

Title: Make it or break it: Taking assessment to the next level

Presenters: Frikkie Grobler & Carika Keulder

1. BASIC FRAMEWORK OF THE UNIVERSITY OF PRETORIA'S LAW CLINIC

The Law Clinic comprises of a civil and debt litigation, criminal, research and students section. In the student section we have 3 supervising attorneys and nearly 100 students. We teach legal education by using a combination of the in house live client teaching model, simulations and plenary lectures.¹ The program consists of two elective modules for final year students. These students need to form smaller groups consisting of five to six members. These groups are then referred to as firms. Each firm must reflect cultural, language and gender diversity.

Student firms consult with clients on a weekly basis and manage their own files. The students need to report to the clinicians and work closely with the clinicians for the duration of the course.

During the course of the year students attend weekly lectures where matters relating to file and office management, consultations, drafting of documents and procedural and substantive matters are discussed.

Practical Law is not an ordinary law subject and therefore the assessment cannot be ordinary.

2 ASSESSMENT

Most people would define assessment as the writing of a test. It must, however, be borne in mind that students do not possess the same talents. Some might be fluent orators whilst other better in writing opinions. How can we proceed in assessing students in just one manner?

At the University of Pretoria's Law Clinic we agree with Brown, Bull and Pendlebury who defines assessment as "Assessment consists, essentially, of taking a sample of what students do, making inferences and estimating the worth of their actions."² It is further important to measure student activities which are of importance.

¹ Also see Haupt & Mahomed (2002) *Some thoughts on assessment methods used in clinical legal education programs at the University of Pretoria Law Clinic and the University of the Witwatersrand Law Clinic* presented by Haupt during The Congress of the Society of Law Teachers of South Africa.

² Brown, Bull and Pendlebury (1997) *Assessing Student Learning in Higher Education* 8.

Due to the fact that a lawyer needs various competencies we assess students in various ways. We refer to this as 360° of assessment.

2.1 Written Test

“Written tests refer to a general group of assessment tools that either require students to select an answer (true/false, multiple choice, matching) or that requires students to supply an answer (completion, short-answer and essay).”³

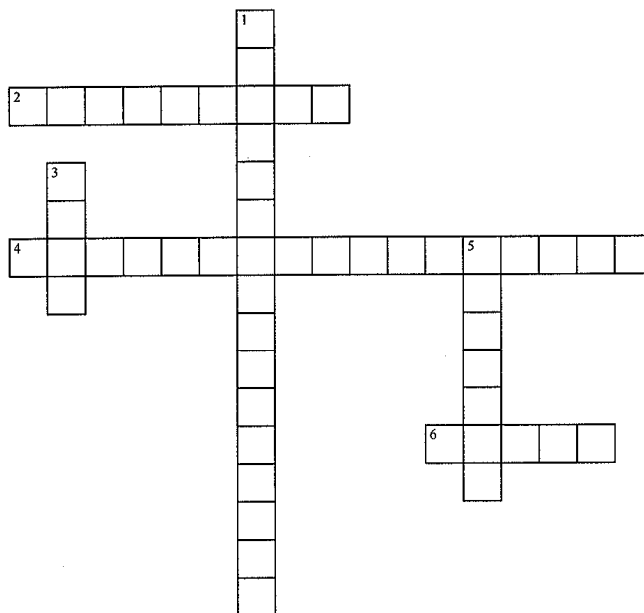
We use the traditional mode of assessing the students. A variety of testing methods is used to test various levels of understanding. For example multiple-choice, short answer questions and essay questions. Each type of question has certain advantages and disadvantages and therefore a combination thereof is required.

It is also important to draft innovative questions. For example the drafting of a crossword puzzle.⁴ A crossword puzzle for the conference program might look as follows:

³ *Assessment of written items guide* 2002 5.

⁴ Visit www.puzzle-maker.com to create a crossword puzzle.

CONFERENCE PROGRAM



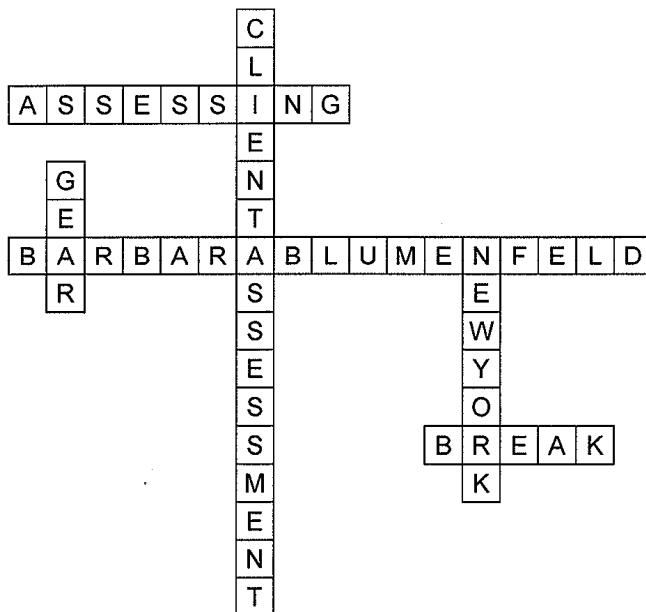
ACROSS

- 2 The theme of the conference is engaging and _____ our students.
- 4 Who is presenting a paper on Havruta style learning?
- 6 What happens on Wednesday 15:00 - 15:15?

