

Beginning in the first year: Towards a vertically integrated curriculum for clinical legal education. A Practice Report

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Abstract

This Practice Report discusses the first year of operation of the First Year Clinic Placement Program (FYCP) at Flinders Law School. Lizzio (2006) identifies five key areas (or senses) as important in supporting transition into study: connectedness, capability, resourcefulness, purpose and culture. His sense of culture incorporates clear values, and his sense of purpose incorporates notions of personal development, vocational direction and disciplinary engagement. Embedded in a first year compulsory topic, this FYCP initiative draws on Lizzio's five senses, and has potential to provide a transformative experience for students, supporting them to develop a positive identity as a holistic legal professional, commencing at enrolment. We envision this as the first stage in a vertically integrated curriculum.

Please cite this practice report as:

Leiman, T., Ankor, D., & Milne, J. (2015). Beginning in the first year: Towards a vertically integrated curriculum for clinical legal education. A Practice Report. *The International Journal of the First Year in Higher Education*, 6(1), 171-177. doi: 10.5204/intjfyhe.v6i1.261

This practice report has been accepted for publication in Int J FYHE. Please see the Editorial Policies under the 'About' section of the Journal website for further information.

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How can first year students make links with the realities of future practice?

In their first year of law study, students begin a journey towards developing their identity as a future legal professional. Before enrolment, however, many prospective law students have very little realistic understanding of what a legal career may actually involve. In the past, law students often had personal experience of legal practice, frequently in the form of a relative or acquaintance who was a lawyer. Current, increasingly diverse, law school populations include many students who arrive with minimal or no authentic experience of what lawyers actually do. Choices to study law may be based on perceptions about the legal profession gained from media, movies or television (Castan & Paterson, 2010). Self-determination theory (Ryan & Deci, 2000) distinguishes between motivation that is intrinsic (“doing something because it is inherently interesting or enjoyable”) and extrinsic (“doing something because it leads to a separable outcome”) (p. 55). Significant numbers of students choose to study law as the result of external, rather than internal, motivating factors. External motivations include influence from parents, family and friends, expectations that high university entrance marks shouldn’t be “wasted” (Tani & Vines, 2009, p. 16); seeking to impress others or gain status (Sheldon & Krieger, 2004, p. 264); concerns about employability, pressure to assume adult social responsibilities and progress towards a future career (Ryan & Deci, p. 60). Acquiring a legal education and qualifications may even be regarded as a means of safeguarding against “the hazards and/or insecurities introduced by modernisation” (Bialostok & Whitman,

2012, p. 3). Preconceptions about what it will mean to become a future legal professional thus may have little basis in reality, especially when compared to the increasingly varied reality of the lived experience of lawyers in the 21st century (Friend, 2014; Nelson, Remus, 2014; 2014 Susskind, 2013). Younger students may also lack exposure to many legal issues commonly encountered in adulthood (buying/selling property, employment contracts, wills, insurance, etc). As a consequence, students may face difficulties in placing theoretical discipline content within a broader applied context, or making links to the realities of future practice. Where students are not readily able to make these links, they may find it difficult to engage with this important foundational material or to comprehend threshold concepts that “lead to a qualitatively different view of the subject matter” in the discipline (Meyer & Land, 2003, p. 4). Meyer and Land note that such threshold concepts are likely to be both “integrative [exposing] the previously hidden interrelatedness of something”, and “transformative”, resulting in a shift of perspective “likely to involve an affective component – a shift in values, feeling or attitude” (p. 4). Particularly in first year topics, introductory legal concepts can remain individual isolated notions, rather than being seen as smaller parts of a much larger, integrated legal whole. Students may begin to ask themselves whether a law degree is really what they want to pursue. Without a clear understanding of a possible goal for their studies, or any experience of what a future legal professional career might entail, students may lack the capacity to develop their own internal motivating factors to enable them to respond successfully to the challenges they are facing. For those who choose to study law because of a strong personal

orientation towards social justice or community service, inability to easily reconcile legal theory, moral imperatives and real world experiences can even cause them to question whether they have made the right career choice (Willis & Leiman, 2013). These students may be at higher risk of disengagement with their studies and, for some, attrition from university. Where ethical discussions seem to take place in the abstract, without clear connection to real life implications, students may be left without a sense of purpose or vocation identified as being so necessary for effective transition both into, and then later out of, university (Lizzio, 2006). This can also impact law student wellbeing more generally (Sheldon & Krieger, 2004).

