can be used to overcome spatial and/or transactional distance between educators and students. It avoids the need for students to discover the curriculum by attending classes frequently and for long periods. Rather, it aims to create a quality learning environment using an appropriate combination of different media, tutorial support, peer group discussion, and practical sessions.

²⁶ Item 4.4.2 in GN 535 in GG 37811 of 7 July 2014.

²⁷ CHE *Distance Higher Education Programmes* 81.

²⁸ Modules, courses and subjects are regarded as synonyms for purposes of this study.

²⁹ Item 1.9 in GN 535 in GG 37811 of 7 July 2014.

³⁰ GN 535 in GG 37811 of 7 July 2014. This broadly agrees with Nelson's (Nelson 1998 *JCJE* 334) statement that the two main elements of distance learning programmes are that it takes place in an "environment in which the teacher and the learner are physically separated" and with a "technologically based delivery system involving some combination of print, audio, video or multimedia materials and/or computer networking to allow the instructor and the learner to communicate and exchange the course content".

In conclusion, South Africa is committed to the progressive development of distance tuition in the university context, and this development stands central to the provision of higher education in South Africa.³¹ Distance tuition in South Africa is based on a policy framework which is grounded in the objectives, values, and principles initially set out in the 1997 White Paper. The framework acknowledges that distance tuition could contribute to socio-economic justice and equity by enhancing (i) student diversity and enrolment, (ii) student success, and (iii) quality delivery.

The decision to offer a programme as both distance and contact tuition should be informed by the programme's contribution to socio-economic and educational justice. Universities, faculties or departments must necessarily reflect on potential contribution to student diversity and enrolment, student success and quality delivery as critical considerations in their decision-making. The second part of this case study evaluates the UFS distance LLB offering as an example of the degree to which a distance programme could potentially contribute to these three policy goals of promoting socio-economic justice and equity.

3 Part 2: Evaluation of the UFS Distance LLB as a case study

In the early 2000s, the UFS was the first residential university to introduce a four-year LLB by means of the distance mode of tuition. Despite a recent increase in the number of residential universities offering distance tuition programmes,³² the UFS remains the only residential university in South Africa to offer an LLB via the distance mode of tuition (hereafter the distance LLB).

In 2015, the Council on Higher Education (hereafter the CHE) embarked on the national review of the LLB programmes that were presented by 17 public universities in South Africa. The ultimate aim of this review was to make recommendations to the Higher Education Quality Committee (hereafter the HEQC) on the re-accreditation of the existing LLB programmes.³³ Following the submission of a self-evaluation report by the Faculty, a desktop evaluation of the report by an external reviewer, and an on-site visit by a review panel, the HEQC informed the UFS that the distance LLB did not provide equitable teaching, learning and assessment for distance

³¹ Item 1 in GN 535 in GG 37811 of 7 July 2014.

³² GN 535 in GG 37811 of 7 July 2014.

³³ CHE *State of the Provision of the Bachelor of Laws Qualification*.

students.³⁴ In response to the finding of the HEQC, and the specific challenges posed on an institutional, faculty, departmental and programme level, the Dean of the Faculty requested a thorough investigation into the distance LLB. The evaluation aimed to provide the Faculty with valuable information about the strengths and weaknesses of the existing distance LLB. Furthermore, it would also guide the Faculty in its decision to replace the existing distance LLB with a new distance LLB in the future.

The UFS responded to the call for distance tuition to achieve the objectives stated above through the distance LLB. The four-year distance LLB, with an emphasis on e-learning teaching and learning activities, is offered in addition to the mainstream four-year LLB and five-year extended LLB curriculum programmes via the contact mode of tuition (hereafter the contact LLB). Distance students³⁵ follow the same curriculum as mainstream contact tuition students. The same lecturers who present courses to contact students are involved in the distance tuition courses. Distance students have access to the same electronic databases and learning management system as contact students and are encouraged to stay in contact with lecturers via phone or email.

Before the National Review of the LLB, distance learning students used the same learning material as the Bloemfontein campus students. Therefore, distance LLB students had access to the same study guide, learning material, PowerPoint presentations and audio recordings as contact LLB students. However, the researchers acknowledge that there should be differences in the format and delivery of the content of the material for contact and distance students.³⁶ Distance tuition has an added layer of complexity due to the geographical dispersion of students requiring different learning resources and tutorial support for independent learning.³⁷

In response to the National Review of the LLB which commenced in 2015, the Faculty of Law addressed specific issues in its improvement plan submitted to the CHE. Some issues pertained to the study material used by distance students. The Faculty embarked on a process to develop e-guides

³⁴ CHE *State of the Provision of the Bachelor of Laws Qualification* 13-14, 92.

³⁵ Distance LLB students, for purposes of this study, represent those students whose first registrations at the UFS were as distance LLB students and who remained registered as such students in their senior years of registration. Consequently, students who registered for both contact and distance LLB courses and students who migrated from being contact tuition students in a previous year to distance LLB students in the next year were excluded for purposes of this study.

³⁶ CHE *Distance Higher Education Programmes* 28.

³⁷ CHE *Distance Higher Education Programmes* 3-4, 28, 30.

specifically for distance students. The Faculty continued to use the learning management system, Blackboard, to deliver the study material to students. However, the e-guides now allow lecturers to develop guides which direct students logically and sequentially through the course. These guides enable lecturers to structure the content of the work in such a way that it requires students to, for example, complete specific readings, assessments, and activities before they can proceed to the next learning unit. Alternatively, lecturers allow students to explore the content in any order and at their own pace. Distance LLB students do not share the same Blackboard course spaces as contact students but have their own dedicated space for each course. In addition, they have access to the same Blackboard content as contact students, which includes access to the audio recording of lectures and lecturers' PowerPoint presentations. The rationale for creating separate Blackboard course-spaces is to facilitate more personalised distance learning methods of curriculum delivery specifically for distance students, for example, the e-guides explained here.

Distance students write different formative assessments to those of Bloemfontein students but write the same examinations as contact students. The UFS Examination Department is responsible for all aspects surrounding examinations, which includes all the logistical arrangements. Distance students can write examinations at various off-campus sites. Formative assessments amount to 20% of the final mark in the case of distance tuition and examination marks account for the remaining 80% of the final course mark. The calculation differs from the calculation of final marks for students on the Bloemfontein campus, where the formative assessments and examination marks contribute equally to the final mark.

