

A collaborative model for learning and assessment of legal placements

Abstract

This paper will report on the evaluation of a new undergraduate legal workplace unit, LWB421 Learning in Professional Practice. LWB421 was developed in response to the QUT's strategic planning and a growing view that work experience is essential to developing the skills that law graduates need in order to be effective legal practitioners (Stuckey, 2007). Work integrated learning provides a context for students to develop their skills, to see the link between theory and practice and support students in making the transition from university to practice (Shirley, 2006). The literature in Australian legal education has given little consideration to the design of legal internship subjects (as distinct from legal clinic programs). Accordingly the design of placement subjects needs to be carefully considered to ensure alignment of learning objectives, learning tasks and assessment. Legal placements offer students the opportunity to develop their professional skills in practice, reflect on their own learning and job performance and take responsibility for their career development and planning. This paper will examine the literature relating to the design of placement subjects, particularly in a legal context. It will propose a collaborative model to facilitate learning and assessment of legal work placement subjects. The basis of the model is a negotiated learning contract between the student, workplace supervisor and academic supervisor. Finally the paper will evaluate the model in the context of LWB421. The evaluation will be based on data from surveys of students and supervisors and focus group sessions.

Introduction

Work integrated learning (WIL) is increasingly important in undergraduate law courses because it is generally agreed that the basic function of a law school is to prepare its students for the practice of law (Stuckey, 2007). In 1999 the Australian Law Reform Commission recommended that legal education should focus on what lawyers need to be able to do rather than on what they need to know (ALRC, 2000). James (2005) argues that the failure of law schools to provide adequate skills and personal development training contributes to the stressors on lawyers which ultimately lead to higher incidences of depression and lawyer burnout. WIL assists in preparing students for legal practice in the real world by providing a context for them to develop their skills and to see the link between theory and practice, and supporting them in making the transition from university to practice (Shirley, 2006). The aim of this paper is to explore issues relating to the design of a WIL unit where placements take place in a range of different legal offices including in the private sector. In Australia, there is little precedent for undergraduate legal placements, and less than half Australian law schools offer legal clinics (James,

2005). Backman (2007-2008) suggests that a significant number of US law schools are providing placement opportunities in the private (for-profit) sector for their students and there is a growing body of literature in the US exploring relevant design issues. This paper will consider the literature relating to legal placements and will propose a design model for legal placements which are available to large numbers of students based on individually negotiated learning contracts. The model will be evaluated in the context of a newly designed undergraduate legal placement unit.

The theoretical framework

The recent Australian Learning and Teaching Council commissioned National Scoping study into WIL reported a need for “collaborative and inclusive sector-wide engagement in initiatives that can support and sustain a broad range of WIL experiences” (Patrick et al., 2008). A type of WIL that is suitable for law students is an internship where students complete placements in legal offices for university credit. Abeyskeker (2008) defines internships as “any carefully monitored work or service experience in which a student has intentional learning goals and reflects actively on what is being learned throughout the experience.” Internships are suitable in a legal context because they do not rely on co-operative arrangements between the university and workplaces which would be difficult to maintain in the legal profession (Stuckey, 2007), and they are appropriate in a program where the majority of graduates will be employed in a commercial environment. Legal internships are distinguished from legal clinics, in which students provide advice to real clients under the supervision of faculty or experienced legal practitioners. Clinical legal education programs have existed in Australia since 1975 (Giddings, 2003) and have become established in some Australian law schools (James, 2005). Australian clinical legal education programs have tended to follow a community service model (Giddings, 2003), and have emphasized social justice and ethical issues (Curran, 2005), and personal development (James, 2005). In the United States there is a growing body of literature acknowledging that work experience is educationally rich and it is not necessary for learning to take place that academics control or participate

actively in the work experience (Maher, 1990; Givelber & Baker et al, 1995; Condlin, 1996-1997; Stone & McLaren 1999). In recent decades there has been a shift in US legal education towards practical legal training (James, 2005). Legal internships (referred to as externships in the United States) are a valuable part of the US law school curriculum and the recent *Best Practices for Legal Education* report (Stuckey 2007) included recommendations for the design and assessment of internship subjects. US law schools offering internships to large numbers of students generally follow an apprenticeship model where primary responsibility for learning is placed on the student who creates a learning plan and submits a reflective journal, time logs, supervisor evaluations and work product (Backmann, 2007-2008, p2). The necessity for a classroom component in internship subjects has recently been challenged (Eisinger, 2004) and changes to the requirements of the American Bar Association Standards for Approval of Law Schools have allowed face to face teaching to be replaced by other means of guided reflection. As a result some US Law Schools have replaced the classroom component of legal internships with an online component (Gharakhanian, 2007-2008). The emerging apprenticeship model with minimal face to face teaching enables more students to participate in internships because fewer law school resources are required (Backmann, 2007-2008). Increased student participation in internships is enabled by law schools offering credit for placements in private legal offices, rather than merely for placements in the Courts or non-profit organisations. Feeley (2007-2008) reviews concerns with unpaid placements in private organisations and concludes that such placements can be appropriate provided certain guidelines are followed.

