

Developing Reflective Practice in Legal Education

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Foreword

The UK Centre for Legal Education was established to support best practice in learning, teaching and assessment in law. As part of its work UKCLE continues the series of guidance notes and teaching and learning manuals established by the former National Centre for Legal Education, a project supported by the Fund for the Development of Teaching and Learning (FDTL). The guide to developing reflective practice in law is a valuable addition to the list of publications now available from UKCLE. Whether you are new to the ideas of reflective practice or seeking to update and refresh current approaches, we hope this guide will be a source of enlightenment and inspiration.

About the author

Dr Karen Hinett is Education Developer at the UK Centre for Legal Education. She is responsible for the events programme, supporting legal education networks and the Project Development Fund. Karen is also responsible for the evaluation of the work of the Centre and is a member of the Learning and Teaching Support Network evaluation working group. Karen has published a number of articles related to learning and teaching in higher education and has a particular interest in assessment issues.

If you have any comments on this publication or would like further information about the work of the UK Centre for Legal Education please contact us at the address below.

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Preface

By three methods we may learn wisdom: first, by reflection, which is noblest; second, by imitation, which is easiest; and third by experience, which is the bitterest.
(Confucius)

We all know students who adopt a 'surface' approach to learning. These students have little intrinsic interest in the subject and are more likely to view assessment tasks as a means to an end. Fortunately there are also students who adopt a 'deep' approach, committed to understanding the law and taking the time to think about feedback such that they improve future performance. The difference between the two approaches is that the 'deep' learner *reflects* on experience. Put simply, reflection is about maximising deep and minimising surface approaches to learning. Reflection is a way of getting students to realise that learning is about drawing on life experiences, not just something that takes place in a classroom. It enables students to think about *what* and *how* they learn and to understand that this impacts on how well they do.

What this guide aims to do is to provide a starting point for law teachers who want to know a little more about reflection and how it might be facilitated. In doing so it refers to educational theory and provides a number of examples of how reflective practice can be integrated into the learning situation. It is hoped that the guide will provide inspiration for action and prompt further debate about what we require of law graduates and how this might best be achieved. What the guide does not do is reproduce the seminal works of Schön and Kolb, and readers are advised to turn to the originals for a deeper understanding of the issues. Neither does it repeat work available in other guides. Highly recommended is Alison Bone's guide in the same series: *Ensuring successful assessment* (available to download at www.ukcle.ac.uk/resources/bone.html).

My thanks to all those colleagues who have shared personal experiences and allowed me to reproduce examples of practice in this guide. I am also grateful to Professor Julian Webb for his helpful comments on previous versions of this guide and to Chris Clegg for proof-reading and help with graphics.

UKCLE is seeking to add resources on reflective practice to its website. If you are concerned with the development of reflective practice and would like to offer a short description of your own approach, please get in touch.

one Introduction

In exploring how reflective practice can support and aid learning it is helpful to acknowledge how we learn. The following points can be made about the process of learning. First and foremost, *learning is individual*. All learners start from their own position of knowledge and have their own set of experiences to draw upon. Secondly, *learning is contextual*. Law students need to understand that the context in which they learn and operate affects how and what they understand. Another key point is that *learning is relational*. In order to make sense and achieve a deep understanding of material and experiences students need to relate new information to existing knowledge and experiences. This is best achieved through a process of reflection. According to Boud, Cohen and Walker:

Reflection is an important human activity in which people recapture their experience, think about it, mull it over and evaluate it. It is this working with experience that is important in learning.

(1985: 19)

It is at this point that students can make use of feedback from tutors and peers. Engaging in a dialogue with others helps students to make sense of what they know. Relating the feedback given by others to their current understanding helps students to think about what and how they are learning.

The final point to acknowledge is that *learning is developmental*. Having made sense of new information and integrated it into an existing framework of understanding the student can then make informed choices about what to do next and how to develop their understanding.

In summary, we can view reflection as having four main purposes (see figure 1).

Reflection helps learners to:

- understand what they already know (individual)

- identify what they need to know in order to advance understanding of the subject (contextual)
- make sense of new information and feedback in the context of their own experience (relational)
- guide choices for further learning (developmental)

Individuals often reflect on what they have done, but these are private and personal thoughts used to shape ideas. The main difference between this and formalised 'reflective practice' as a tool for supporting learning is that the student produces *evidence* of their reflection. This can be demonstrated in the form of a learning log, diary, personal development portfolio, critical incident journal or perhaps a video diary. Individuals engaged in this structured, evidence-based activity may be described as 'reflective practitioners'. As Phil Race argues,

The act of reflecting is one which causes us to make sense of what we've learned, why we learned it, and how that particular increment of learning took place. Moreover, reflection is about linking one increment of learning to the wider perspective of learning – heading towards seeing the bigger picture.
(2002: 1).

Reflection involves a dialogue between students and their peers, students and teachers and students and work placement tutors, all of whom can provide useful feedback necessary for reflection. To begin to reflect on their learning students need to be encouraged to make sense of new knowledge in relation to their existing understanding. The learning cycle developed by Kolb (1984) is a useful and simple tool for illustrating to students the connection between reflection and improved learning:

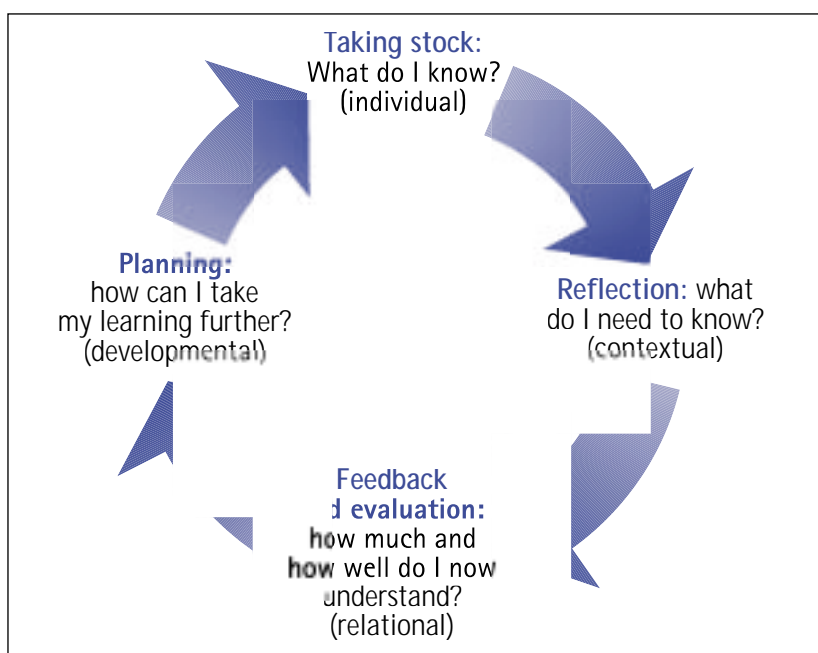


Figure 1: The learning cycle

The learning cycle can be used to explain the incremental nature of the learning process. In professional and vocational education reflection can be used as a way of helping students to take responsibility for their own learning and to identify ways in which they can advance their practice and professional conduct. Academic programmes also emphasise autonomous learning and encourage students to develop a sense of ownership over work by reflection and planning. In both spheres use is made of learning journals and reflective logs to support learning and skill development. These 'products' provide evidence of thinking, and therefore validate reflection within the context of formal education. Of course, on a daily basis individuals use personal diaries and journals to map thoughts, emotions and ideas. People reflect for different purposes and in different contexts, but the aim is the same: to understand better and make sense of what is felt and experienced.

Webb argues:

The learning process begins with an event which is experienced. To learn from that experience we require an opportunity for reflection on that experience, and the ability to abstract and internalise experiences and reflection in the form of a theory, which may then be tested in new situations.

(1995: 192)

The 'experience' referred to can take many forms. A work placement is an obvious learning experience upon which the student can reflect. However, students also have learning experiences in classrooms, with groups and friends and when totally removed from the formal learning environment. Personal reflection can often be prompted by a *lack* of experience and a desire to understand and find direction. However, where reflection is used to support learning in an academic or vocational environment it most commonly follows a planned activity or series of learning experiences.

Some law courses provide simulated 'real life' experiences such as clinic work, negotiation, legal research, mooting, and problem solving. Virtual learning environments also offer a simulation of real life which can be used to encourage students to reflect. There is no right or wrong 'experience' upon which reflection can hinge, it is simply that the student is encouraged to think about how what s/he now understands has changed from what s/he knew before the lecture, discussion, placement, project or visit to the law court.

Arguably *all* students need to be able to question their own learning and evaluate the quality of their work. However as Boon argues, these skills are particularly pertinent to students of law:

Students need not just to 'do' but to develop a perspective which enables them to ask why, given particular circumstances, lawyers should 'do' in a particular way. This must involve a scholarly enquiry into action, motivation and ethics, laying the foundation of an ability to reflect, not only on performance but on the underlying rationale for action.

(1996: 129)

In one of the few published examples of reflection in law Elkins explains how learning journals were used to counteract what he describes as “uncaring and subject-centred attitudes in legal education” and to present legal education “as it is personally experienced, as individual students ‘see’ it, ‘feel’ it, and make it part of their lives” (Elkins, 1985: 33).

The task for law teachers is to make reflection work in the particular context in which they operate. The following sections illustrate both what we mean by reflective practice and how reflection fits into the context of law teaching, as well as offering suggestions on how it might be implemented in law teaching.

two What is reflective practice?

Moon defines reflective practice as “a set of abilities and skills, to indicate the taking of a critical stance, an orientation to problem solving or state of mind” (1999: 63). This encapsulates the wide range of activities associated with thinking about your learning. Cowan suggests that learners are reflecting in an educational sense “when they analyse or evaluate one or more personal experiences, and attempt to generalise from that thinking” (1999: 18). However, as Biggs points out, “a reflection in a mirror is an exact replica of what is in front of it. Reflection in professional practice, however, gives back not what it is, but what *might* be, an improvement on the original” (1999: 6).

For the purpose of this guide, reflective practice is perhaps best understood as an *approach* which promotes autonomous learning that aims to develop students’ understanding and critical thinking skills. Techniques such as self and peer assessment, problem-based learning, personal development planning and group work can all be used to support a reflective approach (see further section four).

Work by Schön and Kolb has given reflective practice currency in recent years, using and applying a basic principle of reflecting on experience to improve action and professional practice. However, this is not a new or original idea; it has been developed by education psychologists such as Dewey and Lewin and can be traced back to the work of Socrates and a form of learning through questioning and feedback. It forces us to question what it is that we know and how we come to know it. More currently, Claxton has suggested that “learning to learn, or the development of learning power, is getting better at knowing when, how and what to do when you don’t know what to do” (1999: 18). This lack of certainty forces the individual to examine the basis on which s/he believes something to be true. Reflection on what they know and don’t know helps students to appreciate that law is a *social* science open to interpretation. It also helps students to understand that learning is individual, and that only they can make the connections to existing knowledge such that they make sense of law for themselves.

When we speak of ‘reflective practitioners’ we usually refer to adult learners who are engaged in some kind of activity (often professional) which they can use to reflect on their strengths,

weaknesses and areas for development. Students in turn need to be encouraged to use situations, for example tutorials, group discussions or placements, as a basis for reflecting on what they have learned. Example 1 outlines how legal clinics may be used to provide an opportunity for reflection.