The following section evaluates the distance LLB of the UFS against the three criteria identified in the first part of the article, namely enhanced (i) student diversity and enrolment, (ii) student success, and (iii) quality delivery. The statistical analyses below focus particularly on race due to the objective of achieving socio-economic and educational justice and the prolonged lack of transformation in the legal profession.³⁸ Considering the importance of offering a financially viable programme, this section also evaluates the LLB against a fourth criterion, namely the financial implications of offering a distance LLB. In the evaluation, the offering of the distance LLB is often compared to the contact LLB. Conclusions drawn from

³⁸ LSSA 2018 <http://www.lssa.org.za/about-us/about-the-attorneys-profession/lssa-lead-annual-statistics>.

the evaluation can make meaningful contributions towards distance learning in the broader higher education context. The empirical and factual data used below provides a better understanding of the real-life implications of the dual modes on socio-economic justice and equity.

3.1 Student diversity and enrolment

Following decades of exclusionary policies, widening access to higher education is one of the ways to redress severe inequalities and achieve social and economic justice.³⁹ Consequently, increased access for African, Coloured, and Asian⁴⁰ students to higher education is essential to eliminate the inequalities and diversify the student body.⁴¹ Distance tuition could play an important role in broadening access to higher education for these students⁴² and also for students already employed and who would not be able to study in a contact-based programme, students living in remote areas, and students who have to work in order to afford their studies.⁴³ The UFS distance LLB provides for such students.

Table 1 indicates the first-year distance and contact LLB student numbers and composition by race from 2014 to 2018.⁴⁴ There was a consistent increase in the percentage of African first-year contact LLB enrolments from 45% (n=46) in 2014 to 77% (n=131) in 2018. The percentage of White first-year students decreased from 41% to 17% over the same period. However, this was not the case for distance LLB students. Although enrolments of African distance students peaked in 2016 (n=39) they still constituted only 49% of total distance enrolments. African students represented between 33% (n=17) in 2015 and 51% (n=27) in 2017 of total first-year distance student registrations.

³⁹ Items 1.7-1.13 in GN 1196 in GG 18207 of 15 August 1997.

⁴⁰ The reference to African, Coloured and Asian race groups corresponds to the CHE's use of these terms. See CHE *VitalStats, Public Higher Education, 2018*.

⁴¹ Items 2.22-2.24 in GN 1196 in GG 18207 of 15 August 1997; CHE *Enhancing the Contribution of Distance Higher Education* 79.

⁴² Expanding access through distance education is not uniquely South African. The same objectives for expanding access and lowering costs through distance education is relevant in the United States. See Bennett 2014 *Seton Hall Legis J* 6-7; Beck-Dudley 1994 *JLSE* 123; Nelson 1998 *JCJE* 334.

⁴³ Items 2.57 and 2.59 in GN 1196 in GG 18207 of 15 August 1997; CHE *Enhancing the Contribution of Distance Higher Education* 80.

⁴⁴ Please note that these figures are for the mainstream LLB programme only. The Faculty, to further broaden access, offers an extended LLB curriculum programme. The highest number of first-time Asian enrolments were four distance LLB students and five for the contact mode of tuition. Consequently, we excluded them for this study.

Table 1: First-year distance and contact LLB student numbers and composition by race

| Year | Contact tuition students | | | | | | | | Distance tuition students | | | | | | | |
|------|--------------------------|----|----------|----|-------|----|-------|-----|---------------------------|----|----------|----|-------|----|-------|-----|
| | African | | Coloured | | White | | Total | | African | | Coloured | | White | | Total | |
| | n | % | n | % | n | % | N | % | n | % | n | % | n | % | N | % |
| 2014 | 46 | 45 | 14 | 14 | 41 | 41 | 101 | 100 | 14 | 48 | 1 | 3 | 14 | 49 | 29 | 100 |
| 2015 | 48 | 45 | 15 | 14 | 43 | 41 | 106 | 100 | 17 | 33 | 4 | 8 | 30 | 59 | 51 | 100 |
| 2016 | 72 | 53 | 22 | 16 | 43 | 31 | 137 | 100 | 39 | 49 | 10 | 13 | 30 | 38 | 79 | 100 |
| 2017 | 106 | 63 | 23 | 14 | 39 | 23 | 168 | 100 | 27 | 51 | 6 | 12 | 19 | 37 | 52 | 100 |
| 2018 | 131 | 77 | 10 | 6 | 29 | 17 | 170 | 100 | 17 | 45 | 2 | 5 | 19 | 50 | 38 | 100 |

Table 2 shows a comparison between African, White and Coloured senior student numbers and composition for both distance and contact LLB students.

Table 2: Senior distance and contact LLB student numbers and composition by race

| Year | Contact tuition students | | | | | | | | Distance tuition students | | | | | | | |
|------|--------------------------|----|----------|----|-------|----|-------|-----|---------------------------|----|----------|----|-------|----|-------|-----|
| | African | | Coloured | | White | | Total | | African | | Coloured | | White | | Total | |
| | n | % | n | % | n | % | N | % | n | % | n | % | n | % | N | % |
| 2014 | 123 | 34 | 41 | 12 | 192 | 54 | 356 | 100 | 13 | 25 | 3 | 6 | 36 | 69 | 52 | 100 |
| 2015 | 140 | 38 | 41 | 11 | 185 | 51 | 366 | 100 | 32 | 39 | 6 | 7 | 45 | 54 | 83 | 100 |
| 2016 | 159 | 43 | 42 | 12 | 162 | 45 | 363 | 100 | 42 | 42 | 10 | 10 | 48 | 48 | 100 | 100 |
| 2017 | 193 | 48 | 48 | 12 | 159 | 40 | 400 | 100 | 60 | 40 | 18 | 12 | 72 | 48 | 150 | 100 |
| 2018 | 242 | 55 | 57 | 13 | 144 | 32 | 443 | 100 | 66 | 42 | 19 | 12 | 71 | 46 | 156 | 100 |

Senior enrolments in Table 2 did not follow the pattern of first-year enrolments in Table 1. All senior race groups, except White contact students, displayed a steady increase from 2014 to 2018. For example, the composition of senior African distance LLB students increased from 25% (n=13) in 2014 to 42% (n=66) students in 2018.⁴⁵

The data in Tables 1 and 2 provide conclusive evidence that the Faculty of Law succeeded in broadening access to both contact and distance African students. However, the contact LLB was more successful in this regard.

⁴⁵ Senior enrolments refer to all enrolled students who are not first year students.

