

The assessment of clinical legal education: an illustration

L Lundy

29 Law Teacher 3, 1995, pp 311-321

[See Clinical Legal Education]

CAREER PATHS

[no material in this edition]

CLINICAL LEGAL EDUCATION

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Clinical programs involving live case work continue to be rare in the UK. One difficulty is that law teachers are still wary of the method, dissuaded by the practical obstacles which they anticipate, particularly the assessment of live case work. The most persuasive argument for assessing case work is that the assessment process itself is a means for maximising the educational value of the experience. The difficulties in assessing case work are that case work contains a different set of skills to those normally examined in the law degree, much of the work occurs outside the traditional classroom and the work is subject to the client's wishes and the vagaries of the legal process, being thereby outside the institution's control.

The article gives an account of the clinical course offered at Queen's University, Belfast. Students are placed at either the Citizens' Advice Bureaux, Belfast Centre for the Unemployed or the Consumer Advice Centre. The students attend one of the advice centres each week

and undertake live case work including interviewing, writing letters, making telephone calls on clients' behalf, completing application forms, applying for legal aid for clients and liaising with statutory bodies on behalf of clients. The students are supervised by a designated member of the particular advice centre and the whole class meets weekly.

The clinic's objectives are to increase the students' knowledge of social welfare law, enhance their legal skills by identifying and analysing relevant facts, identifying legal issues, undertaking research, applying the law to the facts, developing a critical awareness of the law and drawing lessons from experience.

The students' performance is measured by the submission of a case report and learning journals. The students are asked to submit two case reports which they feel are representative of the work they have been doing on the placement. Students are advised that they should include a statement of facts, a legal analysis, an evaluation of the courses of action available to the client, the action taken and the outcome and a critical analysis of the case and the law. The assessment is therefore based on five factors: the investigation of the facts; the legal analysis; the case handling; the critical analysis; and the presentation. The application of the assessment criteria used in each of these areas is then described.

The learning journal is designed to focus on the learning process rather than the outcomes. It consists of one A4 sheet in which the students describe and evaluate their learning experiences on a placement in a particular week. At the end of the course journal sheets are returned

to students who are then asked to submit a two page summary of their learning experience. The criteria used to assess the journals have been developed in consultation with the students and include the amount and breadth of the work, how well the student used the placement time, the extent of the student's reflection on the learning experience and the quality of the presentation of the work records and summary. The journals serve a threefold function: they give students an opportunity to display the breadth of the work they performed; they are a simple record of the work undertaken which allows the tutor to keep abreast of the students' work load and progress; and they require the student to reflect on the learning process.

Teaching commercial law in third year: a short report on a business organisations and commercial law clinic

J F Dolan & R A McNair Jr

45 J Legal Educ 2, June 1995, pp 283-286

Wayne State University recently established a business organisations and commercial law clinic for third year law students. The objectives of the course were to build on students' existing knowledge and to get them to use it in sophisticated circumstances, as well as to put students in contact with practising lawyers. Part of the impetus for the course was the final year student's lament that third year adds little to second year. Due to budgetary constraints Wayne was unable to offer capstone courses and few staff are qualified to teach such advanced commercial courses. The assistance of the practising bar was enlisted and practising lawyers were used to teach students whilst on the firm's premises.

The clinic was staffed by four teachers, all being practitioners in the sponsoring firm. Each of the four practised in an area relevant to the clinic: enterprise organisation, business planning, acquisitions, secured lending, corporate taxation and loan workouts. The first part of the course covered business organisations and was based on a problem presented by a hypothetical client wishing to set up business. The teachers discussed the various advantages of each business structure and the fictitious client selected a company structure. The class must attend to the relevant documents to implement the client's instructions.

The second phase of the class involves the financing of the enterprise. An investment banker was invited to discuss the merits of market borrowing or equity financing. The client then decides to borrow from a commercial bank and the students negotiate the loan agreement. The third phase involves the client having financial difficulty, which brings into play the Bankruptcy Code and/or renegotiation of the loan. The fourth phase, which was not taught at Wayne due to time constraints, was an exercise in Alternative Dispute Resolution.

Students' satisfaction was high and the course coordinators intend to extend the approach to other areas of the curriculum. Importantly, the clinic appeared to generate student enthusiasm, which was missing from traditional third year commercial law offerings.

Computer and internet applications in a clinical law program at the University of New Mexico.

S A Taylor

6 J Law & Info Sci 1, 1995, pp 35-48

[See Teaching Methods & Media]

CONTEXT, CRITICISM AND THEORY

Sharpening the mind or narrowing it? The limitations of outcome and performance measures in legal education

C Maughan, M Maughan & J Webb

29 Law Teacher 3, 1995, pp 255-278

Learning outcomes are based on the simple and obvious notions that learning should have a purpose and that the purpose should be desirable and measurable. Outcomes focus on the result of learning rather than the process and on the purposive or functional perspectives on knowledge. The most influential of the outcomes approaches, which is based on aims and objectives, has enjoyed a virtually unchallenged pre-eminence in educational theory and practice. The preoccupation with learning outcomes has been termed 'outcomes orthodoxy'. The authors review the literature on learning objectives and their influence on instructional design.

While experiments with competence-based legal education were taking place in professional legal training courses elsewhere in the Common Law world, English legal education has long been dominated by debates about curriculum content rather than method and has failed to see that the two are not separate issues. The nature of degree level education was described in the

Ormrod Report as training the mind. Hence, law students needed to be equipped with not only a knowledge of the law, but also an understanding of law in context. However, the nature of the curriculum remained unconsidered. The discrepancy between the intellectual abilities that academics want their students to develop and the impracticality of finding time and resources to do it in a crowded syllabus, is one of the tensions that has led to an interest in outcomes models. This notion that what can be described can more effectively be learned and assessed has an initial appeal.

The competencies movement has challenged the pre-eminence of objectives in areas such as vocational education. Competencies have been defined as those behaviours which produce effective performance. Competencies are therefore vocationally determined and as such they are dominated by what employers require. This raises inevitable concerns about the future of traditional liberal educational aims.

There are several difficulties inherent in any outcomes model of which law teachers need to be aware: first, the tendency to standardisation divests education of variety and challenge; second, there are pitfalls in trying to infer competent intellectual and affective process from observable behaviour; third, outcomes models tend to perpetuate the artificial distinction between knowledge and skill; four, attempts to write assessment criteria fail to capture the complexity and contextual imperatives of professional interactions; and finally, competence approaches suffer from epistemological naivety. The desire to increase the ethical