Vertically integrated and embedded: A model for clinical legal education

Unlike most other law degrees in Australia, Flinders University's Bachelor of Laws and Legal Practice [LLBLP] permits graduates to seek immediate admission to legal practice without further qualifications. Practical legal skills are embedded throughout the degree, beginning with client interviewing and negotiation in first year topics and culminating in final year practical legal training [PLT] topics. These PLT topics require students to meet explicit detailed competency standards for entry level lawyers and to undertake a legal workplace placement (Law Admissions Consultative Committee, 2015). Convinced of the many benefits of experiential legal education, we have been seeking ways to maximise experiential opportunities for students as early as possible. As Director of First Year Studies/Clinic Supervising Solicitor (Leiman), Associate Dean

(Professional)/Director of Professional Programs (Ankor), and Practice Manager of Flinders Legal Advice Clinic (Milne), the synergy of our various roles in the Law School gave rise to a shared commitment to create a model of clinical legal education that is vertically integrated and embedded in the LLBLP curriculum, commencing in the first semester of first year. We envisioned this as a series of incremental and interlaced experiential learning opportunities linked horizontally and vertically across the degree from enrolment onwards, with the potential to provide a transformative experience for students as they are supported to develop a positive identity as a holistic legal professional (Field, Duffy, & Huggins, 2014). Lizzio (2006) has identified five key areas as important in supporting students as they transition into study: a sense of connectedness, a sense of capability, a sense of resourcefulness, a sense of purpose and a sense of culture. Located at the centre of the other four senses, his sense of culture incorporates clear values. His sense of purpose incorporates notions of personal development, vocational direction and disciplinary engagement. In line with Lizzio's key areas, we strongly believed that first year students would benefit from exposure to clinical experience and to the social justice ethos of a legal advice clinic as early as possible in their law studies. As Kift (2009) notes, first year "students must be inspired, supported, and realise their sense of belonging; not only for early engagement and retention, but also as foundational for later year learning success and a lifetime of professional practice" (p. 1).

In early 2014, this vision coincided with plans to both expand the operation of the Flinders Legal Advice Clinic and improve its service delivery to clients. This would require a greater number of student

interns to staff the Clinic, particularly as it also included the aim of improving practices to ensure higher levels of service provision within shorter time frames. The Clinic is staffed by interns who commit to be involved for at least a semester, under the supervision of Clinic solicitors. Interns comprise law students enrolled in the elective topic *Social Justice Internship* together with law student (and occasional graduate) volunteers. However, students have space for only a limited number of electives in their LLBLP enrolment, particularly those who are graduate entry students or completing a combined degree. It was therefore unlikely that we could significantly increase intern numbers simply by increasing enrolments in *Social Justice Internship*. Other ways of increasing student involvement were needed. Even though many are willing to do so, timetable constraints restrict later year students from being able to volunteer during semesters, the time of greatest need. Could commencing students gain value from clinic involvement and also be of practical assistance to the Clinic, despite their minimal legal skills or knowledge? If so, could this be arranged without imposing unrealistic and unachievable expectations on these students, imposing additional and onerous supervision responsibilities on Clinic interns and Staff, or requiring additional resources? Bearing these parameters in mind, could we begin to implement an integrated and embedded model of clinical legal education, by starting with a clinical placement in the first year?

First Year Clinic Placement [FYCP] Program at Flinders Law School

FYCP was designed to support students as they transition both to the discipline and

the law school community (Kift, 2009), and encourage them to explore and develop their emerging professional identity (Field et al., 2014) as early as possible. University student-operated legal clinics seek to balance three competing objectives: effecting student learning; social and community justice goals; and providing professional and competent legal advice for clients (Evans et al, 2012; Giddings, 2008). In the FYCP clinical setting, our intention was that students would gain insight into the practical application of legal concepts. By observing interviews between clients and interns, and then working on files closely with interns and supervisory staff (including being exposed to the subsequent discussions with interns and supervisors about clients' issues), students would build connections with more senior students and legal practitioners. The FYCP program was offered in conjunction with the Flinders Legal Advice Clinic, which operates one day per week at a local Court for the whole year and two days per week on campus during semesters only. Two additional placement spaces were made available for FYCP students on each day of Clinic operation. We utilised existing resources to develop and run the FYCP program, with no additional funding.

Seeking to engage and inspire our commencing students (Kift, 2009), we publicised FYCP during the *New in Law* co-curricular transition program held in orientation week. (In future years, students will also be sent an invitation to participate in FYCP with information they receive at enrolment, allowing a sense of anticipation to build.) Information and links were embedded via Flinders Learning Online [FLO] across several compulsory first year law topics including *Professional Skills and Ethics*, and via the generic online site for all Flinders law students, *Becoming a Professional*, which contains a module

dedicated to the Flinders Legal Advice Clinic. To reach the widest possible audience, an email about the FYCP program was also sent to all first year LLBLP students. Students could choose to participate in the FYCP program at any time after enrolment, including during non-teaching periods, and even before they had commenced lectures in traditional topics. Participants spent one day in the Clinic, and could obtain academic credit for one assessment item (interview reflective report) worth 10% in the topic, *Professional Skills and Ethics*. Students who chose not to participate simply completed the interview reflective report instead.