There is probably a multitude of reasons for this. The researchers identified some relevant factors that led to the contact LLB being more successful in broadening access to previously disadvantaged groups. The distance LLB requires students to have access to a computer, the internet and data. African students, when compared to White students, are more likely to lack the financial means to purchase a quality computer and loads of data for teaching and learning and assessment purposes. Also, some African applicants from remote areas do not have reliable access to the internet. Other factors are distance LLB applicants not meeting the admission requirements and few quality candidates admitted through recognition of prior learning. It was also found that the admission to the contact LLB was oversubscribed, while all qualifying applicants for the distance LLB were admitted. This could point to a lack of interest in distance LLB. Therefore, any decision-maker in the process of designing a distance offering of an existing programme, with the view of broadening access, should consider the abovementioned factors and influences specific to the targeted groups.

Broadening access alone will, however, not be adequate if there is no concomitant chance of completing the programme.⁴⁶ This aspect is discussed next.

3.2 Student success

As noted above,⁴⁷ distance tuition should present students with a fair opportunity to achieve success. Ideally, there should, therefore, not be a significant achievement gap between students enrolled for the contact and distance LLB programmes. Two measures are applied in this evaluation, namely, (i) student success rates and achievement gaps and (ii) graduation and drop-out rates.

3.2.1 Student success rates and achievement gaps

Table 3 reflects the success rates calculated for distance and contact LLB students according to race for the period 2015 to 2018.⁴⁸ The success rate refers to the total number of courses passed by students in a given academic year relative to the total number of course enrolments. In 2015, for example, a success rate of 76% was calculated for African contact tuition students, while the success rate for African distance tuition students was

⁴⁶ Preamble of GN 535 in GG 37811 of 7 July 2014.

⁴⁷ See para 1.

⁴⁸ A success rate is based on an academic year and is the weighted success rate based on FTE successes (FTE degree credits) / FTE enrolments.

17% lower at 59%. Coloured student groups in 2017 and 2018 are the only incidences where contact and distance students performed equally. The success rates for all other distance student groups were, irrespective of race, consistently lower than those of contact student groups. The highest difference in the success rates of contact and distance students was calculated at 35% for Coloured students in 2015. The highest overall⁴⁹ success rate difference between contact and distance tuition students was calculated at 16% for 2018.

It seems as if the UFS distance students performed relatively well compared to Unisa students, with both programmes providing no face-to-face contact. The success rate for Unisa students was calculated at 58% for 2016, while UFS distance tuition LLB students obtained a pass rate of 72% for the same year.⁵⁰ A possible explanation could be that the UFS distance LLB students must meet higher admission requirements or received more support. It again emphasises the importance of including adequate student support mechanisms when designing a programme for distance tuition. Further elaboration on this aspect is offered in paragraph 3.3.1 below.

Table 3: Success rates and achievement gaps according to race

| Year | African | | | Coloured | | | White | | | Overall | | | |
|------|------------------|----------|---------------------|------------------|----------|---------------------|------------------|----------|------------------|----------|---------------------|---------|----------|
| | Success rate (%) | | Achievement gap (%) | Success rate (%) | | Achievement gap (%) | Success rate (%) | | Success rate (%) | | Achievement gap (%) | | |
| | Contact | Distance | Difference | Contact | Distance | Difference | Contact | Distance | Contact | Distance | Difference | Contact | Distance |
| 2015 | 76 | 59 | 17 | 11 | 26 | 79 | 44 | 35 | 8 | 34 | 87 | 85 | 2 |
| 2016 | 83 | 65 | 18 | 6 | 13 | 83 | 72 | 11 | 6 | 6 | 89 | 78 | 11 |
| 2017 | 72 | 57 | 15 | 14 | 10 | 75 | 75 | 0 | 11 | -8 | 86 | 67 | 19 |
| 2018 | 70 | 51 | 19 | 15 | 13 | 72 | 72 | 0 | 13 | -8 | 85 | 64 | 21 |

The success rates are furthermore sharply skewed by race as reflected in the achievement gaps between White and African and White and Coloured students. The achievement gap represents the difference between the success rates of Whites and African and White and Coloured students enrolled in a specific year. The highest achievement gap of 34% was

⁴⁹ The overall success rates represent the average success rates of all contact and all distance students, irrespective of race.

⁵⁰ Unisa Annual Report 79.

calculated for Coloured distance students in 2015. The overall achievement gaps for distance students were higher in 2015 (28%) and 2016 (12%) than the gaps for contact tuition students. However, the situation changed in 2017 and 2018. Although the university aimed to reduce the achievement gap between different races to 6.5% in 2018, an achievement gap of 11% was calculated for all UFS students.⁵¹ At 13%,⁵² the achievement gap between White and African distance LLB students was even higher than the gap calculated for all UFS students in 2018. The lower success rates calculated for African and Coloured distance tuition students echo the South African position. In 2018, the overall South African achievement gap for White and African students amounted to 10%,⁵³ while the gap for UFS LLB distance tuition students amounted to 13%.

It is encouraging to note that the achievement gap of distance learning students decreased from 2015 to 2018. Ideally, there should be no achievement gap, but the Faculty is steadily moving towards achieving this goal. However, success rates in isolation are not conclusive evidence that the Faculty succeeded in expanding access with a reasonable chance of success. It is widely acknowledged that cohort studies provide a more accurate picture of student success.⁵⁴ All higher education institutions need to monitor achievement statistics. When deciding to offer an existing contact programme as a distance tuition programme, it would be critical for higher education institutions to focus on the achievement gap not only between different race groups in the programme but also between the distance and contact tuition students. The case study indicates that other higher education institutions should expect to see a higher achievement gap between contact and distance tuition students – again pointing to the need for special support measures. The section that follows reports on the cohort studies for the years 2013 to 2015.

3.2.2 *Graduation and drop-out rates*

Cohort studies show the total number and percentage of students of a particular first-time entering cohort who have graduated or dropped out over a specific number of years. For purposes of this study, cohort tracking was done for the 2013 to 2015 first-time entering cohorts over six years. It should be noted that both contact and distance LLB students can register for a

⁵¹ See UFS Annual Report 31.

⁵² 64% minus 51%.

⁵³ 86% minus 76%. See CHE *VitalStats, Public Higher Education, 2018* 14.

⁵⁴ Lewin and Mawoyo *Student Access and Success* 24.

maximum of six years and that the minimum graduation period is four years. Table 4 (distance LLB students) and Table 5 (contact LLB students) depict the graduation and student drop-out rates.

