# What Links an Eight-Year Old's 'Journey to the Moon' and a Law Student Going to Court for their Client?

# Orchestrating Experiences Conducive to Student Learning in a Law Clinic

**Jonathan Richard Hall**

**Thesis Submitted for the Qualification of Doctor of Education**

**School of Education, Communication and Language Sciences**

**Newcastle University**

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# Declaration

I declare that this thesis is my own work and that I have correctly acknowledged the work of others. This submission is in partial fulfilment of the requirements of the Doctorate in Education and is in accordance with University and Academic Unit guidance on good academic conduct.

Jonny Hall

16.6.21

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Jonny Hall
16.6.21

# Abstract

Clinical Legal Education (CLE) is a form of legal education in which students provide legal services to people under legal supervision. Little is understood about how students learn in law clinics. There has been particularly little empirical research into the nature of the law clinic learning environment, how students learn in that environment and what supports them in their learning, particularly concerning the role of the supervising teacher. This research, conducted in a pragmatic paradigm, reports a naturalistic inquiry into the experiences of eight law students under my supervision in the law clinic. A qualitative methodology is adopted utilising a variety of data sources: discourse in meetings with students, students' assessed reflective work and their reflective diaries. It utilises both thematic analysis and sociocultural discourse analysis to answer the research questions. The research contributes further understanding of how inquiries in indeterminate situations lead to particular learning experiences. It also highlights important supports for student learning and particularly the teacher's (the term supervisor interchangeably used) role in orchestration at all levels from long term planning of tasks to further understanding improvisation by the supervisor and students in the moment. Kaendler et al's (2015) framework for teacher competencies for implementing collaborative learning and Hämäläinen and Vähäsantanen's (2011) categorisation of tasks, interactions and resources are adapted to provide teachers from any discipline with further insights into their role in these forms of learning. It is concluded that additional research into collaborative student learning when not under supervision is necessary to further understand how and what students learn in these environments and how they can be further supported.



Key terms: Clinical Legal Education; Inquiry-Based Learning; Problem-Based Learning; Self-Directed Learning; Sociocultural Discourse Analysis; Orchestration

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# Chapter 1 Introduction

## 1.1 The Student Law Office – experiences conducive to growth

> *A primary responsibility of educators is that they not only be aware of the general principle of the shaping of actual experience by environing conditions, but that they also recognize in the concrete what surroundings are conducive to having experiences that lead to growth. Above all, they should know how to utilize the surroundings, physical and social, that exist so as to extract from them all that they have to contribute to building up experiences that are worthwhile.* Dewey (1938, p.25).

I have worked as a qualified lawyer and academic supervisor in Northumbria University's Student Law Office (SLO) since 1998. I supervise groups of six to eight fourth year undergraduate law students who work independently, in pairs and as a group to advise and represent members of the public on legal matters. The SLO is a clinical legal education (CLE) environment. CLE has various definitions which can include simulation (Grossman, 1974). However, in this research. I accept Bloch's definition: "any law school course or program in which law students participate in the representation of actual clients under the supervision of a lawyer." Bloch (1982, p.326).

CLE at Northumbria University can be described as an inquiry-based learning (see Aditomo et al., 2013) and/or problem-based learning (PBL) environment (Sylvester et al., 2004) in which students are confronted with real client problems. While the students may have encountered some of the areas of law which the client's problem is based upon, they are unlikely to have studied all aspects before. They interview the client to elicit the problem in a pair and present the problem to me and the other student group members in a weekly firm meeting (often referred to as rounds in CLE literature, particularly in the US – Bryant and Milstein, 2007). I then facilitate a group discussion of the client problem and together we decide upon factual and legal research objectives and actions for the student pair to undertake. The students then carry out research into the problem and regularly send me their work so that I can support their efforts with regular (sometimes daily) feedback. At each firm meeting, research and progress on the case is discussed by all of the students and we explore all of the issues together, often deciding upon the next actions required and reflecting upon the experience. It should be noted that although I involve all members of the group in each other's cases in this way, there are many times during the week that action is agreed and undertaken between simply me and the student pair with responsibility for that case.

The students are assessed against a variety of learning outcomes forming almost 50% of their final year grade (see Appendix 1). The process requires a high degree of self-directed learning (SDL, Knowles, 1975) because the students are not formally taught about the legal and procedural issues that may arise in the case.

This environment emphasises experiential learning (Maranville et al., 2015). It both requires a degree of SDL from students and is one that I have come to understand as being propitious for the development of SDL. However, the organisation of the environment, individual and collective student responses to it and the role of the teacher in that environment are not well-understood. My research in this thesis has evolved from a twenty-year period of teaching and reflecting upon the nature of these phenomena. I will argue this is a cycle of reflective inquiry that has evolved into a systematic reflective inquiry (Stenhouse, 1981).

From my early days teaching in the SLO I became aware of the distinctive nature of CLE when compared to my other teaching roles. I could see the students become more confident. This was particularly true of students whose general academic performance might be described as average but whose experience in the SLO seemed to improve not only their confidence but their performance (subsequently partially confirmed by research at Northumbria: Sylvester et al., 2018). Student engagement and assumption of responsibility seemed high and satisfaction with the work also seemed to be at a very high level (National Student Survey statistics, as far as they can be relied upon, appear to bear this out). Finally, I was aware that I had a different relationship with the students. I got to know them each individually very well and we appeared to have a much more collaborative relationship than in my other teaching. While I was aware of all of these benefits, research into how the environment actually functioned is relatively sparse (further explored in Chapter 2).

In this chapter I explore my personal history and position in the research and how I came to eventually embark on this inquiry.

### 1.2 Reflexivity

When conducting social research, reflexivity is required: self-awareness and a recognition that the research affects the researcher and the researcher affects the research (Mann, 2016) – an "ongoing, mutually shaping interaction between the researcher and the research" (Edge,

2011, p.38). This is the case even in the case of the researcher as observer (Halling and Goldfarb, 1991). When the teacher is the researcher, this requirement of reflexivity is brought into sharp focus as the researcher is a participant and thus involved even more so in a mutually shaping interaction with the research. It is therefore necessary to both refer to myself consciously in the research (Mann, 2016) and to develop my understanding of how I came personally to the research through my prior experiences (Etherington, 2004).

### *1.2.1 Journeys to the moon and back in time, my early childhood educational experiences*

I have written about this experience previously as a part of my work on this thesis (Hall, 2019) and repeat some of those thoughts below.

It is September 1976, I am turning eight years old and I have just entered my first year in Junior School. In common with most primary schools at the time, we had one class teacher who took us all day for all of our lessons. She was a drama specialist and throughout that year while some lessons were quite traditional in approach (learning times tables, time spent listening to our teacher read at the end of the day) whole days (and even the odd week) would be spent immersed in living out projects where the lessons including art, history, science and geography merged into one. We spent days living as Saxon villagers or forming teams to prepare journeys to the moon; designing our spacecraft and moon landing vehicles. Not only did the boundaries between subjects merge but decisions about what and when we would study sometimes opened up too. Over 40 years later I can still remember our teacher announcing to the class that we could choose to continue with our role play if we agreed that the following week we would need to spend a day doing maths.

After a hiatus in the following year where a much older teacher returned our days to the drab march of country dancing, Maths and English lessons, on entering the final year we were informed that the whole year group had three classrooms and a hall that were open to all of us. We were required to complete maths, English and art projects alongside other work (which for me included several days in a small group role-playing an inquiry into a mock planning decision by the City Council to build a major road down my leafy street). When we completed the majority of our work was entirely up to us.

Sadly these experiences did not continue past my junior school. I entered a rigidly conformist private school aged eleven and went on to Cambridge University to study history writing one

essay a week for individual tuition. It is probably true to say that the next time I encountered any notable form of experiential academic learning in my formal education was when studying for the Legal Practice Course (the vocational stage of practical learning that precedes entering training in the solicitors' profession).

Over 40 years later these early learning experiences remain vivid in my mind. Of course, they were not wholly unproblematic. The chief problem in the final year class being one of making decisions about what to study and when and an often strong sense of confusion about what we were doing and why.

I have though often fondly recollected these learning experiences alone and with friends who were in my classes. We all have a strong memory of them. I had such a strong sense of the possibility of learning emerging from this learning from experience and when reflecting upon my teaching in the SLO I began to come to a realisation that there was a strong link for me between the experiences I had in primary school and those in my law clinic (first articulating these to law colleagues in a presentation in 2003).

In 2010 I attended a law school lecture by my then colleague Professor Paul Maharg. His lecture covered the works of John Dewey and the links between his thinking, experiential learning in primary schools and our work in higher education. I have come to see Dewey's thinking as both influencing my personal history as a child and my work now.

Dewey's influence on primary and secondary education in the 1970s was heavily criticised as "progressive education" (Kenneth Clarke in a speech decrying "progressive education" as referred to in Brehony, 1997). His influence personally can be overstated (Brehony, 1997; and McCulloch and Swan, 2016). Not all forms of "progressive education" were introduced in the second half of the 20$^{th}$ century in any event. Some were present well before the 1960s (Marsden, 1997). In any case there was not a wholesale revolution. In 1978, only 5 per cent of classrooms were devoted to the 'exploratory' experience (HMI report 1978, cited in Alexander, 1992).

Changes were made in the late 1960s and early 1970s, particularly in the primary sector following publication of the Plowden Report (1967) making recommendations for teaching in all primary schools in England and Wales. Note, however that the reports' authors were not

seeking to import a wholesale experientially based approach and that was not the result (Alexander, 2009).

Deweyesque ideas can be identified in the Plowden Report and did have an impact in some schools (including I believe, my own). Darling and Nisbet (2000) identify recommendations in the Plowden Report that are Deweyesque:

> *Activity and experience, both physical and mental, are often the best means of gaining knowledge and acquiring facts ... We certainly would not wish to undervalue knowledge and facts, but facts are best retained when they are used and understood, when right attitudes to learning are created, when children learn to learn* (The Plowden Report, 1967, p.195)

and

> *The Plowden Report commends more flexible methods of curriculum organisation which are designed to make good use of the interest and curiosity of children, to minimise the notion of subject matter being rigidly compartmental, and to allow the teacher to adopt a consultative, guiding, stimulating role rather than a purely didactic one."* (Darling, and Nisbet, 2000, p. 198)

**1.3 Cycles of reflective inquiry**

I have come to see my growing realisation of the difference of the CLE experience and its connections to my own history as part of a long-term cycle of reflective inquiry. Both the positive nature of this environment but also those which included situations "in which there is experienced obscurity, doubt, conflict, disturbance of some sort" (Dewey, 1933, pp.101-102).

This doubt was particularly acute in relation to the difference between the SLO and other simulated case environments. I was already teaching in the SLO where we worked with real people but was then given the task of designing the preparatory module for the SLO which took place in the previous year and was designed as a simulated case study to assist the students in building their legal skills and knowledge about the office. There were significant issues with this preparatory year which also appeared to pose problems when the students entered the office. These principally concerned the difficulty students had with coping with

new problems, identifying research objectives and seeing legal issues more holistically (Sylvester et al., 2004).

I discussed these with my colleague Cath Sylvester and we together implemented a Problem Based Learning (PBL) approach to the preparatory year. PBL has a long history in medical education (Savin-Baden and Major, 2004) and has been implemented in law also in the Law School at Maastricht University (Moust, 1998) and we eventually came to see its implementation in earlier parts of the students' journey as a means to enable the students to prepare for the experiences of the clinic.

PBL is a form of inquiry-based learning in which students are presented with a meaningful authentic problem scenario as the first part of learning cycle. They work collaboratively in small groups, facilitated but not didactically taught by a tutor, to initially identify the factual issues, identify gaps in their knowledge and formulate hypotheses and learning goals. It is hypothesised that this enables individual students to undertake independent SDL. Following this, the small group meet again to discuss their findings, reflect on their process of learning and, often, identify further gaps in their knowledge to investigate prior to meeting again to explore what they have learned (Howard, 2000; Torp and Sage, 2002; Hmelo-Silver, 2004).

Cath and I designed the preparatory module so that it used the PBL method and principles as part of the learning experience. Students were presented with the simulated case study in an authentic and meaningful way (through interviewing an actor client) and we then built into the module a process in which they worked collaboratively to identify their research objectives and carry out research and decide upon advice to the client.

### *1.3.1 Initial reflective inquiry into our introduction of PBL*

We carried out research into the students experience of this new PBL preparatory year and discovered that the approach was an enjoyable experience for students, even though time-consuming and hard work relative to more traditional methods with several positive results which included high levels of student confidence in their research skills and practical legal skills (Sylvester et al., 2004).

### *1.3.2 Subsequent cycles of reflective inquiry*

Over the course of the next five years we continued to develop a model of introducing PBL, introducing it into second year as well. We began to realise however the different nature of the real client problem and the simulated PBL which seemed to suggest a number of issues including:

- the motivational difference between working on a simulated problem when the only stakes are the assessment and working on real client problems where the student's work has real impact on another person's life and responsibility
- the difference in the responsibility of students for a problem with an ending planned by the teacher, with most irrelevant information smoothed out and the unknown situation in real clinic
- the difference in the relationship between teacher and learner in a problem set by the teacher where the teacher is effectively god and the clinic in which neither student nor tutor know the answers.

### 1.4 A move to a systematic reflective inquiry

I therefore came to the realisation that to begin to understand how experiences can be balanced and provided to students in a supported environment, it is necessary to inquire into the experience in the moment of the experience. I therefore came to pose my systematic inquiry questions concerning the SLO itself.

#### *1.4.1 Original Research Questions*

Having described the historical background to this research, I set out here my original research questions. I do this to provide a transparent account of the research but also to trace the development of the questions and design as the research progressed. I will describe in Chapters 3A and 3B (tracing the development of the research design and questions) how my research design and questions changed over time. I have come to the realisation that in this pragmatist paradigm, reflection on findings and adaptability in the face of uncertainty and the human element of the research is a necessity. Elements may emerge from the data that we did not plan for or that surprise us and require flexibility and adaptation, though this does not imply simply discarding the original question for another (Feilzer, 2010). I will therefore

consider both the original research questions and design (chapter 3A) and the questions and design that emerged during the inquiry itself (chapter 3 B).

The research original research questions comprised:

> *Clinical Legal Education – a problem based and self-directed learning environment – how and to what extent do students in this environment respond in relation to the regulation of their learning and development of self-directedness and what role might the supervisor play in that environment?*

The sub questions:

1. *In what ways do students' personal self-directed attributes influence their response to the learning experience – in what ways do they regulate their learning?*
2. *To what extent, if at all, do students experience change in their self-directed attributes over the course of the experience?*
3. *What is the relationship between the SDL environment(s) of the clinic and the student's experience of learning?*
4. *What changes in the learning environment can be made to enable students to promote their own SDL?*
5. *What is my role as supervisor in this environment?*

I will describe in Chapter 3B what, as I started the research, actually came into sharp focus (most often this realisation derived from dialogue with the students) was the nature of the environment, collaborative knowledge-building and my role as orchestrator. This led to the requirement to reconsider my research questions in the light of what I was learning. The revised research questions are as follows:

> *Clinical Legal Education – an inquiry based, self-directed and co-constructed learning environment – how do students individually and collaboratively learn in this environment and what is the role of the supervisor in orchestrating student learning?*

The sub questions:

1. *What is the nature of this learning environment?*
2. *What is the relationship between the learning environment(s) of the clinic and the students' experience of learning?*
3. *What supports the students in their learning?*
4. *What is my role as supervisor in this environment?*

My position was that these phenomena could be understood pragmatically by studying them through their practical use and success in their environment. Essentially it is an inquiry which is impelled by experience to seek knowledge and understanding beyond the individual experience (Dewey, 1933). This is an exploratory study to both generate and test theory and understanding through an active iterative process and is best described as a form of practitioner enquiry in which I as both teacher and researcher can learn from student feedback in the process of bringing about change in the classroom (Baumfield et al., 2012).

### 1.5 Pragmatism – Education and Research

In conducting this research, I am drawn to an epistemological stance that partly aligns with my philosophical standpoint on education itself. This accords closely with the work of John Dewey both in terms of his fundamental philosophical and, consequently, educational approaches to the nature and generation of knowledge.

> *If we are willing to conceive education as the process of forming fundamental dispositions, intellectual and emotional, toward nature and fellow men, philosophy may even be defined as the general theory of education* (Dewey, 1922, p.383)

I intend to take an approach influenced by Deweyan pragmatist theory of the nature of knowledge whilst recognising that Biesta and Burbules (2003) assert that Dewey's work is a form of anti-epistemology as it rejects the dualism of mind and matter (subject and object) in favour of the continuous interaction of the living human organism and its environment.

Pragmatism is not a unified school of thought (Hammond, 2013; Biesta and Burbules, 2003; Hall, 2013). It is generally agreed that it is based on the maxim: "consider what effects, that might conceivably have practical bearings, we conceive the object of our conception to have. Then our conception of these effects is the whole of our conception of the object" (Peirce, 1934). This is an epistemological stance with consequences for research and educational action that go beyond merely asking "what works" (Morgan, 2014). It is based on the concept of the situations in which we as human beings generate knowledge.

Peirce's early conception of pragmatism held that human beings in their experiences act out of habit (existing beliefs) and it is only when our existing habits are not sufficient for the

situation that we experience doubt. Doubt leads to inquiry in order to eliminate that doubt resulting in a new belief (Talisse and Aikin, 2008).

Dewey developed this conception further in the light Darwin's theory of evolution to include the conception of human beings interacting with and dynamically adapting both themselves and their environment in the face of the indeterminate situation – it is not only the individual human being that is in doubt but the situation itself (Talisse and Aikin, 2008).Note that for Dewey habit "means an ability to use natural conditions as means to ends. It is an active control of the environment through control of the organs of action." (Dewey, 1922, pp. 54-55).It is the human being's inquiry in this indeterminate situation in order to resolve this doubt that results in knowledge (Dewey, 1938). It is not an inquiry into a pre-existing state but the construction of a new situation and new knowledge through the process of inquiry (Talisse and Aikin, 2008).

Mietennen (2006) describes Deweyan pragmatism as a product of experience following inquiry and the necessity of action to put hypotheses into practice and test them. Similarly, Johnson and Onwuegbuzie (2004) summarise a Deweyan approach to warranted assertion as being the testing of inquiry outcomes in the real world – the assertion cannot be warranted without action (see also Beista and Burbules, 2003). I have considered whether this both underpins and necessitates a classic action research approach with planned cycles of inquiry, reflection and action – an approach which I have rejected in favour of a less rigid and less phased approach to inquiry and action.

A pragmatist approach involves, partly, an acceptance of constructivist theory. Knowledge is created by human beings but in interaction with the "real world" (Johnson and Onwuegbuzie, 2004). A Deweyan pragmatic approach acknowledges both the post-positivist philosophical position that the world exists outside of our constructed knowledge of it and that the world is created by our conceptions of it (Morgan, 2014; and Sleeper, 2001).

This Deweyan approach to experience is not solely an individualistic one but also social (Morgan, 2014). When individuals act together they have their own individual construction but also this coordination transforms their own world and creates a shared intersubjective world – not one created solely through the transfer of information but because it is created

through their actions and reflection it is what Biesta and Burbules (2003) term a practical intersubjective one.

As set out in the literature review (chapter 2), I accept and advocate that an experiential approach is both a useful and necessary explanation of knowledge generation and education but not that it forms the whole story. If we see inquiries as always stimulated by practical problems we risk overlooking the fact that knowledge is not always generated from a practical problem. Hammersley (2002) describes the practical problem as the 'imposed relevance' but also highlights Lear's (1988) conception of 'instinctive curiousity.' Where human beings conduct inquiries out of the "sheer wonder of the existence and character of the world" (Hammersley, 2002) and the inquiry has intrinsic rather than imposed relevance. This can still fit within Deweyan pragmatism's notion of inquiry formed from doubt in the indeterminate situation if we view the "sheer wonder at the existence of the world", as the indeterminate situation the inquirer finds themselves in but at the very least it highlights the fact that inquiries and knowledge are not always stimulated and generated in a straightforward practical situation in which our habits are "not working" and we are therefore experiencing doubt.

Hammersley concludes that while there is a place for inquiry both as a purer form of research and for research in action, in the case of the latter the inevitable tension between action and research means that the inquiry must be subordinated to the action. It also requires us to recognise that inquiry does not have to arise from the "practical experience" in the situation and therefore there are choices to be made about forms of inquiry (or research) and what stimulates them. So, when we want to know about the world, we can approach it from a pragmatic standpoint of the indeterminate situation we find ourselves in and the interaction between our human construction of the world with an environment, but we cannot neglect the fact that this may not be the only form or source of knowledge about the world. As an example, the functioning of the human brain is not purely socially constructed or developed solely by the interaction with the prevailing environment. Understanding ways in which human beings learn and solve problems might be further revealed by a "purer" form of research that is not stimulated by human experience of an indeterminate situation but instinctive curiosity about the workings of the human mind.

These conclusions also point to educational consequences recognising that knowledge for students is not always going to be generated in the indeterminate situation of the practical problem. That there is a place for inquiries concerning intrinsic relevance and also, I would argue, for the transmission of knowledge to students gained by others due to those others' inquiry into existence from its intrinsic relevance in ways that do not always then require inquiry by students. Dewey did of course recognise that habits are communicated by transmission (see for example Democracy and Education, 1922, p.4) but opposed:

> *The record of knowledge, independent of its place as an outcome of inquiry and a resource in further inquiry, is taken to be knowledge. The mind of man is taken captive by the spoils of its prior victories; the spoils, not the weapons and the acts of waging the battle against the unknown, are used to fix the meaning of knowledge, of fact, and truth."* (Dewey, 1922, p.220).

Dewey recognised that ideas in schools do not have to arise in inquiry. They can be communicated but can only be appreciated in action. He did not go on to give a recipe for when knowledge might be transmission based and when it might be inquiry based leaving us with the continued problem of deciding upon the balance between how to organise experience and transmission and where inquiry should sit.

> *Dewey provided a way of thinking about education, and although he had strong views he put them forward only in the most general terms and, for the most part, in relation to young learners.* (Hammond, M, 2013, p.612)

However, in an experiential learning environment such as the legal clinic, Deweyan pragmatism is highly relevant because that environment is precisely one in which the situation is often indeterminate and in which learning in and from the indeterminate situation is, of necessity, emphasised when compared to a description of the lecture-seminar cycle still prevalent in English law schools. In the classic lecture-seminar experience in law, students are given antecedent legal knowledge through lectures and required reading that the teacher has already pre-determined the learning outcomes for, following which the students are expected to apply this knowledge to a problem scenario that requires manipulation of the legal concepts to reach a deeper understanding of those concepts.

This lecture-seminar learning environment is substantially less indeterminate principally for two reasons. Firstly, the legal knowledge required by the students is usually substantially narrowed, defined and presented in advance to them and secondly the situation (the

classroom, the relationship with the tutor and peers, the facts of the scenario presented) are also strictly structured (the subject matter of the problem remains within one narrowly defined subject area, the students are not required to investigate the facts which are strictly defined and tend to allow very little room for interpretation or client emotion or consideration of professionalism). The situation is, in most respects, not indeterminate for the tutor either in relation to the subject matter – though of course it can be indeterminate in terms of the art of teaching itself and each individual students' responses and learning.