The foregoing consideration of the literature suggests legal internships should follow a collaborative model which involves students setting their own learning goals, and working collaboratively with workplace and academic supervisors. The student should be primarily responsible for setting learning goals as part of a learning agreement between the student, workplace and university. The student is in the best position to understand his or her own practice situation and therefore to establish the

framework for learning (Walsh, 2007). A benefit of individually negotiated learning agreements is that they enable alignment of course objectives, teaching and assessment (Biggs, 2003). In practice, university subjects are required to have established learning objectives applicable to all students, and to meet this requirement in internships, learning objectives specifying appropriate levels of understanding could be established (Walsh, 2007) which students address through specific learning goals. The learning objectives should reflect the essential components of work place learning; learning theory (understanding how to learn), critical reflection, and capability (ability to perform in the workplace) (Brodie & Irving, 2007). The student's individual learning contract should also specify how the student will attain the specific learning goals and include the work opportunities that will be provided by the workplace supervisor.

Students should be provided with academic learning support in developing their learning contracts in the form of assistance in evaluating what they bring to the placement and identifying what they wish to obtain from it, negotiating the result with the workplace supervisor, and undertaking self and career exploration (Abeysekera, 2008). In addition students need clear guidance as to what the learning expectations are and how to achieve them, and the distinction between work and what is learned at work (Walsh, 2007).

Once the student's learning goals have been established the student's learning experience will be primarily based on their own critical reflection (Walsh, 2007). Reflection is a key component of WIL; it is what turns experience into learning (Ledvinka, 2007). To enable effective learning in WIL students must be given explicit instruction on reflective practice (McNamara and Field, 2007). Students should be given guidance on their reflections either in the class room or by online methods such as discussion forums (Backmann, 2007-2008). Students in legal internships reflect on their own performance of legal skills and the performance of others, career goals and needs, the impact of legal processes and their understanding of the law (Katz, 1999).

Students should be assessed on the extent to which they have met all the general learning objectives; learning theory, critical reflection and capability. Learning theory and critical reflection are generally assessed by reflective journals, portfolios and presentation. Capability should be assessed by a mix of evidence from the workplace supervisor, provided directly to the academic supervisor (such as examples of works, digital recordings of work and on the job assessments) and by the students own claims of learning in the form of reflective assessment (McNamara, 2008).

Case study LWB421

This paper will now consider the theoretical principles which have been discussed in the context of a case study subject in the QUT undergraduate law course, LWB421 *Learning in Professional Practice*, in which students organise their own placements in private legal offices. The subject was offered as a pilot in 2008. The assessment comprises a placement plan (10%), online discussion forum (30%), student portfolio (50%) and supervising lawyer's final report (10%). The placement plan is an individually negotiated learning contract establishing learning goals for the placement. The student addresses the extent to which they have met their learning goals in the student portfolio. The student's ability to articulate what they have learned is the key to the portfolio assessment (Walsh, 2007; Blackwell, 2001). Reflective practice is pervasive in the assessment, with students engaging in a reflective process in writing their portfolios and practising reflection by way of collaborative learning on the discussion forum.

The subject evaluation comprised an electronic survey available to all students in the subject via the subject's Blackboard site and the LEX survey (QUT's student evaluation tool which is also delivered online). While a detailed consideration of the results of the evaluation is beyond the scope of this paper due to word limitations, some general points can be noted. First, students were strongly in favour of a workplace unit as part of the undergraduate course to assist their personal development and career planning. Students were generally satisfied with the teaching and assessment and online activities in the

unit, although some perceived there was an over reliance on reflection. The online discussion forum is a popular and beneficial method of learning, however students need to be carefully instructed on how to use the forums and the online activities need to be carefully constructed so that they are rigorous and useful for students.

Conclusion

This paper has considered the importance of WIL in the context of ensuring that law graduates have the legal and personal skills necessary for professional practice. An examination of the literature both in Australia and the US suggests that appropriately design internship subjects can satisfy the objectives of WIL for law students. The paper has suggested a model for the design of legal internships units that aims to promote personal development and practical legal skills training by a process of reflection upon work place experience.

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