Table 4: Cohort tracking of distance LLB students according to race⁵⁵

| Cohort | Distribution according to race | Students who graduated within 4 (minimum) to 6 years (maximum) years | | | | | | | | Students who have not yet graduated | | | | | | Total (n) | |
|--------|--------------------------------|--|----|---------|----|---------|---|----------|----|-------------------------------------|----|------------|----|----------|-----|-----------|--|
| | | 4 years | | 5 years | | 6 years | | Subtotal | | Dropped out | | Registered | | Subtotal | | | |
| | | n | % | n | % | n | % | n | % | n | % | n | % | N | % | | |
| 2013 | African | 1 | 10 | 1 | 10 | - | - | 2 | 20 | 7 | 70 | 1 | 10 | 8 | 80 | 10 | |
| | White | 2 | 22 | 2 | 22 | - | - | 4 | 44 | 4 | 44 | 1 | 11 | 5 | 56 | 9 | |
| | Overall | 3 | 16 | 3 | 16 | - | - | 6 | 32 | 11 | 58 | 2 | 11 | 13 | 68 | 19 | |
| 2014 | African | - | - | 1 | 8 | - | - | 1 | 8 | 9 | 75 | 2 | 17 | 11 | 92 | 12 | |
| | White | 1 | 8 | 1 | 8 | - | - | 2 | 15 | 6 | 46 | 5 | 38 | 11 | 85 | 13 | |
| | Overall | 1 | 4 | 2 | 8 | - | - | 3 | 12 | 15 | 60 | 7 | 28 | 22 | 88 | 25 | |
| 2015 | African | - | - | - | - | - | - | - | - | 15 | 88 | 2 | 12 | 17 | 100 | 17 | |
| | White | 1 | 3 | - | - | - | - | 1 | 3 | 23 | 77 | 5 | 17 | 28 | 93 | 30 | |
| | Overall | 1 | 2 | - | - | - | - | 1 | 2 | 38 | 81 | 7 | 15 | 45 | 96 | 47 | |

The results in Table 4 are cause for concern and show that African distance LLB students performed much worse than their White counterparts. For example, only 2 (20%) of the 2013 distance African cohort graduated within six years, while 4 (44%) of the distance White cohort graduated in the same period. There is a steady increase in the distance LLB drop-out rates from 2013 (70%) to 2015 (88%) among African students. The White cohort exhibits a similar trend.

Table 5 shows a much better picture for both African and White contact tuition students. Of the 2013 African cohort of contact LLB students, 37% graduated within six years, while 64% of White cohort graduated in the same period. The drop-out rate for African contact cohorts decreased from 55% in 2013 to 40% in 2015. Compare this to the White cohort drop-out figures of 36% (2013 and 2015) and 37% (2014). It is evident that overall, the drop-out rates for African students are far more than those of their White counterparts. The overall high number of students dropping out remains a serious concern.

⁵⁵ Coloured and Asian students were not included in this table because of limited enrolment and graduation numbers.

Table 5: Cohort tracking of contact LLB according to race⁵⁶

| Cohort | Distribution according to race | Students who graduated within 4 (minimum) to 6 years (maximum) years | | | | | | | | Students who have not yet graduated | | | | | | Total (n) | |
|--------|--------------------------------|--|----|---------|----|---------|---|----------|----|-------------------------------------|----|------------|----|----------|----|-----------|--|
| | | 4 years | | 5 years | | 6 years | | Subtotal | | Dropped out | | Registered | | Subtotal | | | |
| | | n | % | n | % | n | % | n | % | n | % | n | % | N | % | | |
| 2013 | African | 10 | 26 | 3 | 8 | 1 | 3 | 14 | 37 | 21 | 55 | 3 | 8 | 24 | 63 | 38 | |
| | White | 15 | 54 | 2 | 7 | 1 | 4 | 18 | 64 | 10 | 36 | - | 0 | 10 | 36 | 28 | |
| | Overall | 25 | 38 | 5 | 8 | 2 | 3 | 32 | 48 | 31 | 47 | 3 | 5 | 34 | 52 | 66 | |
| 2014 | African | 12 | 26 | 9 | 20 | - | - | 21 | 46 | 21 | 46 | 4 | 9 | 25 | 54 | 46 | |
| | White | 18 | 44 | 3 | 7 | - | - | 21 | 51 | 15 | 37 | 5 | 12 | 20 | 49 | 41 | |
| | Overall | 30 | 34 | 12 | 14 | - | - | 42 | 48 | 36 | 41 | 9 | 10 | 45 | 52 | 87 | |
| 2015 | African | 10 | 21 | - | - | - | - | 10 | 21 | 19 | 40 | 19 | 40 | 38 | 79 | 48 | |
| | White | 14 | 33 | - | - | - | - | 14 | 33 | 15 | 35 | 14 | 33 | 29 | 67 | 43 | |
| | Overall | 24 | 26 | - | - | - | - | 24 | 26 | 34 | 37 | 33 | 36 | 67 | 74 | 91 | |

It is clear from Tables 4 and 5 that contact LLB students performed much better than distance students. Overall, 48% of the 2014 contact cohort graduated within five⁵⁷ years, while only 12% of the distance LLB cohort graduated during the same period. The highest overall drop-out rate of 81% was calculated for the 2015 distance LLB cohort, while 37% of the same contact LLB cohort terminated their studies.

The most recent audited data available on the Higher Education Management Information System (HEMIS) for cohort studies shows that 51% of the 2013 cohort of contact LLB students in South Africa graduated within six years and that 49% of these students dropped out.⁵⁸ The percentage of UFS contact LLB students who graduated within six years do not compare favourably with these statistics. The cohort studies for UFS distance LLB students paint an even grimmer picture. It is alarming to note that the drop-out rate for the 2015 cohort can increase even more when one considers that some of the registered students at the end of 2018 can potentially terminate their studies in 2019 and 2020.⁵⁹ Several reasons can contribute to student drop-out rates. In the researchers' experience, socio-economic conditions, family responsibilities, the adjustment between the school environment and the unfamiliar higher education context, academic

⁵⁶ Due to rounding of numbers, the subtotal of students who graduated and the subtotal of students who have as yet not graduated may not always total 100%.

⁵⁷ The 2014 cohort still has one residential year within which to graduate within the prescribed maximum time.

⁵⁸ CHE *VitalStats, Public Higher Education, 2018* 75.

⁵⁹ CHE *Distance Higher Education Programmes* 66.

performance, wrong study paths, family responsibility, financial concerns, and mental health issues are definite causes for dropouts. The conclusion is that all higher education institutions should ideally aim and identify and address specific reasons for dropouts, especially where institutional support systems can enhance student success.

