Report to Law Foundation,

2013 Grant ‘Practicing the Practice of Law’

[This is an abridged summary document. Parts of the full report have been removed for relevance / confidentiality purposes]

Purpose

The project is part of an overarching project designed to better integrate theoretical, experiential and practical law teaching, learning and assessment into the undergraduate (LLB) law degree. It has arisen as a response to an identified need to improve legal skills teaching at an undergraduate level; respond to Faculty and national directives on law teaching; and better prepare students for the transition to legal practice and the profession; inform national practice and provide the evidence base for a national teaching award to provide further source funds for the project into the future.

The ‘practice centric’ model of teaching developed through the project is designed to improve student engagement in public law, but also legal and professional practice more generally.¹

The program reflects a gold-standard in practice based teaching which responds to key national directives and places UTAS at the forefront of legal education. It has received a number of awards and citations to date.

¹ Specifically: Teaching is module based with each module being based on on-foot matters or hypoethicals based on contemporary political/legal issues. Preliminary skills training by practitioners; Students actively participate in shadowing each module case in a ‘case file’ – through (mock) practical firm work, through group (firm) submissions, self-management, briefing, oral (moot) presentations, timekeeping, reporting and auditing; Academics provide ‘teach-in’ to current cases or issues by providing theoretical and targeted teaching on that subject matter; Practitioners and professionals provide ‘context’ (CPD style) teaching on each of those cases and/or subject matters; and Preliminary skills training is provided by junior practitioners.
The Aims of this grant

This grant was sought in pursuance of the continuing aims of the project; specifically to provide:
[Removed for confidentiality purposes]
The Grant was awarded 8 July 2013. The Faculty of Law provided in-kind funding of [Removed for confidentiality purposes]. Non-financial support was also received from the Supreme Court of Tasmania, Tasmania Solicitor General’s Office and Commonwealth Parliamentary Office.

Outcomes

The Recipients report the successful conclusion of this stage (the fifth stage of the overall project). The Law Foundation grant contributed to the following outcomes:
The successful delivery public law course for 163 students between July and November 2013 in the full practice-model of teaching and assessment;
[Removed for confidentiality/relevance purposes]

5. Research study. Provided for a systematic study to be completed at the conclusion of semester. This is set out below as evidence of the benefits of the practice model. The Law Foundation grant allowed us to compensate students, judges and an auditor for their time and participation.

Fund distribution
[Removed for confidentiality/relevance purposes]

Research data and results

At the conclusion of the 2013 course delivery an evidence based research study was concluded. This study compliments peer review and student participation studies conducted in previous years. Tasmanian Human Research Ethics Committee approval was sought for the study (Tas HREC 13557).
Due to a curriculum reform two cohorts were enrolled in public law in 2013.

- Cohort 1 (C1) was taught in the traditional pedagogy (lectures, tutorials, essay, exams).
- Cohort 2 (C1) was taught in the practice based model.

Human Research Ethics approval was sought and obtained to undertake a systematic evaluation of each group’s progress and development in skills and knowledge at the conclusion of semester. The research was undertaken as moots in the Supreme Court of Tasmania, with the de-identified video transcript being audited by a practitioner/barrister.

The results were as follows:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>C1</th>
<th>C2</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Organisation of presentation</td>
<td>9/15</td>
<td>11/15</td>
<td>2/15</td>
</tr>
<tr>
<td></td>
<td>60%</td>
<td>73%</td>
<td>=13%</td>
</tr>
<tr>
<td>2. Development of Argument</td>
<td>20/30</td>
<td>22/30</td>
<td>5/30</td>
</tr>
<tr>
<td></td>
<td>67%</td>
<td>73%</td>
<td>=12%</td>
</tr>
<tr>
<td>3. Questions from Bench</td>
<td>18/30</td>
<td>24/30</td>
<td>9/30</td>
</tr>
<tr>
<td></td>
<td>60%</td>
<td>80%</td>
<td>=20%</td>
</tr>
<tr>
<td>4. Speaking Ability and Delivery</td>
<td>16/25</td>
<td>17/25</td>
<td>4/25</td>
</tr>
<tr>
<td></td>
<td>64%</td>
<td>68%</td>
<td>=4%</td>
</tr>
<tr>
<td>Overall</td>
<td>53/100</td>
<td>74/100</td>
<td>9/100</td>
</tr>
<tr>
<td></td>
<td>63%</td>
<td>74%</td>
<td>11%</td>
</tr>
</tbody>
</table>

C2 students performed better across all four categories. C2 were moderately better in criteria 4 (speaking ability and delivery), notably better in criteria 1 and

