Reviewed Article

TAKING CLINICAL LEGAL EDUCATION ONLINE: SONGS OF INNOCENCE AND EXPERIENCE

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Abstract

In common with the wider higher education sector, clinical legal education practitioners are facing the challenge of how to adapt their teaching practices to accommodate the restrictions imposed by governmental responses to the Covid-19 pandemic. Facilitating distance learning via online technologies has unsurprisingly become an area of increasing interest in the hope that it may offer a potential solution to the problem of how to continue teaching undergraduates in a socially distanced environment.

This paper seeks to provide clinical legal education practitioners with evidence-based insights into the challenges and opportunities afforded by using digital technologies to deliver clinical legal education. It adopts a case study approach by reflecting on the Open Justice Centre's four-year experience of experimenting with online technologies to provide meaningful and socially useful legal pro bono projects for students

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studying a credit bearing undergraduate law module. It will analyse how a number of different types of pro bono activity were translated into an online environment, identify common obstacles and posit possible solutions. In doing so, this paper aims to provide a timely contribution to the literature on clinical legal education and offer a means to support colleagues in law schools in the UK and internationally, who are grappling with the challenges presented by taking clinical legal education online.

Introduction

'*I wish that I knew what I know now, when I was younger*.'[2]

Digital technologies have facilitated a rapid growth in opportunities for online learning. This has led to higher education institutions assimilating this technology into their teaching approaches in a variety of ways. Some providers have specialised in online learning as the main method of delivery, such as UK based institutions like The Open University and Arden University. Other more traditional providers have embraced these technologies to augment existing provision via lecture capture, virtual learning environments or by using online platforms to make some of their courses available to distance learners. A third group have launched collaborative new ventures to offer free learning via Massive Open Online Courses (MOOCs) which aim to disseminate degree level content to a global audience and create new revenue

[2] 'Ooh La La' Ronnie Wood, The Faces. Warner Brothers 1973.

streams in the process. This activity has generated an equivalent growth in academic research into the effectiveness of online methods for delivering higher education programmes, or augmenting programmes delivered in more traditional settings.

However, until the shutdown of higher education institutions resulting from the global response to the Covid-19 pandemic, the interest in online methods for delivering degree level programmes was something of a niche interest for most educators working in the sector. For the most part, the main method of delivery was still via face to face lectures, seminars and tutorials, and discourse regarding the challenges and opportunities of majority online delivery may have been viewed as a distraction from the core business of teaching and learning. The extent of the impact of social distancing on higher education was illustrated by the much-discussed announcement that an institution as apparently impervious to educational crosswinds as the University of Cambridge had committed to delivering all lectures online for the 2020/21 academic year (BBC, 2020) . All of this has put online delivery front and centre in the planning for the coming academic year, as universities try to work out how to provide the best educational experience possible for their students who, in the UK at least, will still be asked to pay tuition fees at pre pandemic rates.

This context presents particular challenges for academics working in law schools delivering clinical legal education programmes. These programmes tend to facilitate experiential learning by providing real world, or simulated, professional legal projects which engage members of the public (Bloch, 2010; Giddings, 2013; Maharg, 2016; Jones

et al., 2017). Typically this could include a face to face legal advice clinic, internship opportunities with legal advice charities or by delivering legal education workshops in schools, none of which are instantly replicable using online methods. As a result, research into the use of online methods has yet to make a significant impact on clinical legal education as it has, until now, not been a priority for the majority of those who are working in this field. However this has begun to change, as clinical legal education practitioners have started to experiment with online methods, either for institutionally specific reasons, or as a way of engaging with the wider disruptive impact of digital technology on the legal profession, which is already having an impact on the legal marketplace (McGinnis & Pearce, 2014). Such studies can be arranged into three thematic areas. Firstly, those which consider how clinical approaches in general could embrace the opportunities provided by online methods (Horrigan, 2019; Jones et al., 2017; McCrimmon et al., 2016), secondly, how the traditional legal advice clinic might be transposed to a virtual environment (Ryan, 2019; Thanaraj and Sales, 2015) and thirdly, how bespoke applications of technology, such as smart phone apps, might have particular affordances for supporting or extending existing clinical activity (McFaul and FitzGerald, 2019, Ryan and McFaul, 2020).