In the clinic, the situation is far more indeterminate from the tutor and student's perspective. The legal knowledge demanded by the client's situation cannot be wholly known in advance by the student and they cannot be taught in advance all of the knowledge required to address the client's problem. Indeterminancy goes beyond this however. Some examples include the nature of the client's problem requiring investigation, the process by which the students will undertake work: the timescales, relationships with institutions and personalities, developing a professional relationship with the client and the client's own response to advice and options, with other students, with the tutor. Of course, for the tutor, their beliefs or knowledge are far less likely to lead to a situation of doubt requiring inquiry but even in this case inquiry can be necessary – the obvious example is researching an area of law the tutor has not come across.

So, in this sense inquiry in the clinic requires us to construct our knowledge of the world but there are also tight restrictions to how we might conceive of and construct the nature of the problem in this legal environment in which we must take action as well as inquire into the nature of the problem. In this sense, the clinic is a rare form of legal education in which if the 'reality' of the environment is ignored the consequences are real and we are confronted with the effect of our interaction with the 'real world'. We might for example construct an understanding of the criminal justice system as being fundamentally oppressive but in seeking out a solution to the client's problem in some ways have to accept its reality in representing our client and achieving their objectives. Therefore, the inquiry that takes place by the student, through the very nature of the duty to the individual client, will often focus on this acceptance of the legal rules and principles and underlying social causes and be directed at understanding how that situation will operate in this particular client's case even if it is desirable that we then ask to students to critically reflect on those underlying issues.

In summary, my assertion is that the learning environment of the clinic follows a Deweyan pragmatic approach to education and that therefore there is an alignment between the underpinning philosophical approach of both my research and the environment I am conducting research into.

## 1.6 A practitioner enquiry

The research I am undertaking involves myself as a teacher researcher, a form of practitioner enquiry. From a pragmatist perspective, educational practice is the "origin of educational problems and the test of the value of conclusions" (Dewey, 1929, p.16). Biesta and Burbules (2003) assert that this is both because of the pragmatic conception of the nature of knowledge (a dynamic ever-changing interaction between actions and their consequences) but also because of the ever-changing nature of the world we live in and the only way to use knowledge in the occasional indeterminate situations in which we find ourselves is to harness it to direct our day-to-day problem solving.

This does not lead to the inevitable conclusion that research must be carried out by the practitioner in the classroom but the following propositions appear to hold by those who adopt this perspective:

1. Educational problems always arise from practice. However, my position is that while educational problems do arise from practice, research and knowledge can be developed outside of educational problems instead arising from intrinsic relevance (see Hammersley, 2002). That said, my inquiry in this research does arise from the educational problem in practice;
2. Conclusions from educational research can only be finally tested in educational practice – thus placing the role of the practitioner more centrally in the endeavour (Stenhouse, 1981).
3. Research by practitioners arising from their own experience of doubt in the indeterminate situation and applied to their actions has the power to generate new knowledge through systematic inquiry. My position is therefore that this is a legitimate form of inquiry whilst I do not accept that is the only form of possible inquiry.

### *1.6.1 Teacher as researcher and practitioner enquiry*

> *From the point of view of the experimentalist, classrooms are the ideal laboratories for the testing of educational theory. From the point of view of the researcher whose interest lies in naturalistic observation, the teacher is a potential participant observer in classrooms and schools. From whatever standpoint we view research, we must find it difficult to deny that the teacher is surrounded by rich research opportunities. Moreover, there is in the research field of education little theory which could be relied upon by the teacher without testing it.* (Stenhouse, 1981, p.103)

Following on from Stenhouse's work, two broad conceptions have emerged of teacher as researcher. One being the reflective practitioner in which teachers come to a better understanding of their own context through a process of reflective inquiry; and the second being that which sees teacher research as productive of pedagogical knowledge beyond the teacher's own context that is more readily generally disseminated (Fordham, 2016). As Fordham indicates, the two are not mutually exclusive. Menter et al., (2011) conversely describe reflective teaching as involving the former of these definitions: an active concern with aims and consequences as well as means and practical competence in methods of classroom inquiry to support teaching competence. They describe practitioner research as going one stage further than reflective teaching with the notion of teacher as researcher including dissemination and influence beyond the immediate context and the capacity to change practice beyond that context. As I carry out my inquiry, I see both goals as possible, desirable and necessary.

Hall and Wall (2019) see practitioner enquiry conceptualised in two, not necessarily oppositional ways. One which emphasises engagement of teachers in better understanding their learning and teaching as a community to improve practice (Baumfield et al., 2012) for the primary purpose of keeping up to date with new developments through involving them in questioning and looking for answers. The second, more research-oriented conception is of "Practitioner research in education is systematic enquiry in an educational setting carried out by someone working in that setting, the outcomes of which are shared with other practitioners." In which the systematic enquiry has a rationale and approach that can be explained and defended (Menter, 2011, p.3).

Wall (2018) further articulates a view of practitioner enquiry that is about improving educational outcomes for students "not obviously about testing interventions" or "finding out generalizable rules on what worked." (Wall, 2018, p.9). She suggests leaving that to the

academics removed from practice with the rationale that in a busy school a teacher attempting to carry out a randomised controlled trial is problematic.

### *1.6.2 Limitations of practitioner enquiry*

Cochran-Smith and Lytle (1999) who are advocates of teacher research, enumerate several of the challenges posed concerning the legitimacy of practitioner enquiry. Summarising Fenstermacher's (1994) implied critique that practitioner research must be governed by the same epistemological rigour as required to establish "formal knowledge" and Huberman's (1996) critique that it is at most a form of interpretive research which must meet the requirements of such research and that research by teachers as participants in their own classrooms poses very substantial issues relating to obvious bias and perceptions of the participant.

In relation to the epistemological critique, we have already seen that I am adopting a pragmatist view providing a sound philosophical basis for carrying out the research. This practitioner enquiry is action-oriented research which has the characteristics of pragmatic inquiry in the assumptions I am making that knowledge is consequential (derived from action) and part of a never-ending process (Hammond, 2013).

In the next chapter, I consider the CLE literature concerning the nature of the learning environment and the role of the teacher within it alongside a broader knowledge base in education concerning student learning in this inquiry-based and indeterminate situation.

# Chapter 2 Literature Review

## 2.1 Ideas Underpinning CLE - SDL, Andragogy and Inquiry

> *The recognition of adults as self-directing learners is the most important source of the departures from traditional pedagogy that are contained in Knowles' andragogy. The key methodological implication that follows from this recognition is the creation of a learning climate which includes what Knowles calls "a spirit of mutuality between teachers and students as joint inquirers.* (Bloch, 1982, The Andragogical Basis of Clinical Legal Education, *338)*

In chapter 1 I explored my journey in my understanding about the learning environment in the law clinic from experiencing the teaching environment, through to exploring PBL and my realisation of my work in the law clinic as a SDL inquiry based environment.

SDL has been defined as

> *a process in which individuals take the initiative, with or without the help from others, in diagnosing their learning needs, formulating goals, identifying human and material resources, choosing and implementing appropriate learning strategies, and evaluating learning outcomes.* (Knowles, 1975).

SDL can be conceptualised as both a design feature of the learning environment and a process and personal attribute of the learner (Loyens et al., 2008; Husmann et al., 2018). In terms of the design of the environment it involves an emphasis on student freedom in establishing their learning goals; learning resources (and critical appreciation of those resources) for achieving those goals (Loyens et al., 2008).

While reading for this literature review, it became apparent that my own journey had taken place in similar ways to that of clinical legal educators earlier in the 20th century. CLE has a patchy history in terms of connection to educational theory and empirical research (Martinez, 2016). The quote from Professor Bloch at start of this chapter marks almost the start of CLE educators seeking out a theoretical basis for CLE. In doing so, he advocated adoption of Knowles' concept of andragogy and the related concept of SDL that Knowles also championed.

### *2.1.1 Andragogy*

Andragogy is a concept concerning "the art and science of helping adults learn" (Knowles, 1970, 43) as opposed to pedagogy as a science for helping children learn. In this framework, adults are differentiated from children in their ability to self-direct their own learning; utilise a history of life experiences to build upon in their learning; seek out learning as a means of solving problems in the immediate future and who are intrinsically motivated to learn rather than through external factors (Merriam, 2001). A major critique is whether this framework truly only applies to adults given the fact that children are capable of self-direction and also have different forms of motivation that include intrinsic factors (Merriam, 2001). Given Dewey's articulation of experiential learning for children in early development (Dewey, 1938), andragogy as a framework only for adults stands in contradiction to approaches to learning that have been adopted for education for children too (at least for over 100 years). This was later recognised by Knowles himself and refined from a framework for adult learning into a position of teacher directed learning at one end and student directed at the other – whatever the age (Merriam, 2001). It never developed into a theory of learning (Pratt, 1993) or clarified the process of learning (Merriam, 2001).

Andragogy became popular amongst legal clinicians as the theoretical basis for clinic following Bloch's article (Kotkin, 1989; and Morton et al., 1999), though few make modern explicit reference to it, it does appear to remain an important assumption (Martinez, 2016). In CLE Morton et al., (1999) reported difficulties in their experience of attempting to adhere to andragogical principles from two perspectives. One being that they do not believe students (aged 23-28 and considerably older than the students I generally teach) had reached the stage of adulthood required by andragogy (echoed by Blackburn, 2020, in respect of younger adult law students) and because they found it necessary to teach specific content. They concluded:

> *Our job is to determine the proper mix of student choice and professor control... Without the umbrella of a hybrid approach governing our goals and processes, we would lose many students who could not conform to a specified framework.* (Morton et al., 1999, p.519).

The above critique both calls into question the extent to which the concept of andragogy throws light upon the learning process in CLE and also illuminates, for me, a key issue in considering this learning environment to which I will return: the balance between student and tutor control and the recognition that the degree of support from the tutor is necessarily

contingent on the individuals with whom we are working and in what context.There remained no doubt in my mind however, that CLE is an environment that recognises and requires SDL and that we still know little of how students respond in that environment and what can be done to support their learning.

### 2.2 CLE and the links with constructivist and inquiry-based learning

I am adopting a pragmatic stance to this inquiry and this links to my understanding of learning in the CLE environment. In many ways Dewey was a forerunner of constructivist thinking and his theories are still very relevant to constructivist research (Reich, 2009). It is necessary to consider constructivist theory, its pedagogical implications and research in this literature review given the links between pragmatism and constructivism and the fact that much of the pedagogical approach to learning and research has been conducted through this lens. I have come to the view that constructivist, sociocultural and pragmatic perspectives are the most appropriate lenses through which to view the educational environment of law clinics and the most appropriate means of conducting this inquiry.

Constructivism is a theory of how people create meaning (Loyens et al., 2008), though many strands exist with no overarching theory (Adams, 2006). It is unified by the concept that knowledge is actively constructed by the learner(s) (Loyens et al., 2008) situated in the activity of the learner as a product of that experience and its context and culture (Tobias and Duffy, 2009). Additionally, the learner constructs knowledge by building on what is already known (Dennick, 2008).

A contribution I accept to this approach arises from William James and, later, John Dewey's conception of active construction: that the knower is an actor not a spectator (Phillips, 1995). I will argue that the clinical environment involves active construction of knowledge through experiential participation in a different way (through the actual experience of putting solutions into practice) than many other constructivist learning environments which do not.

While some constructivists hold the view of radical constructivism (for example Von Glaserfeld: Hardy, 1997) that knowledge is wholly constructed in the mind of the learner, there exists a continuum of thought (Phillips, 1995). On the one hand a belief that knowledge

is made by humans and on the other that it is discovered by them (Phillips, 1995). A Deweyan pragmatist perspective holds that knowledge is newly made in the interaction between the inquirer(s) and their environment and the world exists outside of our constructed knowledge of it and that the world is created by our conceptions of it (Morgan, 2014; and Sleeper, 2001).Additionally, the concept of social constructivism and related sociocultural theory adds that this knowledge construction takes place in the social sphere. Knowledge is constructed through social interaction, interpretation and understanding (Vygotsky, 1962).

### *2.2.1 Linking pragmatism, inquiry and constructivism*

> *the challenge for constructivism consists in further elaborating the basic constructive idea at the heart of Dewey's experimentalism-namely, that our constructions of reality are not arbitrary, but result from inquiry.* (Reich, 2009, p.63).

The concept of CLE as primarily a form of constructivist education should be clear from the above definitions but is confirmed when the concept of experiential learning is considered. The role of experience has several overlapping explanations in constructivist thinking. Tam (2000) states that constructivists tend to describe learning taking place when a situation is problematic. For John Dewey, this involved the position when we experience a situation in which our habitual process does not work and we reflect upon that experience, we develop hypotheses as explanations and experiment with those hypotheses, coming to new understanding (Miettenen, 2000). Others see these learning situations as taking place in a place of the learner's puzzlement (Savery and Duffy, 1995) or when current understanding cannot be accommodated within an existing mental model – schema (Piaget, 1977). Fundamentally, however, constructivism is built on the concept that we extract meaning by interpreting experience through existing knowledge and then build and elaborate on it where the new experience does not fit with our existing sense of the world and we interrogate our existing model to make new meaning (Dennick, 2016). Learners therefore build on activated knowledge they already have (Blumenfeld, 1992). In rich, complicated, constructivist environments, learning takes place in a complex relationship among and between learner, their existing knowledge, the social context and the problem to be solved (Tam, 2000). Many clinicians will recognise this concept of experiential learning and clinical literature is replete with descriptions and analyses of this form of learning. Quigley (1995), for example, provides

a powerful argument for the links between learning theory, experiential learning and what is termed “the disorienting moment.”

### *2.2.2 The limits of constructivist approaches and implications for the teacher*

An important critique of constructivist approaches arises from what is known about human cognition. These have been heavily debated in relation to PBL or inquiry-based learning generally but also to a smaller extent, CLE (Krieger, 2004; Aaronson and Krieger, 2005; and Martinez 2016). Kirschner et al., (2006) summarised this debate in their bluntly and exhaustively titled article “Why Minimal Guidance During Instruction Does Not Work: An Analysis of the Failure of Constructivist, Discovery, Problem-Based, Experiential, and Inquiry-Based Teaching.” Their argument summarises all of these approaches as resting on the assumption that effective learning takes place when students are challenged to solve authentic problems by undertaking inquiry processes - based on procedures in the discipline being studied - with minimal guidance.

Kirschner et al., rested their arguments against these approaches on the basis that they are in conflict with what is known about human cognitive architecture and the functioning of long-term memory and working memory. Long-term memory is capable of storing huge amounts of information that can be drawn upon when experts in an area solve problems (Sweller et al., 2019). Working memory on the other hand is the area of the brain in which conscious processing occurs (Sweller et al., 2019). When processing new information it is believed that human beings are only able to process a small number of items and only for a very limited duration. However, once new information is learned, organised and stored in long-term memory, that information can be brought back into working memory in potentially limitless amounts (Sweller et al., 2019; Ericsson and Kintsch, 1995). Crucially, therefore, a novice working in a new domain has very limited capacity to process and retain new information whereas an expert in the domain can draw upon extensive information in their long- term memory and process that information efficiently in their working memory. This theory therefore supports the view that:

> *Expertise, reliant on information held in long-term memory, transforms our ability to process information in working memory and transforms us, reflecting the transformational consequences of education on individuals and societies. It follows*

> *that the major function of instruction is to allow learners to accumulate critical information in long-term memory.* (Sweller et al., 2019, p. 263)

As novices face the challenge of cognitive load which is increased when unnecessary demands are placed on it, their working memory can quickly become overwhelmed by this cognitive challenge and therefore, instructional goals must include ensuring that novices do not experience cognitive overload which impairs their ability to process and retain information in their long-term memory (Sweller at al., 2019). The conclusion of this theory is that requiring novices to undertake complex problem-based searching will pose a heavy cognitive load on their working memory which, because it is a finite resource, will limit the scope for the learner to learn new information and store it in their long-term memory (Kirschner et al., 2006). They also argued that this theoretical position was supported by empirical studies indicating that constructivist and other inquiry-based approaches resulted in vastly less learning than strongly guided instruction (Kirschner et al., 2006).

This leads to the further conclusion that novices must be given extensive guidance to prevent the cognitive load required by a problem-solving search. With increased expertise, guidance can be relaxed as the student gains sufficient expertise in their long-term memory to draw upon when faced with complex problems (Kirschner et al., 2006). They concluded:

> *Not only is unguided instruction normally less effective; there is also evidence that it may have negative results when students acquire misconceptions or incomplete or disorganized knowledge* (Kirschner et al., 2006, p.84).

Some advocates of PBL alone (Schmidt et al., 2007) and PBL and inquiry-based learning (Hmelo-Silver et al., 2007) rejected the assertion that PBL and inquiry learning in science, which the latter paper equated, were minimally guided at all. They argued that these two social constructivist approaches are heavily scaffolded – sometimes even with direct instruction but only when students understand its necessity in relation to their problem-solving practice (Hmelo-Silver et al., 2007). The scaffolding both reduces cognitive load, provides expert guidance, allows students to obtain approaches to thinking and doing that are appropriate to the discipline.

Sweller et al., (2007) rejected these arguments on the basis that the presentation of a problem-solving search imposed a heavy cognitive load on novices and that therefore they should not be required to encounter problems requiring a search for a solution as the first

step in learning. They also rejected the scaffolding argument on the basis that while it might be useful, the best scaffold is to provide students with all of the information required including a complete problem solution (a "worked example").

> *We must learn domain-specific solutions to specific problems and the best way to acquire domain-specific problem-solving strategies is to be given the problem with its solution, leaving no role for IL* [Inquiry Learning] (Sweller et al., 2007, p.118)

A more recent meta-analysis of guidance in inquiry-based learning has been undertaken (Lazonder, and Harmsen, 2016). This meta-analysis took place in the scientific domain defining inquiry learning as "one in which students conduct experiments, make observations or collect information in order to infer the principles underlying a topic or domain" (Lazonder and Harmsen, 2016) and concerned studies of children, adolescents and teenagers so its conclusions are not immediately transferrable but did suggest that guidance in the inquiry process could be as effective as the worked examples demanded by Sweller et al. They added that:

> *The questions as to how different types of guidance are best combined, and whether such a combination is more effective than offering a single type of guidance have received minimal attention in empirical investigations. The* <u>*orchestration of guidance*</u> <u>[my emphasis]</u> *therefore merits attention in future studies.* (Lazonder, and Harmsen, 2016, p.706)

Another critique of this instructivist position, at least from the position of children's education, is that it ignores motivation and what we are seeking that students learn (Kuhn, 2007).

> *For there to be any chance of long-term success, students must come to identify with the value of the activity…they must embrace the activity to the extent of incorporating it as part of their present and future identity,* (p.110).

Kuhn's argument is that rather than teaching knowledge itself, we must teach skills of knowledge acquisition – how can students identify what they need to know and be sufficiently flexible and adaptive to meet changing and unpredictable circumstances. In arguing neither for absolute direct instruction or student-directed inquiry, Kuhn argues that it is about the balance and sequence of inquiry and direct instruction that is key to instructional design.

There are studies which indicate that PBL can be effective (for example meta-analysis conducted by Schmidt, 2009) and studies concerning novice learners first carrying out minimally guided learning tasks prior to explicit instruction (Kalyuga and Singh, 2016). Kalyuga and Singh argue that in complex learning environments the goals of the learning go beyond simply the acquisition of domain specific schemas (which they accept direct instruction is the most effective and efficient means of achieving). Such goals can include activating prior knowledge, motivating students, enhancing students' awareness of problem situations or their own knowledge gaps which might be best achieved through exploring problems, while direct instruction would be preferable in phases where students are intended to develop domain specific schemas. They conclude that well-designed inquiry learning environments include heavily scaffolded processes (including at times direct instruction) which are aligned to levels of learner prior experience and content knowledge and that direct instruction is only necessitated when the goal is the creation of domain specific schemas.

This debate has made little impact in the CLE field with some rare exceptions. Krieger (2004), a highly experienced clinical legal educator himself, argued that knowledge of substantive legal doctrine (or domain knowledge) has a foundational and critical role to play in learning effective legal practice and that the potential for students to be challenged by cognitive overload requires examination if they are faced with learning both domain knowledge and tacit (how to) knowledge of solving complex legal problems (what he termed clinical knowledge) concurrently. Krieger's critique centres on what he perceives the primary goal of CLE: enabling novices to become intermediate and then expert problem-solvers. Pointing to studies in medical education, Krieger argues that experts organise domain knowledge in their long-term memory not simply as a vast repository of information but as problem-solving schemas that they can access when facing a new problem. These schemas are "ordered patterns of mental representations that encapsulate all our knowledge regarding specific objects, concepts or events" (Higgins and Tully, 2005, p. 185). Krieger describes the process when a new problem is encountered as:

> *an incremental process in which experts first recognize similarities between a given problem and their stored knowledge about past situations and then, when a proposed solution is found to be inadequate, reformulate the problem, attempt to retrieve additional information, and try to identify other solutions. Based on their domain*

> *knowledge, they disregard irrelevant information and selectively attempt to gather further information* (Krieger, 2004, p.168)

He does recognise that when the expert is faced with a problem involving difficult and uncertain knowledge in which the situation is not similar to previously experienced problems, the expert must adopt the position of the novice and develop and test hypotheses. Such problems are commonplace in ill structured domains such as legal practice (Sprio and DeSchryver, 2009). Krieger also considers the risk that experts in these situations may resort to "scripted problem-solving." Essentially, experts may use their schemas as a routine which discounts the difference of the problem and limits their investigation of variables. His solution to this issue is to train students to recognise problems involving novel situations and flexibly adapt their schemas in such situations.

Krieger's main concern is how to assist novices to become expert legal problem solvers and he concludes that before students can embark on learning from legal casework they must first have a foundation in the doctrine and procedural law underlying those cases. Clinical courses could then be organised as capstones to these doctrinal courses which would enable students with the required domain knowledge to apply that knowledge in practice.

In a co-authored paper Aaronson and Krieger (2005) debated this further. Aaronson argues (and Krieger disagrees) that in the United States system students cannot through the study of the broad range of subjects at university develop more than an introduction to the subjects they are taught, rather than an expert's knowledge such that it is not possible for students to develop the doctrinal knowledge necessary to embark on clinic in the manner required by Krieger.

My experience of over 20 years with students in the SLO has been that the contract law that students have learned in first year provides some basis for the students to begin to tackle even straightforward consumer cases but that significant gaps in their knowledge and understanding of some of these basic concepts are revealed by their attempts to solve the client's problem such that it suggests that Krieger's goal of sound prior training in all aspects of the domain knowledge would not necessarily avoid the cognitive load of domain knowledge for the students in the clinic environment. My experience suggests that, again, this is a matter of degree. How much prior knowledge is required, what forms of direct instruction and scaffolding are necessary? How do we orchestrate the problems the students

face, the environment they are working in and the direct instruction and scaffolding to produce a situation in which students can learn in a number of different, appropriate ways but including one in which they sometimes undertake genuine inquiry?