The evaluation above revealed that the distance LLB did not perform well in terms of student success. Students enrolled for the contact LLB consistently performed better than distance LLB students in terms of students' success, graduation and drop-out rates. Furthermore, when compared to their White counterparts, African distance students obtained lower student success rates, took longer to graduate, and reported higher drop-out rates.

What can be gleaned from the above conclusion in the case study is that broadening access is not simply a matter of offering a contact tuition programme through distance tuition. The results in this case study show that online offering is but one aspect of broadening access. It is often through the contact tuition programme that access is more optimally broadened.

When contemplating whether to start offering a programme both as contact and distance modes of tuition, the decision should be informed by two possible scenarios. First, the option that contact tuition could be the more effective measure to increase access. Secondly, estimate the best-case scenario of how distance tuition could potentially broaden access. These two scenarios should then be weighed against each other, taking into account all the other considerations discussed in this case study.

Often broadening access alone does not simultaneously reduce the achievement gap between students from different demographic groups and improve student success. The same considerations noted above apply to reducing the achievement gap and improving student success rates. The potential of increased support for and expanding an existing contact tuition programme could prove more efficient in achieving these objectives, compared to the prospect of a distance tuition programme to do so. Embarking on offering an existing contact tuition programme through distance tuition is a complicated and resource-intensive project with a multitude of considerations applicable in both planning and executing such an offering successfully. In a time of limited resources, decisions should be informed by the efficient use of the available means to benefit the most stakeholders.

3.3 Quality delivery

The objectives of broadening access to higher education and a concomitant reasonable chance of success is not realisable without ensuring quality delivery of distance tuition. From the UFS distance LLB perspective, successful distance tuition is not free of challenges. This section explores quality concerns relevant to teaching and learning, administrative and technical support, physical resources, and accurate registration data. Higher education institutions intending to offer an existing contact programme through distance tuition should consider these quality deliverables in their decision.

3.3.1 Teaching and learning

Distance tuition programmes should be distinguishable from the full-time contact programme in terms of assessments, learning tools, tuition fees and the "type" of student the programme seeks to assist. The HEQC reached this conclusion in their report on the National Review of the LLB Programme. As with all institutions of higher learning, human resource constraints are a reality. Ideally, an institution should deploy subject specialists who also specialise in distance, online or e-learning to deliver the online distance learning courses. The subject specialists should preferably be assisted and supported by experts in learning material design and media production, tutors, counsellors, research assistants, and assessors.⁶⁰ Unfortunately, this is not always possible. In the Faculty, the same lecturer responsible for teaching a course in the contact programme also teaches the course for the distance learning students. This lecturer is also responsible for the design of the course, material, recording, tutoring – in reality, the tasks of the lecturer, tutors, and learning resource developer.⁶¹

In essence, lecturers had to adopt a different pedagogical approach for effective e-learning and distance tuition.⁶² This was a challenge for lecturers and required additional training, a re-conceptualisation of teaching strategies and style⁶³ and a higher workload, which can be summarised as follows:

⁶⁰ These are examples from the list provided by the CHE. See CHE *Distance Higher Education Programmes* 66.

⁶¹ CHE *Distance Higher Education Programmes* 66.

⁶² Johnson 1997 *Alb LJ Sci & Tech* 241-242.

⁶³ Beck-Dudley 1994 *JLSE* 123.

- Lecturers had to attend additional training on effective distance teaching and learning, especially in the fast-developing digital context.⁶⁴ Such training had to deal with a variety of aspects of implementing a distance tuition programme, especially course design and delivery,⁶⁵ development of materials,⁶⁶ effective communication, and determining the levels of students' performance and success in a specific course.⁶⁷ There are many training options available, for example, enrolling staff for full-time or part-time courses at institutions specialising in this, or a Postgraduate Diploma in Higher Education Studies.⁶⁸ Selecting the appropriate training for lecturers in an institution that teaches both contact and distance students, requires sensitivity and careful selection of the specific types of training. Most academic members of staff at the Faculty are accustomed to teaching contact students. However, due to lack of capacity, it was in most instances not feasible to send lecturers on training courses or enrolling them to study towards a Postgraduate Diploma in Higher Education Studies.⁶⁹ In the Faculty, choices were limited to either on-the-job training or short courses offered by the UFS.⁷⁰
- In most instances, distance tuition required a complete redesign of the course initially designed for contact students.⁷¹ Ideally, academics specialising in distance e-learning development should lead this task. However, this luxury was not available to lecturers in the Faculty. Following the National Review of the LLB Programme, the Faculty could not continue using the same study guides for contact and distance tuition students. Lecturers had to develop alternative, interactive online study guides for distance students.

Consequently, lecturers embarked on designing e-guides which disseminate information in a logical, sequential order that guides students through the content and assessments in the sequence prescribed by the facilitator. Lecturers, therefore, structured the content of the work in such a way that it required students to complete specific readings, assessments, assignments and activities before

⁶⁴ CHE *Distance Higher Education Programmes* 67; 36-47.

⁶⁵ CHE *Distance Higher Education Programmes* 24-28.

⁶⁶ CHE *Distance Higher Education Programmes* 28.

⁶⁷ Johnson 1997 *Alb LJ Sci & Tech* 218-220; Nelson 1998 *JCJE* 336; WGDLLE *Distance Learning in Legal Education* 33-39.

⁶⁸ CHE *Distance Higher Education Programmes* 67.

⁶⁹ CHE *Distance Higher Education Programmes* 67.

⁷⁰ At the UFS, these courses are offered by the Centre for Teaching and Learning.

⁷¹ Beck-Dudley 1994 *JLSE* 126.

they are allowed to proceed to the next learning unit. Alternatively, lecturers could allow students to explore the content in any order and at their own pace.

It is essential to incorporate various activities into the distance learning course that will guide students through the course, ensure deeper engagement with the academic content, and prepare them for assessments. Consequently, lecturers incorporate Blackboard activities (e.g., wikis, blogs, journals, discussion boards) into the different distance tuition courses to optimise student engagement.⁷² They also provided formatted text, files, weblinks, discussion topics, assignments, tests and quizzes in the e-guide. The selection of activities had to relate to the learning outcomes of the course and had to build comprehension, critical thinking, problem-solving and writing skills.⁷³ The value of creating such an e-guide lies in the ability to integrate related content and activities to provide a rich, interactive learning experience for students.

The interactive e-guides were well received by students who were generally very positive about the new learning material developed by some lecturers. However, the design of e-guides and planning of the course required expert knowledge and adequate support from the course and instructional designers. Furthermore, due to the very technical nature of the process, it required lecturers to receive training in developing such e-guides. Although these additional activities were essential to keep students engaged and to make them feel connected to their lecturers and fellow students, it required additional training and careful planning on the part of lecturing staff.