Example 1

Using reflection in legal clinic

Richard Grimes, College of Law

To offer students an opportunity to put the theory of law into practice by placing them in a real life setting, for example a law centre, solicitors office or community setting such as a school or prison. Students are engaged in a real situation where they have to give advice to clients and use this experience as the basis for reflection. Over 900 students at the College of Law have taken part in clinic work.

Aims

Students on the Legal Practice Course and Bar Vocational Course programmes at the London, Birmingham and Chester branches of the College of Law are able to participate in a law clinic. They are provided with a handbook on legal advice centres that documents the learning process. It is explained in the introduction of the handbook that there are three principal ways in which students should learn from the clinical experience:

1. **working on a real client case**
2. **discussion at the follow-up meetings**
3. **evaluating your experience**

In a section called 'learning by doing' it is explained how this learning will be promoted.

After participating in the clinic students are required to do two things:

"The first is to complete an evaluation form. This asks you to think about what you achieved in the centre, what you could have done better and what you might have done differently. The form will also help your supervisors if asked to provide a reference. You will then attend an evaluation meeting with your supervisor to discuss their experience and to find out how your supervisor has evaluated your performance.

The second is to ask you to attend a group evaluation meeting with other participants to discuss in general terms their involvement in the centre's work. Learning from the experience of others is as important as reflecting on your own work. This meeting will take place at the end of the term in which you participate in the centre".

The reflective component is explained at the induction session and revisited at each meeting between the supervisor and the student's advisors.

(Taken from the College of Law's *Legal advice handbook*, 2001-2002 edition.)

Assessment

Clinical programmes last around 5-6 weeks. Students are awarded a certificate of satisfactory completion of their case. The reflective element is not formally assessed, but there are plans to do so in the academic year 2002-03.

Recommendations and observations

The reflective component is spread across several meetings in the build-up to and analysis of the relevant programme. All of this is documented, including the use of exit questionnaires. This helps students to develop their ideas through discussion, and also prompts them to evidence reflection in the questionnaire.

Resources

Sheffield Hallam University and the Inns of Court School of Law both require students to complete reflective diaries, which are assessed. For more information contact the departments via:

College of Law: <<http://www.college-of-law.co.uk>>

Sheffield Hallam University: <<http://www.shu.ac.uk/schools/ssl/lawclinic>>

Inns of Court School of Law: <<http://www.city.ac.uk/icsl>>

Using intuition to inform learning

Schön speaks of reflective practitioners who are not just skilful or competent but “thoughtful, wise and contemplative”, whose work involves “intuition, insight and artistry” (1983). Drawing on our intuition we do what feels right. It is an emotional response that complements our knowledge and what we understand about a subject, and which enables us to act in a situation. Using intuition to inform learning is referred to in education as developing ‘meta-cognitive’ skills. That is, a more developed or higher order version of the ‘cognitive’ (knowledge, reasoning) skills that we employ in learning. Examples of cognitive skills are the subject specific and key skills outlined in the law benchmark statement (Quality Assurance Agency, 2000b). By contrast meta-cognitive skills are more likely to be employed in analysis, synthesis, critical judgement and evaluation, autonomy and ability to learn. Meta-cognitive skills are important because they affect the ability to understand and make sense of experience. As such they are essential to the process of reflection and working in situations of uncertainty.

As one undergraduate law student comments:

Although [the tutor] gave a sort of outline as to ‘how to cross examine’ I’m starting to see how much it is more thinking on your feet technique and can’t really be planned.
(Law in Practice Journal, University of Warwick, 1999)

Encouraging students to acknowledge their intuitive capacity helps them to appreciate their strengths and weaknesses. As one student explains, “it is strange that sometimes you do things or know what things are without ever really stopping and analysing it. For me, negotiation is one of those things.” (Law in Practice Journal, University of Warwick, 1999). Helping students to tap into their intuition helps to support reflection and future planning. Boud and Walker argue: “it is common for reflection to be treated as if it were an intellectual exercise – a simple matter of thinking rigorously. However, reflection is not solely a cognitive process; emotions are central to all learning.” (1998: 194).

LeBrun and Johnstone make a strong case for the inclusion of meta-cognitive skills into the law curriculum. They argue that the law teacher’s “reluctance to explore and acknowledge other aspects of the human condition may contribute directly to the current impoverishment of legal education.” (1994: 164).

It is useful when appraising the success of a module to look at how students’ meta-cognitive skills are developed. Asking students *why* they behaved or interpreted a situation in a particular way can provide useful insights not only into *how much* and *what* they understand, but also the extent to which they draw on intuition.

Exercise

Think about a module or course for which you are responsible and consider the following questions:

1. Can you identify in which elements students have to draw upon intuition and ‘gut’ feeling?
2. If you have problems identifying parts where these elements are facilitated within the course, think about the assessment on the course/module. Does this involve the opportunity for the students to demonstrate reflective or intuitive ability?

three What's reflection got to do with it?

Law is taught in institutions that are accountable to government, funding agencies and professional bodies. The government agenda for higher education is concerned with increasing participation, widening access and producing capable citizens. Professional bodies are concerned with providing the legal profession with high calibre individuals. This wider context impacts on the way that courses are organised and taught. Law teachers are now examining learning and teaching practices with a view to meeting the demands of these groups and providing a stimulating environment in which students can learn. This section discusses how reflective practice might be used to accommodate each of these aims and considers the levers for change affecting the use of reflection.

Creating lifelong learners

Over the last 20 years there has been a shift towards a more learner-centred curriculum that includes the use of reflective practice. This comes in part from teachers and practitioners, but also from the UK governmental commitment to lifelong learning (see *The learning age*, the Department for Education and Employment's 1998 green paper, and the 1997 Report of the National Committee of Inquiry into Higher Education, colloquially referred to as the Dearing report after the chair Sir Ron Dearing). Other documents (for example the Fryer (1997) and Kennedy (1997) reports) also collectively raise the need to increase access and diversify learning and teaching methods. The Dearing report specifically speaks of the need to "put students at the centre of the process of learning and teaching". Together, these documents have helped to set an agenda for further and higher education that celebrates diversity, flexibility and learner autonomy. A commitment to widening participation and a target figure of 50% participation by 2010 means that institutions are having to rethink curricula and consider how learning and teaching can be diversified to enable a wider, heterogeneous student body. For law teachers this means acknowledging that people learn differently and that existing didactic methods of teaching are unlikely to serve the needs of a diverse group. In this context reflective practice offers a flexible framework in which students can make sense of their own development.

Claxton argues that:

Lifelong learning demands...the ability to think strategically about your own learning path, and this requires the self-awareness to know one's own goals, the resources that are needed to pursue them, and your current strengths and weaknesses in that regard...You have to be able to monitor your progress; if necessary even to measure it; to mull over different options and courses of development; to be mindful of your own assumptions and habits, and able to stand back from them and appraise them when learning gets stuck; and in general to manage yourself as a learner – prioritising, planning, reviewing progress, revising strategy and if necessary changing tack.

(1999: 14)

Claxton goes on to explain that for him lifelong learning requires three conditions; resilience, resourcefulness and reflection (1999: 180). These are neat terms that encapsulate the personal skills and motivation required of a learner who is to continue learning beyond formal education. Reflective practice underpins on-going, individual achievement, and therefore is central to any political aims to widen participation and access. In addition, it fulfils the demands of the economy and employers by providing a flexible workforce. Contemporary society requires individuals who can multi-task and respond creatively in any given situation. Law students need to express themselves both verbally and in writing, seek out information, choose appropriate courses of action based on facts, evaluate the implication of decisions and juggle a number of clients and problems at once. Today it is not just law firms but also society as a whole that requires these qualities in graduates. As the ways in which we work change so do the expectations of higher education. The following quotation by Stefani pinpoints the potential for reflective practice in the context of an increasingly diverse society:

In the context of the constantly evolving needs of the global employment market it is essential that students are equipped to be flexible, adaptable and prepared to take responsibility for their own learning and their own continuous personal and professional development. This places a responsibility on teachers and tutors in higher education to develop teaching environments which encourage students to take a more pro-active role in articulating and striving towards self-determined learning goals.

(1998: 339)

With information readily available to the masses at the click of a mouse society needs people who can search, select and discriminate between what is useful and what is potentially harmful information. Society needs people who can think on their feet and who learn from experience. To be able to learn autonomously is specifically recognised as emblematic of 'graduateness' in the law benchmark statement, and reflection on learning is a key element of this ability.

Reflection and benchmarking

There are seven areas of performance for law against which students must be judged capable. These are sub-divided into three categories:

- *subject specific* 1. knowledge 2. application and problem solving 3. sources and research
- *general transferable intellectual skills* 4. analysis, synthesis, critical judgement and evaluation
5. autonomy and ability to learn
- *key skills* 6. communication and literacy 7. numeracy, IT and teamwork

The levels outlined in the benchmark statement indicate a minimum *threshold* standard of attainment to achieve a pass level honours degree:

A student at the very bottom of the honours class will have satisfactorily demonstrated achievement in each area of performance on a sufficient number of occasions or over a sufficient range of activities to give confidence that they have the ability or skill claimed for graduates in law.

(Quality Assurance Agency 2000b: 2)

The clarification of what is expected of a graduate is useful, since it breaks down what each programme of law should provide in terms of learning opportunities. Rather than seeing this as just another audit hoop to jump through, the process aids the transparency of learning and teaching processes for students and teachers. Law teachers have taken on the challenge of making skills more explicit, and where necessary have re-thought existing courses to reflect and make explicit the benchmark standards. In particular, thought has been given to where and how students are offered opportunities to develop transferable intellectual skills.

It is difficult, if not impossible, to teach learner autonomy through conventional didactic teaching methods. A more helpful approach might be to consider the teacher as a facilitator of learning experiences and opportunities, through which skills can be developed. Skills such as analysis, synthesis, critical judgement and evaluation, autonomy and ability to learn all encapsulate the need to reflect and make sense of what has been learned. As such, the benchmark statement can be seen as a useful lever for change, providing the impetus to re-think the syllabus and current learning, teaching and assessment techniques.

Exercise

Think about a module or course for which you are responsible and try to answer the following questions:

1. Are there opportunities for students to think about their own development built into the module?

2. Could students provide evidence of the achievement of skills such as analysis, synthesis, critical judgement and evaluation, autonomy and ability to learn through some kind of reflective statement or journal?

Law schools and teams have the freedom to make decisions about how they meet the benchmark statement, which means that reflection can be included and integrated to suit the particular module of programme.

It is for institutions to decide upon the appropriate form of evidence they require to be satisfied that a student has an appropriate level of achievement in a required area of performance...there is no prescription about the form of evidence provided by a student nor the form of record kept by the institution. In one institution, a student might show knowledge and general intellectual skills through passing sufficient law subjects, but might show key skills through activities recorded in tutorial reports, a student file, or a record of achievement or progress file.

(Quality Assurance Agency 2000b: 5).

Conventional teaching and assessment procedures often fail to show the value-added elements of a programme. By contrast, portfolios and learning journals provide evidence of development over time. They achieve this through the reflective element, which allows thoughts, knowledge, ideas and observations to be distilled such that plans can be made for the future.