This paper aims to make a timely contribution to this developing literature by providing an evidence-based discussion of the challenges and opportunities afforded by using digital technologies to deliver clinical legal education. It adopts a case study approach by reflecting on the Open Justice Centre's four-year experience of

experimenting with online technologies to provide meaningful and socially useful legal pro bono projects for students studying a credit bearing undergraduate law module at a distance. Part I will provide an overview of the context in which the online clinical projects were developed. Part II will provide a detailed account by project leads of five of our projects and a discussion of the emerging themes will be provided in Part III.

Part I: Contexts

The Open Justice Centre was established in 2016 with the aim of utilising digital technologies to provide opportunities for Open University law students to benefit from the experiential learning that participation in pro bono legal activities can provide. The context within which OU law students study precluded the traditional face to face model of clinical legal education. With over 7,000 students, the OU Law School is the largest provider of open access undergraduate legal education in Europe and law students are largely based across the four UK nations. Unlike most higher education providers, students can begin studying their law degree without having gained any prior qualifications and the majority study on a part time basis. The challenge was to develop pro bono activities that could be accessed remotely but which did not dilute the essence of the clinical experience that students at 'brick' universities are able to access through traditional clinical programmes.

Our solution was to develop *Justice in Action*, a 30-credit level 6 module on the undergraduate law degree. The module is delivered online in two phases, Phase I begins by introducing the overarching themes of social justice, professional identity and professional ethics before developing transferable skills of legal research, writing, oral advocacy and online collaboration. Innovative applications of technology, including bespoke smartphone based virtual reality, are embedded into both the teaching and practical phases of the module. There is a specific focus on how technology is transforming the delivery of legal services and developing the skills and competencies required for professional practice. Phase II involves students collaborating online to support the delivery of a range of pro bono projects. These projects fit into three broad categories. Firstly, bespoke online projects run entirely online, such as the online advice clinic, secondly, projects which are prepared and supported online but delivered in face to face settings, such as prison workshops and thirdly, projects which are run in conjunctions with external partners, such as legal charities. Phase III requires students to produce an assessed reflection on their participation, drawing on the themes introduced in phase I. Beginning with 100 students in 2017, we anticipate 180 students will study the module in the 2020 academic year with approximately half as many again taking part in projects on an extracurricular basis.

Space does not permit a full treatment of all our online activities, so Part II will provide a detailed description of a representative sample of some of our key projects. These will include those which have developed as online only projects, with either live or simulated clients, and a project which uses online methods to support, prepare and supervise students to deliver offline projects in prison settings.

Part II: The projects

Open Justice Law Clinic: Online legal advice

The Open Justice Law Clinic[3] utilises Clio, a web conferencing platform and a cloud-based case management system, to deliver online legal advice. [4] Free access to Clio is made available to universities through its academic access programme and facilitates the provision of legal advice to members of the public anywhere in the United Kingdom.[5] Clients access the law clinic via a website where they complete an online form outlining their legal issue. Enquiries are sent to the clinic mailbox where they are triaged to determine their suitability for the clinic. The client is either allocated to a firm of law students or signposted to other sources of help. Once the case has been accepted the client receives a notification to set up a Clio Connect account. All client interaction takes place within the case management system. Clients upload

[3] https://www.open.ac.uk/open-justice/legal-advice

[4] https://www.clio.com/uk/

[5] https://www.clio.com/uk/academic-access/

documents relating to their case and interact with students and supervising solicitors via secure messaging. The students meet the client to conduct a fact- finding interview which takes place in AdobeConnect, a web conferencing platform. Students research the legal issues and then using document and communication templates prepare a letter of advice. The students' work is supervised by qualified solicitors and the advice is reviewed before being distributed to clients. Since its inception in October 2017, 115 clients have received legal advice and an additional 200 clients have been signposted to other agencies for help. The clinic advises on a range of legal issues including employment, contract, data protection, consumer law and small claims. Most clients find the law clinic via a search engine and we have not yet had to proactively generate client queries.