- Blackboard activities also had to serve and advance the assessment strategy for the different courses.⁷⁴ Lecturers required training on the different types of assessment⁷⁵ and a vast number of new and alternative assessment tools had to be incorporated to assess and provide appropriate feedback to distance students.⁷⁶ Consequently, lecturers had to prepare tests and assignments specifically for distance students. It was also desirable to do more regular formative

⁷² CHE *Distance Higher Education Programmes* 48.

⁷³ CHE *Distance Higher Education Programmes* 48.

⁷⁴ CHE *Distance Higher Education Programmes* 48.

⁷⁵ CHE *Distance Higher Education Programmes* 48-59.

⁷⁶ Johnson 1997 Alb LJ Sci & Tech 218-220; WGDLLE *Distance Learning in Legal Education* 33-39.

assessments with distance LLB students when compared to their contact counterparts. More frequent assessment assists with regular monitoring of students' performance, improves student learning, and potentially result in more substantive interaction with students.⁷⁷ Distance students had to complete all assignments online, which placed an additional administrative burden on them in terms of having to upload, retrieve and mark Blackboard assessments. The above reduced lecturers' time available for contact students, community engagement and research.

- Due to the geographical distance of these students and the likelihood that they may feel isolated in their learning, the quality and level of individual feedback on formative assessments to these students are critical. It is also ideal if the feedback succeeds in creating a collaborative learning environment. The quality of feedback contributes to students' collaborative engagement and provides a measure of students' progress in reaching the learning outcomes of individual courses. However, this proved quite challenging to lecturers who were more accustomed to the traditional physical lecturing environment. Staff members required training to optimise student feedback.
- Some lecturers felt restricted in terms of the prescribed material that students had to consult to complete, for example, written assignments. Distance students do not always have access to books, but only to electronic resources. A lack of access to books complicated the design of assessments which require students to do more extensive research.
- By far, the most challenging aspect of the academic support of the distance students was the electronic and telephonic consultations that are required. Although lecturers encourage students to keep regular contact, lecturers complained about a lack of communication from students.
- The discussion above touched on the labour- and time-intensive nature of course development, the design of course material and activities, and assessments for an online distance learning environment. Concluding partnerships and collaborations for distance tuition with other institutions could ameliorate this.⁷⁸ These

⁷⁷ WGDLLE *Distance Learning in Legal Education* 34.

⁷⁸ CHE *Distance Higher Education Programmes* 60-61. The 1997 Education White Paper 3: A Programme for the Transformation of Higher Education promoted the

partnerships and collaborations can also contribute to the cost-effective delivery of the distance tuition programme. Cost-efficiency is the driver behind entering into these kinds of partnerships and collaborations.⁷⁹ Collaborations or partnerships can be concluded for several activities, for example, sharing developed courses and developing new courses in partnership. The Faculty did not enter into any partnerships or collaborate with any institution for these activities, which could probably have saved time and costs.

- As is the case with contact students, distance students should have the opportunity to comment on the delivery of the course, the lecturer and learning material. Course evaluations required distance students to complete a structured questionnaire and to make general comments, suggest improvements and raise points of criticism.⁸⁰ This process provides lecturers with feedback on students' experiences of the quality of the relevant course and is part of the cycle of review of the programme. For this purpose, both contact and distance students completed course evaluations through an online questionnaire.
- The Faculty values student feedback. For example, in response to distance students' request for more inclusivity, the Faculty implemented a system of appointing one student per course as a class representative. Students registered in a course elect the class representative through an online voting process. Other general comments received from distance tuition learners related to the audio recordings of lectures. Students generally found this very helpful in their preparations, but often complained when lecturers lagged in uploading the recording. The Programme Director would discuss this, or similar complaints, with the relevant lecturer.

3.3.2 Administrative support

Sufficient administrative support for distance tuition programmes is essential. Any institution that plans to deliver a distance tuition programme will have to decide at the outset how the administration of the programme

⁷⁹ "development of a national network of centres of innovation in course design and development, as this would enable the development and franchising of well-designed, quality and cost-effective learning resources and courses, building on the expertise and experience of top-quality scholars and educators in different parts of the country". Item 2.61 in GN 1196 in GG 18207 of 15 August 1997.

⁸⁰ CHE *Distance Higher Education Programmes* 60.

⁸⁰ CHE *Distance Higher Education Programmes* 69; 73.

will function.⁸¹ For instance, will the administrative office be situated in the specific Faculty? Will the administrative tasks be absorbed by the current administration or will a dedicated office be established to deal only with distance tuition programme administration? The Faculty established a separate distance tuition administration office with two staff members. The administrative office's specific tasks are to deal with student advising and registration, examination and marks administration, and the various administrative queries. The administrative office also must coordinate the academic calendar specific for distance tuition online programme and is, generally, distance students' first port of call for all study-related questions.

As stated before, due to the geographical distance between the student and the UFS campus, students quickly feel isolated or disengaged from the university. The distance tuition administrative office plays a vital role in countering this. It does, however, mean that they handle numerous individual queries dealing with varied issues. Contact students, in most instances, go directly to the Faculty's administrative offices about a specific issue. However, distance students do not have this option and depend on the distance tuition administrative office. Individual responses add strain to the workload of these staff members. Providing quality student support for distant students, therefore, requires substantial investment in administrative support. The Policy for the Provision of Distance Education in South African Universities in the Context of an Integrated Post-School System also emphasises that organisations contemplating implementing a distance programme will have to carefully consider this in their planning stages, keeping in mind that staff must also be trained to provide support in this specific environment.⁸² The Faculty's distance tuition administrative office staff made it clear during the national review of the LLB the office was administratively understaffed. The researchers' experience indicated that distance tuition programmes require a lower staff to student ratio than contact tuition programmes. Allowance for the appointment of additional administrative staff and the associated costs must be made when the financial viability of a distance tuition programme is considered.

3.3.3 Technical support

The Policy for the Provision of Distance Education in South African Universities in the Context of an Integrated Post-School System⁸³

⁸¹ Nelson 1998 JCJE 336.

⁸² Item 2.60 in GN 535 in GG 37811 of 7 July 2014.