Another policy initiative that provides a lever for curriculum change is the Quality Assurance Agency's *Code of practice*. The code has ten sections, including assessment of students, programme approval, monitoring and review, external examining, career education, information and guidance and placement learning. Regardless of any changes to the structure of quality assurance procedures over the coming years, the code of practice is still likely to be used by reviewers as a way of judging the quality and robustness of learning and teaching processes (Greatrix and Varnava, 2001).

As an example, the section of the code of practice covering assessment is concerned inter alia with feedback, the provision of criteria and consistency and standards. Precept 2 asks institutions to consider "how to make information and guidance on assessment clear, accurate, consistent and accessible to all staff, students, placement or practice assessors and external examiners" (Quality Assurance Agency 2000a: 5). The implication of the code is a need for greater transparency about what, how and why a course is taught and assessed in a particular way. Integrating opportunities for students to reflect on their development fulfils the requirements of the benchmark statement and is consistent with the aims of quality assurance. Example 2 illustrates how one law school has gone about this.

Example 2

Reflection on the work experience option of the Introduction to Law module, Year 1, LLB

Sue Prince, University of Exeter

Background

During the academic year 2001-02 the School of Law at the University of Exeter offered first year undergraduate students the option of taking part in a module reflecting on their work experience. From a cohort of 200 students 150 chose to take this option.

Aim

The section of the law benchmark statement on general transferable intellectual skills states that students should be able to demonstrate basic abilities of *analysis, synthesis, critical judgement and evaluation*, as well as demonstrating *autonomy and the ability to learn*. The work placement module gives students an experience on which they can begin to reflect. It enables students to understand why these skills are important and to be able to apply them in the context of their own learning of law. The aim is to encourage students to reflect on their own experiences to help them better understand and apply this to their learning of law and how they wish to develop their personal, academic and employability skills for the future.

Requirements and evidence

Students are encouraged to organise their own law or law-related work placement. They need to undertake at least 50 hours work experience to fulfil the criteria for the option. The work experience undertaken may be paid or voluntary work, it may be full or part time, or in the Christmas or Easter vacations. The work chosen by the students must involve them or enable them to participate in tasks or projects rather than just observing others (which may not result in the student having an experience for themselves). In addition, they have to be able to make links between the work they are doing and the law degree. These links are clear when the work is in a law office, but not so clear in other types of business. Students may choose work outside the law if it requires them to develop the sorts of skills required in the legal profession; it is for the students themselves to think about what these skills are and how they can relate them back to their academic studies.

Students are supported by a series of lectures on legal system and legal institutions.

Students are also required to attend workshops aimed to help them learn and reflect (this includes work on learning styles).

Students are required to work on a community project that helps them to see the law in action. The work experience option therefore allows them to draw upon the material they have gathered elsewhere in the module and to reflect upon it in the context of their own learning. Tutors spend time encouraging the students to think about how they learn and to then set themselves some specific measurable and achievable goals before they undertake their work experience. They can do this by looking at goals related to work but also to social, academic and personal goals to see how they all intertwine.

Assessment

The option is assessed on the basis of a portfolio. Students are assessed on the level of their reflection and the links they make to law and legal studies in their portfolio and on a seven minute (with additional time for questions from peers) oral presentation summarising their own development. This is worth 20% of the module.

Observations

1. Changing thinking about learning - for many students it was the first time they had been asked to set their own goals, rather than having them set for them by a tutor, and many of them did not like the lack of certainty this generated. However, the emphasis was very much placed on requiring students to act autonomously and think about the way in which they learned best. It was clear from the workshop that some students were very theoretical learners, who wanted to think carefully and analyse issues, whilst others learned more by doing than by thinking. By encouraging the students to set goals for themselves they could see what opportunities the workplace could provide (for example the development of IT or research skills, or wanting to meet and interact with a variety of people) and seek out and be proactive about how they would achieve these.
2. Writing reflectively - we also asked the students what it meant to them to think reflectively, and asked them to complete a number of exercises. We tried to show the difference between writing descriptively and writing reflectively. By asking students to recall past experiences and what they then learned from them it was possible to show them the benefit of reflection. The ability to reflect and analyse themselves in the light of their commercial, voluntary and academic experiences enables students to gain high marks on the module. This is not an easy process, as all those who have tried it for themselves will know. The reflective process was modelled on academic work to reflect the difference between writing an academic essay in a descriptive manner (which could only achieve a 2:2 result) and writing analytically or reflectively (which would bring the marks up to a 2:1). If students could understand and start to think in a reflective manner they could also apply this to their written academic evaluations in all of their other areas of study.

3. Support – during the workshops the students were given a learning pack, which underpinned the reflective process and also gave them guidelines as to what to include in their portfolios for assessment.

Remarks

Many students were unhappy with the fluidity of the option, but many also reported in their portfolios that the option had been extremely beneficial. The level of a student's self perception increases when required to record their development, so that they can continuously review and reflect upon their own goals and strengths and weaknesses. One student stated the benefits of learning to write reflectively: "I did not at the start of the option see any point in knowing your learning style or how keeping a diary could help you in any other way than to remind you what has happened. However, once I got into the work I became increasingly interested and found the learning methods useful for studying and in employment."

One of the main points made by the students was that it had helped them to increase their confidence in themselves and their abilities, because they understood and knew far more about what they were capable of after reflecting on their abilities in the workplace. They gained insight into law and saw that law involves real people and their problems. By bringing this knowledge back to their academic work they should be able to make more sense and have a greater understanding of what academics mean by 'the law'.

Resources

All the requirements and exercises used are available from the University of Exeter JEWELS Project website: <<http://www.ex.ac.uk/jobsurfing/learning-from-experience>>. The website is an excellent resource for teachers looking for background information and additional resources on learning styles, SWOT analysis exercises, self and peer assessment and evidencing reflection.

Developing academic and professional legal skills

The traditional divide between undergraduate and vocational law programmes as perceived by providers and professional bodies is that the former provides students with a broad foundation in knowledge of and about law whilst the latter is concerned more exclusively with the development of the DRAIN (drafting, research, advocacy, interviewing and negotiation) skills used in legal practice. There are sound historical and practical reasons for this delineation, and it makes sense for new students of law to gain a broad understanding of legal issues and methods before choosing to specialise as a barrister or solicitor.

If we were to try to identify the common elements to both academic and professional legal education they might look something like the list below. In an ideal world, law courses would:

- help students appreciate that learning is individual, contextual, relational and developmental
- help students to become autonomous learners
- provide opportunities for students to develop critical and evaluative experience
- facilitate an holistic view of the law, involving knowledge, skills and ability to reflect on experience
- promote the idea that reflection is central to professional conduct

The following example illustrates how reflective diaries have been used on the Bar Vocational Course (BVC) to aid the development of these kinds of skills.

Example 3

Reflective diaries (used on the conference skills course on the BVC)

Joanne Lewthwaite, Manchester Metropolitan University

Aims

To introduce the concept of the reflective practitioner. To help students reflect on all aspects of their performance, appreciating what was good and bad, and to look forward to what they can do next time to improve their performance.

Requirements and evidence

Each student is given a diary at the start of the course. The diaries consist of separate pages containing questions related to the learning outcomes for the particular session, which provide a focus for the process of reflection. Students must complete a page after each small group session and also after the first whole group session.

To be completed after the whole group session (WGS):

1. Do you understand what is meant by a conference in the context of the work of the Bar?
2. When does a conference take place?
3. Having attended the WGS and viewed the video *Do I have to talk to the client?* do you feel that you have a greater understanding of the process of a conference?
4. What for you were the most important points raised in the WGS?
5. What did you see as your personal strengths that will assist you in conducting a conference?
6. Are there aspects of the skill that you feel may cause difficulty?

To be completed after the first small group session:

1. Make a note of the feedback provided by your tutor.
2. Make a note of the feedback provided by your peers.
3. Do you feel that your preparation was adequate?
4. Identify the best aspects of your conference.
5. Do you feel that you established a good rapport with the client?
6. Did the client understand the advice given in the conference?
7. Were you able to obtain sufficient information to advise fully?
8. Consider your feelings when you role-played as the client for one of your peers. What can you take from this experience to assist you in developing your own skills in this area?
9. What aspects of your performance do you wish to focus on in the next small group session?

After the final small group session students are asked to review all the feedback they have received over the conference skills course, to look for any recurring themes that will require attention and to review their strengths in conference skills so that they can approach the final assessment better prepared.

Assessment

The diary is not formally assessed.

Observations and recommendations

Completing the diaries:

1. Promotes an holistic approach – the teachers noticed that students tend to focus on one specific comment rather than considering the complete picture, which the diary approach aims to promote. The section on looking back at feedback was included to encourage students to use the full range of feedback for their future learning.
2. Encourages contextual awareness - the question about role playing is helpful, as it encourages students to appreciate that barristers do not operate in isolation and that their actions have consequences for the other party involved.
3. Is aided by a staggered approach - reflection seems to work particularly well where there are a number of self contained exercises or modules, upon which the students can reflect and put into practice what they gained from the process in the next exercise.

Remarks

“Overall I see the diary and the use of reflection in learning as an optimistic approach, encouraging the students to use the recognition and understanding of ‘what went wrong and why’ to improve things next time. Also to encourage the students to maintain their strengths and to build upon them.”

Resources

Bar Vocational Course website: <<http://www.did.stu.mmu.ac.uk/depts/law/bvc.shtm>>

Exercise

Using the example above as a prompt think about how you could develop a set of questions to be used in diary form to help your students develop a particular skill.

Issues to consider include:

1. What do students find particularly difficult?
2. When do students receive feedback?
3. What opportunities are there for them to repeat the skill?

Developing understanding and subject knowledge

Reflection is not restricted to skills development, but can also be used as a tool to support student understanding of a particular subject area of law. Using human rights as an example we can see how reflection complements the teaching of a specific subject area.

Article 6 of the draft plan of action for human rights education (United Nations, 1995) advocates that human rights teaching has to “engage learners in a dialogue about the ways and means of transforming human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions”. The implication for law teachers is that students have to have some sympathy with and acknowledgement of the human condition. As Williams forcefully argues:

The extent of that impact through practice will depend, if only in part, on the ability of lawyers to appreciate the possibilities that the HRA unveils. And the extent of that appreciation will depend on how human rights can be understood in practice. This does not mean only in the practice of law. Rather, it means in the practice of people, their lives and the values, needs, beliefs that people hold and wish to protect, or promote, or advocate.

(Williams, 2002: 134)

Engaging in real life examples means that students have an opportunity to understand for themselves the complexity of human problems. Problem questions about the extent to which Mr Bloggs should reasonably be expected to endure his neighbour's trombone practice can help students to appreciate how the law operates in civil cases. However, the complexity of cases involving racial, gender or sexuality disputes are less easily demonstrated by text. Students need to understand and make sense of the context and experience of another person's life. Williams explains:

The role of experience and dialogue in the understanding of human rights is of acute importance. It implies an acknowledgement that monological means of teaching human rights cannot alone lead to their deeper appreciation or their potential application. It

suggests that educating human rights is a dialogical and continual process, ever evolving and in constant need of reappraisal. The education of human rights is thus preferred as a collaborative enterprise, one that requires the student and educator to be engaged within communities, to experience the lived-lives of people, to become immersed in the messy world of ethics and justice.

(Williams, 2002: 134)

The value of getting students to think about the relationships and context affecting the law is not unique to human rights teaching and can be applied to many subjects. Engaging in discussion and asking questions helps students to think about the situation and reflect on the options available to them. It is the process of thinking, reflecting and making decisions about what to do next that is important to the teaching of law.