DOWN

- 1 The focus of this paper is _____ and oral examination.
- 3 The iPad Goes to Trial will be presented by Tom _____.
- 5 From which Law School is David Epstein?

CONFERENCE PROGRAM



This form of assessment is utilized throughout the semester. Firstly, by formative assessment of class exercises, thereafter summative assessment of class exercises and thereafter a semester test.

2.2 Narrative Report On Shadowing A Candidate Attorney

The feeling in the clinic was that the real value of these excursions into the "real world" could be found in the experience itself and that the reports itself were of secondary importance. For this assignment students must shadow a candidate attorney and document their experience.⁵

In marking this assignment we look at language, structure and whether the student discussed the requested procedures.

2.3. RESEARCH ASSIGNMENT

The essays have potential for measuring understanding, ability to synthesise and evaluative skills. When setting a question we identify the purpose of the question ideally a topic/s relevant to a "difficult" case or cases being handled by the clinic is given.

In marking these essays we look at layout and language, information collected and organised etc. essays which display insight and develop a coherent argument will be more highly valued than superficial answers.

2.4. Self Assessment

In self-assessment students are invited to assess themselves against a set of given or negotiated criteria, usually for formative purposes but sometimes for summative purposes.⁶

Motivation can be improved by early success. Self-assessment in particular can be used with the comfort of privacy and learners gain confidence in finding that they are "doing alright" long before they need to prove so publicly or formally. "The very act of assessing is intrinsically learning by doing - it involves the application of criteria, decision making, judgement and reflection."⁷

⁵ UP Law Clinic : A Model For Teaching And Assessing PRR 410 And PRR 420.

⁶ Lockett and Sutherland (2000) 112

⁷ Race (1993) 16.

2.5. Peer Assessment

At the Clinic group work forms an important aspect of the learning process. It is used for enhancing students understanding of both substantive and procedural law through peer support, discussion, exchange of ideas etc.⁸

It furthermore serves as a process for teaching interactive working techniques (teamwork negotiation skills, role allocation, conflict management) learning about the values and cultures of other group members and fosters integration and nation building.

Working in these smaller groups also provides an excellent opportunity for using peer assessment.

The advantages of peer assessment are, amongst others,

- Assisting in the development of students' lifelong learning skills and employability skills⁹
- Engages students in the assessment process¹⁰
- Provides an opportunity to promote high achieving students and to penalise "free riders"¹¹.
- Attempt to improve the overall student learning experience¹²

Peer assessment, however, amongst others, raises issues of personal anxiety and exposure and can be threatening because:

- Students feel that they do not have the appropriate skills to undertake the assessment;
- Students are exposed due to the fact that they are not trained in their social relations to give and take constructive criticism without it feeling like a personal attack

We feel that these perceived threats are in fact opportunities for learning and change. It is important to discuss with the students the issues of peer assessment and provide them with a clear rubric of how the assessment should be conducted.¹³

⁸ ⁸ UP Law Clinic : A Model For Teaching And Assessing PRR 410 And PRR 420.

⁹ Cassidy 2006; Russell 2006.

¹⁰ Loddington, 2008, Pond et al 2007, ronbinson 2007, Willmot & Crawford 2007.

¹¹ (Williams, 2006; Willmot & Crawford, 2007)

¹² <http://www.herts.ac.uk/fms/documents/teaching-and-learning/blu/conference2008/Steve-Loddington-2008.pdf>

¹³ ¹³ UP Law Clinic : A Model For Teaching And Assessing PRR 410 And PRR 420.

2.6 . File Evaluation

The files allocated to students are perused regularly and both formative and summative assessment is made continuously, regarding file management and contents. Students are also presented with a rubric on the assessment criteria for the files. Amongst other, the following is assessed:

1. Was the file correctly opened?
2. Were the necessary sub-files opened?
3. Were the application forms completed by the client checked for completeness?
4. Are the consultation notes legible, summarising factual issues, identifying legal issues, summarising accurately advice given and instructions received, identifying next steps to be taken?
5. Was the file diarised / referred correctly?
6. Were all telephone calls and consultations recorded?

Although the above methods of assessment is important, the focus of this paper will be on the next two methods namely, client assessment and oral assessment.

2.7. Client Assessment

Client satisfaction is generally considered to be at the core of good business practice. Cunningham¹⁴ indicated that a large number of clients are dissatisfied with their lawyers as the quality of communication is poor.