Krieger suggests that the case problems will be best selected from areas that are: relatively straightforward and encouraging of use of legal doctrine already learned; give opportunities to repeat the activities (presumably therefore giving that student several similar cases); give adequate time for case preparation and teach students to organise their cases in accordance with legal doctrine learned. He emphasises that he is not arguing for the rejection of novice problem solving entirely – where novel problems are encountered - but that students should be equipped with sufficient domain knowledge that they are not always encountering the novel problem but are able to distinguish when they are able to access their established knowledge.

Martinez (2016) addressed the extent to which supervision in clinic should be directive or non-directive (clinical legal terminology which he suggests is equivalent to instructivist and constructivist approaches). He relies upon cognitive load theory to propose that novices in well-structured domains benefit from detailed guidance. However, he refers to CLE as an ill-structured domain "characterized by being indeterminate, inexact, noncodifiable, nonalgorithmic, nonroutinizable, imperfectly predictable, nondecomposable into additive elements, and, in various ways, disorderly (Spiro et al., 1987; Spiro, Collins, and Ramchandran, 2007)". CLE is an Ill-structured domain because there is no one right answer or standard path to finding a solution that can be routinised. Indeed, applying knowledge in the real world will often have elements of unstructuredness (Spiro and DeSchryver, 2009). In such a domain, instructional approaches are more difficult because problems and solutions are ill-structured and so cannot be explicitly taught. Martinez concludes that there are currently too few studies to determine for certain whether detailed guidance can assist in such domains. He argues that non-directive supervision predominates in CLE and lacks empirical support such that further research by considering practice in other educational fields and assessing their utility in CLE should be undertaken.

There is the danger in instruction, that the learner learns from the experience of being given full explanations that those full explanations really do fully explain the problem and that

nothing further is required from them (Spiro and DeSchryver, 2009). This has been a prime experience of mine as a legal educator.

This is area is under-researched in CLE in terms of students' lived experiences. Thanaraj (2016) is one of the very few to conduct a phenonemographic study into how clinical students recognise and understand their learning and acquisition of knowledge, skills and character during clinical experience and the challenges experienced. One of the findings was that students found that the responsibility of undertaking independent research and making decisions on offering solutions to clients were the two main challenges they faced because of the lack of experience of exercising academic freedom in other modules.

From my own perspective, I think Krieger and others are too quick to require the teaching of all doctrinal knowledge prior to inquiry. As Aaronson (2007) argues, the cognitive scientists pay too little attention to the fact that we all must construct knowledge at times in our lives and cannot be simply trained as full experts. The problem of cognitive load is still one which has major implications for the teacher in CLE and raises questions such as: what type of cases should students work on? What prior preparation and knowledge should students have had? How can we scaffold their learning – what supports should be provided? When should we resort to direct instruction?

### 2.3 Understanding CLE from a constructivist perspective – directive and non-directive supervision

In the CLE literature, these dilemmas, that are essentially constructivist/instructivist ones, rarely refer to constructivist terminology (Martinez, 2016). However, as he also notes, there has been a significant debate concerning directive and non-directive supervision throughout CLE history (Kotkin, 1989; and Katz, H, 2005). Alongside Martinez, Chavkin (1998) recognises that debates about the supervisor's directiveness in supervision of students are essentially grounded in debates between "discovery learning" and "exposition-application." Does the supervisor work with the student to inquire into every aspect of action on a client's case or do they sometimes instruct the student as to the law and necessary actions?

Barry (1995), relying upon andragogical theory, sees the necessary relationship as one in which the student has the responsibility for exploring and finding answers and making decisions but the supervisor probes and asks questions in order to guide the student to different perspectives and questions when the student's approach is unproductive.

It has long been recognised that supervisors can employ a range of teaching methods (Hoffman, 1986) who described them as case discussion (dialectical); supervisor informing the student (didactic); supervisor evaluating the student's skills (evaluation); and demonstrating a skill (demonstration). He advocated a staged approach whereby specific supervisor instruction and direction is first given, followed, as and when the student is ready, by collaboration between supervisor and student and finally students acting as lawyers in their own right, seeing these stages as a predictable process. Hoffman emphasises that his view is that too little supervisor control and direction at the outset can lead to overwhelming student anxiety.In any event, directiveness/non-directiveness is not a dichotomy but a continuum in which even asking questions designed to prompt thinking by the student about their decisions still carries an element of direction (Mlyniec, 2012) recognising that exploration may be the "default" position for supervision but that it is not appropriate in every interaction with the student.

Whilst many supervisors in clinic apparently espoused non-directive supervision in response to Bloch's advance of Andragogical theory (Morton et al., 1999) the reality is that it has to be a balancing exercise at least between the supervisor's duty to the client and the pedagogical intent for the students. If there is an urgent need to file papers at court, the supervisor will tell the student to do it (Mlyniec, 2012). Views range from those advocating intervention by the supervisor only when the client's interests require it (Barry, 1995) to those who see the client's interests dictating intervention unless there are sound pedagogical reasons for not doing so (Chavkin, 1998). Others (Grose, 2008; Shalleck, 1994; and Carpenter, 2013) recommend a nuanced position that considers the individual student and the context involved in deciding the level of intervention necessary.

### *2.3.1 CLE studies of actual behaviour of supervisors*

In one of the very few empirical studies in CLE Stark et al., (1993) carried out a survey of 107 clinicians in the United States to explore clinicians' attitudes to directiveness and client service

and the degree to which clinicians believed themselves to be directive or non-directive and if there were any characteristics or beliefs that distinguished the attitude to direction of the supervisor. The clinicians' beliefs about directiveness showed no correlation with their beliefs about how people learn. A large majority of the clinicians believed in the ideal of providing the best possible quality of work for the client (not just that which the students were capable of but the clinicians themselves) and nearly all clinicians felt that they provided greater direction than they should for reasons of client welfare. Their responses to questions about their actual supervision also suggested that they were more directive than their beliefs and that this was caused by (in descending order) concern for client's interests; time pressures; desire to relieve student anxiety; concerns about their own and the clinic's reputation; impatience with students; student discomfort with non-direction; their own discomfort with non-direction and desire to see their own ideas implemented.

Dunlap and Joy (2004) carried out a survey of 105 new clinical legal teachers in the US as to their experiences teaching in the clinic. Major thorny issues for these new teachers were non-directiveness and intervention along with feedback. "how to cede control to the students" and "directiveness vs. non-directiveness" balancing the needs of the client with the educational needs of the students.

Grose (2008) surveyed 50 clinicians in the US about whether or not they attended students' first interviews with clients. Just under 2/3 did not and just over 1/3 did. The survey method is not fully reported and method of analysis is not reported. Those who didn't attend client interviews appear to have been concerned about impeding the student's assumption of responsibility and autonomy. Those who did attend believed they could observe and correct student mistakes and/or model more effective interviewing; to prevent students being overwhelmed quoting one respondent:

> *the very depth of the involvement and the newness of the role make the experience potentially debilitating. The gaps between knowledge and skill, on the one hand, and role demands on the other, contribute to a high level of anxiety in most students* (Grose, 2008 p.423)

Katz (2005) investigated the supervision practices of lawyers who supervised students in externships. Externships differ from in-house clinics such as the one that I work in because students are immersed in an external legal placement and are supervised by lawyers who

generally aren't academics in those environments. She conducted a structured survey including free text questions of 39 students in an externship programme to identify how frequently they experienced the following models of teaching and how useful they were: modelling – student observation of an attorney to learn how to perform a task; feedback – supervisor feedback on student's performance; collaboration – supervisor treats the student as a colleague in discussing options; directive supervision – supervisor tells the student what to do; and non-directive supervision – supervisor asks the student to determine an action without revealing the supervisor's preferred action.

Katz found that student perception was that a range of supervision methods was prevalent and that a sizable number of students had a highly positive evaluation of every method. When collaboration occurred, it generally followed from another form of supervision.She concludes from the research that students on externships experience various forms of supervision – from non-directive supervision to modelling and collaboration and that while non-directive supervision allows for the development of initiative, collaboration can also provide space for initiative and that a combination of modelling and observation can both present exemplars of good practice and opportunity for student involvement and use of initiative. Her research led her to recommend that in-house clinicians adopt collaboration and modelling alongside non-directive supervision. In order to understand how the CLE inquiry-based environment works and how a tutor might effectively support students, literature on the nature of such environments and concepts such as scaffolding should be explored. This is mainly available from contexts other than CLE.

## 2.4 Evidence of scaffolding and the role of the tutor in constructivist inquiry learning environments

Scaffolding has been described as providing structure and guidance without providing the answer in ways which enable students to undertake tasks that they could not perform alone and also by assisting them in asking the right disciplinary based questions (Hmelo-Silver, 2007).

> *guidance is provided only when learners are unable to proceed. That is, it scaffolds or helps learners move beyond what they can do without assistance. Second, guidance is gradually withdrawn or faded as the learner develops competence. Perhaps the idea*

> *of providing guidance only as needed may be the basis for the misinterpretation that constructivists do not provide guidance.* (Tobias and Duffy, 2009, p.4)

Scaffolding is achieved either through channelling and focusing or modelling (Pea, 2004). Reducing the degree of freedom for the task so that the learner can take effective action (channelling). Marking relevant features of the task for the learner to direct their attention to the relevant features (focusing). Demonstrating more advanced solutions to the task (modelling).

Pritchard and Woollard (2010) propose viewing the teacher as scaffolder either in terms of support: providing a secure framework in which children can feel able to make suggestions; as a prompt using questions to redirect individual thinking; as a critical listener and provider of feedback; or as a simplifier, breaking problems into smaller more manageable steps.

In terms of how teachers provide scaffolds in CLE and how the group and individual process works, the field is sparse, I have therefore turned to studies of PBL. PBL has been researched and systematically reviewed to a very substantial extent and there is no comparable body of literature for any pedagogy in law (Maharg, 2015). It contains many (but not all) of the features existing in CLE.

### 2.5 Problem Based Learning (PBL)

PBL is a form of experiential and investigative learning in which students are presented with a meaningful and authentic problem scenario as the first part of the learning cycle (rather than being taught material in advance). They work collaboratively in small groups, facilitated but not didactically taught by a tutor, to initially identify the factual issues, activate prior knowledge, identify gaps in their knowledge and formulate hypotheses and learning goals. It is hypothesised that this enables individual students to undertake independent SDL. Students then typically independently carry out research. Following this, the small group meet again to discuss their findings, reflect on their process of learning and, often, identify further gaps in their knowledge to investigate prior to meeting again to explore what they have learned (Barrows, 2000; Torp and Sage, 2002; Hmelo-Silver, 2004).

PBL was initiated in medical schools in first Canada and then the USA in the 1960s and has grown to become a large-scale curriculum intervention in medicine constituting approximately 70% of curricula in North American medical schools (Kelsen and Distlehorst, 2000). It has grown to be used in other disciplines including law (Maastricht University and York University).

A number of advantages have been claimed for PBL. These include enabling the student to: construct an extensive and flexible knowledge base; develop effective problem-solving skills; develop self-directed lifelong learning skills; become effective collaborators; and become intrinsically motivated to learn (Hmelo-Silver, 2004).

### *2.5.1 Links between PBL and CLE*

There are several similarities between PBL and the experience in many law clinics including my own. Similarly to the PBL problem, students in pairs are presented, by the client in CLE, with a problem which is then discussed by the larger student group in the firm meeting (six-eight students) and with the supervisor and we adopt a process similar to PBL to identify the salient issues; activate students' prior legal knowledge; identify gaps in their knowledge and formulate hypotheses and learning goals. The difference is that it is then the pair of students with responsibility for the case who carry out further legal and factual research, reporting back their findings to the larger student group in the firm meeting. It is of course also more complex than PBL in that the inquiry is not pre-determined by a tutor setting the problem and involves the students taking actions as well as carrying out an inquiry. I will explore these factors further in this research. Nevertheless, the vast body of research into PBL does provide some illumination for CLE.

There has been very extensive research into the effectiveness of PBL in achieving a knowledge base and problem-solving skills. In medical education research in these two areas has been the subject of extensive review to elicit whether or not PBL meets these goals with a variety of findings. For example, Dochy F. et al., (2003) conducted a meta-analysis of research studies into knowledge acquisition and problem solving skills and concluded "the combined effect size for skills is moderate, but of practical significance. The effect on knowledge, already described as non-robust, is also small and not practically significant."

### *2.5.2 Mixed results on PBL fostering SDL*

Murad et al., (2010) carried out a systematic review and meta-analysis of SDL approaches across the health professions to evaluate the effectiveness of a broad range of SDL approaches (PBL only being one) in medical education focusing on changes in knowledge, skills or attitude. This produced moderate quality evidence that SDL approaches are effective in the knowledge domain. The review also concluded that far fewer studies in skills and attributes domains exist but it may be that SDL approaches are as effective and recommended that SDL appears most effective when "learners are involved in choosing the learning resources and strategies to enable them to find the most appropriate resources to fit the overall learning objective" (Murad et al., 2010).

A comparison of graduate clinicians from a traditional medical curriculum and a PBL one in Canada between 1975 and 1984 showed that graduates of the PBL curriculum were more up to date suggesting that PBL may enhance SDL (Shin, 1993) but other studies suggest that students in PBL curricula may be basing their learning goals on extrinsic cues such as resources provided by the faculty. "Student learning could be accurately described as socially agreed amongst peers and contextually determined by the faculty resources, but not as self-directed." (Lloyd Jones and Hak, 2004) note however that this study was limited to a newly implemented PBL curriculum at a single medical school.

### *2.5.3 PBL the PBL tutorial and scaffolding – what can be learned from studies into the learning process?*

In PBL, in the near forty years of pedagogical research prior to the 21st century there were few studies of actual PBL activities outside of experiments (Hak and Maguire, 2000). Tipping et al., (1995) found that all participants in PBL group processes had little understanding of effective group dynamics or how to resolve behaviour that impeded group success. In common with CLE, most PBL studies on effective tutor behaviour were self-report rather than observational and more research was necessary on what students did in tutorials and the cognitive outcomes (Hak and Maguire, 2000) with research into the learning process cycle for students at a qualitative level lacking (Yew and Schmidt, 2009). PBL research hasn't looked in much detail at how students and their facilitators engage and learn within the PBL process (Imafuku and Bridges, 2016).

Schmidt et al., (2011) conducted a review of studies concerning the process of learning by learners. They limited themselves to studies accepting the premise that the learning mechanism in PBL is a cognitive constructivist approach helping students to construct mental models of the world as opposed to a process of enquiry or learning to learn (Schmidt et al, 2009). This cognitive constructivist conception involves the presentation of the problem to activate learner prior knowledge which is then built upon further as learners construct a theory collaboratively, conduct further research and modify their mental models further with situational interest deriving from the authentic and enigmatic nature of the problem motivating students to seek out new knowledge. The process being one of activation and elaboration. Schdmidt et al., (2011) included conclusions from several studies which are relevant to my research and are set out in Table 1 below. They also concluded that effective tutoring requires both content knowledge and the ability to communicate and interact with students on a personal level, or social congruence, hypothesising that such tutors create non-threatening learning environments, open exchange of ideas and student engagement.

| | |
|---|---|
| Prior activation and elaboration discussion in small groups facilitated not only individual student's activation of prior knowledge but also enhanced comprehension following subsequent individual studying of text resources and also added to its long-term memorability. | Moust et al, 1987; and Schmidt et al, 1989 |
| The small group tutorial provides a platform for the development of friendships among students; social and academic integration of students and more satisfaction of those students in their contacts with each other and their tutors | Severiens and Schmidt, 2009 |
| Frequent small group meetings generate peer pressure that motivates self-study for individuals | Tinto, 1997 in a non-PBL but nevertheless collaborative learning setting |
| Tutors assist the group to function through monitoring and interventions | Barrows, 1980; Maudsley, 1999; Mayo et al, 1995; and Wetzel, 1996 |
| Tutors provide a framework for students to construct knowledge and can model the types of questions students themselves might ask | Collins, et al, 1989 |
| Some studies suggested that subject matter experts play a more directive role in the group | Silver and Wilkerson, 1991 |
| while others suggest that this had no effect on student and tutor directed interactions | Davis et al, 1992 |
| Tutors support knowledge building through the use of open-ended questions | Hmelo-Silver and Barrows, 2006 |

**Table 1: Summary of Schmidt et al's., (2011) Review of Studies Concerning the Learning Process in PBL**

Yew and Schmidt (2009) investigated the entire PBL process through a one-day PBL process which looked at all phases of learning recording interactions not only in the problem analysis phase (tutor and students) but also the SDL (students without tutor but working in groups) and reporting phases (tutor and students). Analysis focused on question, conflict and reasoning episodes of dialogue to investigate how students learn in PBL and evaluated whether PBL achieved its objectives for stimulating students to engage in constructive, collaborative and SDL. They considered these episodes of dialogue to be either collaborative (interaction with the purpose of achieving a common goal); constructive (reasoning that is individually constructed) and SDL episodes (planning, monitoring and evaluation of the tasks).

In relation to collaborative dialogue, they found substantial evidence of student elaboration (presentation of information related to the problem followed by opposing views with justification) and co-construction (presentation of information related to the problem followed by input of similar ideas and information) but no incidences of effective conflict resolution. They expected high levels of co-construction and found less than expected with most collaborative episodes consisting of either basic questions and answers or, to a lesser extent, sharing information. They suggested that students required more tutorial guidance on dealing with conflicts.

Hmelo-Silver and Barrows (2008) considered collaborative knowledge building in the PBL tutorial with collaborative knowledge building defined as collaboratively solving problems with responsibility shared between students and teachers. In order to do so, the dialogue is moved beyond classic tutor-led and dominated Initiate-Response-Evaluation discourse (I-R-E, discussed further below at 2.7.1) and teachers need to create participant structures that allow for students to take responsibility for their learning with the focus of the teacher being on questioning and promotion of problematisation rather than evaluation. They studied the discourse in a PBL tutorial involving five experienced PBL medical students and an expert physician looking at both the large grain – the extent to which evidence of knowledge building discourse emerged (eg: collective efforts to advance the group's understanding) and at a fine grain to code the discourse through the coding of questions and statements in conversational turns. They concluded that the discourse was different from an I-R-E classroom with students providing all of the ideas and asking over 50% of the questions and the facilitator asking many open-ended questions never making evaluative comments. Facilitator questions were in the

majority in the meta category of assisting the group to monitor progress and focus on SDL. They concluded that

> *Helping teachers and students learn to ask the right kinds of question and build on each other's thinking may be a key to orchestrating knowledge-building discourse but we need to further examine how different participant structures and teacher scaffolding support knowledge-building practices in other contexts. (Hmelo-Silver, and Barrows, 2008, p.91-92)*

Conversely, Pease and Kuhn (2011) conducted an experimental study with two classes of college students in elementary physics over a period of seven hours comparing the effect of PBL vs the lecture/discussion method and secondly, within the PBL class, of using PBL in its typical collaborative format and a format they labelled working individually. This second experiment was carried out to determine if social sharing of the information-gathering workload – through distributed cognition (Schmidt et al., 2007) – is a productive component of PBL. Related to this they sought to determine if social interaction and collaborative dialogue was more effective than individual work. The authors carried out an experimental study. They concluded that while engagement with problems in PBL was more effective in establishing comprehension and integration and application of basic scientific concepts, social collaboration via distributed cognition or collaborative dialogue were not important. They recognised the existence of extensive literature that collaborative learning has positive benefits but claimed that it was not social factors on which the positive effects rested. This is a strong claim to make on the basis of one experimental study involving seven hours of PBL work by admittedly a reasonably large and carefully chosen sample (127 students). Their recommendation being that a more flexible PBL format is possible combining individual and team PBL work, perhaps even tailored to student preferences and needs.

Despite all of these studies, "The tutorial group, vital to the inner workings of PBL, remains in many respects a black box." (Yew, E., and Schmidt, H., 2011). The next section reviews study of these processes in CLE. These studies are beneficial in that they consider the similar but different process in law clinics but, as already noted, there is little research in this area such that there is clearly a gap in the literature concerning the workings of the tutorial group and other collaborative interactions.

## 2.6 CLE and collaboration – student-student/ student-tutor

Shalleck (1993) describes the classroom taught component as allowing students to develop conceptual frameworks whereas the "group case analysis" meetings "allow students to use and test those concepts together in exploring the particular situations presented by their cases" but also confirms that by 1993 very little literature in the CLE field was devoted to collaboration.

Chavkin (1994) did conduct a study on collaboration which eventually led to his videotaping interviews with students and academics on their perceived experience of collaboration. The research is not fully reported in terms of sampling, data analysis and data size. He concluded that the benefits of collaboration recognised in clinic by students and supervisors include increased knowledge; a range of results in relation to motivation including from obligation to the other student; reduced motivation because of over reliance on the other student, and demotivation from inefficiencies of working with another. Chavkin's research led him to make recommendations concerning collaboration including how to pair students and making decisions about whether to pair students with the same level of perceived ability and team size.

Chavkin did conduct interviews with students and supervisors about the collaborative process, but did not analyse supervisor-student dialogue. Very little empirical study of actual dialogue has been undertaken in CLE. There have been reports of dialogue drawn from experience used as heuristic device providing a focus for discussion in an attempt to provide a process of understanding supervision theory and practice (for example Shalleck, 1993). In Shalleck's paper, three fictionalised events on a case involving a supervisor and two students are presented and Shalleck uses this device to consider the many choices the teacher made about her supervision in each event linked to her educational goals and the dynamics of the case. However, the dialogue is fictitious and so real interactions are not being analysed for a further understanding of the process.

### *2.6.1 The firm meeting or rounds*

Unlike in PBL where there has been a degree of research interest concerning the PBL group tutorial, rounds are discussed amongst CLE tutors but have been little researched (Bryant and Milstein, 2007). Bryant and Milstien's seminal work (2007) on rounds included the recording

of rounds discussion in an attempt to carry out research into the nature of the learning experience. The authors do not describe how they went about recording and analysing the data but they have, contrary to most papers in the field, used actual recordings that they have then disguised, reduced to manageable, readable narratives and protected confidentiality with.

They describe a clinic in which all of the students have different cases but they all involve the law relating to bankruptcy. The authors describe a problem identification and brainstorming session that while not explicitly related to PBL methodology is clearly a similar process. The authors report focuses first on many of the questions the teacher asks. They also describe the "just in time" learning of the rounds – students shaping their learning to the "immediate, timely issue in a student's on-going lawyering" (Bryant, and Milstein, 2007 p.207). Their conclusion is that the students engage in dialogue which results in co-construction of knowledge and in which they are building on each others' learning and integrating learning into prior experiences. This is a clear parallel with social constructivist approaches in general and scaffolding theory in particular. They also conclude that the learning was immediately relevant to all of the students because they were all engaged in similar tasks.