LeBrun and Johnstone argue that since law is an “ethically saturated arena” it follows that students should be given “opportunities to discuss ethical issues and moral dilemmas so that they are better equipped to reach their own decisions about law and the legal system” (LeBrun and Johnstone, 1994: 165). Engaging students in real problems and requiring them to reflect on their own values is one way of providing this holistic appreciation. (See Williams 2002, Webb 1995, 1998 for more on ethics.) As Macfarlane suggests:

A reflective model encourages the development of both cognitive and affective theories of moral and ethical behaviour, challenging students to integrate these into their personal belief systems as a result of their experiences instead of (at best) passively absorbing the ‘rules’ of professional conduct.

(1998: 16)

An example of this is the work being conducted at the University of Central England on the Human Rights LLM, where students are offered the opportunity to conduct an internship in the USA. As part of this they complete a reflective journal and a critical reflective essay. Example 4 illustrates how these are put into effect.

Example 4

Reflective journals and essays on the LLM in International Human Rights

Julian Killingley, University of Central England

Aims

One route on this course allows students to do an extended internship in the US (3-6 months), working in an American legal firm or campaign group. The ‘USA pathway’ focuses on the conflict between the American constitution, American law and international standards, in particular with

relation to capital punishment. Students assist with death row trials and appeals, or can arrange to have a broader internship working on prisoners' rights and related issues. Students are encouraged to think about their learning during the placement and to reflect on their actions, such that they inform and improve future learning and performance.

Requirements and evidence

Students are required to keep a weekly reflective journal on their performance within the attorney office. Students are required to complete three parts of the journal as follows:

Part 1: indicate against the following list which of the activities you have practised: organisation and management of legal work, legal analysis and reasoning, oral and written communication skills, team work, litigation skills, recognising and resolving ethical dilemmas, maturity and judgement.

Part 2: consider the principal activities conducted during the week (this can include anything from writing memos, office duties and visiting clients in jail).

Part 3: reflect on your experience, using this list of prompt questions to structure your reflection:

- Which single activity that you have undertaken this week do you consider to be your best achievement?
- How could you further improve upon that achievement?
- successful achievement?
- Why do you think you were unable to do better than you did?
- How would you go about doing that activity differently if you were called to do it again?

Students also have to write a reflective essay. These are completed after the internship, and should critically examine the problems attendant on establishing a particular kind of international human rights law claim in either state or federal law.

Assessment

The journals are compulsory, with assessment based on a report written by the host attorney/firm against the criteria listed in part 1, worth 20% of the module. Students also have to prepare a memorandum, motion and brief, worth 30%. The final 50% is awarded on the quality of the reflective essay.

Observations and recommendations

1. Reflection aids employability - the internship and reflective practice element provides invaluable practical experience of legal practice that is extremely attractive to potential employers
2. Reflection takes practice - reflection does not come naturally to students, or to practitioners.

Many query its value and are suspicious about the need for it. Some might find it helpful to read a very odd book: Keeva S (2002) *Transforming practices: finding joy and satisfaction in legal life* (Chicago: Contemporary Books).

Resources

Essential reading for students on the course: Ogilvy J, Wortham L and Lerman L (1998) *Learning from practice: a professional text for legal interns* (Eagan: West Group).

Entry on 'reflection' from the *Encyclopedia of informal education*:

<<http://www.infed.org/biblio/b-reflect.htm>>

This section has identified the many reasons why reflective practice is important in legal education.

Exercise

Think about how you could use the reflective journal or critical essay to enhance the teaching of a specific subject in law. Consider the following questions:

1. Is it important for students to develop critical and reflective skills?
2. How are these skills currently developed?
3. How will these skills help the students to better understand the subject they are studying?

It can help to support quality enhancement structures, aid the delivery and development of skills and promote a more holistic, contextual appreciation of law.

four How can I introduce reflective practice into my teaching?

This section offers an overview and discussion of the various approaches that support the facilitation of reflective practice. It is designed to help you decide which approach will best meet your needs given your course objectives and context.

Self and peer assessment

Despite common belief there has been considerable work conducted on the use of self and peer assessment in law (Boud and Tyree 1980, Tribe and Tribe 1986, Hinett and Thomas 1999, Hinett *et al* 1999). Both self and peer assessment can be used to support reflective practice, since they involve students thinking about their own learning.

Boud, responsible for much of the pioneering work on self and peer assessment, defines it as the “involvement of students in identifying standards and/or criteria to apply to their work and making judgements about the extent to which they have met these criteria and standards” (1995: 12). For Boud, self assessment involves two clear stages: a) the identification (and learner understanding) of standards and criteria, and b) the making of one’s own judgements against those criteria. This two part process necessarily involves students reflecting on their own learning.

Self assessment can be used to facilitate both a *process of learning* and an *assessment product*. Self assessment can be used in an informal way to encourage students to think about their work and what they know in a given subject. As earlier examples have shown, reflection and self assessment can be expressed in various forms and used as evidence of development. Qualitative observations might be written in a learning diary or portfolio (see examples 3 and 4).

As the name suggests, peer assessment involves students making judgements about the quality of each other’s work in relation to agreed criteria. Peer assessment is a particularly useful device for supporting reflective practice, because of its focus on dialogue and shared interpretations of teaching and learning between staff and students (Stefani, 1998). Students learn from each other

and use the feedback provided by peers to inform their own learning. Using the peer assessment approach students are encouraged to make qualitative comments about the work of their peers. They may also be asked to attribute a grade to the work.

There is no right or wrong way to introduce peer assessment, but experience suggests that students prefer and enjoy giving a grade to work as well as providing comments. This may have something to do with promoting a sense of ownership over the process and wanting to complete the task of evaluation. Peer assessment enables students to understand and communicate ideas that they consider important with the lecturer and their peers about what should be assessed and what weighting should be given to each specific criterion (Tribe and Tribe, 1986). Where students do attribute a grade it is helpful to involve them in the negotiation of criteria. Research findings suggest that in cases where they are involved there is often more congruence between the student and tutor mark (Stefani 1994, Boud and Falchikov, 1989).

A three year project conducted at the law departments of the University of Bristol, University of the West of England and Southampton Institute revealed that students did reap benefit from the process of self and peer assessment. The project focused mainly on using self and peer assessment as tools for improving the understanding of criteria and the ability to evaluate progress. An encouraging 84% of students involved in the project at the University of Bristol claimed it had been helpful to them in respect of these objectives (Hinett *et al*, 1999).

As with all techniques, self and peer assessment can take many forms. One example is a written reflective diary, where students identify their strengths and weaknesses and put in place action plans to improve practice (see example 3). Another way of introducing self and peer assessment is to ask students to give an oral presentation about an element of law, which includes a reflective element (see examples 1 and 2). Different approaches can be adapted, and will almost certainly be modified as law teachers and students gain experience in reflecting and providing feedback to others.

The key to using self and peer assessment is to ensure that each new group of students is given the same opportunities to discover how they learn. There is a temptation for teachers to try to streamline the process and offer students feedback, but students need to discover for themselves what they know and don't know and to make their own connections if these processes are to support reflection.

Problem-based learning

Problem-based learning (PBL) is used in a number of disciplines as a way of engaging students in 'real' problems. Unlike conventional teaching, PBL starts with a problem and requires the student to research, select, analyse and apply information and theories to solve it. Students work in groups or teams to solve or manage these situations, but they are not expected to acquire a predetermined series of 'right answers'. Instead they are expected to engage with the complex situation presented

to them and decide what information they need to learn and what skills they need to gain in order to manage the situation effectively (Savin-Baden, 2000).

Characteristics of problem-based learning:

- using stimulus material to help students discuss an important problem, question or issue
- presenting the problem as a simulation of professional practice or 'real life' situation
- encouraging critical thinking and providing limited resources to help students learn from defining and attempting to resolve the given problem
- students working co-operatively as a group, exploring information in and out of class, with access to a tutor (not necessarily a subject specialist) who knows the problem well and can facilitate the group's learning process
- students identifying their own learning needs and the appropriate use of available resources
- reapplying this new knowledge to the original problem and evaluating their processes

(Boud and Feletti, 1997: 4)

The advantage of students working upon real or simulated situations is that real problems do not have simple solutions, but require comparison and analysis of resources, strategies and costs. As such the learner has to develop skills of retrieval, selection and discrimination in order to solve the problem. Students also develop group working skills as they work together to solve a common problem.

One way in which the PBL approach has been used in law is through the use of virtual learning environments (VLEs). An excellent example of this comes from Paul Maharg at the Glasgow Graduate School of Law (GGSL). As part of the Diploma in Legal Practice students are placed in 'law firms' and go through the whole process of responding to a client and preparing a case with the support of a set of electronic resources. Students set about solving the problem by asking questions of a number of key characters (teaching assistants and tutors on the course) who inhabit the virtual world of 'Ardcalloch'. Responses are sent back from the teaching assistant asynchronously in e-mail form, mimicking the elapse of real time spent in collecting information. This communication continues with the exchange of drafts, offers and contracts until a solution or satisfactory result is reached. Students have to think about what information they need and apply it appropriately to solve the problem. (Maharg and Paliwala, 2002).

What the PBL approach does is facilitate a dialogue between the student, tutor, and peers (and in some cases external parties), which helps the individual make sense of his or her learning. Laurillard, who has written extensively on the value of dialogue in learning, outlines what she calls a 'conversational framework' for learning. She points out that dialogue has three important functions for learning; firstly it reveals the students' and lecturers' conceptions to each other, secondly it provides space for negotiation and adaptation of topic and task goals and thirdly, and perhaps most

importantly, it provides opportunity for feedback, reflection and action upon feedback (Laurillard, 1993). With increasing student numbers the level of conversation that can take place in learning is diminishing, which is where ICT can be used to support a new form of discourse.

Example 5

Reflection using a virtual chat room

David Grantham, Coventry University and ILT Teaching Fellow

Aims

As the name 'chat room' suggests, this is a virtual discussion taking place in real time. It is a synchronous form of communication between students and the tutor leading the module. The aim is to give students an opportunity to engage in discussion and to reflect on what they have learned outside teaching hours. This is particularly important for part time and distance learners, who do not have opportunities to meet with peers face to face.

Requirements

Chat room sessions are voluntary. Students log in during set times and raise issues they wish to discuss with their peers. The tutor also logs in and contributes by providing prompt questions. Using their existing knowledge students raise topics and have their current understanding challenged by the questions raised by other students.

In the example of 'chat' given below the students are concerned with tort law, establishing blame and how the cost of compensation is to be distributed. Annotations have been added in square brackets for the purpose of this example. In reality each line would have a time next to it.

The dialogue reported below lasted around 25 minutes. Spelling mistakes and abbreviations have been corrected to allow easier reading.

Start

Student 1: Hi Thomas? Have you got anything interesting to talk about to do with tort? I haven't and something useful to talk about may be helpful in a chat room.

Tutor: Why don't you ask me why personal responsibility, as an aim of tort, works less and less well?

Student does so.

Tutor: You drive your Lamborghini at 130mph, lose control and hit an empty bus shelter. Who pays? [In this way the tutor offers a problem question and prompt to engage the student in discussion.]

Student 1: Don't know? The taxpayer?