By constantly monitoring client satisfaction clinics are provided with a quality assurance method and an opportunity for improving service standards. Furthermore feedback received from clients completes our 360° assessment of student performance.¹⁵

The question arises as to when and how this client assessment must be done. The initial interview with the client seems to be the best opportunity to conduct the assessment. Cunningham¹⁶ states "The initial interview 1) shapes client

¹⁴ Valuing what clients think: standardized clients and the assessment of communicative competence 7:57

¹⁵ Haupt & Mahomed (2002) *Some thoughts on assessment methods used in clinical legal education programs at the University of Pretoria Law Clinic and the University of the Witwatersrand Law Clinic* presented by Haupt during The Congress of the Society of Law Teachers of South Africa.

¹⁶ Cunningham (2001) 3.

perception of the lawyer 2) defines the service to be provided in terms of both problem and goal and 3) is an important opportunity for client education".

By allowing the client to assess the students at the outset of the case we are able to provide feedback to the students and create an opportunity for reflection by the students.

We use a simple questionnaire based on the ELCC project model.¹⁷ A supervising attorney assists the client with the questionnaire. Firstly the purpose, improvement of our service, is explained. Thereafter the client is requested to indicate agreement or disagreement with a number of statements reflecting the degree of agreement or disagreement.

The statements pertain to different categories. Some statements refers to the way the client generally felt about the student, others pertaining to the quality of communication and the general satisfaction.

It would be useful to assess client satisfaction at the conclusion of the case. There are, however, certain practical problems. For instance a client might be influenced by the outcome of his case.

2.8 Oral examination

At the end of a semester an oral examination is conducted. 50% of the total semester mark is allocated to this examination.

2.8.1 Preparation

From the outset of the semester it is clear that the thought of oral examination made most students extremely nervous. This can be attributed to the fact that almost none of them has every experienced an oral examination. Therefore proper preparation is required.

Two lectures were singled out to discuss the oral examination. During the first lecture the structure was discussed and studente had an opportunity to ask questions. During said lecture the students need to pick a 30 minute time slot, which would comprise of 20 minutes examination and 10 minutes to calculate the marks.

It is explained to the students that we would start with easy questions relating to Law Clinic procedures and consultations; thereafter more difficult questions will follow relating to work dealt with during lectures, in this semester mostly

¹⁷ The questionnaire can be downloaded from the ELCC website:
<http://law.wustl.edu/Communications/>

consisting of civil procedure. Finally, the harder questions will follow relating to the case files dealt with by the student's firm.

The logic behind starting with easier questions and then gradually increasing the degree of difficulty is to make the students comfortable.

Examples of the type of questions that may be asked is provided. Students tend to be anxious regarding the case file questions and it was explained to them that to prepare for that section they should place themselves in the examiner's shoes. What would they ask, if they were the examiner, regarding that specific file?

The students are then requested to make summaries of their files and provide the lecturer with 10 questions, with answers, they would have asked if they were in the examiners shoes. The making of summaries forces the students to work through their files and the drafting of questions provides an opportunity for the students to think critically. These summaries and questions needs to be submitted before the next lecture.

The next lecture is presented in a quiz format. The questions received by each group is asked to the rest of the class and a score is kept. At the end of the lecture the firm with the most points receive a small price.

We further explain to the students that we will also video tape the oral examination. This would be to enable us to have a perusal should the need arise therefore.

It is also of the utmost importance to prepare the panel assessing the orals. Sets of questions are drafted and explained beforehand.

The first batch of questions relates to the Law Clinic and consultations and comprised of 10 sets of questions and answers. Each set contained 4 questions with a mark allocation of 1; 1 question with a mark allocation of 3 and 1 question with a mark allocation of 2. The question and answer sheets ensured that the same degree of difficulty is maintained throughout the oral examination.

The second batch of questions relating to the work dealt with during lectures comprised of 8 sets of questions and answers. Each set contained 2 questions with a mark allocation of 3 and 4 questions with a mark allocation of 1. These questions and answers were also drafted before the examination. Likewise this ensured that the degree of difficulty was maintained.

Due to the nature of the third batch of questions it was not possible to draft complete sets of questions and answers. The files were studied beforehand and questions relating to the files were identified.

Each batch of questions had 10 marks allocated to it. Therefore the oral exam counted out of 30 marks (3X10)

2.8.2 Oral Examination

When the student arrives for his/her oral examination it is important to set the student at ease. The student is introduced to the panel and the video camera is switched on.

Thereafter the examination occurred. First, the Law Clinic and consultation questions; thereafter, the work from the lectures and lastly, questions relating to the case files. Due to the fact that the first batch comprised of 10 sets and the second batch of questions of 8 sets, no two students will be asked exactly the same questions during the oral exam.

During the oral examination it is important that the panel remain relaxed and friendly. Constructive Feedback should also be given to make the assessment also a learning opportunity.

After the questions answered by the student, we informally requested feedback regarding their experience of the oral examination.