However, Campbell (2015) questions whether rounds can be truly constructivist if the supervisor controls the content, format, dynamics and delivery. She advocates shifting power by asking students to lead several of the rounds deciding the topic and design of the rounds with no input from her. This shift in 18 of her case rounds in the second semester situated authority, control, influence and impact with the student rather than her. Campbell became a participant in the round learning as a student from the student led activity taking place.

According to Bryant and Millstien (2007) rounds: build peer cohesion for a group with a common purpose in a stressful world; allow students to explain themselves to their colleagues and themselves, understanding how their own perspective affects themselves and their approach to the client's case; through understanding that there are other choices in conversation they become more aware of decisions not being either or; give students an opportunity to develop a professional identity in conversation with their peers; learn about reflection through exposing their own views to others and hearing others reflect on their own work; develop dialogues with supervisor and other students in which the supervisor

introduces and then has the students repeat habits of thinking like a lawyer which develop professional skills, identity and accompanying values. They see rounds discussions as enabling students to develop hypotheses about lawyering that they then test in practice (but as they recognise there is criticism of the lack of empirical research in this area and one has to question where the direct evidence of this is in the literature). Having said this, the authors do present text examples of students and supervisor analysing case theory and its uses through the prism of the experience of a particular case.

It is clear also that decisions about topics for rounds and the structure of rounds are highly dependent on the pedagogical intent of the tutor. One critical issue that emerges is the extent to which the meetings are structured in advance. High levels of student preparation and structure can lead to more sophisticated dialogue and decision making but also prevent taking the conversation in interesting directions as the teacher needs to take the conversation to the next place (Bryant and Milstein, 2007).

Cooper (2016) argues that in project clinics in which students are pursuing multiple law reform projects rather than case work, rounds should be more structured with higher degrees of student preparation for presentation of their projects and student-led classes on their learning because a core level of commonality is absent between the different projects the students are engaged in.

### *2.6.2 Role of the supervisor in rounds*

Bryant and Milstein further propose a series of roles that supervisors play. Many of these roles and functions align to constructivist conceptualisation of scaffolding and in Table 2 I have set out these roles and functions and, in the third column, provide a guide to the links between Bryant and Milstein's framework of supervision and the concept of scaffolding.

| Supervisor Role | Function | Links to scaffolding |
|---|---|---|
| **Facilitator** | Facilitating the dialogue, ensuring multiple voices are heard, pointing out connections | A clear link here between a variety of scaffolding moves: focusing, channelling and monitoring |
| **Coach** | *"Coaches, when necessary, push the presenting student along - then step back for the student to re-enter as leader of the activity. In this way, coaches build self-confidence; they identify choices and encourage students to select from them or they show a student how to do something and then step aside. By giving encouragement and feedback, teachers build motivation for participation."* (Bryant and Milstein, 2007, p.241) | Arguably this is scaffolding through modelling – demonstrating how to perform a task when that is a necessary support to the student(s) in completing a task they cannot complete alone and scaffolding through channelling (identifying and narrowing the range of choices) |
| **Expert** | Intervention to correct mistakes, fill knowledge gaps, illuminate the full context and implications | An intervention to correct a mistake or fill a knowledge gap is arguably not scaffolding, whereas illuminating the full context and its implications arguably is |
| **Co-participant/ collaborator** | A co-thinker with the students | When the tutor becomes a true co-participant, the intent is not to scaffold – see discussion in chapter 4 |
| **Observer** | A decreased role for the supervisor as the students being to lead the inquiries themselves | This role implies that in observation the tutor is maintaining a support for the students by observing in order that they can intervene to scaffold if necessary |

**Table 2: Roles and Functions of Supervisors in Law Clinics**

### *2.6.3 Rounds and supervision in the light of sociocultural theory*

What is apparent from both the research on PBL tutorials and that on clinical rounds is the importance of understanding the collaboration between students and their tutors and the tutor's role in that collaboration. Sociocultural theory provides a lens through which to understand both collaboration and, its vital ingredient, discourse.

Sociocultural theory is founded upon Vygotsky's work (Mercer and Howe, 2012): knowledge is not just an individual creation dependent on the student's own efforts and discoveries but is also produced by culturally situated forms of social interaction (Mercer and Howe (2012). Sociocultural theory does not explain all individual development through social and environmental experiences but does require an understanding of those individual's social and

situated environment as a part of understanding their development (Mercer and Littleton, 2007). Language transforms our thinking both through the development and sharing of knowledge (intermental: social and interactional) and as a tool for structuring the process and content of individual thought (intramental: individual, cognitive).

Discourse can develop the individual's thinking but also change that of other participants – creating collective knowledge as well as individual knowledge (Mercer and Howe, 2012). Collaborative knowledge building through dialogue has the potential to enable the individual to extend and refine their own understanding while building common understanding (Wells, and Arauso, 2006). The sharing of knowledge is not just collaborative sharing of knowledge. It is not just cumulative. Through the process of building on other's ideas, the group jointly construct new knowledge (Mercer, 2010).

## 2.7 Understanding the role of dialogue in inquiry and co-construction of knowledge

A systematic review of empirical classroom dialogue research since the early 1970s (Howe and Abedin, 2013) reveals the predominance in studies of the Initiation–Response-Feedback structure, a participation structure identified by Sinclair and Coulthard (1975) and consisting of initiation (teacher asks a question), response (student gives an answer), feedback (teacher usually indicates if the answer is right or wrong). Initiation-Response-Evaluation (Cazden, 1988 and Mehan, 1979) is a subtype of this structure (Howe and Abedin, 2013).

### *2.7.1 Inquiry and dialogue*

If we regard dialogue as a means to achieving goals, then the type of discourse selected has to be fitted to the purpose of the activity (Wells and Arauso, 2006). While I-R-E can function well in typical classroom environments where the teacher seeks known answers to specific questions, in inquiries for open projects it is not well suited as there is not one correct path of action (Polman, 2004). Dialogue occurs when students perceive that their contribution will be considered and valued rather than simply evaluated (Mercer and Howe, 2012). With inquiries, students' perspectives are relevant and important and dialogue is likely to arise (Wells and Arauso, 2006). This requires "co-ordinated joint commitment to a shared goal,

reciprocity, mutuality and the continual (re)negotiation of meaning" (Mercer and Howe, 2012).

In classroom dialogue, cumulative construction of community problem solving enables students to see their contributions as having consequence and that they are co-constructing a decision over the course of their dialogue providing motivation for not only engagement in discussion about future action but also decisions about topics of a more abstract nature (Wells and Arauso, 2006).

One form of discourse is not some ideal. Even within inquiries there may be times when a monologic form is adopted in the pursuit of a later inquiry (Wells and Arauso, 2006). In Wells and Arauso's research on classroom inquiry dialogue, for example, the teacher adopted an I-R-E stance in relation to North American history in order to assist students in recalling earlier study prior to the role-play of a hearing before the Supreme Court of Canada involving students inquiring into the history of the indigenous peoples and constructing arguments for competing parties. It is not the use of I-R-E that presents a problem but rather that

> *the balance of discourse formats chosen supports the development of an ethos of dialogic inquiry in the classroom and, with this, the development of a disposition of respect for diversity of experience and difference of opinion, and a desire to increase understanding of the topics and issues that are seriously raised, whoever the originator* (Wells, and Arauso, 2006, p.422).

Even within dialogic inquiry, a teacher can control the direction of discourse without necessarily controlling the content and so the interaction remains dialogic – the teacher is maintaining the progression of the discourse but not its content (Wells and Arauso, 2006).

This building of co-constructed knowledge takes place not in one event but over a series of events (Hennessy, et al., 2016).

### *2.7.2 The nature of dialogic discourse*

Exploratory talk is discourse in which knowledge is shared and made accountable, explained and critically explored and/or challenged by the participants with a new shared consensus as to knowledge achieved through this process (Mercer and Howe, 2012). It is summarised as Dialogic Teaching and Learning by Hennessy et al., (2016) as a process which:

a*) harnesses the power of language to stimulate and extend students' understanding, thinking and learning;*

*b) is collective, reciprocal, supportive, cumulative and purposeful;*

*c) engages in 'social modes of thinking' where possibilities can be explored collectively through creative problem solving framed by open-ended or authentic questions/tasks and reasoning can be made visible to others;*

*d) encourages inquiry and equitable participation, where all, including teachers, are seen as co-learners who construct knowledge jointly;*

*e) is open to new ideas and critically constructive, where negotiation of perspectives allows joint problem solving;*

*f) promotes the creation of environments where diverse voices can be expressed, explored, contrasted, challenged, cumulatively built upon each other and synthesised, allowing analysis, transformation and reconciliation of underlying points of view; and*

*g) brings into question the widely observed predominance of traditional and 'monologic' educational practices where only one voice (primarily the teacher's) tends to be heard, legitimised and sometimes imposed*. (p.18).

**2.8 Discourse analysis in CLE**

In order to understand the collaborative nature of much of clinical work it is therefore vital that we analyse the discourse that occurs. Fictitious dialogue is often presented by clinicians to illustrate theory about the supervisory relationship (for example Hoffman, 1986) but there is little analysis of actual conversation.

Condlin (1981) is one of the few clinicians to attempt to analyse discourse. He argues that in dialogue there is ambiguity and describes two forms of response 'persuasive' and 'learning' modes. In the 'persuasive mode' the person is concerned with asserting their own conception of the meaning of the ambiguity. This is also distinguished by being competitive. In the 'learning mode' the person is concerned with investigating understanding and clarifying the ambiguity in an interdependent fashion in ways which are additive and seeks to produce joint intellectual outputs. He used these as constructs in which to order and assess student and teacher behaviour.

Condlin analysed actual student-supervisor dialogues from this perspective of learning and persuasion modes illustrated with several excerpted transcripts. Frequently Condlin identifies soliloquies in which the teacher effectively enters into a monologue with no option for the student to discuss. Condlin concluded that the teacher's behaviour was almost always in persuasion mode in which they

> *often were coercive in their gratuitous repetition of pre-selected themes and self-protective in their reluctance to discuss those themes other than diplomatically and indirectly. Little data were given to support conclusions and little open-ended, candidtesting of analysis was encouraged* (Condlin, 1981, p.273).

Shalleck (1993) recognised that dialogue can range from "directive" raising issues and structuring discussion to open-ended exploration of the students' own interpretations.

More recently, conversation analysis has been used in considering student-client interactions and subsequent student -attorney conversations to identify where breakdowns in client advice from students (Smith, 2019) this fine-grained analysis had some worrying conclusions for the level of advice given in this particular clinic.

Review of the literature thus far could be summarised as indicating that the SLO is indeed a constructivist inquiry environment in which students are constructing knowledge individually and with others. Multiple variables clearly exist that require attending to including the nature of the task the students undertake, how they are supported by the tutor and others, how the tutor might design that environment in advance and how they interact with students in the moment. As this is a constructivist inquiry environment many questions exist about the nature of the learning experience for the students. Even in an extensively empirically researched form of inquiry learning such as PBL, the nature of the tutorial and other phases of study for students remains a black box (Yew and Schmidt, 2011). In CLE, much has been written (but not actually observed) about the tutor's role and very little about collaboration between students. Empirical research into the actual lived experience is minimal and even where it has occurred (for example Bryant and Milstein, 2007) could be further transparently analysed and reported. Before looking again at the research questions that emerge, I have come to the realisation that at the centre of my interest lies the tutor's role in the design and enactment in the environment.

### 2.9 Orchestration and improvisation as potential metaphors for the role of the tutor

Metaphors for the teacher's role in inquiry learning have emerged that seek to explain the organisation of creative and collaborative inquiry.Creative teaching is conceived as one in which disciplined improvisation takes place (Sawyer, 2004). Sawyer refers to improvisation as a metaphor for understanding the balance between the structured and scripted nature of many classrooms and the flexibility necessary in order to engage students in any form of collaborative inquiry, if the classroom is entirely scripted there is no space in which students can co-construct knowledge. Scripted classrooms are typified by an I-R-E structure in which the teacher controls the direction of learning and the extent to which students talk and their ability to impact the direction (Sawyer, 2004).

In collaborative environments, teachers have to respond improvisationally to the dialogue taking place as they have not and cannot plan out in advance the precise direction of the students' collaboration. The teacher as disciplined improvisor facilitates the group's collective creative co-construction. Sawyer likens this classroom to a jazz or theatre improv group. The individuals in the group (teacher and students) are performing in ways requiring mutual responsiveness and give and take that allow learning from a collaborative discourse taking into account and building on multiple perspectives in the group.

> *In both a jazz group and a successful work team, the members play off of one another, with each person's contributions inspiring the others to raise the bar and think of new ideas. Together, the improvisational team creates a novel emergent product, one that is more responsive to the changing environment and better than what any one team member could have developed alone.* (Sawyer, 2006 p.43)

Note, however, that this metaphor does not call for unguided discovery. The disciplined element requires that the teacher has planned the task and participation structures (Erickson, 1982) such that (and echoing the CLE debate concerning directive and non-directive supervision) the question is not about script or no script but about how to provide effective guiding structures; what effective teacher improvisation might look like and when to improvise or script (Sawyer, 2004). These are precisely the questions that arise in CLE.

The improv theatre group or jazz improvisation metaphor is attractive in this scenario because, in the case of the improv group, it conceives of an original scenario and perhaps

some overall plot structure along with the players having internalised the conventions of the genre they are performing but not the script or precise direction of the play.

In the case of improvised jazz, Kvinge (2018) develops the metaphor in consideration of the ways in which improvisational jazz musicians use lead sheets as a skeleton framework for improvising from (Berliner, P., 1994). The musicians have agreed to some givens for the work and respond accordingly even while improvising and the degree to which they are free to improvise is dictated by the extent to which the lead sheets contain the written piece of music**.**

In the clinic, students need to learn to act autonomously but also within the confines of providing a service to the client and the confines of the legal and social systems their clients inhabit. I see this as close to the concept adopted for creativity in disciplined improvisation in which the teacher is providing opportunities for students to express originality while conforming to curriculum and task constraints (Beghetto and Kaufman, 2011).

Improvisation arises not only spontaneously but also in the planned spaces that the teacher affords for in the lesson knowing that creativity can take place in those spaces (Beghetto and Kaufman, 2011).

Interestingly, there is a growing approach to adopt the musical metaphor in relation to collaborative teaching but this time in the classical realm with teacher depicted as conductor and orchestrator in the learning environment (Hämäläinen and Vähäsantanen, 2011). The teacher as conductor metaphor allows for both the prior arrangement of the performance and the dynamic role during the performance to manage people within it. Respectively, “orchestration design” and “dynamic orchestration” (Sharples and Anastopoulou 2012).

This perspective is grounded in either Piagetian constructivist or sociocultural theory (Hämäläinen and Vähäsantanen 2011). Researchers in this field are interested in not only collaboration but also creativity. Creativity in this respect being defined as “some new, significant and appropriate idea, understanding, information, approach or solution to a problem that emerges from an individual person, group or community” (Hämäläinen and Vähäsantanen, 2011, p. 171). Creativity need not relate to the creation of knowledge that is new to society as a whole but can also relate to knowledge that is new to an organisation or

small community (Moran, 2010). This concept is of particular use in this study of the clinic as the knowledge that is co-constructed in the office concerning client case work is often not what Hämäläinen and Vähäsantanen (2011) - see also Beghetto and Kaufman (2011) - would term 'Big C' creativity – knowledge new to the world but is instead knowledge new to the group, sometimes including the supervisor, and the client(s).This conception of knowledge construction through orchestrated learning is built upon sociocultural conceptions of not just knowledge sharing but building other's thoughts and ideas through joint knowledge construction.

The orchestration does not just involve the balance between improvisation and structure. There needs to be a genuine requirement for collaboration (Hämäläinen and Arvaja, 2009), with sufficient common ground to share between learners (Brown and Campione, 1994). The teacher's role is to support that process of critical discussion.A thematic review (Hämäläinen and Vähäsantanen, (2011) identifies the following three perspectives for understanding the constituent elements of orchestration for creativity and collaboration: tasks, interactions and resources.

Tasks require students to base their decisions on evidence and consider alternative solutions in a variety of conditions. Tasks might be open ended problems and/or unstructured and/or have only one solution (there is a debate about whether or not collaboration is necessary for tasks with only one solution - this returns us to the question about whether knowledge is new to the small community or to the world). In the clinic the tasks on a global level are the real cases that students are responsible for. Each case has multiple tasks that have to be completed.

Interactions have been categorised in the literature according to this review as (a) exchanging explanations; (b) jointly building knowledge and (c) solving conflict and controversy in the interaction. The role of the orchestrator in this aspect is essentially one of mediating the process, resolving conflict and controversy and scaffolding: structuring the interactions through what might be characterised as dialogic teaching.

Orchestration of interactions also includes providing collaborative scripts which foster interactions. Kollar et al., (2006) describe prototypical collaboration scripts as having

conceptual components of: learning objectives (what is it intended that the learners learn); types of activities (does the script require the learners to engage in explaining for example); sequencing features (are there fixed activities which each student has to go through?); role distribution (do the students have certain roles in the collaboration – explainer, listener etc) and type of representation (has the script been internalised prior to this particular collaboration or is it presented as part of the problem or issue the learners are working with).

Resources are external (books, databases, the internet) and internal (for example learner's existing experience). An example of my own practice – we needed to create a database for a project of several cases being run together. I asked the students who had experience of database management – happily that student not only had that experience but also could gain confidence from it.

### 2.9.1 Teacher competencies for collaborative learning framework

In terms of understanding how teachers orchestrate these tasks, interactions and resources, a potential framework may be that devised by Kaendler et al., (2015). Kaendler et al., describe pre-active, interactive and post-active phases.

The planning (pre-active) phase includes macro-scripting – the tasks that students are given to do, their roles, the rules for the group, the make-up of the groups. These can be social scripts or epistemic scripts. Epistemic scripts can be material such as guiding questions (essentially scaffolds). Social scripts include phases of working together and as a group or roles within the project.

In the interactive phase the framework includes monitoring, supporting and consolidating. Monitoring describes decisions about when to intervene in a group and how – eg: including reminding students to contribute to the group. Supporting includes asking questions the tutor asks the group to prompt further thought. Consolidating can include looking at and comparing the results of each group and activating cognition and metacognition for the students.

Finally, in the post-active phase, the teacher reflects upon the leaning activity.

## 2.10 Gaps in the literature

These metaphors and frameworks are largely based upon the concept of precomposed material: for disciplined improvisation, for example, Beghetto and Kaufman (2011) quote Berliner and refer to the reworking of precomposed material. My research will not only apply these to the CLE learning environment which does not wholly consist of precomposed material (real problems are not precomposed by me and evolve over time as students take action on behalf of their clients and the environment responds to those actions). It will also of necessity explore orchestration not only in relation to the student group but the pairs of students who work together and individual students.

## 2.11 CLE Orchestration and Tasks

### *2.11.1 The influence of the types of work chosen upon orchestration*

The case itself imposes constraints on the choice of supervision by the teacher (Shalleck, 1993) and the vast number of educational goals achievable in the interaction makes deciding what to teach in any given interaction daunting (Shalleck, 1993). There are therefore choices to be made in designing the learning and in the moment.

Choices in advance about types of work will influence the learning experience. Policy work and projects involve different lawyering skills and provide a different perspective on law and the issues as compared to typical one to one representation while acknowledging that challenges can be created for student ownership by complex projects (Carpenter, 2013).

In looking at choices about types of work in orchestration by design a possible typology is available in relation to CLE (Carpenter, 2013) categorising the types of case that clinics undertake as short-term matters, long-term matters and project work.

Short-term matters are those which the student can take the case from start to finish and own the work with a close relationship with the client characterised by student experiential and reflective opportunities, predictable length, factual, legal and ethical issues manageable from a supervisor viewpoint. Based also on the belief that by having primary responsibility

for a case and taking it from start to finish furnishes the best opportunity for students to learn effectively (Kruse, 2002). In describing the cycle of learning in a short-term matter problem Kruse comes close to describing the PBL cycle and advocates case selection in ways that allow for the students' progress in much the same way that PBL advocates use problems and echoing Krieger's (2004) conclusions about cases and cognitive load:

> *within the individual case representation model, the options are naturally bounded. By limiting the students' work to a single type of case, area of law, or small number of clients, law school clinics can make the time and space for the students' learning curve to catch up with the creativity of their imaginations*. (Kruse, 2002)

Long-term matters are those in which students work on discrete elements of a matter never fully seeing the whole thing and have a lower level of student ownership and more direction from the supervisor with pedagogical risks to decreased student ownership and involvement (Meltsner and Schrag, 1976). It might also be recognised that cases such as these could be taken to keep supervisors fresh and engaged (Reingold, 1996).

Project work can be characterised by policy-based reform work; community development or legal literacy; or based on achieving objectives for an organisational client. Students learn a large range of skills that are broader than case based short-term or even long-term matters in this typology. From community organising to policy research to media relations. It also furthers social justice goals for many clinics (Srikantiah and Koh, J, 2009). Project work offers an opportunity to see law in action beyond the interests of two parties in litigation, beyond a winner and a loser and towards creative solutions accounting for multiple needs (Carpenter, 2013) and it enables greater collaboration with other professionals and lawyers enabling students to build professional identity (Srikantiah and Koh, 2009). While advocating project work, there is the risk that students lose ownership and therefore deep learning in role – role assumption being a key facet of the clinical experience (Carpenter, 2013). Project work also places too many demands on the novice if the novice is left to determine all of their learning goals as advocated by the non-directive supervision model (Srikantiah and Koh, 2009). Often the supervisor needs to create tasks that allow the student to have ownership of a discrete project element if they are to avoid the dangers of losing student ownership (Carpenter, 2013).

An increasing number of clinics use a combined advocacy model – individual client representation plus project work (Srikantiah and Koh, 2009). In the project work part of the model a change to the supervisor relationship – supervisor as collaborator with the students is necessary but still allowing for the mutual inquiry for supervisor and student advocated by Bloch (Srikantiah and Koh, 2009).Clinical teachers are both teachers and supervisors having to respond and adapt to students' personalities, learning styles, cognitive abilities, the clients' needs and the overall goals of the clinic (Carpetner, 2013; Shanahan and Benfer, 2013).

### *2.11.2 Dynamic orchestration in response to individual students' characteristics*

Clinical teachers are both teachers and supervisors having to respond and adapt to students' personalities, learning styles, cognitive abilities, the clients' needs and the overall goals of the clinic (Carpetner, 2013; Shanahan and Benfer, 2013).

> *Because they work closely with students as students plan and make decisions about actions needed to discharge their duties to clients and act on those decisions, clinical supervisors gain knowledge of their students that permits them to engage deeply with students on multiple level. As a result, their supervision may be adapted to changing circumstances and student development. In working with the student, the educator may determine the appropriate level of student responsibility and autonomy given the complexity of a given task and any attendant risks to the client* (Bliss and Peters, 2015).