Tutor: Could be but what do you need to have to lawfully drive your car, apart from a driving licence and MOT (if applicable)?

Student 1: Insurance? Therefore the insurance company pays?

Tutor: OK, now we are motoring so to speak, so who pays the insurance company?

Student 1: I do because I've paid my insurance but also anyone else in that company. Is that why premiums are going up? [The student is beginning to understand the concepts.]

New student logs in

Tutor: You mean all of us premium payers I think! So what happens to the personal responsibility of the defendant?

Student 1: It is getting less and less!!!

Student 2: Why is personal responsibility decreasing?

Tutor: Well done. Now another point – what are you going to do or say next time you are a passenger in a car driven at over 100mph?

Tutor [acknowledges new student]: Can you see the flow of conversation? If so can you add something to it? Please do so and join in if you can.

Student 1: Slow down because it's everyone else who pays and not them! I wouldn't be in a car driving at 100mph anyway.

Student 2: But you can sue the driver if there is an accident – assuming you survive!

Tutor: You could be in the future.

Student 2: Yes of course you can sue the driver if it was his fault!

Tutor: If the driver has insurance then his or her insurance company will pay.

Student 2: Wouldn't the insurance company refuse to pay on the grounds that he was breaking the law?

Tutor: [directing comments at all those who are logged on]: Anyone out there know what happens if the driver is not insured?

Student 2: Big trouble. I get to arrest him in my capacity as a special constable.

Student 1: he will go to court and have his licence revoked won't he [here the student calls on her experience and knowledge in trying to solve the problem] and pay a large fine? Couldn't you sue in the tort of negligence? For driving without due care and attention?.

Tutor: Breaking the criminal law in an accident is no grounds for an insurer to refuse to pay out. I think we probably all realise that the driver may be in trouble with the criminal law but what about compensation for the victim?

Student 1: Could you sue for negligence?

Tutor: Yes, but who pays?

Student 1: He does?

Student 2: He does.

Tutor: What if he is broke?

Student 1: He pays it in instalments?

Tutor: He is out of work!

Student 2: Send the bailiffs round.

Student 1: Even 50p a week if necessary?

Tutor: Have you heard of the MIB? What do you think it is?

Student 1: Men in Black? Bureau?

Student 2: Can you make them pay when they are employed?

Tutor: Good try. It's the Motor Insurers Bureau. How do you suppose that might help our victim?

Student 2: They pay on behalf?

Tutor: Of?

Student 2: The defendant.

Tutor: Yes, they will step in and pay out as if the driver were insured. What does this do to personal responsibility?

Student 1: Is that a government fund set up to help people who cannot receive compensation from who ever they are trying to claim from? Then the driver loses responsibility again.

Student 2: He doesn't have any responsibility.

Tutor: Government sponsored but financed out of levies on all the Insurance companies.

Student 2: Seems unfair.

Student 1: Life's unfair!

Student 2: But at least the criminal law can help in some ways if there is a conviction.

Tutor: The criminal law will punish the driver and, hopefully, deter others. Tort law finds the defendant liable in neglect and we all pay more for our insurance.

Student 1: See life IS unfair isn't it!

Student 2: It sure is.

Tutor: But to whom? The victim, the driver, all of us? How? [Tutor tries to steer the students towards understanding the issues for themselves and to draw on their knowledge.]

Student 1: All of us 'cause we pay when we haven't done anything!

Student 2: Everyone except the defendant.

Tutor: But the defendant will probably go to prison. What is insurance for?

Student 2: To pay damages in case of an accident is one reason?

Student 1: To compensate. I think this is very successful David [tutor] but you need to encourage more students to come online!

Student 2: Thank you for your time this has been useful but we definitely need more students.

Tutor: Thanks both. You are right. Please encourage them.

Student 2: I will.

Student 1: I will! Thank you. See you Tuesday in the seminar!

End

Reflections and observations

This synchronised system enables reticent students to clarify and explore their understanding of a topic outside the confines of the face to face teaching situation. Software such as Blackboard enables students to log in anonymously. Their identity safe, students are less likely to be concerned about disclosing uncertainty. Cultural differences also affect the extent to which students are willing to engage in open discussion and reflection. This virtual method may help them to engage in questioning and reflecting on their learning. Students who dislike conventional group work may particularly gain from this approach, since it is possible to log in anonymously.

Resources

School of International Studies and Law:

<<http://www.coventry.ac.uk/acad/isl/inform.htm>>

The curriculum objectives in PBL are to enhance understanding, develop individual performance and increase a student's capacity to make decisions, solve problems and transfer knowledge from one context to another. Reflective practice does this by transferring some of the responsibility for learning from tutors to students. It requires students to see themselves as 'agents' of learning and to evaluate their progress.

PBL offers a genuine experience or context in which reflection can take place. Unlike traditional problem solving where the student is directed towards appropriate resources PBL forces students to think on their feet and draw on previous experience to transfer to new settings. This reflection and process of learning can be articulated in the final report or presentation and, if required, assessed. One of the advantages of using peer assessment or PBL is that they enable law students to work together on a problem. Macfarlane suggests:

The notion of capability in a reflective practice model requires students to learn to work effectively with others as well as on their own. Teamwork also tends to enhance self-reflection and awareness of learning process, as individuals are accountable to the group and especially if the group is encouraged to analyse its own successes and weaknesses in accomplishing the set task.

(1998: 12)

Problem-based learning offers a scenario in which students can develop reflective capacities. Drawing on students who took a work placement in New York, Kibble maintains that placement programmes provide multiple experiences within which learning is possible: "they provide opportunities for reflection-in and reflection-on experience, an opportunity to engage in critical reflective practice, both within authentic work settings and in the academic setting" (1998: 99). Clinical programmes also offer authentic settings (see example 1 and Duncan in Burrige *et al*, 2002). Providing and producing the resources to support PBL can be time consuming, but the overall approach helps students to become actively engaged in both dialogue and action, essential to reflection.

Personal development planning and portfolios

Personal development planning (PDP) has existed in many guises for over 20 years. The educational aim is to provide students with a structure for thinking about and planning their own development. PDP might be seen as a process of evidencing learning and reflection.

Portfolios and records of achievement are the common forms in which the PDP process is presented. The advantage of PDP is that it provides a rounded picture of the capabilities of an individual. Usually consisting of three parts (a checklist of skills or competences achieved, evidence of achievement and a reflective piece on how the skill has been developed) PDP offers more information than a certificate and engages students in a process of thinking about their learning. Portfolios can be used both for certification purposes and as an additional form of evidence to

employers and educational institutions. A typical example of personal development planning is the portfolio of professional development used to assess the competence of a new lecturer in programmes such as a diploma in higher education or certificate in education.

The Quality Assurance Agency has defined personal development planning as:

A structured and supported process undertaken by an individual to reflect upon their own learning, performance and/or achievement and to plan for their personal, educational and career development.

(Quality Assurance Agency, 2001: 1)

It is intended that PDP will help students:

- become more effective, independent and confident self-directed learners
- understand how they are learning and relate their learning to a wider context
- improve their general skills for study and career management
- articulate their personal goals and evaluate progress towards their achievement
- encourage a positive attitude to learning throughout life

The intention is that all students in higher education will have the opportunity to undertake PDP by 2005, although at the time of going to press this has yet to be confirmed. The relevance for law teachers is that PDP offers a framework for reflection. The process of reflecting, planning and evaluating on individual performance mirrors the reflective cycle identified by Kolb. As Sue Prince, who has pioneered work in law in this area, maintains:

Academic staff are always encouraging students to be independent in relation to their intellectual studies. Much of the work encouraged by PDP has been a traditional aspect of higher education, and consequently forms part of a law degree. Tutors encourage independence in the following ways:

- *by encouraging students to be critically aware when they approach all aspects of the law and legal studies*
- *by providing students with written feedback in relation to formative course work, which encourages students to analyse and reflect upon their own development.*

(Prince, 2001)

PDP is also about improving and encouraging dialogue between learners and teachers. Discussion-based seminars offer a structured and supported PDP process. As Prince explains, "in these seminars tutors act as facilitators, asking questions and requiring students to see aspects of legal problems from a variety of perspectives. Tutors would normally respond to student input with feedback, encouraging them to make new connections and to clarify their ideas and analyses" (Prince, 2001).

PDP can also support development in professional legal education. Where students have a placement option or are engaged in mock advocacy, negotiation or moots, students can be encouraged to reflect on the experience to help them better understand their learning of law and how they wish to develop for the future. At the University of Exeter students are given workshops and a learning portfolio. It is explained that the portfolio will:

...help you to think about what you are doing in a more systematic way so that you can become more confident in knowing what you need to do, more effective in doing it and better able to assess how well you are succeeding. This will help you to be more efficient and successful with your university studies. It will enable you to write more articulate applications for jobs; help you in job interviews by enabling you to discuss your skills and experiences; and allow you to cope more effectively with your first graduate employment.

(University of Exeter law school)

Portfolios are a useful way of getting students used to writing reflectively, introducing them to the idea of providing evidence for their reflection. A pilot study at the University of Gloucestershire is currently looking at the use of PDP in a number of disciplines. Example 6 illustrates how PDP is used to encourage management students to reflect on their work. The tutors responsible for the module are also involved in a research project looking at the implications of facilitating PDP for staff development. As such they offer a number of useful observations about the factors that aid the process.

Example 6

Personal development skills module, part of the Certificate in Management Studies

Sheila Ryan and Sue Williams, University of Gloucestershire

Background

The one year module in personal development skills is part of the postgraduate Certificate in Management Studies. Students are expected to develop skills in communication and literacy, independent learning and working, working with others and what are termed 'vocational skills' such as stress management, goal setting and supporting the development of others. The module operates on a series of tutor-led sessions and individual tutorials and includes activities such as completing a learning style inventory, role play, presentations, group work and feedback.

Aims

To help students identify and build on a range of management skills for personal and career development.

Requirements

By the end of the module, students should be able to:

- identify and evaluate their own preferences for learning and self development
- work collaboratively with others to undertake development of a range of management skills
- understand how to communicate and manage their own communication effectively
- identify and develop the competences required to manage effectively in their organisation

Assessment

A personal development journal (PDJ) of 3000 words, demonstrating the development of management skills in the areas specified for the module learning outcomes and skills. The PDJ should have a structured format and layout, but individual choice is also allowed for. The PDJ is initially assessed by members of the learning sets (peers on the module), and then by the tutor. Peers must allocate a grade using grading criteria (supplied to them), recording the grade on a signed and dated record sheet. The module tutor then confirms or adjusts the grade according to the same criteria. The PDJ is the only form of assessment on the module, and is worth 100%.

The PDJ must contain several sections, including:

- **an initial entry section** containing a brief statement of the individual's skills in each area *at the start of the module*
- **an action plan** for management skills development which:
 - contains a brief description and an analysis of the individual's development needs in each skill area
 - contains clearly stated aims and development goals for each skill area
 - shows how both the initial assessments and an understanding of relevant theory have been used to set goals and select activities for skill development in each of the areas
- **a final summary** of progress at the end of the module which also indicates future development needs
- **evidence of skill development, linked to the development goals in the action plan, must be provided for each area**, showing how the student has developed their skills. This evidence should include examples from relevant coursework activities and/or organisations. Different forms of additional evidence are accepted, for example audio/video tapes.