FYCP students were required to complete a comprehensive induction online, and read and sign a confidentiality agreement before attending. They were expected to wear business attire and to attend from 9am until 5pm on the day of their placement. During that day, with the Clinic's supervising solicitor and interns, they observed client interviews and took notes (although primary responsibility for note-taking rested with the interns conducting the interview). They then used their own notes as an *aide memoire* to type up the interns' notes as a record of interview. During the course of the day, FYCP students participated in briefings prior to interviews, subsequent debriefings and handovers between clinic supervisors and interns. They also joined interns for a collegial lunch in the building where the Clinic office is located.

First year students as future legal professionals

As noted in connection with the health sciences, the examination of what it means to be a professional or to practise in a professional manner, is [not] simply a

matter of rational critique. [Instead] moral development, along with the process of transformation towards an ethical and compassionate professional, requires a development of a personal philosophy of 'meaning'. (Willis & Leiman, 2013, p. 2)

Seligman (2011) identifies meaning, "belonging to and serving something you believe is bigger than self" (p. 17), as one of five elements crucial to wellbeing generally. As FYCP students observe and participate in relationships and teamwork as part of the clinical environment, they are exposed to "the kind of [real life] knowledge that makes explicit what was tacit and generates a richer understanding about practice" (Dall'Alba & Sandberg, 2010, p. 107). They experience supervising solicitors and interns engaging in varying approaches to resolving legal problems, giving them the opportunity to "cultivate practical wisdom or judgement [and] ... professional values" (Stuckey, 2007, pp. 110-111). They are offered a glimpse of "self-understanding" of what it may mean for them to be a lawyer in this specific professional context (Dall'Alba & Sandberg, p. 108) - what they learn is "intertwined" with who they are becoming (p. 113). Clinical experiences are powerful in "[engaging and expanding] students' expertise and professional identity" (Stuckey, p. 113). They can stimulate and refine for students the values, ideals, hopes and inspirations that start to shape professional identity (Sullivan, Colby, Wegener, Bond, & Shulman, 2007, 92-93); form their personal narrative of a way of being in the world and challenge them to consider how this aligns with values governing the legal profession (Willis & Leiman, 2013, 665). Inevitably, due to the nature of community legal practice, FYCP students are likely to encounter vulnerable clients with myriad complex legal and other problems and observe interviews

that may be highly emotionally charged. It may be that for many FYCP students, this will be the first time they have had such an experience. As they are required to undertake “[b]oth emotional work and emotional labour” to process this, they may be challenged to consider how an appropriate legal response accords with their personal narrative (Willis & Leiman, 2013, p. 668). The FYCP experience has potential to grow sense of purpose and culture (Lizzio, 2006) in these first year students as they are given a hands-on opportunity to look toward the outcome of their studies and envision themselves as future legal professionals.

Flinders’ First Year Clinic Placement: Outcomes so far

The Clinic operated on 59 days during the period March 18 and September 4 2014 (the due date for the reflective report in *Professional Skills and Ethics*), with 118 possible FYCP spaces. Of 176 students enrolled in *Professional Skills and Ethics*, 52 made bookings to participate in the FYCP and 46 of those attended. The frequency of bookings increased as the semester progressed, and it is not clear whether this was due to increasing self-efficacy or confidence amongst first year students, awareness of the due date of the reflective report or whether word of mouth about the experience encouraged more students to apply as the semester wore on. Although not in place when the FYCP program began in March, we subsequently developed pre-entry (online) and exit questionnaires (hard copy), which first year students complete anonymously. Student feedback has been overwhelmingly positive, with all respondents answering either Strongly Agree or Agree to the following questions on the exit questionnaire:

I now have a better idea of what lawyers do in real life; I feel more motivated to continue my law studies; I can make better connections between the theoretical material I am learning in my law topics and real life application as a result of Clinic placement; My experience in the Clinic has helped me to see real life ethical implications in giving advice; I feel more a part of the law school community as a result of my participation in Clinic; I learnt a lot from discussions between interns or with the supervisor about how the law works in practice.

Numerous responses noted that FYCP students had gained “a lot of insight into real work” and “the day to day workings of the law.” Currently used for evaluation purposes, we are planning to develop these questionnaires further as part of a larger research project exploring development of students’ professional identity. Many of the students at the end of their placement day spoke of their desire to either spend another day of observation in the clinic and/or to return as clinic interns as soon as the opportunity arose in their studies. Due to these comments and other requests for the experience from students we will make more placement opportunities available after the due date for the reflective report in September 2015, even though participation would not result in academic credit.

Conclusion

The FYCP program encourages students to explore and develop their emerging identity as a legal professional from their very first year in the Law School. The initiative has been shown to have significant student support and the potential to achieve our envisaged outcomes, and merits further evaluation. In light of the success of the FYCP program in 2014, it will be continued in future

years. We intend to investigate its impact in supporting students as they transition into Law School and in the development of their professional identity.

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