From the perspective of the client, there are clear advantages to offering a university law clinic via an online platform. There are many reasons why it is not possible for some clients to attend face to face law clinics. A virtual law clinic is a flexible model because there are no physical or geographical barriers to participation; students can advise anyone with an internet connection. The impact of legal aid cuts has meant legal advice deserts exist in many places (Amnesty International, 2016). A virtual law clinic has the potential to reach communities where the provision of legal advice has disappeared, although it is recognised that pro bono legal services are not a replacement for legal aid. A virtual law clinic provides a solution for some but not all people there are clients who do not have access to technology or the confidence to use

a remote service. The literature demonstrates that the proliferation of technology is not without risk many as tools are not designed to support the needs of users and there is concern that many people face digital exclusion (Hagen, 2018; Sanderfur, 2019). In our experience, there are some areas of legal work and some clients where advice in person is the preferred option, so while a virtual law clinic is not a replacement for face to face advice, it can work to enhance the provision of legal support.

From the student perspective, the flexibility provided by a digital platform removes geographical barriers to participation but also provides direct experience of how digital technologies are transforming the delivery of legal services. Indeed, there is a growing expectation that students will have developed the skills to work in a changing legal profession (The Law Society, 2020). However, the benefits for students of participating in a virtual law clinic should not be reduced only to a discussion of job-related skills (Nicholas, 2018). Given the deficit in the provision of legal advice, technology has the potential to be leveraged to address issues of access to justice (McGinnis & Pearce, 2014) and the flexibility offered by digital platforms raises the prospect of university law clinics collaborating in ways that are not possible using face to face clinics. This could potentially include students from different institutions working together on cases, or the pooling of supervision expertise to allow the coverage of a wider range of legal issues for example.

Digital justice: smartphone applications and chatbots to disseminate legal information

The Open Justice Centre initiated the digital justice project in 2019 as a means of exposing law students to a cross disciplinary pro bono project aimed at using smartphone technology to disseminate public legal information (McFaul et al., 2020). The provision of accessible sources of information is recognised as a key component for addressing unmet legal need (Pleasence and Balmer, 2014) and some university law schools in the UK and beyond have begun to experiment with this technology (Ireland et al., 2020; Lupica et al., 2017). The creation of smart phone apps and chat bots presents an opportunity to develop and provide legal information that can be targeted at specific audiences. Our *Digital Justice* project aims to allow students to experience the challenge of exploiting technology to provide legal help, to be able to identify useful legal services that can be delivered through legal tech and design and build legal tech that enables self-help in an agreed area of law.

In the first iteration of the project ten students were selected for the project after a competitive application process. Students worked in two groups, each with a brief to develop a smartphone app to disseminate information on employment law. The project adopted scrum methodology to facilitate team collaboration during a four-stage design process, each lasting four weeks. The teams were supervised by a computing academic and law academic and met online at the start and end of each phase to review and agree the tasks for the next phase. Stage 1 was the inspiration stage where students were immersed in an unfamiliar environment, introduced to

technology tools, new people and an area of law. In stage 2, students started to synthesise to find meaning in what they had gathered and started to build the foundations for a workable legal tech solution. In Stage 3 students were encouraged to experiment, they generated ideas and prototyped their designs. In the final phase they refined the design by focusing on how it would work with users and reflecting on the process they had undertaken.[6]

Students felt that the project provided an exciting opportunity to develop their technology skills which they saw as having increasing relevance to law: 'it feels like there is going to be a lot of development in legal tech and so it seemed like a really relevant thing to get experience in.' The project allowed students to develop transferable skills: 'maybe I can, you know… make apps myself to help people or my career prospects, but also for my own personal use.'