Reflections and observations

1. Time - the fact that the module lasts the full academic year means that students have time to develop and to get used to writing reflectively, and to learn how to provide evidence of experience. Reflection time is also built into the class, which means students have time to modify learning strategies and see the positive effects of those changes.
2. Structure - the action-learning sets mean that students support each other. They can share journals and have opportunity to discuss and ask questions of each other.
3. Tutor support - staff are assisted in matching evidence to competence frameworks. Tutors also meet together to discuss sessions and identify how to best support reflection so that you make a difference.

PDP offers another way of encouraging students to think about what they know, what they don't know and how they might develop the skills to fill the gaps in their knowledge such that their appreciation of law improves. It also enables discussion between learners and other parties, and introduces students to the discipline of evidencing and documenting work. Such skills are valuable to the student, the teacher and the practitioner of law.

This section has discussed some of the learning methods that can be used to facilitate the development of reflective practice. The next section considers how these approaches may best be integrated into the curriculum and some of the learning issues that need to be addressed.

Integrating reflective practice into the curriculum

five

What is your purpose?

Reflection can be used in different contexts for different purposes. If you are thinking about introducing reflection into a module or programme it makes sense to think about the purpose and function of the activity. As McGill and Brockbank point out:

By understanding my purpose I can more consciously attend to the means by which I achieve that purpose. If my intention is to transmit knowledge then engaging in reflective dialogue will be probably inappropriate. If my purpose is to engage in transformatory learning where the focus of the learner is as a whole potentially critical being, then engaging in reflective dialogue is likely to be appropriate.

(McGill and Brockbank, 1998: 61)

Exercise

Figure 2 overleaf indicates some possible uses of reflection and identifies three contexts in which it might be used. Use it to identify what it is you want students to be able to do. Place a ✓ next to all the uses you think are appropriate to your teaching area. Add any additional uses.

Figure 2: Reflective activities matrix (adapted from McGill and Brockbank, 1998)

purpose	undergraduate legal education	postgraduate legal education	personal and professional development
record experience			
facilitate learning from experience			
support understanding			
develop critical thinking			
encourage meta-cognition			
increase ownership of learning			
develop evaluative skills			
enhance problem solving skills			
self-empowerment			
supporting behaviour and feelings			
enhance creativity			
improve writing			
improve communication			
enhance interaction with others			
support project work			
other (add your own)			

Consider the context

Having identified what it is that you want students to be able to do you need to think about the particular context in which the students are working. Boud has done considerable work in the area of reflective practice working in professional, undergraduate and work-based learning settings. For him, “context is perhaps the single most important influence on reflection and learning. It can permit or inhibit working with learners’ experience” (Boud and Walker, 1998: 196). By context he refers not only to the department or institution in which the student’s formal learning is situated, but also the wider cultural, social and political environment in which experience may be grounded.

Teachers and learners bring with them all the essential elements of the larger context: they are imbued with the assumptions and practices of their culture, the demands and expectations imposed by the educational institution, and the attitudes and ways of operating that dominate the particular discipline.

(Boud and Walker, 1998: 203)

Teachers and students of law need to appreciate the particular legal context shaping their experience. The ‘tribes and territories’ articulated by Becher (1989) reveal the interpretations made by staff and students of particular subject disciplines. In particular they reveal that individuals are socialised into the particular values of a subject discipline and identify keenly with what they perceive to be a ‘law’ perspective as distinct from that of any other subject. In facilitating reflection law teachers need to acknowledge these influences and in so doing accept that new methods of learning and teaching may appear incongruent with the pervading ethos of the department.

Align your teaching, learning and assessment outcomes

The most common and transparent way of ensuring there is alignment between what we teach, what students learn and what we assess is to write learning outcomes for each programme, module or unit. As Biggs, who leads work on alignment, claims: “a good teaching system aligns teaching method and assessment to the learning activities stated in the objectives, so that all aspects of this system are in accord in supporting appropriate student learning” (1999: 11). He goes on to confirm that learning outcomes:

- help staff to set appropriate learning, teaching and assessment activities
 - help students to understand what is expected of them and what evidence they need to provide
 - helps provide a clear framework against which student’s success can be measured
- (1999: 14)

Not all modules or subject areas have to assess every area or skill, but taken as a whole there should ideally be an identifiable route that leads to student demonstration of achievement of the overall outcomes.

The easiest way to begin to define learning objectives is to think about what you want students to learn, or what you want them to do at the end of the period of study, and then design the content and assessment around those areas. It is useful to think in terms of three stages; verb, object and condition. For example:

examine critically (verb) theoretical frameworks and research (object) relevant to contract law (context/condition)

(Thanks to Mike Laycock, University of East London, for allowing the use of this illustration.)

Exercise

Using figure 3 write three learning outcomes for a module you teach. Would a reflective element aid the achievement of the learning outcomes?

Figure 3: Writing learning objectives using Bloom's *Taxonomy of educational objectives*

If you want your students to...	use one or more of these verbs:	add the object	and condition/context
know	state, define, name, write, recall, recognise, list, label, reproduce, identify	knowledge of specifics, for example research, theory, examples of case law, method, approach	criminal law, tort, family law, human rights, 19 th century medical law
comprehend	appreciate, select, indicate, illustrate, represent, formulate, explain, classify, comprehend	translate, interpret, extrapolate	
apply	predict, demonstrate, instruct, compute, use, perform, implement, employ, solve	apply knowledge, understanding to..	
analyse	analyse, identify, differentiate, dissect, compare, contrast, examine, interpret, investigate	analyse relationships, elements, organisational principles	
synthesise	combine, summarise, restate, précis, argue, discuss, organise, derive, relate, generalise, integrate, conclude	produce a new form, plan, set of ideas, set of relations	
evaluate	judge, justify, evaluate, determine, support, defend, attach, criticise, appraise, weigh up, assess	judge in terms of internal and external evidence	

Adapted from work by LeBrun and Johnstone (1994: 162). (See Bone 1999 for additional examples of how to achieve learning objectives in the context of law.)

As simple as the example opposite appears, doubts have been raised about transferring and reducing the goals of reflection to a formulaic learning outcome. Maughan, Maughan and Brayne (2001) have investigated the use of reflection in law courses and claim that competence defined in terms of outcomes represents a restricted and inaccurate view of what the student can do. Macfarlane (1998) also questions whether the continuing trend towards descriptive outcomes and development of generic standards takes law teachers further away from educating reflective practitioners. In a thoughtful piece Macfarlane comments that:

Despite its usefulness in structuring course aims and assessments, an outcomes model is problematic for educators who wish to move towards a reflective practice model of teaching and learning...how to accommodate individuated learning goals within universal outcomes, the tendency of outcomes to artificially separate skills and knowledge, the emphasis of outcomes measures on product rather than process, and the assumption that universalised summative testing is both a fair and complete system for assessing students - are equally relevant to the profession and other stakeholder groups if they are serious about enhancing reflective practice.

(1998: 15)

Notwithstanding these reservations, the process of articulating intended learning outcomes helps law teachers to focus and align what is taught, what is learned and what is assessed. There are no right or wrong ways of facilitating reflective practice, but as Boud and Walker observe, "there are no reflective activities which are guaranteed to lead to learning, and conversely there are no learning activities guaranteed to lead to reflection" (1998: 193). The best we can do is learn from others, acknowledge the limitations of the context, plan carefully, be willing to relinquish power as assessors and consider the appropriateness of current systems of assessment in promoting these aims.

Assessing reflective practice

Assessment gives value to work and signifies to students what is important. One of the less desirable effects of this finding has been to assess everything. Over-assessment is now acknowledged as a problem by staff and students, and is deleterious to deep learning. One option is to integrate reflection into the programme and/or make it compulsory. This signals to students that it is important but does not add to the weight of assessment, making it instantly more attractive to both staff and students.

However as every law teacher knows, students pay more attention to activities that are assessed. When asked for her learning diary, one of the students at MMU (example 3) responded: "I did not complete this. I think now that it would have been useful but when you've got so much to do...if you know that there are no marks for the work and it isn't going to form part of the assessment it's the first thing that goes." This is a clear message about the need to give reflection some status in line with other academic work. Students are socialised into a grade culture. When reflective

activities are not assessed or effectively integrated into the learning outcomes for a course/module this gives particular signals about the value of the activity.

If formal assessment is considered necessary, thought needs to be given to *what* and *how* we assess. Are we assessing the outcome of learning, i.e. the report, presentation or advice given to a client, or the reflection on the outcome?

Exercise

Think about a module for which you are responsible and answer the following questions:

1. Do you assess against all the learning outcomes?
2. Do you give credit for the process or the product?

Assessing the product or outcome of reflection can be achieved by reference to criteria or a set of learning outcomes that the student can demonstrate. However, demonstrating the process of reflection is less easy to capture. McGill and Brockbank (1998) suggest that in order to demonstrate process, evidence is needed to reveal the learning journey and development that has taken place. This can be achieved through learning journals, portfolios and the tools of personal development planning. They also suggest a combination of 'self reports' (diaries, logs etc) and 'other reports' in the shape of peer feedback. This evidence, submitted to tutors, demonstrates validity and the extent to which critical reflection has occurred. To ensure reliability, they suggest using a range of assessment tools, including the more conventional forms such as exams and essays as well as 'self' and 'other reports'.

Despite some concerns about an outcomes model being fit for the purpose of reflective practice, attempts have been made to develop criteria and frameworks for assessing the reflective process. In developing a programme for undergraduate law students Webb and Maughan distinguish between three kinds of reflection:

- reflection on the specific skills, attributes or behaviours displayed in the performance of a task
 - reflection on practical legal knowledge (i.e. substantive law and procedures)
 - reflection on 'law in context' and theories about the legal process
- (1996: 283)

In so doing they draw on each student's feedback on their performance. They maintain this is essential if they are to assess whether a student is *learning from doing* rather than just *doing*. However they also admit that this has limitations. For example, there is no benchmark of the level of reflective capacity that the student had at the beginning of the programme, making it difficult to make a judgement about the extent to which an individual's reflection has developed. In addition to the performer's feedback they also assess reflective capacity by reference to:

- the student's capacity to recognise discrepant reasoning and inappropriate theories of action or behaviour
- their ability to identify new techniques or strategies for the future, and how these might improve on those used in the assessment

As the example from Webb and Maughan (1996) shows, developing criteria for reflective practice is not without problems. *Bloom's Taxonomy of education objectives* (know, comprehend, apply, analyse, synthesise, evaluate) is often used as a basis for assessment (Bloom *et al*, 1956). Bloom identifies evaluation as the highest level of achievement. In order to evaluate, an individual needs to reflect and think about what is important and relevant given the context. However, having acknowledged that reflection is also about drawing on experience and intuition, Bloom's original taxonomy is limited as a basis for assessing reflection.

Bloom and colleagues also created a taxonomy of objectives in the 'affective domain'. They identified five hierarchical levels: receiving (or attending), responding, valuing, organisation, characterisation by a value (Krathwohl, Bloom and Masia, 1964). Figure 4 illustrates how these map onto a cycle of reflection. (Levels 4 and 5 have been merged, as they both indicate the value of evaluation, personal judgement and ability to make a decision.)

This representation may be used by law teachers or teams to write learning outcomes or to develop criteria against which values, behaviour and the development of reflective capacities might be judged. Alternatively, law teachers may wish to involve students in the development of criteria, thereby extending the ownership of the learning experience.

