

Up close and personal – creating a simulated client experience for first year law students

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This nuts and bolts session explains the design, purpose and impact of an innovative practicum using a ‘simulated client’ in a dispute resolution context. The practicum has been developed by the first year teaching team to focus on the development of relevant communication skills. It is a key element in the application of curriculum principles to a foundation law course to support first year law students in transition. The design of this practicum allows “hot learning” by providing students with a realistic preview of their potential future professional roles. Action learning is combined with curriculum and reflective processes to allow a supported exploration of notions of professional capability while scaffolding the development of legal writing and oral communication skills. The session will use film clips with audience participation in tasks to demonstrate the range of experiential learning opportunities created by the practicum.

Introduction:

The organising framework for the practicum is the lawyer-client relationship. The current theme of the practicum is based on the resolution of a sexual harassment dispute. The exercise involves introducing students to the lawyer-client relationship using a number of different mediums including film clips, role play exercises and the observation of live interviews at the University Legal Centre. This paper and the nuts and bolts session will focus on the use of film clips to create a simulated “client” experience for students.

The key theme of the practicum has evolved over a number of years to incorporate curriculum changes and first year transition strategies. The authors acknowledge the contribution of Kate Lindsay, the first year teaching team leader who is responsible not only for the overarching vision for the foundation law course but also for the design of the current theme and supporting learning activities. The authors also acknowledge the contributions of Carol Abela who introduced the first practicum based on a “crash and bash” incident almost 15 years ago, and Nicola Ross who has scripted, directed and produced a library of 24 different “client” film clips for both criminal matters and sexual harassment disputes in the past 8 years.

The learning activities in the practicum are designed to promote academic success by providing students with a range of opportunities to develop in each of the five senses (Lizzio, 2006) at the very beginning of their academic program:

Purpose: Through a range of interconnected tasks and multi-method teaching approaches students are provided with the opportunity not only to preview their future professional roles, but to critically reflect on their perceptions of the modern lawyer. This provides them with an

early opportunity to consider the relevance not only of this activity and course, but of their choice of degree and profession.

Connectedness: Students are introduced to the University's Legal Centre and to 4th year law students who act as peer mentors through an observation and reflection activity. Students sit with, observe and reflect on their mentors' real client interview at the Legal Centre, then observe the solicitor advising the client. This activity supports their work with the simulated client and powerfully increases their identification and affiliation with the Newcastle Law School.

Capability: The practicum builds confidence by scaffolding and integrating assessment tasks such as interviewing, letter writing, and keeping a client file to support the development of legal communication skills. At the same time it allows students to explore notions of professional capability in a supported learning environment. Even simple tasks like how to design the client file support transition by promoting independent and collaborative learning.

Resourcefulness: The practicum fosters resourcefulness by encouraging students to utilise different sources of information and assistance to complete their tasks. Roles, procedures and resources are clearly explained. Students have access to support from the team of first year teachers and opportunity in the classroom to engage in peer to peer learning. At the same time they are encouraged to be independent learners by meeting a number of assessment task deadlines that impact on outcomes for other student participants.

Academic Culture: The practicum now emphasises conciliation and negotiation models in preference to traditional competitive, isolating and adversarial models of learning which may be partly responsible for the high levels of psychological distress amongst law students in their first year.(Field and Kift,2010) The practicum provides an early opportunity for students to connect with a new model of lawyering that values interpersonal skills and collaboration and will continue to inform their approaches to the study of law and their working relationships with staff and other students. (Wilson, 2009)

Design of the practicum

Each year a team member is involved in the direction and production of film clips where actors portray either a respondent or claimant client in a number of separate sexual harassment disputes. Students in each seminar group of approximately 25 students are paired to support either a complainant or respondent in one of the disputes. Each student is allocated a client of the same gender. Initially students receive an office memo with their client's name. They then 'meet' their client by watching the first of three separate film clips of their simulated client on Blackboard (the University's web based learning environment).