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- Sixteen (16) students volunteered to participate in a Supreme Court Faculty Moot.
- Eight (8) students were from C1 and eight (8) from C2.
- Students from C1/C2 were given the same topic and the same amount of time to prepare.
- C1 were provided an advocacy workshop which had been provided to C2 as part of the practice-based teaching model at the outset of their studies. C2 did not attend this lecture.
- The judges were not provided with any instruction or information not ordinarily provided to moot judges by the lecturers/researchers. Video records of the moots were kept, de-identified and audited by a practicing barrister.
- Each moot-exam was overseen by one academic and one practitioner judge.
- The lecturers/researchers did not participate in student examination or provide any advice.
- Exams were conducted according to Law Faculty rules and assessed against ordinary Faculty exam criteria (organisation, argument, questions, delivery).
- An auditor reviewed de-identified videos of each exam to normalise marking differences between examiners.
- The Auditor also provided general feedback on content and style.
2 (organisation of presentation / development of their arguments) and significantly better in category 3 (ability to answer questions from the bench) than C1.

Total mean scores: C1 (63%) / C2 (74%).

The Auditor provided some explanation for the explanation for the major improvement in the C2 group across Arguments/Questions. Namely the C2 group appeared to have a more developed understanding of arguments and counter arguments, were better prepared for the adversarial process, had considered responses and defences to their propositions and consequently were more comfortable moving away from a set script.

The relevant comparative comments are set out below.

**Auditor comments**

<table>
<thead>
<tr>
<th>Criteria</th>
<th>C1</th>
<th>C2</th>
<th>Both</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form</td>
<td>Slightly unfamiliar with the order of appearances; Tended to drift as submissions progressed.</td>
<td>Familiar with Court procedure. Used pinpoint references and were able to navigate their own submissions with ease.</td>
<td>Professional in their manner and used language and formalities appropriate to the court. A range of nervous ticks. Little anxiety during moot.</td>
</tr>
<tr>
<td>Substance</td>
<td>Had not considered</td>
<td>Better mapped</td>
<td>All students had prepared well</td>
</tr>
</tbody>
</table>

4
counter arguments in great detail.
Less comfortable moving 'off script'
a number of students who lacked the skills to really engage with the bench and were keen to return to their 'script' e.g. "I will discuss that later" or "I am unable to assist, may I return to my submissions".
arguments and introductions.
Students confidently engaged with the bench and were comfortable and knowledgeable enough to move away from their scripts
All were professional and poised even under rigorous questioning

It is interesting to note that speaking ability and delivery was only moderately improved by participating in a skills based learning & assessment program. Initial assumptions were that these criteria would have exhibited the greatest variance between each cohort. Some analysis will need to be dedicated to why this is. However it is telling that categories 2 and especially 3 had the greatest variance. This would seem to indicate that the skills based learning and assessment process better prepares students for engaging with legal problem solving in an objective, holistic way. That is, students are more equipped to consider and map out their own arguments in relation to both the opposing position and the judge as objective intervenor. It also indicates students were better equipped to target their preparation and mapping exercise in a way which was efficient, structured and directed to the legal problem at hand.

This data will have to be analysed and combined with related data, including previous studies as part of this project. We would also like to overlay the grade point average (GPA) data for each student onto their results for this study. That would be in part to normalise the results further but also provide us with information on whether low scoring GPA students fare better or worse in the above study or visa versa. We will need to work with a relevant expert (i.e. statistician) to achieve a meaningful result from such an overlay.
What is evident at the outset however is that anecdotal and qualitative evidence about the benefits of this practice model are reflected in this quantitative study. Students are better prepared for the courtroom situation and also for legal problem solving more generally. That reaches beyond the courtroom to the research, analysis, preparation, mapping and planning that leads up to the appearance itself.

This data will be further analysed and included in a 2015 academic paper on the project.

**Conclusion**

We consider this stage of the project to have been successfully completed. The 2013 Law Foundation Grant provided vital funds for all elements of this project, from staff support, administrative support, professional engagement, student learning and training and possibly most vitally essential research for the continued development and implementation of the skills-based teaching model into the LLB curriculum; in Tasmania and, we hope, internationally.

The support of the Law Foundation, as the primary non-academic body responsible for legal education funding in Tasmania, has been essential to the success of the 2013-2014 project phase. It has also ensured an increased level of collaboration and partnership between the Tasmanian Academy and Profession.

We express our gratitude, on behalf of the Faculty of Law for this significant support.

*Brendan Gogarty 2014.*