Figure 4: A representation of the taxonomy of affective levels mapped against the reflective cycle

level	stage of reflection	associated verb (for writing learning outcomes)
receiving or attending to	taking stock of existing knowledge, attending to feelings	aware, perceive, accept, listen
responding	identifying gaps in learning.	derive, select, motivate (self)
valuing	feedback	participate, attain, decide
organisation	evaluate the integration of new knowledge and understanding into existing knowledge	find, form, relate, associate
characterisation by a value		judge, identify, decide, change, demonstrate

Dealing with disclosure

In assessing reflection attention also needs to be given to the sensitive area of disclosure. Self reflective statements are by definition highly personal accounts of an individual's learning experience, and may include fears and anxieties about learning. In designing ethical and fair assessment educators must be alert to the difference between personal disclosure and evidence of reflective practice. This is particularly pertinent in law, where the observations of the student may impact upon a client.

At its most extreme a student may inadvertently disclose information that could be used as evidence of criminal behaviour, putting themselves, the client and the institution at risk. To prevent this it is essential to be clear to students what is appropriate and inappropriate for them to disclose. In compiling a portfolio it is common practice for students to keep their own reflective notes and then to draw out the key points for learning and areas for development to include as evidence to be assessed.

Boud (1999) also points out that it is naive to expect students to restrict their reflections to matters outlined by the teacher. The nature of reflection means that students will inevitably ask questions about themselves and raise different and often moral dilemmas about their own ability or the legitimacy of an activity. Setting boundaries for reflection detracts from the nature of learning and investigation. Law teachers need to be willing to accept and facilitate difficult discussion. More importantly, they need to be able to distinguish between what is public information used for the purpose of assessing reflection and what is private and personal disclosure. In some portfolios students are urged to keep separate personal and private sections. Students can draw on their personal notes to write the reflective diaries that form part of the assessed portfolio and then simply extract the personal notes before submitting the work.

Exercise

In thinking about the assessment requirements on a course or module you teach ask yourself the following questions:

1. Are you looking just for evidence of skill development, or for evidence of reflection on the development also?
2. What kind of evidence are you looking for?
3. How can students document that evidence?

The personal nature of reflection also means that students are also likely to censor what they make available. Where reflective journals are used as part of the assessment process it is important to acknowledge that some students will automatically censor their work. Boud and Walker suggest that "where it is judged necessary to assess students' reflection skills reflective writing should be judged

in terms of criteria for the recognition of reflective writing, not in terms of standard academic writing conventions" (1998: 194). In designing appropriate assessment law teachers need to be aware of the influence they have as assessors over what is learned and the extent to which students will expose limitations and engage in reflective activity.

Exercise

If you are currently using or intend to introduce reflection into a module/course use the list below as a checklist for assessment purposes. Have you:

1. Identified reflective learning as an outcome within the subject discipline?
2. Ascertained that reflective dialogue has taken place?
3. Established that there is evidence of the learner's participation in that dialogue?
4. Identified evidence of a developmental process over time, regardless of the start or end point?
5. Ascertained that there is evidence that a process review has taken place, enabling the student to take away an understanding of the learning process?

(McGill and Brockbank, 1998: 102)

Providing feedback

Feedback is an essential element of the reflective process. Students need to make sense of feedback and apply it to their learning in order to maximise performance in the future.

Tutor feedback is just one way of communicating what constitutes reflection on learning. As the examples reveal, peer feedback, reports by placement tutors and personal insight developed through self assessment are all important feedback mechanisms. Conversational frameworks such as chat sessions (example 5) also allow students to discover meaning for themselves. Distance learning takes full advantage of the use of e-mail, and in many ways provides the personal dialogue and fast accessible feedback which students desire.

Exercise

Think about the ways in which you currently offer feedback.

1. How much time do you spend giving feedback (including writing on scripts and face to face feedback)?
2. Could you reduce the time spent by giving feedback to a group or via e-mail?
3. Could you introduce peer assessment into aspects of the course?
4. Could you post annotated examples of student work on an intranet so that students can see a range of approaches to a particular task?

Feedback can often be restrictive, powerful and used to perpetuate dominance. An 'off the cuff', ill-constructed comment can do real harm to a learner's confidence. Where peer assessment is used, care needs to be taken to ensure a supportive context in which students offer fair and non-damaging feedback to each other. It is helpful to engage students in a discussion about the process of giving peer feedback and get them to agree principles of conduct, so that no one is offered potentially damaging or politically incorrect feedback. A useful guideline is to encourage students to begin by focusing on the positive aspects of a performance or piece of written work, and to limit any shortcomings to two items. In this way students are encouraged to be fair about each other's work without fear of upsetting their friends and without being over-complimentary.

Self evaluation forms can be used to assess group work. This might include questions about the ability of the group to listen to individual contributions, whether all group members were involved in the activity, whether the group evaluates its progress and whether conflict can be reconciled (LeBrun and Johnstone, 1994: 348). Students complete this form individually and then discuss their responses with peers in their learning group, and finally together formulate a group response. There are several advantages to this approach; firstly students retain a feeling of control over their learning. Secondly, it enforces a sense of community and respect for fellow learners, making plagiarism less attractive. Thirdly, it helps students to develop their skills of evaluation.

Time and timing

Reflecting on the introduction of personal development portfolios in management (exercise 6) Sheila Ryan commented that one of the main reasons for success was having a year long module to introduce students to the idea of reflection and to give them time to get used to thinking about themselves as important agents in the learning process. Strange as it may seem, students rely on tutors to teach them and do not always see themselves as important. It takes time for them to realise that their own reflections can help their learning. The first point for law teachers thinking about introducing reflection is to ensure that students have several opportunities to reflect. A one-off reflective experience will only compound feelings of reliance, and if assessed is likely to knock rather than build student confidence.

Thinking about when to introduce reflection is another important issue. Boud (1995) suggests that there is no best time to begin to introduce students to reflection, since there are pros and cons associated with both early and late introduction. First year undergraduate students are likely to accept any practice that is presented to them, but have competing demands on their time, such as getting used to a new discipline, as well as the problems of adjustment that leaving home and starting university entail. By contrast, third year and postgraduate students have a better understanding of the subject, but are likely to question why such an important activity as evaluation has been denied them for so long. There is no right or wrong time. What is important is that students are given adequate time and support for reflection.

Support and resources

In supporting students through the process of reflection there are a number of resources to use. You may wish to adapt some of the examples or ideas offered in this guide. Many can be used as a template for you to tailor to your own module or course. The resources below provide more information on the theory and practice of reflection, but there is a surprising lack of references to work in law. The main thing to take on board is that you do not have to change everything at once. You might introduce a self assessment element into one module and trial it for a year, or you might consider negotiating the criteria for the next assignment with students. Reflection can be introduced gradually and progressively over time; it does not require huge course teams or the overthrow of established assessment systems.

Key books

Boud D (1995) *Enhancing learning through self assessment* (London: Kogan Page)

McGill I and Brockbank A (1998) *Facilitating reflective learning in higher education* (Buckingham: Open University Press)

Moon J (1999) *Learning journals: a handbook for academics, students and professional development* (London: Kogan Page)

For a rationale for reflection see Claxton G (1999) *Wise up: the challenge of lifelong learning* (London: Bloomsbury)

Ramsden's learning style inventory and course experience questionnaire can be used to introduce students to the idea of autonomous learning. See Ramsden P (1992) *Learning to teach in higher education* (London: Routledge)

Key websites

Personal development planning: <<http://www.ukcle.ac.uk/resources/pdp.html>>

Problem-based learning: <<http://www.ukcle.ac.uk/pbl>>

JEWELS Project: Learning from experience:

<<http://www.ex.ac.uk/jobsurfing/learning-from-experience>>

Entry on 'reflection' from the *Encyclopedia of informal education*:

<<http://www.infed.org/biblio/b-reflect.htm>>

Institute for Learning and Teaching: <<http://www.ilt.ac.uk>>

Learning and Teaching Support Network: <<http://www.ltsn.ac.uk>>

The author's experience working with staff and students on the Self Assessment in Professional and Higher Education (Saphe) project revealed a number of factors that helped in the introduction of these new practices. Using the lists below you might want to consider how many of these you currently have in place, using the rest as a basis for discussion with other colleagues interested in facilitating reflection.

Factors that helped when working with staff introducing self help and peer assessment

- evaluating current teaching and assessment practices
- identifying and building on strengths in teaching and assessment
- exploring the possibilities and limitations of the staff team and course structures
- giving consideration to the level of commitment to learner autonomy
- offering staff development and training in self and peer assessment activities
- ensuring there is willingness from a core group of staff to suspend scepticism and to approach self, peer and oral assessment with the same intellectual rigour as other assessment and learning practices
- expressing learning objectives and assessment criteria in clear, simple language
- integrating activities at appropriate and relevant points

Factors that helped when working with students using self help and assessment

- offering student induction and guidance on self, peer and oral activities and explaining how they relate to the development of skills central to law teaching
- acknowledging students' previous experiences (negative or positive) of what they perceive to be 'reflective practice'
- ensuring that activities are introduced sensitively and that students are able to feed their opinions of the process of being involved in reflective practice back

Collaboration, group work and plagiarism

Quality assurance procedures mean that teachers are often reluctant to indulge in learning, teaching and assessment methods that call into question the reliability of judgement. In particular, questions are often raised about the reliability of reflective work that involves students making judgement for themselves. Collaborative work is also considered dangerous, since there is an associated risk of plagiarism. As Boon describes:

A curriculum which uses self, peer and tutor review is more consistent with developmental goals. However, these forms of assessment rely on group work, which, while having many advantages in terms of learning gains, gives rise to doubts about the validity and reliability of assessment.

(1996: 126).

There is however a wealth of research literature (Stefani 1994, Boud and Falchikov 1989) to support the use of self, peer and group assessment. Research findings are very reassuring, and indicate that when students are involved in attributing grades to their own and the work of peers there is no identifiable tendency to over or under assess. When students are supplied with criteria they are equally competent at assigning grades, and generally fall within a percentage point or two of that given by the tutor (see examples 3 and 6). However, the ability of students to make fair judgements about their work is not to be confused with the propensity of some students to cut corners on assessment. Students can competently make fair judgements about the quality of their own work. Before embarking on the facilitation of reflection it is important that both staff and students know the boundaries.

Stefani (1999) identifies four different forms of 'cheating': *copying* (reproducing an answer), *collusion* (deceit), *collaboration* (working with) and *plagiarism* (passing off the work or writings of others as one's own). This last definition is perhaps the most accurate, since 'work' can mean anything that is written, spoken, produced or articulated through the medium of film or photograph. Defining what we mean by plagiarism is central to the prevention of such activities, as it makes explicit to staff and students what is and is not acceptable.

There is evidence to suggest that some students get genuinely confused about the difference between 'working together' and passing off someone else's ideas as their own (Ashworth, Bannister and Thorne, 1997: 196). Other reasons cited for cheating are stress and pressure for good grades (Franklyn-Stokes and Newstead, 1995: 160) and inadequate assessment that "encourages students to cheat" (Franklyn-Stokes and Newstead, 1995: 170). Engaging students in group work can help them to distinguish between collaboration and group work, as they can learn for themselves the difference between supporting colleagues and supplying them with a ready written assignment.