> *clinical teaching is personal and designed to accept students where they are and to maximize their learning potential* (Mlyniec, 2012, p.505)

Mlyniec (2012) describes a system of adaptive clinical teaching at Georgetown University in the US which focuses on issues arising with students that lead to apparent impasses in the usual supervisory relationship. The model seeks to categorise four separate dysfunctional student behaviours that occur in clinic and looks first at the causes from the perspective of the teacher's behaviours, followed by that of the wider team before seeking to understand issues that the student themselves brings to the clinic. Once this has been done then the potential responses can be considered: expectations, level of directiveness in supervision, more or less modelling, workload changes, partner and team dynamics mediated or changed.

> *Clinical teaching is an intensive process of design, classroom teaching, supervision, collaboration, and feedback. It also requires working with diverse generations, races, genders, political affiliations, learning styles, and personalities. As a result, the quality of a clinic directly relates to a clinical teacher's ability to thoughtfully observe* situations

> that arise and adapt her teaching strategies accordingly. (Shanahan and Benfer, 2013, pp. 517-518)

Shanahan and Benfer (2013) built on work at Georgetown; adaptive supervision in social work, medicine and teacher education; and their own experiences to produce an adaptive clinical teaching system to assist clinicians in grappling with these situations utilising a six-step approach to structured reflection on the dynamics of clinical teaching. The system is based on the assumption that teacher's decisions should be closely related to the individual student's strengths, needs and challenges while balancing that against the client's needs and the clinic's design. It is intended for utilisation both with individual student challenges, classroom dynamics and clinic design.

Shanahan and Benfer illustrate the operation of ACT through a conversation that took place in a clinic between supervisor and student. In common with the vast majority of clinical literature, it is not clear how this data was gathered or analysed. This attempt at creating a framework for adaptive clinical teaching does not appear to have been taken up by other legal clinicians in the literature.

While these provide some insights into the supervisory process, little has been consciously written from a CLE perspective with explicit relation to sociocultural theory. Baker (1999), provides one view in which the clinic is an ecological system in which a high degree of the student's learning is taking place indirectly, operationally and socially in the relationships students establish with all of their peers, supervisors and others. Given this ecological system, Baker asks important questions about how students learn from their peers not simply from direct communication but also through emulation; what beyond feedback and reflection constitutes facilitation of learning with experienced colleagues (such as but not limited to the supervisor) and how directive or non-directive experienced colleagues should be and when. Baker therefore argues that while traditionally clinical teachers have emphasised theory, talk and reflection; participation, collaboration and guidance should be given more prominence. Relying upon Lave and Wenger's work, Baker points to learning through participation in the sociocultural practices of the community with learning becoming

> *more a process of successful enculturation to coordinated forms of behavior than it is of knowledge acquisition. Thus, a theory of social participation and of enculturation shifts the analytical focus from the student as learner and the teacher as educator "to*

> *learning as participation in the social world" and from the realm of cognitive processes to the more-encompassing view of entering and enacting a social practice. (Baker, 1999, p.25)*

What follows from this for Baker is the necessity to attend to the enhancement of the student's participation in the workplace through acceptance, valuing the student's participation, providing an environment where students are insiders in a team and where personal factors inhibiting their participation are considered and mediated.

### 2.12 Areas for further inquiry

It appears from the literature that there has been a development of understanding concerning inquiry-based learning environments towards a recognition that orchestration of the students' individual and collaborative learning is a key element of organising experiences conducive to learning. There has been some research into how students collaborate in these environments with each other and their teacher and the scaffolding that might be provided. However, these remain areas for further research. In CLE itself, there has been little empirical analysis of student experience or of the collaboration itself. Understanding this will assist in further developing approaches to supervision. In particular, such CLE literature as there is (particularly surrounding directive and non-directive supervision) tends to suggest that understanding orchestration in this environment is about recognising that inquiry is a natural part of the clinic but that at times it is also necessary for the supervisor to provide instruction. This research, focused as it is on the moments of teaching in the firm meeting, has the potential to answer questions about the choices the supervisor makes in both the planning of the experience and in the moment while providing further insight into the student experience.

# Chapter 3 (A) Original Research Questions and Research Design

## 3A.1 A pragmatic approach

This is the first of two chapters concerning my research design and methods. The first chapter deals with the research questions and design as originally envisaged. As a pragmatist it is appropriate (and necessary) to reflect on findings in the face of uncertainty and the human element. Issues may emerge from the data that we did not plan for or that surprise us and require flexibility and adaptation to the consequences of our actions (Feilzer, 2010). In carrying out this research I came to a realisation that the data I was collecting was leading to a change in my understanding, some changes to the research questions and some changes to the design and methodology. This is not to say that much of the original intent and methods were abandoned, though some were, but in order to maintain trustworthiness (Lincoln and Guba, 1985), exploring this journey is essential. Chapter 3B will concentrate on the changes that took place and provide the final design.

The research original research questions comprised:

*Clinical Legal Education – a problem based and Self Directed Learning Environment – how and to what extent do students in this environment respond in relation to the regulation of their learning and development of self-directedness and what role might the supervisor play in that environment?*

The sub questions:

1. *In what ways do students' personal self-directed attributes influence their response to the learning experience – in what ways do they regulate their learning?*
2. *To what extent, if at all, do students experience change in their self-directed attributes over the course of the experience?*
3. *What is the relationship between the SDL environment(s) of the clinic and the student's experience of learning?*
4. *What changes in the learning environment can be made to enable students to promote their own SDL?*
5. *What is my role as supervisor in this environment?*

My position is that these phenomena can be understood pragmatically by studying them through their practical use and success in their environment. Essentially it is an inquiry which is impelled by experience to seek knowledge and understanding beyond the individual experience (Dewey, 1933). This is an exploratory study to both generate and test theory and understanding through an active iterative process and is best described as a form of practitioner enquiry in which I as both teacher and researcher can learn from student feedback in the process of bringing about change in the classroom (Baumfield et al., 2012).

In adopting a pragmatist epistemological position, the position as to research design becomes less about a "paradigm war" between positivism/post-positivism and constructivism/interpretivism (Creswell and Plano Clark, 2007) and more about adopting methods that are appropriate to the research question (Johnson and Onwuegbuzie, 2004). Pragmatism's focus is on practicality and adaptation producing cautious answers as opposed to "truth" (Johnson and Onwuegbuzie, 2004). There is therefore no prescriptive method or methods that a pragmatic approach requires (Feilzer, 2010). In some cases, a qualitative approach will be more appropriate and in others a quantitative one – sometimes a mixture of methods is most appropriate (Johnson and Onwuegbuzie, 2004; Feilzer, 2010 and Morgan, 2007).

In designing this research I have considered whether the research design needs to be based upon an intervention in a cycle of experience, hypothesis, action, reflection much as might be advocated by some, though not all, in the action research field. Action research has no one singular definition but appears to be united by a unified understanding of the research as being action-oriented inquiry (Hammond, 2013) and the research arises from the activity and its outcomes are fed back into it (Hammersley, 2002). "Action research works through a cyclical four step process of consciously and deliberately: planning; taking action; evaluating the action; leading to further planning, and so on." (Coghlan and Brannick, 2005 p.3).

Ultimately I decided against taking this linear form of approach to my research in which deliberate intervention takes place cyclically. Instead, I wanted to carry out a form of systematic reflective inquiry investigating actions in the environment and students' responses without a rigidly planned process of experience, reflection and action on my part. As I reflect on the choice I made and how the resultant process aligns with a pragmatist approach, ultimately I wanted to understand the process more holistically and organically

rather than through the introduction of tight cycles of action and inquiry. Ultimately, the position of myself as both teacher and researcher did lead to an iterative process of inquiry but not in a rigid "plan, do, review" process.

In this I subscribe to Morgan's (2014) view of Deweyan pragmatism:

> *…it is important not to treat inquiry as a kind of short circuit that interrupts the cyclical connection between beliefs and actions. Therefore, rather than a step-by-step linear process, beliefs and their interpretations operate throughout, as potential actions are mentally rehearsed and evaluated. Inquiry is thus, like any form of experience, a continuous process that may involve many cycles between beliefs and actions before there is any sense of resolution.* (p. 1047)

**3A.2 Research Design**

I designed the research to take place in the natural environment of my teaching in the SLO. This provides a data rich environment in which to explore both the students' responses to their environment and the environment itself. When I first set out to begin this research my intended emphasis was upon the students in the environment and the supports afforded to them. I recognised my own role in this environment but have come to realise increasingly during the process that the view of the process afforded to me was as much about my role and actions as it was about the students and the environment and the issue of SDL attributes of each student faded into the background (see Chapter 3B).

It was my intention, as far as the students were concerned, to utilise predominantly naturally occurring data in the pursuit of this research. My role as supervisor in the relationship is to work with the students individually and as a group to assist them in developing the learning outcomes (see Appendix 1). These learning outcomes include autonomy and closely align to development of self-directedness. It therefore appeared that the research could be conducted as a form of reflective inquiry within the learning and teaching experience itself. I would be viewing the students' SDL processes, and the results of their work, as teacher and researcher by viewing that experience through the lens of a systematic inquiry.

The original design was intended to include a mixed methods approach investigating the experience of eight students in the law clinic. My original proposal advocated this mixed

methods approach as being underpinned by pragmatist theory and allowing for both theory verification through mainly quantitative approaches and an exploratory aim to build theory generation through qualitative ones (Tashakkori and Teddlie, 2010). The research was therefore biased towards a qualitative approach but intended to utilise the collection of quantitative data when appropriate for the question posed. Following this description of the original Mixed Methods approach, I will explain in Chapter 3B why the research has become a qualitative study.

The study was designed to follow the experience of eight students who took part in the focused study as they experienced working under my supervision in the law clinic in the second part of their year-long clinic experience (March 2019 –May 2019). They formed the whole of a student group I was working with in the clinic. They also consented to my accessing their personal reflective diaries and other work that they had been keeping since October 2018 when they began working with me in the clinic.The qualitative elements of the research were designed to allow for a rich and holistic description focusing upon the social and environmental settings and capable of revealing some of the complexities of the relationship.

In order to come to an understanding of the students' experience a variety of data would be gathered across the course of their experience as follows:

1. Two hourly weekly firm meetings (often referred to as rounds in CLE literature, particularly in the US – Bryant and Milstein, 2007). In these meetings all of the students engage in discussion of each other's cases. This focuses not only on the mechanics of conducting the cases but the wider learning that is taking place for them personally and as a group about their development of skills, attributes, professional identity and the wider impact of the legal system upon their clients and society in general. My research design intended that data could be collected in two ways:
    (i) Through participant observation of students learning in this environment
    (ii) Through a thematic analysis of what the students said about the learning experience. As the firm meeting is intended to be about how the students are learning as part of learning outcomes of the module (students developing as reflective practitioners) I envisaged being able to analyse what was said by the students for the research as well as

part of the students' learning. I will consider how this actually worked in practice in chapter 3B)

2. A critical part of the work by students in the office is Practical Legal Research (PLR). The PLR report has been structured to scaffold the students' approach to investigating the problem. The template provides prompts to assist the student in identifying the issues, identifying what they already know and gaps in their knowledge, asking and answering questions relevant to the client's problem and investigating these appropriately within the legal discipline and recording their findings.

   In reviewing the PLRs I expected that I could explore the product of each student's work; the written feedback that they received from me and review the process, albeit only as recorded on paper, each student followed in conducting that research. As I began to analyse this data, it became clear to me that the emerging findings were most usefully about the interactions between the students and myself rather than an attempt to quantitatively assess the students' use of sources or otherwise assess their use of the scaffold. This will be further explored in Chapter 3B.
3. A mid-year documented appraisal in which the students reflect on their performance to date and receive feedback from me on their self-appraisal of their progress as against the learning outcomes
4. End of year assessment by me of the student performance with regard to a portfolio of evidence produced of their work (students prepare attendance notes, letters to clients and others, keep the client file and prepare plans for interviews as part of their work. I intended reviewing these as a means of coming to understand each students' approach to their work) and my own assessment throughout the year of their development
5. Optional reflective diaries that students are encouraged to keep for their own benefit during year but form part of the portfolio of evidence that they submit at the end of the year
6. All of the students were required to complete two 2000-word reflective essays at the conclusion of the module as part of their assessment. The compulsory piece required a reflection on the students' choice of their development of legal skill(s) during the module. The optional piece could be chosen across a range of topics including: CLE; justice and ethics; clinic and your career; clinic and public discourse and law in action.

Two of the criteria for assessment focused on reflective analysis and awareness of both self and others' perspectives. The grade for these two pieces constituted 30% of the final grade. No change was made to these requirements for the participants in this research. The reflective writing assessment criteria are contained in Appendix 1.

7. A regular journal kept by me of my approaches to teaching the students, interactions with them and my thoughts and feelings. Keeping a diary can capture 'life as it is lived' (Bolger et al., 2003) and reduce recall bias (Bartlett, and Milligan, 2015). I decided to adopt a semi-structured approach to diary keeping aligned to capturing the meaning and weight of the experience (Milligan et al., 2005).

My research was therefore intended to be conducted through a process of viewing this data from the perspective of my research questions and through consciously regularly adapting my teaching in the light of my objective to understand and further enhance students' learning with an emphasis upon SDL. An inductive approach to the data gathered would be adopted in order to generate theory. In Chapter 3B I set out the final research design and methods of analysis followed including the rationale for change.

### *3A.2.1 Questions of Quality*

While adherents to a pragmatic approach to research claim that this avoids age old paradigmatic dualist debates between subject and object, there remains the question of quality in relation to the research undertaken. The original design envisaged a mainly (this subsequently became a wholly) qualitative approach. In such a case I needed to make a decision about the criteria for evaluating the quality of this research (Bryman, 2016). As much of the data collected is based upon an interpretation of the world by its participants and is conducted in a naturalistic environment I have chosen to largely adopt criteria established by Lincoln and Guba (1985) but also refer to more recent additional/complementary criteria proposed in the fields of action research and practitioner enquiry (Hall and Wall, 2019) adapting Heikkinen et al's., (2007) approach to quality in action research and go on to develop these principles in the light of practitioner enquiry.

#### *3A.2.1.1 Trustworthiness – credibility – carrying out the research in accordance with good practice and submitting the findings to members of the social world studied (Bryman, 2016)*

Lincoln and Guba (1985) recommend prolonged engagement to overcome distortions – although note the threat posed by students wanting to please the investigator. A major threat to credibility in this particular case that the students are not only taught by me, but their mark is also dependent upon me. Whilst 30% of the mark is for written reflective work which may be internally and externally moderated and the file is internally and externally moderated, there is no doubt that as all of the interactions in firm meetings are assessed by me there is a threat to the credibility. Arguably the prolonged engagement and building of trust might reduce this threat but I present here, as an example of how I might perceive student thinking and my relationship with the students and their actual experience, an extract from my reflective journal

> *in Dubrovnik at a conference on student clinic experience and 'skype in'* [student] *H for part of the conversation. While describing their individual experience H said they spent the first half of the year neurotically thinking about the fact they were being constantly assessed. This leads me to think two things:*
>
> 1. *I wasn't aware of these feelings and it doesn't feature in the research so far – an indication of the partial picture I am painting*
> 2. *need to include this in the research (my diary, 31.5.19)*

I am therefore mindful of the fact that the observations I make cannot be complete and that there is inevitably an extent to which the students' awareness of assessment by me would be part of their thinking.

Persistent observation (Lincoln and Guba, 1985) is also recommended as a means of identifying factors and fully exploring them. The research design allowed for this over a period of 3 months.

Credibility might also be established through respondent validation. This is often achieved through research participants commenting on data (such as interview transcripts). The intention can be to ensure accuracy and/or provide validation of the interpretations being made (Torrance, 2012). In this research, this was done informally through consistent discussion of some of the emerging themes as the research progressed and at the conclusion of the research when in the last firm meeting I looked with the students at the emerging findings to check my understanding of what they had said and my own view of what was

happening. I had made notes of my emerging thinking about key areas that we had addressed during the year and put these back to the students to check. The intention was centred on allowing students to comment on my interpretation of the discussions I had had with them rather than to check for the accuracy of the transcripted conversations. Ultimately we were involved in what Christ (2010) refers to as co-construction of knowledge as can be seen from the table below in which my interpretation, A's interpretation and H's interpretation are all voiced.

This is one of several forms of respondent validation (Bryman, 2016,). Bryman questions whether defensive reactions or self-censorship may prevent the efficacy of this approach and there may be a reluctance to be critical. Torrance (2012) summarises the risk that some respondents may shape the collective's view. This is certainly a risk, as it is with any group discussion, and I discuss this element further below.

| **Firm Meeting 17.5.19** | |
|---|---|
| **ID** | **Speech** |
| JH | …There are other bits where I seem to be just looking for an answer and eventually asking you questions just to get to an answer. Do people recognise that? |
| A | Yeah I do (laughing) sometimes I'm just like "can you just tell us the answer" |
| All | Laughing |
| A | Five people guessing and we're like "we don't know" |
| All | Laughing |
| A | "we give up" |
| All | Laughing |
| JH | So everybody recognises that? |
| F | Yeah |
| JH | For the benefit of tape everybody is nodding their heads |
| All | Yeah (laughing) |
| JH | So I find that quite dispiriting listening to that (light) because it doesn't seem to be that useful but I guess I start off asking those questions thinking "people will know this. people will know" |
| A | Sometimes you do just say "I'll just tell you the answer." |
| All | Laughing |
| A | "why didn't this happen 5 minutes ago" (laughing) because it makes everyone feel a bit thick I think (laughing) "he thinks we should definitely know this and we don't" "no that's not it, no that's not it" |

| | |
|---|---|
| F | Laughing |
| A | Sometimes I have two goes at it as well |
| JH | Ha (p) so in those circumstances how would it be bet- |
| All | (laughing) |
| JH | How would you have preferred that discussion to happen? |
| A | Just give us the answer (laughing). "does anyone know the answer? No. All right then" |
| JH | Ok. Sometimes what I'm trying to do – but it's not very successful obviously is sort of try and take people through a series of steps that might get to the answer so I ask bits (pause) but (pause) |
| A | I think sometimes it's like we're having this discussion and then you go just focus on that one bit for a second and then we'll back to the discussion erm just tell us the answer and we'll go back to the main bit maybe. I think sometimes that's happened. cos I like it when you when we have that thing on the board and we go through the process der der |
| JH | Yeah |
| A | That's really great that you understand the whole process and you apply it to the case |
| JH | Yeah |
| A | But sometimes we're discussing something and you go and then you'll just dive into one specific detail and I'll go "I just wanted to know what happens next in the story" |
| JH | Uh huh |
| A | "rather than go through the legal" |
| JH | The legal principle |
| A | Yeah that important stuff |
| JH | Uh huh |
| A | (laughing) |
| H | It's weird thinking though as well that like sometimes it's really useful. It's a way of looking at things. I'm quite used to looking at something and then wonder about it and come to an answer. Where we get to see how you look at something and that can be quite useful for us when we wanna maybe tackle a problem so it's almost like teaching us a certain way of dealing with a problem so it's not useless its useful |
| A | Oh no |
| H | it definitely has its moments |
| A | It's like the conventional way may be to get all of the relevant information and then pick through it |
| JH | Yeah |
| A | I might be wrong but it seems like that's the way to do it that's the way I do it in my mind. I'll get all the information and then I'll |
| JH | Yeah |
| A | Get the pieces out of it. Just because in my mind something later on might make that first piece of thinking completely useless |
| JH | So that sounds like it's particularly when we've just started a case |
| A | Yeah yeah |
| JH | Uh huh. |
| A | And also I don't think it crops up (p) other than when you say, oh I don't know, [client] "does anyone know this complex contract term" |
| JH | And then I try to (p) yeah ok I understand. erm but you find the whiteboarding useful? |
| A | Oh yeah |

**Table 3 Extract of Firm Meeting 17.5.19**

In relation to submission of the findings to the social world studied and respondent validation, Heikkinen et al's., (2007) principle of dialectics develops this concept further. Heikkinen et al., describe this as both giving all participants their voice and interpretation of the events and reproducing those authentically. The design of this research, centred as it is around weekly firm meetings with all eight students and around their immediate thoughts and writing and their reflective assessment gives the opportunity to meet this criterion. The extent to which the reader is able to discern this in this thesis should become apparent in the results and analysis. As can be seen from the excerpt above there is evidence of an attempt by me to give space to the students to question my understanding of the outcomes of the research and also to challenge the pedagogy. There is also evidence of the strong representation of the voice of one student in the excerpt given and it is certainly the case that that student and a number of others voiced their opinions and thoughts far more than others during the research.

Credibility can also be established through other forms of triangulation. One way to triangulate is through the use of multiple sources of data collection allowing for addressing similar issues from a variety of standpoints. This allows for triangulation in cross-checking findings (Bryman, 2016). However, triangulation is not simply a means of corroborating findings, we may find them complicated or contradicted by other data (Brannen, 2005).As an example of this process, throughout the course of the firm meetings I began to identify that the students viewed being socially comfortable with each other as key to their learning and as different from many of their other learning experiences in the Law School. I attempted to check this with them in the formal respondent validation meeting I had with them as referred to above.

| Firm Meeting 17.5.19 | |
|---|---|
| **ID** | **Speech** |
| JH | ...erm I think we had quite a discussion at various times about the difference between working and seminars and lectures and the fact that people felt that they could learn because there was a comfort in the group that enabled people to speak out although some are much more talkative than others erm (p) naturally. erm but it was kind of like a safe space, the space itself was quite a safe space, this room for example, and that it meant that you could also speak up but also support each other both in this meeting but also outside. Can anybody comment on what I've gathered does that sound what you were talking about does anyone want to elaborate or differ on that. not everybody will feel the same. |
| A | I agree with that |
| F | Yeah |
| JH | So that's a commonly held view? (p) ok we talked quite a lot about people felt comfortable in the room able to say things em what about outside the room how much does it help, this idea of relatedness is I suppose about getting to know other people getting to trust other people getting to feel an obligation to other people sometimes. Did that. can anybody talk a little about that |
| F | I think that- |
| JH | So working with partners other people who are not in this group |
| F | I think that for our firm we all very much got along we all talked outside firm meetings. we would all ask each other for help. Discuss ideas and what not but what I hear from other people I don't think many other firms have had that experience. so I don't know if. I don't know why that is. |

**Table 4 Extract of firm meeting 17.5.19**

| Initial code | ID | Text | Source |
|---|---|---|---|
| Feeling at ease with each other | B | Quiz Night! I didn't know what to expect from the quiz night but I really enjoyed it, it was nice to get to know people outside of the SLO. | personal file 7.11.18 |
| | C | I was dubious as to whether anyone from my firm would show up [at quiz night]. I was pleased to find that 7/8 of the firm showed up and we had a good night. It was nice to bond outside SLO as a group in a more relaxed environment and get to know each other. | personal file 7.11.18 |
| | F | Last night I attended the Student Law Office charity quiz with my firm. It was nice to see people from my firm in a non-work environment and for a good cause | personal file 8.11.18 |
| | G | I didn't know what to expect of the quiz night and was unsure if anybody from the firm group was going to turn up. I was pleasantly surprised and had a lovely night helping raise money and learning more about my peers outside of the university. | personal file 7.11.18 |

**Table 5 Extract from initial thematic coding of personal diaries**

Another data source is the reflective diaries I had encouraged students to keep throughout the year. Above in Table 5 is an example of this data and potential findings viewed from the perspective of the contemporaneous diary (note that the students wrote the diary in the

knowledge that it would form part of their assessed files and have of course consented to this forming part of the research). Quite strikingly, this student group's attendance at a charity quiz night cropped up prominently in their diaries and appears to confirm these findings.