In the second iteration of the project, fifteen law students in three teams created and designed a chat bot app to provide legal information on an area of family law. To develop the project, we have invested in commercial software to allow our students to use a no-coding platform to create chat bots. Chat bots are conversational workflows that use AI technology built into the software to mimic human conversations. Josef provides a platform to build bots, the platform is straightforward and easy to use requiring a minimal amount of training. The bots can be linked to

[6] A full technical report on the computing architecture and design process has been published (Byrne 2019).

external websites and can populate and format legal documents. The feedback from students was that 'the project had extremely high value as it has application to the real world' and it was 'really interesting, enjoyable, challenging and stimulating, I really enjoyed the fusion of tech and law.'

One of the challenges is facilitating team collaboration at a distance. The level of commitment from students varies and this can have a negative impact on team dynamics (Shirley and Cockburn, 2009). A significant commitment in academic time and investment is required to support legal tech projects but students benefit from having opportunities to engage in real world experiences and there are opportunities for law schools to partner with legal charities and organisations to further develop these projects (McFaul et al., 2020). There is growing interest in incorporating legal tech into the curriculum, law schools are starting to come together to explore the pedagogical benefits and challenges.

Online Public Legal Education

As a distance learning university, we are aware that some of our students may not be able to participate in face to face public legal education events such as is commonly undertaken in Street Law workshops in schools and other community settings. As such, we developed opportunities for students to engage in public legal education

online. This has mostly taken place through the medium of Open Justice Week[7], which has run for three last three years.

In addition to Open Justice Week, students have also worked with the Young Citizens[8] charity in updating, refreshing, and adding content to their Smart Law materials, which are made available to primary and secondary educators as part of the Young Citizen's programme of support for citizenship-based education.

For Open Justice Week, students have been invited to contribute to providing materials that aim to promote public legal education and information through a variety of formats including, for example, online lectures on Adobe Connect, factsheets, or guidance documents. In the first iteration of the project students worked in groups to a simulated brief produced by the Open Justice Centre. However, recognising the value of real client contact to CLE pedagogy, in the second and third years, students were briefed by external organisations. For example, they were asked to research and produce information and guidance on employment rights for non-unionised workers, for the Inverclyde Advice and Employment Centre. In addition to this, each individual student on this project was asked by the Open Justice team to provide an additional factsheet on an issue pertaining to employment law. All materials pertaining to Open Justice week were published on an Open University owned and controlled externally facing website, during the week the event was held.

[7] https://www.open.ac.uk/open-justice/events/open-justice-week

[8] https://www.youngcitizens.org/

The event was publicised by the Open Justice team through our social media channels, and students were encouraged to also share the responsibility of promoting the event through their own channels.

The strength of this project is that it gave students unable to take other opportunities the chance to contribute to public legal education. There has been some excellent work produced by students during the last three years, and substantial efforts made by many students. Its weakness is that it was perceived to be the 'easy' option by students, and subsequently this was reflected in some of the work produced, which has not been up to standard. Issues around collaboration persist, and several students have allowed others within their groups to carry the burden of most of the work.

Additionally, although students can contribute to real-life briefs, because they do not have a connection with the client – it is mediated through the Open Justice Centre – they do not obtain the benefits of working directly with members of other organisations. The physical distance between client and student can lead to the dilution of the professional connection between the two. Consequently, students may treat their tasks just like another assignment, without regarding its product as something designed to be used by an external organisation. This can mean that the instilling of values in our students can be less effective. In particular, students may not have the same regard to ethics of professionalism that might be obtained through other projects.

Policy clinic – Research as advocacy

Whilst many students volunteering for pro bono work welcome the opportunity to work directly with members of the public, some students prefer the additional flexibility offered by engaging in advocacy via research-based tasks. Students often reach the end of their law degree having defined their task as grasping and applying current law and resist considering, foreseeing, or working towards different legal rules and practices in the future (O'Connell and DiFonzo, 2006). Following an introduction to the policy clinic at Northumbria University law school, we introduced an online policy clinic in 2019 where students work in small groups to carry out desk-based research, with the aim to influence policy and/or law reform.

We considered a number of different models of clinic including an approach similar to Whittier Law School Legal Policy Clinic, where students choose their own project (Patton 2014). However, we wanted students to have an experience of working for a client and so students in the clinic researched an area of law on behalf of a charity or other organisation to provide analysis and evidence to influence policy and initiate law reform. The students worked in small groups and collaborated online on the research, analysis and report writing using a range of technological tools to support them. Students could therefore work on the project flexibly to suit their circumstances, whilst regular online meetings facilitated discussions to progress the project.