Self and peer assessment also help in this respect by opening up the debate about what constitutes quality in law. Students are actively encouraged to discuss assessment criteria and to provide comments on each other's work or performance; this is not collusion, it is collaboration. As Stefani indicates, collusion is a *deliberate* attempt to deceive a third party, namely the assessor. It is a conscious attempt to flout the assessment rules. In self and peer assessment the rules are clear; students should assess each other's work against explicit criteria, make a judgement about quality and the extent to which competences have been met and offer supportive feedback which will help the other student improve their learning and performance. It

is about supporting learning and gaining evaluative experience rather than trying to usurp the role of the tutor as legal specialist.

The use of reflective diaries and portfolios can also be used to confirm authenticity. A carefully constructed set of criteria by which to assess reflective and affective capacities makes it difficult for students to pass their work off as someone else's. Grounded in experience, reflective diaries depict personal observations, making it difficult for others to fake. Used in conjunction with other forms of assessment and evidence they are also reliable. Or at least as reliable as other more conventional forms of assessment!

six What's in it for you?

At the heart of effective learning, teaching and assessment are the law teachers, and individuals engaged in information and communication technology (ICT) and library support. Advancing the expertise and knowledge base of those actively involved in legal education is essential to the development of reflective learning, both for the teachers and the students they teach. Speaking about the professional role of teachers in higher education, Beaty maintains:

Reflective practice is important to the development of all professionals because it enables us to learn from experience. Although we all learn from experience, more and more experience does not guarantee more and more learning. Twenty years of teaching may not equate to twenty years of learning about teaching but may be only one year repeated twenty times. There are many times when our normal reactions to events are insufficient themselves to encourage reflection. We should not rely solely on our natural process of reflecting on experience, but actively seek ways to ensure that reflection itself becomes a habit, ensuring our continuing development as a professional teacher in higher education.

(1997: 8)

Reflecting on our own performance as teachers is one form of feedback. Keeping a reflective diary about your own experience as a teacher helps you to reflect and learn from experience. In re-reading a diary many new lecturers find that over time they have developed strategies to deal with particular teaching problems. Many in-house staff development programmes for new lecturers take this approach and use it as part of the formal assessment. However, reflective practice is not just for new lecturers but is also a way of continually challenging current behaviour and ensuring that teaching is developed and enhanced. Established lecturers wishing to gain membership of the Institute for Learning and Teaching (ILT) are required to complete a reflective element precisely to illustrate how their teaching practice has developed over time and as their career and teaching requirements change.

You may wish to use reflection to inform your thinking about a specific module, to evaluate the development of a new style of teaching or assessment, or as a more general aid to your teaching practice.

Exercise

1. Identify the incident you wish to reflect upon (for example one teaching session).
2. Write down what you intended to do in the session.
3. Write down what actually happened.
4. Write down how you feel about this and why you think the session evolved as it did.
5. Identify ways in which you could approach the session differently next time (Beatty, 1997).
6. Repeat after each session or fortnightly to get a picture of the way in which the course develops. This approach helps you to see the progression of the course through the eyes of your students.

Engaging in reflection on teaching in this way helps law teachers to monitor their own practice and change it according to what they hope to achieve. As Webb argues:

If we are to become more effective teachers, we need to become more reflective teachers. To be reflective we need to articulate our theories of learning, critically examine them and replace those parts which, we suspect or, better still, can show do not work.

(1996: 30)

To bring about change effectively and model good reflective practice for students law teachers need to engage in and model the ideas, practices and processes that are conducive to such learning. Understanding how we learn as teachers and recognising the influence of colleagues around us helps us to support students in their learning and interaction with others. As McGill and Brockbank suggest:

Consciously engaging in reflective practice enables the teacher to learn from and therefore potentially enhance their practice and learning about their practice. Practice here can include teaching, encouraging learning, research, scholarship, course design and management. Indeed, it can include any of the myriad activities of the professional teacher.

(McGill and Brockbank, 1998: 72)

Example 7 mirrors the conversational and reflective approach being advocated and illustrates the benefits of reflective practice for teachers.

Example 7

Use of reflection in law teaching: a personal account

Hugh Brayne, University of Sunderland

Learning cycles, deep and surface learning, experiential learning - great for students, of course, but what about for staff? Are law teachers lifelong learners? My view is that if you stop learning about your teaching you cease to be effective, and probably cease to be motivated. But where does the data come from to inform our own learning? We already (at least already should) know the theory, but are we open to learning from our experience? Questionnaire evaluations? Skim read, wheel out the analysis for the QAA, file, and forget. Staff/student committees? But everyone pulls their punches on things that are going wrong, and forgets to bring up things that for them are going well. Assessments? Yes, but they only tell us about outcomes, not processes for getting there.

But there *is* a wonderful source of data, and I am getting hooked on it. The data come from requiring students to hand in with their assessment a reflective journal or account on how they used the learning opportunities to assist them in achieving the outcomes. I have now had experience of this on three undergraduate LLB modules; two first year modules in which group work is accompanied by a reflective account (in one case by the individual and assessed, and in the other on behalf of the group and not assessed), and a second year module requiring a weekly journal with a short guide at the end for the marker to point out the key milestones (assessed). This second year module, called Law in the Community, is itself a very experiential learning module, as it involves students working with community organisations as well as in the classroom. The first two are typical LLB modules, although atypical in requiring group work to be submitted. My hunch is that if you can show students you are interested in what they think about their learning the approach could be used in other subjects.

While marking traditional student work can sometimes seem a chore, my eyes open wide when I start learning through the reflective account what has really been going on for students. The assignment we get to see turns out to be only the tip of the iceberg or, to change metaphor, the duck's ability to swim seen only from above the waterline. The account tells me about the student experience at every stage, the legwork below the waterline. For example, a chance remark in a seminar can destroy or build confidence, but five minutes discussing structure for an assignment can start the student on a new direction. These things are important enough for the student to decide they should be written down. Students all saying the same thing about a particular experience can indicate reliable information on effectiveness. Experiences confined to one student can still reveal a lot, however, about how to reach the whole class and not just the majority.

Nothing in my experience before – which includes a fairly student-centred approach through clinical work – matches the feedback I get from the weekly entries in the reflective journal. Some of it massages the ego – and why not enjoy that if students like what you do? But more importantly I get hard data on the detail. What worked (typically activities which boost confidence – it's quite amazing how lacking in confidence students feel, whatever the appearance), what worked less well (didn't get a chance to get involved, task not explained properly, fellow student let me down). Of the summative account of the experience and the weekly journal, the journal has been for me the most informative. I get the feeling that the students quickly start writing for themselves rather than for me.

The honesty is fantastic. For example, most students had signed up to my module without a clue what to expect, and felt that the assignments had not been explained properly. I can take steps to remedy this. I could pick this up through other means, of course, but not appreciate how this can affect the students. What is it like to feel lost and confused? One student who eventually found the module very worthwhile desperately wanted to get out at the beginning, because she felt her inadequacies would be exposed. I didn't know how to pick up the signs, but could note in the journal which things said and done helped her and which did not.

The feedback to me is useful for future years; it is about my lifelong learning rather than about quality assurance. But knowing from year to year how students are reacting can make me more open in any given year. Once students get the message that the process of their learning matters to you, the teacher, information starts to flow through other channels as well: corridors, e-mails, classrooms and hearsay.

By asking students to reflect and value the information received, you show you care, or to quote Suzanne Shale, (Director of the Institute for the Advancement of University Learning and law lecturer, University of Oxford) speaking at the 2001 Bar Vocational Course conference, you are "teaching to make a difference".

As this account illustrates, the reflective comments made by students can be an illuminating source of information for law teachers. Students' perspectives, attitudes, responses and feelings all provide rich data for law teachers to use as a prompt for reflection on their own teaching. However, it is important to be clear about the purpose of reflection. If teachers like Hugh can use the diaries to inform and enhance their own teaching then all power to the process. However, students need to be clear that this is a mechanism for supporting their learning, distinct and separate from an evaluation of the course or teaching.

Reflection can legitimately be used to evaluate teaching. There are a number of ways of collecting data as the following list illustrates:

1. Stop, start, continue – at the end of a teaching session ask students to call out or write on a post-it note one thing that they would like you to stop doing, one that they would like you to start and one which you are currently doing that they would like you to continue (Race, 2002).
2. Evaluation questionnaires - these can be qualitative open-ended questions or 'tick-box' questions. The quality of the data is usually better using the first, but can be time consuming (and potentially ego-damaging) to analyse.
3. Group discussion - promote discussion about the teaching as well as the subject. Begin by asking students to brainstorm ideas about what is good and bad about the teaching and get them to rank or vote for what they think is most important to their learning. The advantage of this approach is that it gives students a sense of collective ownership of the teaching and development of the course

For more information on using student feedback and designing evaluation questionnaires see Beaty (1997).

Colleagues can also provide feedback on performance that can be used to aid personal and professional development. Colleagues can often tell you more about your own teaching than you can observe for yourself. A colleague's knowledge of the discipline is helpful in providing feedback, but there are also useful tips to be gained from colleagues who do not teach in the subject area. The whole process of peer observation not only aids personal reflection on teaching, but also reinforces the idea that teaching is about dialogue and learning from experience. Having gone through this for yourself and felt what it is like to disclose fears and problems it is easier to support students going through the same process.

Exercise

1. Chose a particular tutorial and ask a trusted colleague to observe your teaching. Ask him or her to write down three strengths and three weaknesses of your teaching.
2. After the session take time to reflect and write down for yourself what you think are the three strengths and three weakness of your teaching.
3. With your colleague go through the list and use it as a focus for discussion about how you might improve. You may wish to video the session as a prompt for the discussion. Use the feedback given to inform your teaching and to plan alternative strategies for the next session.

NB Many law departments and institutions now provide opportunities for peer observation. The education development unit (or equivalent) should be able to give you information about institutional schemes. You may also wish to raise the issue with the person responsible for learning and teaching in the law department.

Conclusion

This aim of this guide has been to provide a framework for the development of reflection and associated techniques within the context of legal education. The guide is not comprehensive in covering all the associated educational theory, but hopefully there are some useful ideas that spark the imagination to translate some of the ideas into practice. It is easy (and perhaps convenient?) for traditionalists to ignore reflective practice as a new trend and hope that the time will come when didactic teaching methods will again reign triumphant. Given the ever-changing pace of contemporary society this is unlikely. Reflective practice is a realistic and achievable way of enhancing student learning while developing the types of knowledge, skills and abilities that are expected of graduates in today's society. It is also a way of ensuring that students gain the resilience and resourcefulness they need to continue to be lifelong learners and/or effective lawyers. As Macfarlane points out:

Teaching students to develop self-conscious habits of reflectiveness in order that they might become ultimately intuitive is critical to education and training. While a reflective practice paradigm may have deficiencies, it appears to clearly offer a more sophisticated and comprehensive model for education and professional development than either legal science or skills-based technocracies.

(1998: 17)

The introduction of reflection into legal education poses pedagogical, practical and political challenges to the existing status quo, but it has the potential to transform learning for students. A modest proposal is that given commitment to enhanced learning and a supportive climate reflective practice can:

- significantly increase student motivation for learning
- recognise individual progress
- value on-going achievement
- enhance and develop forms of collaborative learning
- increase learner independence
- enhance confidence

Final exercise

If you have other examples of reflective practice in law please get in touch with UKCLE. We have funds available to support the development of this type of resource.

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