Another potential source of data is the formally assessed reflective work that the students prepared in April/May 2019. D's voice is not as prominent in the firm meetings as, for example, A, F or H but in Table 6 below we see D's perspective appearing to confirm my original findings from the firm meetings and reflective diaries and provide additional data to consider.

The additional advantage of this different data source relates again to the principle of dialectics (Heikennen et al., 2007). My intent in reporting the data is to consider the challenges of both teaching and research with students in which the environment may privilege some voices and views above others. It will be necessary to reflect upon whether the firm meeting as a source of data in particular gives students both their individual voice and encourages dialogue between students (Hall and Wall, 2019), the extent to which some of the less vocal students' voice will appear through their written work and individual dialogue with me and the success in reflecting that voice will be considered. Note that in Table 5 above and 6 below we can see the voices of students B, C, D and G come through in ways in which they do not in the excerpted firm meeting text.

| ID | Text | Source |
|---|---|---|
| D | …I feel like I have become friends with everyone in the firm and this has improved my confidence. I feel that I am able to be myself around them and I now have the confidence to tell H and G if I disagree with something they have written or the way something has been worded. I try to do this as politely as possible as I do not like criticising others, I feel rude and I do not want them to lose confidence in their abilities. However, part of being confident is understanding that everyone makes mistakes and being prepared to help rectify these mistakes [student cites:] Jennifer Moon, *Achieving success through academic assertiveness* (Routledge 2009) 23. It is vital that the work we do is correct and I need to be prepared to both make mistakes and correct them. My experience in the SLO will be helpful in a career in law as it requires confidence to disagree with people and put your viewpoint across. | Skills reflection p.1 |

**Table 6 Extract from Student D's Assessed Skills Reflection**

Of course, triangulation should not simply concern seeking out corroboration to confirm our findings (Brannen, 2005). In my results section I will concentrate upon the following extract (Table 7) of a firm meeting concerning the illumination of a dialogue in which three students and I are co-constructing knowledge

| ID | Speech | Scheme for Educational Dialogue Analysis Cluster Name and Description | My intent or actions/student intent or actions Framing? |
|---|---|---|---|
| JH | "F, A, and H can you just tell everybody where we're up to" | E1 Inviting or expressing opinions, ideas, beliefs or perspectives | Update all students as to actions on the case. Keep them involved in the case particularly because it's a group project |
| H | [Summarising actions H believes that JH, F, A and H have agreed on case] "we're gonna put all that in one letter so it's gonna include-" | E2 Providing contribution not yet expressed to the discussion but related to the general discussion | |
| JH | "-after a bit of a debate" | **? undecided** | ? |
| F,H | [laughing] | | |
| H | "aft-" | | |
| A | "I still think that's different from what we decided in the end actually" | P5 challenge viewpoint | Framing weak |
| F,H | [laughing] | | |
| JH | "no go on go on" | I6 asking for elaboration | **Improvisation** by me to allow debate on the way forwards. Allow A to express her/his dissent on the planned course of action |
| A | "I believe that we initially concluded [p] well some people went one way and some people went the other" | C1 Referring back | |
| F,H | [laughing] | | |
| JH | "the three of us disagreed with A" | C1 Referring back | I make light of this but I'm also a participant rather than a teacher here |
| F | "Yeah and [A's] still not over it, [A's] still bringing it back up" [F sets out the dispute between us] | P1 Synthesises and sets out the dispute | Here there is no need for me to prompt the students to engage in this form of dialogue |

**Table 7 Extract of Discourse Analysis of Firm Meeting, Tape x**

Analysis of this reveals valuable insights into the form of dialogue that might occur in clinic and the roles that teachers might adopt. The following excerpts reveal one of the student's individual assessed written reflections on working in this group at the time that the conversation excerpted above took place, shedding a different light on the nature of the learning environment outside of that observed by me as teacher.

| ID | Text | Source |
|---|---|---|
| A | [Adding a 3rd student to an established pair team] there appeared not to be the same willingness to all work side by side…a reversion to the working style of using email to communicate, this resulted in a stuttered approach to work which made group members irritable…lack of honest and open communication…<br>due to the poor working environment that was developing, I decided that it may be beneficial for us to arrange semi- informal meetings…quite an uncomfortable environment as there was no appointed leader, and as such, there was a lack of structure. A common reason for the unpleasant environment would be everybody arguing defensively for the justification of their idea, a common obstacle in collaborative work…<br>…contradictory opinions can help to produce a successful outcome…we tried to shoehorn a new member into an already established team. Looking back the correct thing to do would have been to discuss how the other party wanted to work and make a compromise, taking into account the already established method | Skills reflection p.2 |

**Table 8 Extract from Student A's Assessed Skills Reflection**

Brannen (2005) highlights the capacity of mixed methods research to discover contradictions in the data where quantitative and qualitative data conflict. It is also true that different data sources from a solely quantitative (or here qualitative) range of methods can highlight contradictions. As she recognises (Brannen, 2005) methods can be mixed within the same paradigm.

### *3A.2.1.2 Triangulation by method*

I will later describe the process by which I arrived at analysis of the talk in the firm meetings. I have described above the original focus on a thematic analysis of the firm meetings. My early attempts at thematic analysis in relation to the learning experience itself began to suggest that the conversation was markedly different depending upon the activity the students and I were engaged upon and questions arose about who was talking and the quality of that talk. Thematic analysis alone was insufficient to examine this phenomenon. My impression was that passages such as those at table 7 above were primarily indicative of talk

that tended to be limited to initiate a response in a typical I-R-E sequence (see discussion in Chapter 2). As we shall see further in Chapter 3B, it was not until I conducted a form of sociocultural discourse analysis that the co-construction of knowledge taking place between myself and the students fully revealed itself.

#### *3A.2.1.3 Trustworthiness – confirmability*

While objectivity is not a goal that is possible in this research, if it ever is (Bryman, 2016), given my position as teacher, the data collected has been made available to audit through a transparent presentation of the data collected, a description of how the analysis proceeded and a record of how decisions about final themes were made (appendix 5).

#### *3A.2.1.4 Trustworthiness - transferability*

For this study, given the qualitative nature of much of the data, the size of the sample and the limitation to one case study, external validity (the extent to which causal connections can be generalised beyond this context, Bryman, 2016) is not an appropriate measure of quality but I again accept Lincoln and Guba's (1985) concept of transferability. That a sufficiently thick description is given to allow for transfer to another context. I have sought to do this both through a literature review that places this study in the context of research on this subject in different contexts and by providing a set of rich data, along with a detailed description sufficient to allow transfer.

#### *3A.2.1.5 Trustworthiness - dependability*

I accept that this study cannot be replicated in the traditional positivist sense but that there is a requirement that the study takes into account factors of instability and phenomenon or design induced change. Auditing as recommended by Lincoln and Guba has not become widespread (Bryman, 2016) and will not be utilised in this study due to the impracticality of doing so. The triangulation that is possible from the extensive sources and use of methods here does provide for an arguably sufficient level of dependability (Lincoln and Guba, 1985).

#### *3A.2.1.6 Heikkinen et al's., Principle of workability and ethics*

Heikkinen et al., (2007) argue that quality should also be evaluated by the extent to which the research has led to change in social actions. Given that the underlying basis for this research is pragmatism and the workability of the research design (its embedding in the teaching and

learning process itself) I submit that the research meets the criterion of pragmatic utility. However, Heikkinen et al call for something beyond this leading to the question: to what extent will my research lead to a critical view of change? Pragmatism itself has been criticised on the basis that its focus on utility and 'what works' in the immediate environment may lead to an emphasis on incremental change rather than emancipatory or transformative change (Johnson and Onwuegbuzie, 2004). This will be considered further in the results and analysis chapter. As may be apparent from the literature review, this research does focus, in part, on issues of power and agency in learning as they reside between teacher and student and to that, perhaps limited, extent, there is a critical edge to this work.

### 3A.3 General ethical considerations

In embarking on this research I have considered the extent to which there is a risk that the research will: result in harm to the participants; progress without informed consent; invade privacy or involve deception (Diener and Crandall, 1978). I have also considered my duty of confidentiality to my clients arising out of my duty under Solicitors Regulation Authority Code of Conduct 6.3, the duty to keep the affairs of current and former clients confidential.

In terms of the student participants, I have considered the risk of harm in relation to their participation in the research. As I will be undertaking the research with the students I have considered whether there are ethical issues relating to my assessment of the students and my research into their experiences. However, I have come to the conclusion that as the supervisor and student already enter into a relationship in which the student is encouraged to reflect upon their learning and expose elements of their work which they find challenging or uncomfortable and that this is a part of the assessment already, then as long as they have given informed consent it is possible for me to be both teacher, assessor and researcher without undue risk of harm to the participants.

I also considered whether the students were being asked to take part in research activities that would prove unduly onerous due to their time commitments. Ultimately, my decisions to use naturally occurring data meant that little additional time was taken with the students for primarily research purposes. Again, the fact that students' reflection on their learning was part of the educational environment of the office, conversations about this in the firm

meetings would be necessary in any event. I have to recognise that by the very nature of my research interest I would concentrate on what the students thought about the process and that this would have some effect on firm meetings. I did check with the students that they felt that the work we were doing was useful to their learning on two occasions and specifically asked them if they wished to take part in the final firm meeting where I was asking them to engage in some respondent validation while also centring some of the discussion on career choice – a legitimate discussion at the end of the clinic, is in the students' interests and I tend to carry out in any event.

The students were provided with full information about the research in advance both verbally and, after a further week to give them a chance to consider it, via an information form and consent form with the opportunity to opt out, with no effect on grade, and at any stage. Appendix 2 includes the consent forms and information sheets given to the students.

I attempted to ensure participant confidentiality through standard Northumbria University practice of not including student names on any of the data I collected; the written information was provided with an ID number (A-H for the students), not name. Full details are set out in the informed consent form in Appendix 2. However, I also recognised that reporting specific details about individuals might lead to their identification, even though their identities were anonymised (Wiles et al., 2008). I have anonymised the students' age and gender in this report and have considered whether any of the reported data could lead to their identification. I am confident that the data reported could not lead to the identification of the students.

The clients with whom the students are working are not the subject of this study. Students' experiences are of course informed by the work that they do for these clients and the clients of the students are additionally entitled to lawyer/client confidentiality in respect of their matters and the students and I owe them a duty of confidentiality. I have ensured that all reported data does not refer to matters upon which we owed the clients a duty of confidentiality – all such confidential and personally identifying information is marked as redacted in transcripts.

### 3A.4 Summary

This chapter has explored the research design, its links to my pragmatist position and considered its position as a naturalistic inquiry and questions as to quality that arise. Chapter 3B considers the final research design and methodology.

# Chapter 3B Evolution of the research and final research design

## 3B.1 The changed research questions and design

As set out in chapter 3A my original intention was a mixed methods approach investigating SDL both in terms of the learning environment, the teacher and the students. In this chapter I set out the final research design and analysis as enacted and the changes I made. As I began to research what was said by the students about their learning experience and what was observable it became apparent that the focus was shifting away from the students' individual SDL and more into the environment in which we were working together and my role as the tutor in that environment.

The research original research questions comprised:

*Clinical Legal Education – a problem based and Self-Directed Learning Environment – how and to what extent do students in this environment respond in relation to the regulation of their learning and development of self-directedness and what role might the supervisor play in that environment?*

The sub questions:

1. *In what ways do students' personal self-directed attributes influence their response to the learning experience – in what ways do they regulate their learning?*
2. *To what extent, if at all, do students experience change in their self-directed attributes over the course of the experience?*
3. *What is the relationship between the SDL learning environment(s) of the clinic and the student's experience of learning?*
4. *What changes in the learning environment can be made to enable students to promote their own SDL?*
5. *What is my role as supervisor in this environment?*

This shift in emphasis towards the importance of collaboration and inquiry, along with my role in orchestrating this led to the following new research question and sub questions.

*Clinical Legal Education – an inquiry based, Self-Directed and co-constructed learning environment – how do students individually and collaboratively learn in this environment and what is the role of the supervisor in orchestrating student learning?*

The sub questions:

1. *What is the nature of this learning environment?*
2. *What is the relationship between the learning environment(s) of the clinic and the students' experience of learning?*
3. *What supports the students in their learning?*
4. *What is my role as supervisor in this environment?*

| Data Collected and Analysed | Research Questions Answered | | | |
|---|---|---|---|---|
| | Nature of this learning environment | Relationship between the learning environment and student experience of learning? | What supports the students in their learning? | My role as supervisor in the environment |
| **Two hour weekly firm meetings** Participant Observation of what was happening and Thematic analysis of what students said about the experience | X | X | X | X |
| **Practical Legal Research Reports** Analysis of student process and feedback from me | | | X | X |
| **Mid-year review** Analysis of student self-appraisal and feedback from me | | X | X | X |
| **End of year assessment by me of the student portfolio of evidence** Analysis of each student's development during the year and their performance | This data was originally intended to answer key questions about each student's SDL attributes and development of those across the year as reflected in their performance and work. I chose not to analyse this data because of the shift in the research questions I was asking. | | | |
| **Optional Reflective Diaries kept by Students** Analysis of the student's reflection on their experience and development | X | X | X | X |
| **Assessed Written Reflections by the Students** Analysis of these | X | X | X | X |
| **My diary** | X | X | X | X |

**Table 9 Data Collected Mapped to Research Questions**

In Table 9 above, I set out the data that was listed in Chapter 3A that I chose not to collect or analyse and the reasons for that. I also set out the data which I did collect and analyse cross referenced to their relevance to the new questions.

### 3B.2 What the students say about the learning experience – the role of the firm meeting – interviewing or focus groups?

An early research proposal (prior to finalising the design set out in Chapter 3A) had envisaged that I would conduct two semi-structured interviews with the students about their view of themselves as self-directed learners and responses to the challenges faced by them in the environment. However, as noted in Chapter 3A I had decided to conduct this research in a naturalistic environment. In the SLO assessment (see Appendix 1) the students reflect on their own learning. It is therefore the case that a substantial portion of the students' work with me in the firm meetings concerns reflecting on their learning. I therefore decided that instead of conducting interviews or focus groups with the students, I would record their reflections on their learning during discussions in firm meetings.

Of course, I have to recognise the fact that my behaviour in the firm meetings would change because of my research interest but I was also constantly mindful of the fact that the firm meeting primarily needed to be useful to the students' learning in the clinic. I originally planned to do this by mindfully constructing some discussions for the firm meetings which would be both of use for my research but also for the students' learning. However, I quickly became aware that it would not be necessary to do this as illustrated by this excerpt from my research journal.

> *First day of recording interviews with students for research project. Had planned the learning around motivation and wanted to look at a number of cases I'd thought about and was going to do this in the second hour. However, student H introduced their own reading for optional reflections and an opportunity presented itself to talk about motivation because of what H was talking about. I therefore didn't need to introduce it – it flowed from the conversation – much like what tends to happen in my practice in the firm meetings. The case or another opportunity presents itself and I can lead it down that area.* (my diary, 12.3.19)

At the end of the first firm meeting that was recorded with the students in which we had discussed their motivation in relation to clients and cases I checked back with them to ensure they felt that it related to their futures as professionals, not simply because I was interested in it for research purposes.I think because I am both participating, observing and asking questions of the students in the firm meeting I have to recognise that there is an element of interviewing to these encounters if only in what is in effect a largely unstructured interview. Although participant observers do carry out interviews (Bryman, 2016) I think that it is important to recognise that in the firm meetings I was a participant observer, teacher and partial interviewer at the same time.

In the final firm meeting, when the students had finished their assessment work and were about to hand in, it was obvious that we had reached the end of the assessment journey. It was only in this firm meeting that I sought to direct questions specifically at the research as a form of respondent validation although even here, the first part of the discussion is about the impact of the SLO on the students' careers – what they would tell an employer they had learned – which I hoped would be of use to them as well as providing some useful insights into their learning experience.

| ID | Speech |
|---|---|
| JH | So, I was just to look (p) and I don't just mean training contract applications, I was offering to look at how you might use SLO experience because sometimes people erm don't get that right and I was wondering if that would be a useful use of your time. It would be useful for me in that I would see what you would individually put on it, but I don't want to waste your time talking about things where you're thinking "I don't want to think about careers right now" erm (p) so (p) |
| F | I would appreciate that |
| A | Yeah |
| All | (laughing) |
| JH | So I'm getting mostly yeses |
| All | (laughing) |

**Table 10 Extract of dialogue from Firm Meeting**

### *3B.2.1 Limitations to this approach*

Leading is guarded against in interviewing because clearly those questions suggest an answer (Bryman, 2016). However, given the fact that students were talking about their learning experience with me as the tutor there were bound to be times when the conversation between us did suggest an answer that I was looking for. I needed to be mindful of this factor,

which I already was given my interest in the extent to which in teaching I might require students to "guess what I'm thinking," rather than asking genuinely open questions and also, when analysing the data.

All participant observers have to be aware of the impact of their presence on the behaviour of the people present, although this may diminish over time (Bryman, 2016). In any event it is recognised that all interviews are a co-construction between interviewer and interviewee (Mann, 2011). Obviously, there is the added complication, already recognised here, that I am the assessor of the students and their contribution to firm meetings is assessed. I have to recognise that what the students say about their learning may be affected by what they think I do, or do not want to hear (as well as what they think other students want to hear).

It is also clear that I had chosen to undertake the research in the group and so what the students say about the learning experience in the group has some similarity with the experience of issues relating to focus groups in research. I should say at the outset that I was interested in individual student learning as well as joint construction of meaning within the group which is often the subject of focus group studies (Bryman, 2016). The focus group does provide an advantage inthat rather than my probing as teacher of what the students were experiencing, other students in the group can probe and the discussion can lead to an elaboration of the original student's view on their learning and also challenge to the student's thinking that I would not be able to adopt myself. The conversation in table 11 illustrates a conversation about being cooperative in the SLO and whether or not law students on the degree generally compete with each other, a topic originally raised by a student rather than me. Note that in the extract below that A's concept of student competitiveness evolved due to challenge from F and G. I doubt I, as the tutor or researcher, would have so forcefully challenged A's conception.

Additionally, in discussing in a group, my control of the conversation was inevitably relaxed in favour of the students and the direction of the conversation becomes more of their choosing and less of mine. Again, this is illustrated by the transcript below.

| ID | Speech |
|---|---|
| A | every aspect of life I find this I think you'll find. If there's a group of you all wanting the same thing. I know you said everyone could get it but you still want to be better than everyone else don't you- |
| F | -I think that's quite poisonous because to me you don't have to do badly for me to do well, we can both do well…but for some people they have to do better than everyone else I don't think that's very healthy all the time |
| A | what about if there's one job position and there's one group of people [overlapping starts] you know what I mean [overlapping ends] that same kind of dynamic as here though |
| F | [overlapping starts] Yeah obviously obviously then [overlapping ends] no because we're not all competing for anything we're all going to get a degree |
| A | Yeah but we're all competing to get the best degree possible to get the best job maybe |
| F | Yeah but we can all get the best degree possible. You don't have to get a 2.2 for me to get a first that's not how it works |
| | Continued conversation not repeated here |
| G | And at the same time not everybody is going to want to go into the same job like people might decide to do this degree but then decide they don't want to go into practice so their degree isn't going to necessarily interfere with somebody else going for that particular job. I do think that there is an air of competitiveness especially when you are applying for jobs but again in this environment I [inaudible] |
| F | Yeah if we were all applying for the same job and we were all in the process together absolutely we would all be competitive but that's not the situation we're in (p) |
| A | Yeah I guess I hadn't expanded my mind to think- |
| All | Laughter |

**Table 11 Extract of Dialogue from Firm Meeting 2**

There is the additional problem of group effect both from the perspective of overly dominant voices in the group and the group adopting the thinking of one individual and supressing the views of others. As stated in Chapter 3A one of the advantages of analysis of the students' reflective writing and diaries is that it allows other voices to emerge.

### *3B.2.2 Recording and transcription*

In deciding whether or not to audio or video record the meetings, I bore in mind that video recording can of course provide a richer view of the interaction (Kvale and Brinkmann, 2009) and the critique that audio alone neglects contextual factors and non-verbal elements (Mishler, 1986). A systematic review of four decades of research into classroom dialogue, for example, indicated that video recording since 1992 was used twice as often as audio recording

(Howe and Abedin, 2013). However, I opted to audio record both because of the practicalities of attempting to transcribe over ten hours of video and due to the fact that I would not have been able to video all speakers in the environment of the SLO classrooms.

There are multiple methods of transcription available – the critical point being the use of a method that as accurately as possible records what the participants say and is appropriate to the form of analysis being used (Mercer, 2004; Kvale and Brinkmann, 2009). As detailed below, I eventually adopted sociocultural discourse analysis as one means of understanding the interactions with the students and so have adopted the form of transcription used by those from this field (Mercer, 2004). Ultimately, I have developed the transcription approach in the light of one of the theoretical perspectives guiding my research (Lapadat and Lindsay, 1998).

### 3B.3 Student reflective assessments and diaries as a source of data

All of the students were required to complete two 2000-word reflective essays at the conclusion of the module as part of their assessment. Clearly these reflections were written for a grade and as with any document they are not simply a representation of reality in any event but are themselves social constructs that have to be handled with regard to what they are intended to accomplish (Coffey, 2013).

In conducting the research, I had obtained informed student consent to review their personal files, including any contemporaneous notes and diaries they made about their learning. However, it should be noted that the students made diary entries as part of their learning; in the knowledge that they formed part of their personal file for review during assessment (though not specifically marked); that I had advised them that they keep a diary to enable them to reflect on their learning at the end of the year and that I would read them as part of the research and as part of a review of their file when marking their work. As with the student reflective work therefore, it is important to recognise that they were not simply written for the student themselves.

### 3B.4 Analysing what the students say about the learning experience in the firm meetings, their diaries and their written reflections

In contrast to the evolution over time of my approach to analysis of the discourse in relation to what was observable (about which see further below), I did persist with a thematic analysis of what students said about the learning experience. Thematic analysis is poorly demarcated but does offer a flexible research tool that is not confined to any one theoretical approach (Braun and Clarke, 2006). While it is flexible, the theoretical position of the analyst does need to be transparent (Braun and Clarke, 2006). My position is that the participants in the dialogue (both the students and I as teacher and observer) are constructing meaning individually and jointly but in the light of experience.