In its first iteration students in the Policy Clinic worked on a brief provided by JustRight Scotland[9], a human rights charity. JustRight Scotland engage in policy work on behalf of survivors of female genital mutilation (FGM) and women at risk of FGM to improve protection and support. The charity requested support for their response to the Scottish Parliament consultation on FGM arising out the introduction of the FGM Protection (Scotland) Bill in 2019. Students were asked to produce a report on the draft bill and to provide policy recommendations to strengthen and improve protection in Scotland for victims of FGM. The students were supported by two academics experienced in policy and advocacy work, one from the charitable sector and the other in the public sector. The students therefore benefitted from the advice and experience of those working in diverse policy arenas.

Following an online briefing from a director of the charity, students carried out initial training on conducting legal research, carrying out literature reviews and collaborative working. They then carried out desk-based research into the issues including comparisons with protections provided by other countries. Following the research stage, the students analysed their research and finally produced a report of their findings for the client. The project was clearly structured, and students were only permitted to move from one stage to the next following supervision with an academic. This allowed us to provide additional support and guidance where needed to ensure the students' final report was of a high standard and useful for the client.

[9] https://www.justrightscotland.org.uk/

However, this approach did require a higher time commitment from academic staff than we originally anticipated.

One aspect we did not anticipate was that the students' research skills were not always sufficient for what they were asked to do. Students were proficient in more traditional legal research and sometimes struggled to find the information required to analyse the current law. We needed to provide additional support and training during the project. Therefore, we intend to include additional training on research in advance of students starting their project in a planned way.

We were concerned in the development stage of the project about the ethical and data protection implications of students carrying out empirical research. Due to university processes, it would be difficult to obtain ethics consent within the timescales the clinic operates. We therefore decided to only permit desk-based research using existing secondary sources. Due to the nature of the brief provided by the client, this did not prevent the students from completing their task. However, this is something that will need to be kept under review each year.

The main issue we had in the clinic was a breakdown in the students' relationships which led to difficulties in collaboration. This is something that occurs both face to face and online, but can be exacerbated online due to the lack of visual cues (Long et al 2013). With careful management by clinic staff, students were encouraged to work independently on specified areas and with support they re-built their working relationship and produced the final report together collaboratively.

The online mediation clinic started in 2018 and has trained 31 students in professional standard online mediation skills. The Civil Mediation Council (n.d) defines mediation as "a process where an impartial person (the mediator) helps two or more people, or groups of people, to discuss and resolve disputes." Important features of mediation include the fact it is voluntary, confidential and the process is under the control of the parties (Waters, 2014 p92).

Students attended four online training sessions run by two trained mediators, one a family law mediator and one an employment judicial mediator. The training did not focus on one particular style of mediation and covered the different mediation models and generic mediation skills. Students learned about the mediation process, the difference between effective online and face to face mediation and mediation skills. Outside the sessions, students worked in small groups, collaborating online using a variety of synchronous and asynchronous tools. They practiced the skills taught in the training sessions using scenarios provided by the mediators, alongside completing additional reading and activities. This training process took place over three months.

Students then took part in a practice mediation session where they alternated between playing the part of the mediator and client. There was a final simulated mediation session where students mediated a dispute with actors playing the part of the clients. Students felt confident to mediate these final sessions themselves due to the progressive development of their understanding and skills in the training, as one

student commented: 'the mediation training was brilliant and gave me the skills to competently mediate a dispute between two fictional clients.'

The combination of theoretical and practical training enables the students to obtain all of the benefits outlined by Mekel-Meadons (1993); a better understanding of how the legal system operates, experiential learning, better lawyering skills and a better understanding of the role of values and ethics. They understand the place of mediation within the civil justice system. Their transferable skills are developed including communication skills, conflict resolution and online skills. Students also appreciate that resolving disputes through the courts may not always provide clients with the opportunity to gain a just or desired outcome; 'I have learnt that what could be seen as the traditional route through the legal process, is not obtainable or viable for all situations, therefore, mediation as a form of ADR (alternative dispute resolution) can be a route to obtain social justice.'