⁸³ GN 535 in GG 37811 of 7 July 2014.

acknowledges the growing impact of ICT on the delivery of distance tuition. However, it cautions higher education institutions to be mindful of the reality of internet provision that is only available in urban areas and negatively affects access to and readiness of remote students for ICT. To afford students a reasonable chance of success, all programmes need to incorporate foundational knowledge and skills in ICT, numeracy and literacy in their curricula.⁸⁴

Offering distance programmes with its technologically driven mode of delivery required adequate technical support for both staff and students to deal with issues as they arise. It is critical for the successful offering of a distance tuition programme in the 21st century.⁸⁵ However, at a traditionally residential university, an ICT division is usually geared to provide support only to contact students on the specific geographical campus. Adequate technical support was especially important for the assessment model the Faculty wished to implement in the distance delivery of the LLB. Assessments for campus-based students in the Faculty are mostly scheduled during the daytime and are for the most part paper-based, that is, traditional test papers written in a test venue under supervision. Very little technical support is required and is only necessary for assessments in the form of assignments that students submit on Blackboard. The profile of distance learning students – fulltime employed with limited time during the day to participate in assessments – necessitated the after-hours scheduling of assessments. These assessments are facilitated through Blackboard. Considering that the formative assessments contribute to the students' semester marks, support available before, during, and after the assessment was critical. It posed specific challenges for the ICT division. Because the Faculty of Law is the only Faculty on the UFS campus to offer distance tuition, UFS ICT was not able to commit unlimited resources to after-hours support for students. It resulted in situations where inadequate support was available during crucial assessment times, causing both student and lecturer frustration. Without adequate technical support for both students and academic staff, a distance tuition programme cannot be successfully implemented.⁸⁶ It is therefore critical to carefully consider this aspect of service and support, within the context of the specific institution, before embarking on developing distance tuition programmes.⁸⁷

⁸⁴ Item 5.3.1 in GN 535 in GG 37811 of 7 July 2014.

⁸⁵ Johnson 1997 *Alb LJ Sci & Tech* 230, 244; Nelson 1998 *JCJE* 336.

⁸⁶ Nelson 1998 *JCJE* 336.

⁸⁷ CHE *Distance Higher Education Programmes* 7.

In our day-to-day interactions and conversations with the Faculty's learning designer, it became clear that his team spent most of its time supporting off-campus LLB courses. This overshadowed the support required by contact LLB students in terms of innovative curriculum design, content deployment, formative quizzes, blogs, and wikis. It did not make sense to spend most of one's time on approximately 200 students, while one neglects the support of roughly 3 000 contact students. Consequently, this severely impacted on the blended approach to teaching and learning that the UFS has adopted. Furthermore, the Director of the Centre for Teaching and Learning made it clear that, due to financial constraints, he could not afford to appoint more members of staff to assist the Faculty in furthering the blended approach to teaching and learning.

3.3.4 Physical resources

Considering that the UFS experiences a dire need for additional lecturing rooms, especially courses with a high number of registered students, a considerable advantage of distance tuition is that it has minimal impact on the existing physical resources of the UFS. Despite this advantage, growth in lecturing staff should accompany an increase in the number of distance learning students. Should additional academic members of staff be employed, additional office space would be required. However, the Faculty lacked office space for such academics.

3.3.5 Accurate registration as distance LLB students

One of the biggest operational challenges experienced was to ensure that student enrolment data is a true reflection of the real-life situation. If students do not register accurately,⁸⁸ or if data does not distinguish between contact and distance students, no valid conclusion regarding broadened access and student success was possible. Students should not be able to fluidly migrate between the two modes of delivery. Inaccurate data and student migration between the two modes of tuition could also raise serious questions about the actual market for the distance programme and its future viability.

⁸⁸ This means that contact students must register only for contact courses, and distance students must only register for distance course.

An investigation of student enrolment numbers showed that some contact LLB students registered for both contact and distance LLB courses.⁸⁹ Informal feedback from students indicated that this was, for example, the case when students experienced a clash between two courses on their timetables. Other examples include students who failed the course previously and then decided to register for the distance LLB course instead of the contact tuition course. Similarly, although registered as a distance student, some distance LLB students attended contact lectures, thereby reaping the benefits of the contact tuition programme. Furthermore, some of the contact LLB students migrated from being contact tuition students in a previous year to distance LLB students in the next year.⁹⁰

Both administrative and institutional ICT support is critical in managing the separate enrolment of distance and contact students. Incorrect registration poses serious implications for student performance and university funding model.

It is evident from the discussion above that the delivery of the distance LLB posed a range of quality delivery issues in terms of teaching and learning, administrative support, technical support, physical resources, and accurate registration of distance LLB students. Furthermore, some of these issues had significant implications in the delivery of the contact LLB. These are equally relevant to offering any programme through distance tuition. Therefore, the implications and issues considered above should apply to other higher education institutions, faculties, or departments.

3.4 *Financial implications*

Quality delivery furthermore could pose financial challenges for the higher education institution. This section discusses the financial implications of the distance LLB specifically relating to the University funding model and the additional remuneration payable to lecturing staff. The financial implications of the additional administrative staff were addressed in section 3.3.2 above.

⁸⁹ In order to address this problem, distance LLB students, for purposes of this study, represent only those students whose first registrations at the UFS were as distance LLB students and who remained registered as distance LLB students in their senior years of registration.

⁹⁰ In order to address this problem, distance LLB students, for purposes of this study, represent only those students whose first registrations at the UFS were as distance LLB students and who remained registered as distance LLB students in their senior years of registration.

3.4.1 Funding

The teaching input grant that the university receives from the Department of Higher Education and Training (hereafter the DHET) depends primarily on registered FTE numbers.⁹¹ It is clear from Table 6 that the average FTE per contact LLB student from 2014 to 2018 was consistently higher than those calculated for the distance LLB. For example, in 2016, the average senior contact LLB student registered 15 FTEs more than their distant LLB counterparts. It implies that the UFS will, on average, receive more funding from a contact than a distance LLB student.