Themes embody an important patterned meaning within the data. There are no hard and fast rules as to the necessary frequency of the pattern to establish it as a theme and often the important criterion is the extent to which the 'theme' answers research questions but not simply representing the research questions put to the participants as the themes (Braun and Clarke, 2006). While I entered this environment with my experience and knowledge about experiential learning and views about what might be of importance to student learning, there was still a largely inductive approach to the conversation that emerged. This was because the conversation often relied upon the experiences the students brought to the meeting – for example, H and D had significant experiences with other professional lawyers as a result of the cases they were working on which became an important focus of several conversations for all of the students and formed the basis of H's reflective writing assessed work. A theme emerged that was eventually labelled: "Members of the firm and SLO and other legal professionals are a resource for knowledge and professional identity." This illustrates the shift from my interest in individual SDL towards collaborative supports in this environment. This theme was allowed to emerge inductively from the data.

#### *3B.4.1 Thematic analysis*

I conducted this thematic analysis while also analysing the audio for what was happening in the firm meeting. In broadly following Braun and Clarke's thematic analysis process I set out to listen to all of the audio tapes a first time through, making notes and considering what was happening in the meetings and what was being said and noting where discussion took place

about the students' learning experience. On a second run through the recordings, I transcribed substantial areas where I had identified that there was discussion about the learning experience. Having transcribed the audio, I systematically went through the transcripts generating initial codes. I found it more illustrative of the codes to take vivid extracts from the data along with the codes into my document of initial codes rather than to wait, as Braun and Clarke seem to suggest, until the latter part of the process to select extracts (though of course I later had to refine these extracts).

Following this I collated the codes into potential themes and sub themes – initially naming these themes at that time rather than later. As described below, I had also performed a thematic analysis on the students' diary entries and written reflections. At this stage I brought together the themes and codes (taking care to retain their origins as either speech, diary or written reflection).Finally, I reviewed the themes and data and listened again to the entire audio set to review whether, the themes were directed at answering the research question but also whether or not other data was being discounted.

After the second firm meeting that was recorded, during the early stages of analysis, it became very apparent to me that a strong theme was emerging for the students about collaboration. This was about collaboration with each other (and others) inside and outside the firm meeting and included a substantial discussion about why the firm meetings were so positively different from the usual seminars they were part of. I will discuss this more fully in Chapter 4 but, for the purpose of describing the research design, this led me to further consider my role in orchestrating the learning and had implications for my other intended analysis of the dialogue in the firm meeting – investigating what was happening in the firm meeting and my role in orchestrating that dialogue. Concerning this see section 3B.6 below.

### *3B.4.2 Diaries and reflective assessed writing*

In order to carry out a thematic analysis of the diaries and reflective writing, I carried out a very similar process to that taken above which can be appropriate for documentary analysis (Coffey, 2013). I read through each piece of work at least once, making notes concerning what the students were saying about their learning. I then went through a second time systematically generating initial codes and beginning to consider the themes. I then brought together the work described above on the firm meeting transcripts as described above.

### 3B.5 Practical Legal Research Reports (PLR)

One of the scaffolds provided to students in the clinic is the PLR form (see Appendix 3). The PLR form contains prompts to assist the students in carrying out research. These include asking the students to provide a succinct short summary that expresses the client's problem, identification of the problem areas for research and key words and phrases that they have identified to assist them in their search. Students use these forms routinely to carry out research, either independently or in pairs, which they submit to me for review. The PLRs themselves have two purposes: to ensure that I and the students are clear about all of the legal issues in the client's case and that they are fully understood by all of us and to provide feedback to the students on their research process.

I originally had intended to analyse the PLRs to determine the breadth of sources that the students used and each student's SDL journey as their experience in the clinic grew. Studies in PBL (Rankin, 1996) have indicated that library use increases in the similar inquiry-based environment of PBL. However, as my focus shifted away from attempting to plot the students' SDL journey, this became inappropriate. I did perform initial analysis on 40 PLRs from the students (this number includes several attempts by them at each PLR). I began analysing these in terms of the feedback I gave the students. The time available to carry out this analysis and the shift in emphasis led to my deciding to concentrate my efforts on very substantial analysis of what the students were saying about the learning experience (as described above) and the discourse (as described below). I also became aware, supported by the students when I asked them, that much of the feedback I gave was in conversation with the students rather than in writing on the PLR. On analysing the PLRs, there were multiple comments by me along the lines of: "let's talk about this." I did not record these one-to-one conversations and so am unable to analyse them. I reached the following initial conclusions about the PLRs:

> *Looking at PLRs it becomes really apparent that (i) the students aren't identifying goals and objectives in the way intended – these are not automative supportive struts to help them through* [I think I meant that the scaffold is not being utilised as intended here] *(ii) my feedback doesn't reveal this. I think I'm probably concentrating more on*

> *content and process (re: use of sources) rather than the building blocks that I have put in place to enable students to carry out the work.* (my diary, 26.3.19)

This analysis does not form part of my findings but there is the possibility that further analysis would shed light on the effect of real client work on the supervisor. The need to ensure accuracy, because the client's interests are at stake, risks the supervisor becoming less engaged with the students' use of the intended scaffold.

**3B.6 Analysis of what was happening in the firm meeting**

I had always intended to analyse what was happening in the firm meeting from the perspective of understanding my interactions with the students and, in particular, control of events and the extent to which the meetings were about knowledge transmission by me or co-construction of knowledge with the students. My initial attempts at analysis of the dialogue in the firm meeting started with characterising the talk by considering whether it followed an I-R-E format (i.e. questioning from me designed to check student understanding or lead through a series of planned questions to greater student understanding of the area we were exploring).

Through a process of listening to the interactions and further reviewing the literature I have come increasingly to believe that a sociocultural analysis of the dialogue (see Mercer and Howe, 2012) can reveal the nature of the educational relationship between all of us in the learning environment, to what extent the reality of the interaction is one of co-construction or instruction through analysis of the talk that reveals that nature whilst again recognising that sociocultural research points to the balance of these modes, as reflected in the following:

> *It is very important to note that this research does not imply that teachers should avoid checking students understanding, instructing them, giving them the correct knowledge or correcting their erroneous understandings. It is of course vital that they do these things. Rather, the implication is that to get the best results, teachers need to strategically balance…'authoritative' talk (which tends to be the dominant kind of interaction) with 'dialogue' (which does not normally happen often).* (Mercer and Howe, 2012, p.14).

This approach importantly includes a consideration of exploratory talk:

> *In exploratory talk partners engage critically with each other's ideas. Proposals may be challenged and counter-challenged via argumentation. Agreement is sought as a basis for joint progress.* (Hennessy et al., 2016, p.18).

Review of the literature has now indicated that those working in the field of sociocultural analysis of classroom talk in relation to the co-construction of knowledge have identified a requirement for a framework for systematically analysing classroom dialogue (Hennessy et al., 2016). Their interest is in analysing dialogic interactions (talk characterised by a social mode of thinking in which participants solve problems jointly and students take responsibility for co-constructing their understanding). This Scheme for Educational Dialogue Analysis (SEDA) attempts to code Communicative Acts (CA) - at the micro level CA's usually consist of a contribution by a single person (Hennessy et al., 2016) - which take place within Communicative Events (CE) at the meso level. CE's are defined by a series of CAs in which the participants, participant structure, purpose, task, orientation and/or general topic remain constant. Finally, these CE's take place within communicative situations (CS) – the general context in which the communication is occurring (in the classroom situation, this usually corresponds to the whole lesson but could go beyond individual lessons).

By focusing on this nested hierarchy Hennessy et al., claim that although emphasis on the CA as the basic unit of analysis allows for fine-grained analysis of peer-peer and tutor-student interactions, they can be seen in wider contextual levels (through CE) and at a global level (through CS). This enables the researcher to ask and answer questions such as: whether some lessons (or presumably topics) are more dialogic than others; whether dialogic engagement increases over time and so on. The coding scheme codes specific CA's but not CA's which are not dialogic because the researchers recognise their value but are not interested in non-dialogic interactions. The CA have 33 separate codes clustered into 8 clusters allowing one to distinguish between key dialogic features:

- I – invite elaboration or reasoning;
- R – make reasoning explicit;
- B – build on ideas;
- E – express or invite ideas;
- P - positioning and coordination;
- RD - reflect on dialogue or activity;
- C – connect (making explicit links to ideas beyond the immediate dialogue).

The clusters and codes are available in Appendix 4. In providing analysis, excerpts of transcripts are used (Johnson and Mercer, 2019).

In table 12 below I illustrate the impact of the use of this scheme on my analysis. Originally, my analysis focused on coding for I-R-E. However, once I discovered SEDA coding, I came to see some of these episodes that I had coded as I-R-E as in fact sociocultural co-constructing incidents.

| ID | **Speech**<br>**[speech] not in quotation marks is summarised to maintain confidentiality)** | **Originally Coded** | **Now SEDA coded** | **My changed perspective from use of SEDA** |
|---|---|---|---|---|
| JH | "ok. B, [client name]" | Not IRE<br>Unsure of code | Not within SEDA codes?<br>Initiating an exploratory episode | Going into this episode I knew that something had happened on B's case that required a decision and action. I had in mind elements of the professional learning that might take place. But crucially, I have realised that while this set the framework for intended discussion, it did not form a script to which the students were expected to conform. By asking the student to give the facts of their case my intent is to update myself and the students on case progress but also initiate exploring the issues |
| B | [B gives the group the latest developments on her/his case. Several prompts from JH to explain more clearly to other students.] | Not IRE<br>Unsure of code | Not within SEDA codes. Part of initiating the exploratory episode | |
| JH and B | [redacted, several prompts from me to explain the facts more clearly to other students followed by B clarifying.] | Not IRE Unsure of how to code | G5 – Focusing by me<br>Focusing the dialogue on key aspects of the activity | By focusing B on the salient parts of the story, I can help focus the group on the issues |
| JH | Ok. So that's where the case is at. What do people think? Other than B who I've spoken to this about | IRE | E1 Invite opinions/beliefs/ideas | I've realised from the use of SEDA that actually here I'm not simply initiating to collect an expected response – I have a view about what we might discuss but I don't have a "correct" answer necessarily |

| ID | **Speech**<br>**[speech] not in quotation marks is summarised to maintain confidentiality)** | **Originally Coded** | **Now SEDA coded** | **My changed perspective from use of SEDA** |
|---|---|---|---|---|
| H | [Offers view about the case] | I**R**E | E2 Contributes idea | Again, the use of SEDA helps me realise that the students are not giving just a response. They are making their own understanding explicit and building on each other's thinking |
| H and F | [Short exchange agreeing with each other's perspective on the case and where it might lead us in dealing with the case.] | Not IRE<br>Unsure how to code | B1 Build on/clarify others' contributions | |
| JH | [redacted]…ok so it's a really nice thing to do, can we quantify it more kind of looking at it from more legal perspectives as well?… [redacted I suggest potential legal perspectives] …C have you got a view because you've looked at the law along with B? | **I**RE | G5 Focusing and I4 Ask for explanation or justification | Here, again my thinking shifts about this interaction as a result of the use of SEDA. This is not simply an initiation looking for one answer. Instead, I'm encouraging the group to analyse the client's problem applying relevant legal principles and scaffolding their learning by focusing their attention on important details |
| C | Gives legal analysis [redacted] | I**R**E | R2 Explain or justify own contribution | |
| JH | have (p) yeah that sounds pretty pretty plausible, and I probably would agree with you. | IR**E** | P6 state agreement with position | This is an interesting area because I do here give an evaluation of the student's contribution and my response is intended to close the discussion. Question how this fits within SEDA? |
| JH | [Asks another question about proving the legal elements in this client's case] | **IRF** | G5 Focusing | Here, again, I look to focus the group on a further issue in the facts of the case |

| ID | **Speech [speech] not in quotation marks is summarised to maintain confidentiality)** | **Originally Coded** | **Now SEDA coded** | **My changed perspective from use of SEDA** |
|---|---|---|---|---|
| A | is it a sort of [x, legal issue] of some description? | I**R**F | E2 Make other relevant contribution | Again, the student in this phase is not simply responding. They are in fact raising a new, relevant, issue |
| JH | what do we think about that? Is it [x, legal issue]? | **I**RF | I2 Invite building on/elaboration/(dis)agreement/evaluation of another's contribution | Again, I have come to realise that instead of initiating for a required answer, I am genuinely seeking views from the group about whether A's contribution is useful |
| C | it depends" [Gives legal perspective, redacted] which JH considers to be correct. | I**RF** | R2 Explain or justify own contribution | |
| JH | yeah [explanation to the group about how this legal analysis works **redacted**] | IR**E** | G3 Introduce authoritative perspective | |
| JH | the court's probably going to see that as a y issue [related to x legal issue]. Does anybody know what a [y legal issue] is [pause]? Looking round the room [p] no. [redacted Explanation of y legal issue given by JH] | **I**RF | – not coded as sociocultural dialogue | teaching the issue. my use of SEDA has illuminated that this is actually a teaching the issue moment rather than I-R-E or sociocultural dialogue |

**Table 12 Extract of Initial Attempt at Discourse Analysis**

### *3B.5.1 The purpose of sociocultural discourse analysis*

Sociocultural discourse analysis is concerned with the function of dialogue in joint intellectual activity and includes a consideration with the context of joint cognitive engagement and the social and cultural contexts (Mercer, 2004). I have chosen it as a method for analysing the work in the firm meetings because it is concerned with the ways in which shared understanding develops collaboratively over time. Unlike some other forms of discourse analysis, the researcher legitimately concerns themselves with the previous interactions of the participants and what they subsequently report in later interviews. It is not just about the process of co-construction but also the development and learning outcomes for the participants (Johnson and Mercer, 2019).

It was designed for studying children's talking but has also been used for adults (Johnson, and Mercer, 2019). It requires continuous and repeated observation because classroom involve understanding that is negotiated over time (Mercer, 2010). It lends itself to both qualitative and quantitative methods (Mercer, 2010). SEDA was designed across diverse contexts and populations for adaptability to other research contexts and purposes. (Hennessy et al., 2020).

Having set out the final research design and questions, in Chapter 4 I present the results of the research and begin to discuss some of the emerging findings in relation to it.

# Chapter 4 Results

As indicated in Chapter 3B, it was as a result of commencing the research and particularly discussions in the firm meeting that I began to change my research focus. What was being thrown into far sharper focus for me in each student's learning was the role of the environment: the cases, the role of other students and other professionals and my own role in orchestrating in that environment. It became increasingly obvious to me that this was both what was being spoken about by the students and what was visible in the environment as opposed to my original goal of also comprehensively exploring the SDL attributes of each individual student and attempting to look at change over time.

As also described in chapter 3B I determined to conduct this research both in terms of what the students said about the learning environment and what was observable occurring. The data available for what the students said about the learning environment was available from the following sources:

- 5x2 hour firm meetings between myself and all of the students recorded between March 2019 and May 2019 date in which frequent discussion occurred about what the students felt they were learning and how – as part of the aim of the usual firm meeting to assist the students in reflecting on the learning experience but also at times my research interest guided the topic also.
- 1x2 hour firm meeting which I conduct every year close to the assessment hand in date in place of a normal firm meeting and in which the students give individual presentations on their intended topic for written reflection
- 1x2 hour final firm meeting in which I looked at the influence of clinical experience on the students' careers but also carried out some respondent validation in respect of my emerging thoughts about the student learning experience
- Contemporaneous diary entries kept by me during the research period
- Self-evaluation set out in each individual student's mid-year appraisal and my comments
- Students' written reflections on the learning experience written for assessment purposes at the end of the year and described as follows in the assessment brief

- Students' reflective diaries. Students kept these optionally. All but student E from the students kept a reflective journal for the first semester but not the second semester (D latest regularly at 29.1.19 but also F kept some entries throughout). G in particular is much more forthcoming in the personal file than in the firm meetings. The number of entries varies from four in the case of A to 23 in the case of G. Note that I did not read these diaries until the students had submitted their final assessed work

**4.1 Thematic Analysis of what the students said about the learning experience**

Having carried out the process of listening to the firm meetings, transcribing them and reading them I then read and re-read all of the available written materials. I carried out thematic analysis on all of these and had created 90 codes and 18 themes. I read and re-read these codes and themes and also returned to the source material to check my understanding. This resulted in some collapsing of themes and the creation of sub-themes. In total I settled on 11 themes with 47 sub-themes. I then went through a process of further considering whether the 11 themes identified were sufficiently representative of the students' views, whether they related sufficiently to the research question and whether they had been explored in sufficient detail to form a considered view of them. With several themes, I also decided that they would be better placed in the results as a student view on some emerging ideas I have about what is observable about the firm meeting. Those therefore appear in sections 4.6-4.9 after the discourse analysis of the firm meetings.

I have therefore reported five themes and 27 sub-themes here. Appendix 5 contains the conclusion of this thematic analysis with my reasons for including and not including themes. This chapter discusses: confidence; collaborating with the group and outside of the group; collaborating with a partner; collaborating with the supervisor and the impact of real work. These themes have been selected because they lie at the heart of my emerging understanding of the most significant contributions of this research – the sociocultural and experiential elements of the clinic. This also links to the requirement for space in this chapter for an in-depth analysis of the dialogue in the firm meetings.

One of the obvious limitations in respect of the results, is that this group of eight students cannot be said to represent any form of cross-section of students more generally. The report

below may face the challenge of bias in that the students are reporting positive aspects of the learning experience because I am their teacher. However, I submit that there is value in understanding what mattered to these students as a means of both understanding my organisation of the experience for them and of beginning to suggest further areas for research with larger and more representative samples.

### *4.1.1 Confidence*

Confidence emerges as a major theme amongst the students with every student commenting on it and writing to some extent about it in at least one of their assessed reflections. For three of the students, the subject was so important that it featured either throughout their reflection or, in the case of two students, even in the title: "What impact has the SLO had on my self-confidence" and "Self-confidence and overcoming uncertainty."

For seven out of eight of the students, self-confidence was an issue which they felt both required improvement and which they felt had improved through their experiences in the SLO. Each of the seven had differing views about their self-confidence but all but one revolved around a theme of confidence in relationships with other people. For the remaining student, their concern not to allow their over-confidence to overwhelm the discourse in the group was something they felt keenly from the start of the experience through to their written assessed reflection: "The importance of relinquishing control in a clinical setting."

Confidence in working in groups, fear of being judged for being rude or getting things wrong, was agreed to be an issue which inhibited contributions to the group for four of the students but which they felt had improved through working with clients and each other in a group.

In Table 13 I have reproduced the theme and sub themes I have developed following analysis and selected text from student written reflections and transcribed comments in firm meetings which illustrates the students' thoughts on this topic.

| Theme | Sub theme |
|---|---|
| **Confidence** | Confidence is important in the SLO and my experiences in the SLO have improved my confidence |
| | Lack of confidence (or greater confidence) comes partly from a fear/no fear of being judged for being wrong |

**Table 13 Theme: Confidence**

Students' sense of confidence and how that developed over time clearly shared some characteristics for many but this research also illuminates how personal each students' feelings and attributes are and while for these students the experience of the clinic clearly had some common positive factors (working in their group, with other professionals, with clients, with me) it also begins to reveal for me the need for the tutor to recognise that each student is on both a collaborative and individual journey to which the tutor can respond in orchestrating the experiences of the group and the individual. My long experience working with students has indicated to me that confidence is often a key issue for many students and so I have been aware of this for some time. This research has highlighted that I currently attempt to monitor student confidence through my interactions with them in firm meetings and other ad hoc meetings. I usually do this through indicators such as the degree to which students contribute in firm meetings and conversations with them about how they are feeling about the work – particularly at the mid-year appraisal.

My orchestration responses to interactions and tasks with students to developing student confidence will be discussed further below. At a general level, I attempt to achieve this sometimes with fairly basic agreed actions with the students such as that described by student E below who, when writing about a discussion we had about their confidence says:

> *I agreed with my supervisor that it would help if I was directly asked questions in order for me to get my opinions heard. At first I disliked being asked questions directly, but upon reflection I know that this is something that has greatly benefitted me. I found that the more I spoke, the less uncertain I became and my self-confidence and my ability increased* (E, skills reflection p.1)

This process has illuminated collaboration as an overarching theme running through so much of the students' statements about their learning.

### *4.1.2 Collaborating with the Group and Outside the Group*

| Theme | Sub Themes |
|---|---|
| **Collaborating with the group and outside the group** | Members of the firm can trust each other and others in the clinic |
| | You have to work together to get the best for the client and the case |
| | Members of the firm and SLO and other legal professionals are a resource for knowledge and professional identity |
| | Members of the firm provide different perspectives and emotional support |
| | The group can distribute tasks and knowledge but thought is required, new members and larger groups are more problematic but can be dealt with |
| | Social relations matter (quiz night) |

**Table 14: Theme: Collaborating with the group and outside the group**

#### *4.1.2.1 Members of the firm can trust each other and others in the clinic*

At the outset of the year, I organized a session with an experienced member of the law school (J) to speak with the students about the stress of the nature of work that lawyers sometimes do and to offer the students an outlet, other than me, should they find that they are struggling. This featured quite heavily in the students' reflective diaries.

> *[J] made me understand that it is OK not to be OK because of what may happen in the future cases and that the University is able to support wherever needs be…I am glad that this meeting took place as I know the SLO has the upmost importance of the protection and welfare of myself and members of the firm.* (B, personal file 17.10.18)

> *it taught me that it is ok to not be ok and there are many individuals around me that I can talk to if I need to offload any stress.* (C, personal file 17.10.18)

The feeling of trust and support clearly developed through a number of mechanisms. Early in the year, the clinic ran a quiz night for students and staff to raise money for a legal support trust. To my surprise four of them specifically mentioned it in their reflective diaries.

> *I was dubious as to whether anyone from my firm would show up. I was pleased to find that 7/8 of the firm showed up and we had a good night. It was nice to bond outside SLO as a group in a more relaxed environment and get to know each other (C, personal diary 7.11.18)*

For this group of students there is no doubt that quite a high degree of trust had emerged between them by the end of the year. One firm meeting took place in the first semester without my presence due to being abroad.

*we all made sure that we went through the different client cases to see where everybody was up to and if anybody needed any help at this stage. I feel like this is something that we can all help each other with and it is nice to know that each individual is happy to help others (G, personal diary 26.11.18)*

All of the students remarked on this sense of trust and its benefits. For many of the students it seems to have been a very important part of their experience of collaborating in the larger group and with individuals in order to be able to fully engage in the exploratory nature of the clinic.

*Our firm all get along well and it is comforting to know that there are people you can ask for help when necessary…and it makes the firm meetings far more beneficial being in an environment with peers where you feel comfortable enough to answer and engage. (F, mid-year appraisal)*

*I feel like I have become friends with everyone in the firm and this has improved my confidence. I feel that I am able to be myself around them and I now have the confidence to tell H and G if I disagree with something they have written…I do not like criticising others, I feel rude and I do not want them to lose confidence in their abilities. However, part of being confident is understanding that everyone makes mistakes and being prepared to help rectify these mistakes. It is vital that the work we do is correct and I need to be prepared to both make mistakes and correct them. My experience in the SLO will be helpful in a career in law as it requires confidence to disagree with people and put your viewpoint across.* (D, assessed skills reflection, p.1)

This is aligned with research in PBL that suggests that the small group tutorial provides an important platform for the development of friendship among students (Severiens and Schmidt, 2009).