The online nature of this project has made it accessible to a wide range of students, including those who would be unable to participate face to face due to their personal circumstances. Both the training and mediation sessions have been effective in the online environment and students' general online skills have improved as they have explicitly considered the implications of operating in an online, as compared to face to face, environment.

There are two things we would have liked to have known before starting. Firstly, some students had difficulties relating mediation to wider themes such as social

justice, professional identity and professional ethics. Students became very focused on skills development and struggled to connect their experiences to their wider learning or the legal system. As the project has developed, we have become much more explicit in highlighting for students the links to these themes, particularly professional ethics.

Secondly, at the start of the project we invested a lot of time trying to locate a partner to allow students the opportunity to mediate disputes between real clients. We were unsuccessful in this; we did not want to work with vulnerable clients as we were concerned that they may lack the means or confidence to access an online mediation service. We were also constrained in when we could offer this service due to extensive training period before students could act as mediators. We therefore used simulated mediations instead. Whilst this was disappointing for us as educators, student feedback consistently welcomed the simulated nature of the mediation as it gave them confidence and security. We still hope to develop the project to be able to offer services to members of the public, but would retain the simulated mediation sessions as a valuable learning experience for our students.

Public Legal Education in Prisons: Providing online support for face to face pro bono activities

Since 2017, the Open University Law School through its Open Justice Centre has run pro bono public legal education projects in eleven prisons across England and Wales. Over ninety law students and seven tutors have taken part. The value to law students of undertaking pro bono public legal education in terms of developing their legal

research, writing, presentation and professional skills has been well documented (Draslarova, 2019; McQuoid Mason, 2008; Montana, 2009).

Our prison projects are particularly challenging within the context of the Open University as most students have never met each other, or their tutors, face to face. Invariably, the first time they meet is outside the prison gate. While the projects are delivered face to face within prisons, the preparation for each visit and the debrief afterwards are conducted entirely online. It is fair to say that we underestimated the challenges in working with time-poor students at a distance (and we also underestimated the challenges of working within the prison environment). The online support for students consequently includes the building of effective working relationships between students and between them and their tutors, as well as the substantive work of preparing appropriate law resources for prisoners. A summary of the process is provided below:

1. Online briefing session for law students

Before the first of three prison visits, students are required to attend an online briefing or to listen to its recording. Aspects covered include security issues and the professional responsibilities of law students.

2. Online Open University safeguarding training

Students are required to undertake short online safeguarding training courses provided by the university. These are concerned with safeguarding issues with respect to the prisoners.

3. Online meetings

The tutor appointed to support the students on each prison project meets them regularly for planning purposes before each prison visit and afterwards for a debrief via the Adobe Connect platform. Most students are quite reticent in an online environment if they have not met each other or their tutor. They prefer not to use their microphones and instead ask questions via the chat box. Understandably, the students are more relaxed in the online environment once they have met each other face to face on the first prison visit.

4. Online forums

Each prison project has its own online forum for the tutor and their students. It is used to prepare for each prison visit by sharing, critiquing and re-drafting the learning resources developed by the students. Most students are initially apprehensive about the process, but appreciate its effectiveness after the first prison visit.

5. WhatsApp

We now encourage students in each prison project to set up a WhatsApp group. This development was needed to accelerate the building of good working relationships, to improve informal group communication and to provide peer support. Most of our

students work and otherwise have extensive commitments: WhatsApp is an easy and immediate means for them to communicate. We also needed a more effective way of liaising with the group on the day of each prison visit to keep everyone abreast of arrival times, travel delays and a place to meet.

Most of the prison projects have been in partnership with St Giles Trust[10]. The charity selects and trains prisoners to act as peer advisors to their fellow prisoners. Together, the law students and peer advisors identify areas of legal need in the prison, which the students then research and develop suitable learning materials to help address that need. Subjects covered have included indeterminate sentences, release on temporary licence and restraining orders. The peer advisors are then able to disseminate this knowledge to other prisoners. In another prison, the dissemination of general legal information takes place over prison radio.