Table 6: Average FTEs per registered senior student

| Years | Distance LLB | | | Contact LLB | | | FTE difference |
|-------|-----------------------------|-------------------------|-------------------------|-----------------------------|-------------------------|-------------------------|----------------|
| | Total FTE enrolment numbers | Total enrolment numbers | Average FTE per student | Total FTE enrolment numbers | Total enrolment numbers | Average FTE per student | |
| 2014 | 44 | 52 | 0,85 | 323 | 356 | 0,91 | 0,06 |
| 2015 | 69 | 83 | 0,83 | 346 | 366 | 0,94 | 0,11 |
| 2016 | 82 | 100 | 0,82 | 354 | 363 | 0,98 | 0,15 |
| 2017 | 142 | 150 | 0,96 | 391 | 400 | 0,98 | 0,03 |
| 2018 | 146 | 156 | 0,94 | 431 | 443 | 0,97 | 0,03 |

One furthermore needs to take into account that, when calculating the teaching input grant, a weighting factor of 1 applies to the total enrolled FTEs for LLB contact students, while the weighting factor for distance LLB students is 0.5.⁹² The input teaching grant for distance students will,

⁹¹ One of the elements that government funding is based on, is block grants (Item 2.1 in GN 1791 in GG 25824 of 9 December 2003). Block grants consist of four sub-categories, one of which is teaching input grants (Item 3). The teaching input grant depends on total student enrolments. Student enrolments are not a headcount of the number of students but by enrolled totals of full-time equivalent (FTE) students (Item 3.3.1). FTE student enrolment is therefore critical in the funding received by an HEIs. The 2017 Statistics on Post-School Education and Training in South Africa notes that FTE student enrolments are calculated "(a) by assigning to each course a fraction representing the weighting it has in the curriculum of a qualification, and (b) by multiplying the headcount enrolment of that course by this fraction" (DHET *Statistics on Post-School Education and Training in SA: 2017* 88). The full weight of the courses in each of four years of the LLB therefore adds up to 1 FTE. Consequently, a student needs to be registered for all the courses in a specific year of study (full curriculum year) to generate one FTE.

⁹² DHET 2018 <http://www.dhet.gov.za/SiteAssets/18%2012%2007%20Ministerial%20Statement.pdf> 8.

therefore, be 50% less than the grant for the same number of contact FTEs.⁹³ As demonstrated in section 3.3.1 above, this does not correlate with the fact that distance programmes require the same amount of work and time as contact programmes, but does not generate the same income. It seems that the teaching input grant funding for distance students is based on a dated notion that distance tuition assumes delivery via print-based correspondence. Improving the quality of distance tuition and cohort throughput require significant funding. Distance education nowadays requires, for example, blended forms of learning, additional costs associated with learning resource development, licencing costs for learning management system (e.g., Blackboard) as well as student support.

3.4.2 Additional remuneration

The potential financial implications for additional administrative staff were discussed above.⁹⁴ Considering academic members of staff's continuous concerns that the distance LLB requires additional duties to their typical workloads, they received an allowance for services rendered on a semester basis. To qualify for such an allowance, the Faculty had to provide evidence to the Executive Committee of Senate that the workload of its academic members of staff, excluding distance tuition responsibilities, met or exceeded the standard work-loading norms of the UFS model. Almost all academics met or exceeded these norms, which gave way to the payment of the distance tuition allowances. The allowances did not keep track of inflation. It also seemed that the allowances were no longer reasonable when considering the additional time and energy that a distance tuition programme require.

The work-loading model suggested that academic staff were unable to devote sufficient attention to the distance students to conduct a larger-scale distance tuition component. Consequently, the Faculty seriously had to consider employing additional academic members of staff who would be solely responsible for distance tuition, which would imply significantly higher labour costs for the Faculty.

Before introducing a distance tuition programme, higher education institutions need to determine the financial viability of offering such a programme. The financial implications outlined in the case study would be

⁹³ There are four funding groups. Qualifications in s education, law, psychology, public administration and services are funded at the lowest funding level, namely 1.

⁹⁴ Para 3.3.2.

equally relevant considerations for all higher education institutions, faculties, or departments. Embarking on such an offering has severe financial implications for higher education institutions. Considering the additional expenses and the lower funding for distance tuition programmes, increasing the intake of contact tuition students may be financially more viable and could also more effectively broaden access, reduce the achievement gap and contribute to student success.

4 Conclusion

Issues relating to broadening student access, low success and graduation rates and high student drop-out numbers have long dominated the South African higher education landscape. The discussion of the distance tuition policy framework showed that distance learning shows significant potential in broadening access to students previously excluded from opportunities in higher education. These policies highlight the vital role that higher education and distance tuition can play in the economic, political and cultural reconstruction of South Africa.

Despite the noble aspirations of the policy framework, the case study shows that the Faculty's distance LLB had limited success in realising broader access and ensuring student success. Although the programme achieved broader access to a more diverse student body, prominent differences exist between the academic success of African and White students. African contact and distant tuition LLB students reported much lower completion rates than their White counterparts. Although the distance LLB succeeded in improving student access for previously disadvantaged groups, significant racial inequalities in completion rates and high drop-out rates were calculated for distance African students. The impact of this is more far-reaching than merely student success rates. Unfortunately, the distance LLB fails to contribute to the progressive realisation of the constitutional values of transformation and does not make a meaningful contribution to the constitutional imperatives of equity, social justice, and social change.

Although the potential impact of the distance LLB on achieving broadened access cannot be dismissed, the advantages must be weighed against the unsatisfying student success and quality delivery concerns raised in the case study. Any residential higher education institution intending to offer a distance tuition programme must consider, among others, the challenges relating to teaching and learning, administrative and technical support, physical resources, and student registrations.

In conclusion, the study showed that it is not advisable to simply duplicate an existing contact tuition programme and offer it as a distance programme. From a teaching and learning perspective, a distinct pedagogical approach must be followed. Presenting distance LLB requires training, redesign of material, and rethinking assessment policies. A residential faculty cannot embark on distance tuition without the commitment of university management. Distance tuition has a significant influence on the workload of academics. Considerable staff commitment is required to support distance students. If external assistance is not provided or staff complement not expanded, reduced research productivity and less community engagement are likely. Traditional residential universities intending to offer a distance LLB need to weigh the potential advantages against not only the labour-intensive nature of distance tuition but also the limited student success experienced.

The funding model for distance tuition remains challenging and is financially unfeasible and unsustainable for many higher education institutions. Rethinking the funding model would go far in achieving the objectives set out in the distance tuition policy framework.

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List of Abbreviations

| | |
|--------------------|---|
| Alb LJ Sci & Tech | Albany Law Journal of Science Technology |
| CHE | Council on Higher Education |
| DHET | Department of Higher Education and Training |
| FTE | full-time equivalent |
| HEMIS | Higher Education Management Information System |
| HEQC | Higher Education Quality Committee |
| ICT | Information and Communication Technology |
| JCJE | Journal of Criminal Justice Education |
| JLSE | Journal of Legal Studies Education |
| LLB | Bachelor of Laws |
| LSSA | Law Society of South Africa |
| NCHE | National Commission on Higher Education |
| NQF | National Qualifications Framework |
| Seton Hall Legis J | Seton Hall Legislative Journal |
| UFS | University of the Free State |
| Unisa | University of South Africa |
| WGDLLE | Working Group on Distance Learning in Legal Education |