Students are introduced to their simulated client in the first clip. In the second clip they watch and listen as their simulated clients provide the information necessary to complete a complaint form (complainant) or write a written response to the complaint (respondent). Students are required to record a file note of the interview. If they are acting for the complainant they need to consider the legal issue of choice of jurisdiction and visit the appropriate State or Federal government website to download a complaint form. If they are acting for a respondent they need to draft a letter on behalf of their client, responding to the

allegations in the complaint. Students follow a comprehensive timetable in order to meet deadlines and ensure that their 'complaint' or 'written response' is posted in time for it to be forwarded to the other client or responded to by the Anti-Discrimination Board (ADB) or Human Rights Commission (HRC).

The third and final clip is the same for students who have been allocated the complainant and the respondent. In this clip the simulated claimant and respondent clients meet with a conciliator (academic). The clip is a simulated performance of a conciliation of the complaint and outlines the terms of an agreement reached by the two clients. Students are required to transpose these terms into a record of agreement.

Critical to the scaffolding of skill development is the use in seminars of an exemplar in the form of a model sexual harassment matter. The seminar group watches a clip of the progress of a complaint of sexual harassment by Teena Spot, an 18 year old employee, against her boss, Stuart Jones. They follow this through to the conciliation of the dispute –which is performed live, in front of the students. They are required to reflect on this conciliation and the role of the modern lawyer in resolving disputes.

The practicum delivers a deep learning experience for students but it does have resource implications. The production of film clips for the simulated clients require scripting for individual problem scenarios, paid actors, (an agency is helpful), a suitable location for filming and some knowledge of filming, editing and using Blackboard to upload the clips. External technical support has been an essential element of developing the film clips. The film clips are added to a client 'library' which allows new and different clients to be allocated to students each year.

Impact on student learning

The practicum uses mixed methods that appeal to a variety of learning styles to scaffold the development of communication skills – these include client simulations on Blackboard, visits to observe real client interviews between later year students, lawyers and clients at the Newcastle University Legal Centre, observing a live role play of a conciliation conference, seminar discussions, role plays and written reflections.

One of the main strengths of this practicum is that it provides students with an opportunity to experience firsthand the unpredictable nature of the lawyer-client relationship. It allows them the space to safely explore the ethical and personal dilemmas that may confront them as future professionals in a classroom environment supported by reflective processes and curriculum. (Wolski, 2009)

The assessment of the practicum has two components:

- The completed client file including copies of file notes, letters to client, completed forms or written responses to complaint, copies of correspondence received from the ADB or HRC and the record of agreement.
- A written reflection on the practicum, including the Newcastle Legal Centre observation of a real client interview and reflection on the live conciliation.

The assessment is designed to be achievable and provide students with reasonable expectations of success. (Wolski, 2009)

The client file provides students with concrete evidence of their constructed knowledge from the combined processes of observing, reflecting, researching and writing. (Nees, Willey and Mansfield, 2010). Like a potter who has successfully thrown their first pot, the completion of the file allows students to experience a sense of achievement and confidence in their ability to master a legal task.

The written reflections are an invaluable two-way learning tool for both students and teachers. The articulation of their reflection requires students to develop their abilities to adaptively and robustly learn from experience (Wilson and Lizzio, 2004). The teachers can use the reflections to map their students' first year experience and monitor the usefulness of transition strategies embedded in the course.

Outline of workshop session:

Film Clip: (5mins) Workshop participants meet their "client" by watching a brief film clip of a simulated client who is complaining that he/she has been sexually harassed and is seeking legal advice.

Facilitators: (5 mins) A brief description of the design of the practicum and the sequencing of activities leading to the conciliation

Film Clip: (10 mins) Workshop participants watch a film clip of a simulated conciliation of the sexual harassment dispute involving their "client".

Activity: (5 mins) Workshop participants are asked to write up the terms of the agreement reached at the conciliation

Discussion: (5 mins) Request feedback from the group on the exercise and reflections on opportunities for learning. They will also be directed to information and resources regarding the development of a similar practicum in their own disciplines.

References

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