Most students on the prison projects report finding their experiences transformative. It makes them reflect deeply on the criminal justice system and the punitive and rehabilitative functions of prisons. They are often intrigued that the stereotypical picture they had of prisons and prisoners is confounded by the reality they encounter. A few change their career direction to becoming lawyers specialising in criminal law, others volunteer with prison education departments or with charities working in prisons. For many, it is the most worthwhile and impactful thing they do on their law

[10] St Giles Trust is a charity which provides help and support for the vulnerable and disadvantaged in prison and community settings.

degree: 'I believe that this programme with St Giles will probably be one of the most powerful learning experiences which I will have on my journey into "law".'

Part III Learning from experience

Our experience of taking CLE online, outlined above, has been fundamentally positive. It has allowed distance learning students to participate in pro bono legal projects that would be otherwise closed off to them. This has been to their benefit, evidenced by both the high pass and completion rates on the module but also from their feedback on how the experience has informed their professional and personal outlook. Such experiences are no doubt familiar to clinical educators in other law schools. However, the task of taking clinical legal education online does have inherent challenges that have become apparent to us during our four year experiment and which echo issues raised in the developing literature in this field (McCrimmon et al., 2016; Horrigan, 2019). We have identified three key themes that summarise the range of issues we wish we had been fully aware of before commencing our experiment; collaboration, quality and congruence. Each will be discussed in turn below.

Collaboration

All of the online Open Justice projects involve students working collaboratively in small groups. Collaborative working can be difficult for students whether online or face to face; students simply may not get along or there may be differing expectations,

motivations and engagement (Muirhead, 2001; Bugden, 2018). However, there are additional challenges in the online sphere. If students have not met, it can be harder to build trust, and co-operation (Bauman, 1993). Online small group work may result in the use of stronger, more inflammatory communication (Siegal et al 1986; O'Sullivan and Flanagan, 2003). In a virtual environment you can miss non-verbal clues and there can be delays in communications and miscommunications, such as students making assumptions about remote team members' motivations and contributions and being less able to see things from their colleague's point of view (Long et al 2013). Students can have different schedules, even different time zones, and this can make it harder to build rapport and teamwork.

In order to overcome these challenges, we worked to build our students' capacity to collaborate virtually and we used a range of online collaboration tools and strategies to support this. We carefully scaffolded learning about and participation in collaboration to develop our students' ability to work in online teams. At the start of their project we provided training and guidance on team development. For example, we used scenarios to encourage students to work through how they would problem solve collaboration issues. Students were asked to agree and write a team agreement on how they will collaborate together. This included assigning roles and responsibilities, agreeing communication methods and deciding how they will resolve disputes. The team agreement had to be submitted as part of the first assignment but was not given a mark. Instead students were assessed on an individual reflection on

the process of drafting the team agreement. This ensured the assignment was worth enough credit to commit students to its completion, but not so much so that the students were overly committed to the final grade (Long et al 2013).

Following the first assignment students started work on their project and there were online small group meetings with their tutor, where effective online collaboration was modelled by the tutor. Students were encouraged to gradually take over responsibility for the running of the online small group meetings and the management of the group work, using the skills and techniques they had learnt and observed from their tutor. Two months into the project there was a further assignment where students were asked to reflect on their skills development, including collaborative working. Students were asked to identify where their skills have strengthened and how they will address remaining weaknesses. This allowed the tutor to assess collaboration within each small group and to identify any issues which needed addressing. Students continued to meet and collaborate independently, with regular progress meetings with their tutor where any issues could be addressed.

This scaffolded approach recognises that students may not have the necessary skills to work in an online environment and encourages them to acquire these skills in a supported way, following which students work independently in their small groups. Online collaboration is not an innate skill and students need significant advice and guidance on how to collaborate, particularly in the online environment (Susamn and Majchrak 2003, Shirley 2009, Long et al 2013, Bugden et al 2018).

However, it is the argument in this paper that investment made in developing these skills is worthwhile, both in terms of the success of the online projects, but also in terms of students' development. Collaborative skills are a highly sought after graduate skill, for both legal and non- legal careers (Eisner, 2010). Online group work offers advantages for both students and law schools. It can be more accessible for students, particularly for those who have difficulties attending face to face events. It is more flexible for students due to the mixture of synchronous and asynchronous opportunities to work together. This allows students a greater opportunity to engage as they work around their working or caring commitments. Online collaboration skills are also a desirable employability skill as the ability to collaborate virtually improves teamwork skills in the co-located environment (Ubell 2010). For law schools, it can offer a flexible and attractive way to work with external partners; partners do not need to travel to a campus to meet students and the time commitment and associated costs are therefore reduced.

Quality

Ensuring the quality of the clinical practice for both the student and the client in an online environment has been an issue that has been particularly challenging. This involves several related issues. Supervising students at a distance in all online projects requires careful management and planning and also sufficient investment in qualified staff with the right combination of legal and pedagogical skills. It takes thought and planning to devise teaching materials that can effectively train students in the practice-

based research and clinical processes required to produce work of sufficient quality. This is particularly the case where students are involved in creating materials for public consumption. The processes around quality assurance in the advice clinic setting, where work is signed off by a qualified lawyer, is of equal importance in other public facing projects and the ability to monitor the processes and outputs around student work needs careful thought and planning. We have given a lot of thought to considering whether our assessment regime can help support the quality of student outputs by directly assessing their work on the projects. Given the variety of projects, the reliance on group work and dispersed nature of the cohort, we have yet to devise a model of assessment that would achieve this. Instead, we rely on the assessment of students via a 3,000 word critical reflection, an approach adopted by other online clinical programmes (McCrimmon et al., 2016).

Congruence

Our experience has also highlighted the need to facilitate projects which are congruent with professional standard legal work but also congruent with the capacity of students to participate properly in them. Our aim was to construct projects which gave students the experience and insights that professional standard pro bono activities can provide. In our experience, this can best be achieved by giving students as much exposure to real clients as possible (Ryan, 2019; McFaul et al, 2020). We have achieved this in many, but not all our projects. Our Mediation and Digital Justice projects have relied on simulated briefs, but our aim is to develop suitable partnership

arrangements to provide the opportunity for students to gain client facing experience and to use their skills for the direct benefit of members of the public. Our successes in providing students with exposure to clients have often been the result of either bespoke uses of technology, such as the online advice clinic, or a result of partnership relationships with external agencies.

However, providing this level of experience for students working online has to be balanced with an awareness and appreciation of the ability of students to participate in the projects offered whilst balancing their other commitments. The first iteration of our online clinical legal education module made it mandatory for students to participate in two pro bono projects. This proved to be an unrealistic level of expectation for our learners and we had underestimated the time and energy required for them to work collaboratively on demanding client facing projects. As a result, we had to modify the requirement to one mandatory project and offer participation in an additional project on an extra-curricular basis. We have found that this has had significant benefits for the level and quality of student participation and the importance of not overloading students is a finding that is supported by other authors (Horrigan, 2019).

Conclusion

This paper has reviewed the experience of the Open Justice Centre's four-year adventure in taking clinical legal education online. We have argued that it is possible

to provide meaningful and engaging clinical legal education activities to students studying at a distance but that there are significant challenges to be negotiated in doing so. Key among them is the need to invest time and energy in developing effective working relationships in an online environment, as well as investment in experimenting with appropriate applications of digital technologies. Also, investment in relationships with external partners who can help facilitate student exposure to live, rather than simulated clients is important.

We have argued that overcoming these challenges will allow students to benefit from the personal and professional development that pro bono legal work can provide. Further research and experimentation are required to understand how digital technologies can improve clinical practice for both students and members of the public. A particular focus of this research should be the extent to which the move to online methods during the pandemic will open up new possibilities for enhanced collaboration between University law clinics. It would be a heartening if the social distancing that we have been forced to endure prompts clinical educators to work towards building a flourishing online clinical legal education community.

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