#### *4.1.2.2 You have to work together to get the best for the client and the case*

The environment in which the students were working, the proximity and informality was clearly important in enabling this collaboration (see sections 4.6-4.9 below on the students' views of the function of the firm meeting). Another important element was the purpose of the work. The students commented that much of the law degree programme was

competitive, particularly around exam time and that the limited level of group work that they had done in the past had not functioned well with some students believing this was due to a lack of focus and orchestration of the group by the module tutor and others that students were seeking to compete with each other rather than collaborate. In a link to the theme of the impact of real work on student engagement, the students agreed that the fact that the client had needs and they had a duty to the client meant that collaborating was natural because the goal was no longer simply the students' own grade but had become about focusing on the client's needs.

#### *4.1.2.3 Members of the firm and SLO and other legal professionals are a resource for knowledge and professional identity*

When I asked the students about what supported them in the environment, it was clear that they relied upon each other, other students in the clinic and other professionals, when they encountered them. The students felt they had realised that they could pool knowledge with others and discuss their cases with each other and others outside of the group when those people had knowledge and expertise that could help. There was an agreement that this had influenced their view of their future practice in that they were far more comfortable asking questions of others, including those more senior to them.

> *I feel like if I was going into practice I would ask more questions than if I didn't do this [the clinic]. I would just ask because I think it would make it worse if I just kept it to myself and tried to-* (B, Tape 2)

It was clear also, that it was the variety of expertise and people who students could work with that added to the richness of the learning experience. All of the students had some collaboration with other legal professionals (a barrister who works for the law school, the university's data protection expert, legal academics and a solicitor from a law firm we were working on a case with). This both helped their understanding of legal issues but also their conception of lawyers and their work, the fact that even experienced lawyers make mistakes and do not automatically know all of the answers and their potential own place as lawyers

> *In the meeting I was asked to explain to N* [a university legal adviser] *what was happening. I told* [N] *about* [redacted, legal issue] *and what research was being undertaken by different partners in JH1 and what the research was aiding* [the external

> law firm] *in doing. We were quite heavily involved in the meeting, we were asked a significant amount of questions and I felt we answered these well. When we did not have the answer we simply told K, N and O* [all legal experts] *that we 'don't not know' and they were happy with that. Our involvement in the meeting made me feel professional, and made me feel valued and happy to be working on the [legal issue] as something that is such an important and prevalent issue*. (H, personal reflection 21.12.18)

And changed perceptions of working with other lawyers having collaborated with a solicitor and legal executive from a law firm:

> *I felt quite valued…solicitors were nothing like I expected them to be. I thought they would try to talk down to me with legal jargon and make me feel as though I was detached from them. In contrast, they spoke to me and my peers in a professional manner but not in a way that made me feel they were superior, like I previously perceived lawyers to be with a professional mask…while some lawyers may think it is relevant to hide behind a legal mask, this is not a requirement that all lawyers have to possess.* (B, optional assessed reflection p.2)

It appears to be important to orchestrate the environment so that students can have interactions beyond the supervisor and receive feedback and modelling from other professionals. This confirms the findings of Katz (2005) and recommendations made by Baker (1999) as discussed in chapter 2. This could of course be provided by bringing in other professionals to share their experiences but I am developing my understanding that it is the pragmatic (experience of use) aspect that can be most powerful as suggested by Hämäläinen and Arvaja (2009) in the context of student collaborative learning – there should be a genuine requirement for collaboration. As outlined above, I brought in an experienced lawyer who has handled matters which many would find distressing to talk to the students about it *being* "ok not to be ok" (student B) because their experience and insight went beyond mine and was therefore of use. I brought other lawyers into the large project work and a short-term matter of necessity, because they had the necessary expertise or the lawyers themselves were seeking our assistance with their work. In these circumstances students can experience contributions that make sense in the moment and which they interact with and receive feedback from.

> *Students, me and contract expert lecturer all struggling with client case involving complicated contract law issue. Meeting between the 4 of us was good in that it emerged that the students had found "the answer" where we two lawyers had not. Wonder how this impacted on their sense of self-efficacy. In the end we decided on a different route. Would be good to explore with the students how interactions with other professionals other than me impact on their understanding* (my diary, 28.2.19)

#### *4.1.2.4 Members of the firm can provide different perspectives and emotional support*

Alongside trust, there was clear evidence in remarks made by all students of the level of interaction they had with each other and its benefits. These ranged from the ability to let off steam about disappointments to relieving stress about interactions they had had with other legal professionals as was the case for this student:

> *some members of my firm speculated that I have simply built this up in my head and made much more of an issue out of it than was necessary.* (H, assessed optional reflection p.3)

#### *4.1.2.5 The group can distribute tasks and knowledge but thought is required, new members and larger groups are more problematic but can be dealt with*

It was clear from all of the students' contributions in the firm meetings that they believed that the ability to distribute tasks on the large project enabled them to successfully make progress with that project in ways that would not have been possible had they been attempting the task individually or in pairs. Three of the students also commented on the fact that once the working group went beyond the established pair, it became more difficult to organise the work, particularly when new members were brought into the group.

#### *4.1.2.6 Social relations matter (quiz night)*

Four of the students referred to an early social event (quiz night for all students in the SLO) in their personal diaries immediately afterwards and clearly felt that seeing each other outside of a work environment and getting to know each other was beneficial. All students agreed that the social relationship they had managed to build with each other had enabled them to share work and collaborate with each other. While I may have been partly aware of the importance of this before starting this research, it featured very strongly for the students in

their discussion of why they felt the environment was positively different from the rest of their experience in the law programme.

### 4.1.3 Collaborating with a Partner

| Theme | Sub Theme |
|---|---|
| **Collaborating with a partner** | The partner provides a different perspective or model |
| | The partner is a resource and support |
| | Co-constructing with a partner |
| | A sense of obligation to the partner |
| | Different partners require different working styles |

**Table 15 Theme: Collaborating with a Partner**

The importance and value of the partner with whom students carried out most of the case work emerged as a key factor, both when students were formally reflecting on their learning or commenting on it in firm meetings but also implicitly in other comments not specifically directed at the value of the working relationship. I have already argued that the ways in which learning is constructed in this environment is, as with PBL, the black box of the learning process (Yew and Schmidt, 2011). The darkest area of this black box is the largely unseen conversations and learning that take place outside the firm meeting.

#### *4.1.3.1 The partner provides a different perspective or model and a resource and suppor*t

A clear sub theme that emerged was the partner as model or different perspective. Students B and C reflected on this same client interview:

> *Upon reflection with my partner, I believed that I had given* [the client] *plenty of time to gather* [their] *thoughts, however, my partner believed that I was slightly too quick to carry on with the interview. This made me feel slightly panicked that I had not been considerate enough of my client's emotions and I should have given* [the client] *more time to take a break and insisted upon this. This made me reflect that our own perceptions of our actions can be completely different to those of others and made me more aware of how I reacted in situations where a client may be upset* (C, assessed skills reflection p.2)

*I had explicit questions to ask* [the first client but] *I felt unprepared…after discussing this with my partner…I should instead use simple prompts to remind myself of what issues I want to cover.* (B, assessed skills reflection p.2)

#### *4.1.3.2 Co-constructing with a partner*

Further research into student dialogue and co-construction while learning is required to more fully understand the complex interactions that take place in students working in these inquiry-based environments. Clearly these interactions will be different dependent upon the tasks required of the students, their personalities and factors such as the time available for them to work individually and together. There is no doubt from numerous mentions in their reflections, in firm meetings and personal diaries that this group of students were very regularly working and learning from each other. Typical illustrative examples include

*I have been working with H and I feel that we work well together. H has a no-nonsense approach that can help with my occasional tendency to waffle* (A, personal file 29.10.19)

*G and I did a practice run through of our interview yesterday. I found this very useful as this gave us an opportunity to think about how we would word things and we thought of some questions that we needed to ask Jonny* (D, personal file 1.11.18)

*I found that any disagreements we had were actually beneficial, as it led to further discussion, research, and offered the opportunity to be corrected before you make a serious mistake…I found our disagreements to increase the quality of the work.* (H, assessed skills reflection p.2)

Students are learning from each other about their own responses to the work, interpersonal issues, skills and cognitive work. This is not simply a case of students sharing knowledge (though it can be). It is a much more complicated sharing and sometimes building of their understanding of the work, the law, their clients and themselves. A practical, intersubjective one (Biesta and Burbules, 2003).

#### *4.1.3.3 A sense of obligation to the partner*

In discussion (firm meeting 2) with the students about the supports offered in the SLO and the difference between the SLO and typical seminars, it became clear that students felt a

sense of obligation to their partner. This obligation was felt to change the nature of the collaborative environment from that which the students had occasionally experienced previously (particularly for three of the students) and for them explained part of the reason why the firm meetings were so different from seminars. This obligation was also echoed in two of the students' reflective assessed work. This supports Chavkin's (1994) findings of students' feelings of mutual obligation, although note that in his study other factors were present including issues of over-reliance on another student.

#### *4.1.3.4 Different partners require different working styles*

There are choices to be made about who students work with and the extent to which they work with others. Literature on group work is replete with research and commentary on choosing how groups should be formed (including Chavkin, 1994, in the CLE context). This can be done in multiple ways including by looking at students' academic performance (either selecting via same performance or high performance) or even through learning style testing or student self-selection. This is not an area which my clinic in the larger groups concentrates on other than trying to give students their first choice of subject in the clinic (not always possible). Some of the, usually less organised, students do not express a preference so different groups can by coincidence, have various combinations of approach to work and learning, gender, prior academic attainment and other characteristics. There are opportunities in preparing students for working together before they reach the clinic, setting ground rules for working and subsequently monitoring the working of the pair. My practice has tended to be to try in my initial meeting with the students to give them some choice about the cases they will work on and there is little pre-planned orchestration of the pairings. During the time that they are working together I do monitor for signs that the students are working or not working together and the firm meetings present a weekly opportunity to gauge the level of understanding about their work between the pair but often the relationships can change (because of a new group member or change in the pair) without the supervisor being aware of this. This can lead to challenges that are not necessarily "negative" but do lead to different learning. This was mentioned by three of the students. I have included it as a theme because it accords with many of the experiences I have had historically in the clinic.

*contradictory opinions can help to produce a successful outcome…we tried to shoehorn a new member into an already established team. Looking back the correct thing to do would have been to discuss how the other party wanted to work and make a compromise, taking into account the already established method.* (A, assessed skills reflection p.2)

To a certain extent the supervisor cannot control these interactions, nor would it always be desirable to do so. In the discussion chapter I will consider some of the key issues in my supervision – and more generally – that have emerged for orchestrating collaboration.

### *4.1.4 Collaborating with the supervisor*

The nature of the collaboration with the supervisor is complicated by the various roles and relationships I have with the students (see discussion of Bryant and Milstein typology, 2007 in chapter 2). The students spoke less in the firm meetings and in the other data about their relationship with me. A speculative attempt to understand the causes of this might include the difficulty of the practitioner enquirer asking direct questions of participants about the nature of the relationship – particularly when that practitioner is also assessing those students. The students did speak and write about the supervisor relationship to a certain extent which I report here.

| Theme | Sub Theme |
|---|---|
| **Collaborating Relationship with supervisor** | Obligation to supervisor not to let down/expose but also assessed by the supervisor |
| | A Safety Net |
| | Supervisor can model professional practice |
| | Supervisor can take too much control |

**Table 16: Collaborating Relationship with Supervisor**

#### *4.1.4.1 Obligation to supervisor not to let down/expose but also assessed by the supervisor*

Obligation to the supervisor emerges as a theme for at least four of the students. This was partly due to the fact that I was assessing their work and partly that some students wanted to demonstrate that they had made an effort or could act autonomously. There was also a sense of mutuality, that I was depending on them as well as them on me.

*I knew that if I asked my supervisor that he would be able to assist me but I felt that I had to prove to myself and my supervisor that I have the capabilities of doing tasks*

*such as these on my own as this is what it would be like in practice* (B, assessed skills reflection pp.2-3)

*if we're going to go and see Jonny we have to have kind of plan we haven't just sat here and gone 'well I don't know what to do' so right let's come up with some sort of solution for things* (A tape 7)

*I began to worry that I had thrown our supervisor under the bus, and perhaps rather selfishly, I was worried that in doing so I may have adversely affected my relationship with him and therefore my final grade.* (H, optional assessed reflection p.2)

This suggests that a different dynamic is at play in this environment relating to collaboration than in many other typical law school environments.

#### *4.1.4.2 A Safety Net*

At least three of the same students also commented on the support the relationship with the supervisor gave them in being able to work with real clients without being overcome by the fear of making mistakes that would damage the client's interests and allied to this was the sense that all of the students valued having regular feedback so that they had reassurance that their work was going in the right direction.

#### *4.1.4.3 Supervisor Can Model Professional Practice*

There was general agreement amongst the students that the supervisor could also provide a model for thinking and acting on cases.

*it's the role of the supervisor provides a view of being able to see how a professional works themselves and how you develop yourself in that situation. So I wanted to look at how the role of the supervisor can help you develop your humanistic approach to law as well as maintaining the professional* (C, tape 4)

#### *4.1.4.4 Supervisor can take too much control*

The supervisor can take too much control. In line with the literature reviewed in chapter 2 (Grose, 2008), issues did arise as to the balance between the supervisor working as a collaborator or as an expert. Usually in the SLO I do not attend client interviews (I share this with the majority of respondents to Grose's 2008 US CLE study). However, making the choice

to work on large complex projects in conjunction with other law firms brings in the likelihood that students will require more support and monitoring when working with clients. This can have its benefits but can lead to the situation where the supervisor intervenes and takes over more. This emerged in working on the large case project, as indicated in this diary entry for me:

> *Attended another interview with a client where student F was advising and being assessed for competency by me. They were obviously nervous but did well on advice giving – were thrown by* [redacted personal client issue]*. I stepped in (which they later said they were glad I'd done). I did this after I'd given them some time to make the mistakes but not allowed them to flounder for too long. Again, this could be more to do with the client and my relationship with the client than with the student – I can't allow the interview to go too far in the wrong direction before I feel uncomfortable about how the client will be feeling. In a purely simulated event I could have let that go on and go off the rails with no discomfort for me or the client (as a client wouldn't actually exist). Afterwards I could also share with the student that I found it difficult too. In response they disclosed that they weren't put off by my intervention but that two other students on had said to them that my interjections (in an earlier interview with those two) had put them off* (my diary 25.4.19)

### *4.1.5 Collaboration Generally*

It appears clear from this research that the students believed that collaboration between themselves, others and their supervisor was beneficial from a multitude of perspectives. For these students in this context, the social interaction and collaborative dialogue was an important part of their learning and runs counter to the findings of Pease and Kuhn (2011) in the PBL context that social collaboration via distributed cognition were not an important element in their experimental study of two college classes in elementary physics.

### *4.1.6 The impact of real work*

| Theme | Sub theme |
|---|---|
| **The impact of real work** | A real client requires me to shift my focus from myself to the other |
| | Seeing the impact on a real person and that it matters/does not seem to matter to them |
| | Real work is different because of the impact on the client |
| | A real case requires preparation and time management |
| | Will our work actually be used? |
| | I value real work because it prepares me for practice |
| | Real work can lead to anxiety |
| | Large projects challenge connection and ownership |

**Table 17 Theme: The Impact of Real Work**

### *4.1.7 The impact of real work*

For all of the students, working for real people was motivating, required a shift from a focus on simply their own learning and changed the nature of their understanding of the work they were doing. There were a variety of reasons that the students shared with me for this and to varying degrees but which for all of them included: the fact that what they themselves did could make a difference to someone's life, the degree to which they believed that the client needed and/or appreciated their assistance and the fact that working for real people was preparing them for practice.

> *I know that the client is determined to get* [redacted] *and knowing that we have done all we can to help made me feel proud of my work. This suggests that I respond better to work which has a personal element.* (D, assessed optional reflection p.2)
>
> *this, for me, was the best outcome out of the whole situation. I had really felt for* [the client] *and the situation so I was relieved that we had not made* [the client's] *situation any harder by sending a complicated advice letter, but in fact made it easier.* (F, personal file 27.2.18)
>
> *when you have someone sitting in front of you other factors come into play that you have to think about because that's when you're actually having to think about how that's going to have an impact on them rather than just this is what the law says so I think applying it to a real-life situation is very different from just learning the law in lectures and seminars in that sense* (C, tape 3)

There was also evidence that when a client did not seem to appreciate or need work completing that this could for some students be demotivating.

The fact that the work was real also changed students' attitudes to time management (the necessity to keep making progress with cases leading to the need to adopt better approaches to organisation and time management). Four of the students expressed the belief that in previous study they had tended to work towards assessment deadlines maximizing effort and quality at those times and not organize their work throughout the year which they had discovered was not possible when working on real cases.

Case work can also lead to anxiety of course. Five of the students specifically referred to their anxiety in the level of responsibility that they felt for their clients and whether or not they would be able to meet those responsibilities. This seemed to diminish over time but was in contrast to their perception that the supervisor provides some support (a safety net) that mitigates against the possible consequences of student error.

The unpredictable nature of client cases, including the fact that after initial interviews we are sometimes unable to take the case much further, leads to particular issues with managing student workloads and experiences. This can have significant effects on student motivation and can also cause anxiety if they feel that they are not making progress. For at least three of the students in the first semester this was clearly the case. As a supervisor, I am aware of student workload and am regularly in the process of considering, with the student, the experiences they are having and the level of workload (see discussion below – Rounds Structure Analysis 4, section 4.5.4).Of particular interest for this research was the students' response over time to both the smaller cases they had responsibility for and the large project case that was worked on throughout the year and the light that this shines on choice of case work and orchestration of that case work.

There are choices about the work that we do in the clinic (see chapter 2 also, Carpenter, 2013). I was conducting what Carpenter refers to as short-term matters where the students have the opportunity for a close relationship with the client. My research confirms that for this group of students, the responsibility, closeness and impact on the client was motivating. I was also conducting a large project (Carpenter, 2013). Issues arose with this large project for the students in several ways however. In the large project case, there was initial, critical work requiring technical legal work for some of the students with other legal professionals, while other students needed to spend time researching paperwork. The large project also

had a substantial history, complex legal factors and multiple clients. This caused some disconnect for these students and their work.

> *I think I work better knowing that I'm accountable and when I say accountable I can see what the work I've done affects someone emotionally or in a positive light and I can see that and its manifested itself in someone it's like tangible I feel like a do a lot better work in those situations, when it's all theoretical it's not very stimulating for me not to say that this work isn't stimulating but I do* (H, Tape 1).

> *I felt the same about the* [large project] *I felt like I was doing seminar prep when I was doing the PLR in the first semester* (B, Tape 1).

Large projects bring particular orchestration problems because of their disconnect from students being more able to see and feel the impact of their work on a regular basis and because they are often far more difficult for students to grasp the whole picture. At the beginning of the first semester I had given out project tasks quite carefully with one pair of students managing the project itself and then splitting the tasks up for other students into manageable areas of legal and factual research. The difficulties for the students were in dealing with this level of complexity and disconnect from the immediacy of their actions having tangible results. This started with, unsaid to me at the time, concerns about their work actually having value.

> *I was like "don't worry we're never going to be asked to do anything" (laughing) because it was like it was at the time it was really slow and like nothing else is going to come of this (laughing)* (A, tape 7)

One of the key issues is trying to ensure that progress can be made, something, that because the project is real, is not always in the control of the tutor. The impact of the utility of the students' work and the motivational forces that drive this kind of learning is evidence from how the students felt when weeks of work finally began to pay dividends

> *D and I met with* [K, other lawyer] *and Jonny to discuss what our workload would be going forward. K gave us some* [redacted, legal draft precedents] *to read over the Christmas holiday. It was reassuring to be given this sort of reading to do as it showed that we were now moving forward with the project. Towards the end of this semester*

> *it was starting to feel as though this* [legal work] *may have been in vain, and that D and I's work would not be utilised. After this meeting, I am currently feeling quite excited about the chance to potentially see D and I's work in a final document, being utilised. Going forward, I can tell this will be the biggest motivator with regards to this work, and I look forward to being a part of it.* (H, personal file 21.12.19)

The difficulty in seeing the wood for the trees and understanding the bigger picture was also apparent for several of the students throughout the first semester. Student difficulties with confusion and motivation were raised by them with me at the end of the first semester and are recorded in their diaries. As a supervisor I responded to these issues. I was also feeling them myself because I was not entirely in control of events and had to wait for certain elements of the work to be completed before tangible progress could be made.

> *After the meeting I stayed behind with Jonny, A and H to talk about the confidential case. I felt as though A and I have done as much organising as possible at this stage until our meeting on Monday where we will receive a bit more information about the case. H mentioned that he felt as though there is a lot of information and we are not defining down to one particular answer, I also feel like this where I am researching lots of different areas at one time, trying to familiarise myself with areas that we have studied before. Although this can be challenging I also think that it is rewarding and I get a sense of satisfaction when the work is finished and I feel as though I have made progress.* (G personal file 1.11.19)

> *In these 30 minutes I expressed to Jonny my feelings that over the past couple of weeks I have been feeling as though the* [large project] *case is not becoming any clearer to me. I have felt as though the deeper and further I research the more questions arise. It is almost as though the more I know, the more I know about what I don't know. Despite this, I am still feeling as though the sense of autonomy and responsibility that the work is giving me is very fulfilling, and because of this, I have found it to be enjoyable to work on* (H, personal file 1.11.19)

One answer to these student concerns is to say that the choice of the large project includes the opportunities it offers to allow students to experience a more complex and demanding project and learning to work with larger groups of people and dealing with uncertainty to

resolve it. However, too much confusion can lead to issues for the students in terms of demotivation and anxiety. This is not only an issue educationally of course. In the clinic we are working with real people whose interests are at stake. Even were it the case that it might be educationally beneficial to allow elements of the project to falter or even fail, that is not acceptable from a professional standpoint. There is therefore a constant balancing act for the supervisor in managing the process to ensure that there is enough support to the students to enable them to positively continue with the work. It is also evident from the diaries of the students above that if the relationship between supervisor and students is one in which they are able to voice concerns, then the supervisor is more likely, though of course this is still dependent on students' personalities, to be aware of student difficulty. This reveals the complexity of attempting to orchestrate work and the fact that students are also orchestrating. G and H's accounts in their personal diaries above shows that they and A had decided to meet with me to voice their concerns – concerns that I was not fully aware of and then had to respond to but which took some time to resolve. A month later this was not the case but it is clear that feelings had changed a week later

> *the entire firm is a little bit confused about where to go next with the Firm case and feel like we have hit a little bit of a brick wall* (G, personal file 3.12.19).
>
> *The meeting today was extremely productive in regards to the firm case. We discussed the launch of a* [redacted, objective in the large case and timescale] *We therefore divided all of the jobs up on what would be needed in the* [redacted, legal document] *to have a chance of being successful in this. We now have a substantial amount of work to be doing, although this feels good to know we are making progress* (G, personal file 10.12.19)

Ultimately this particular project did make progress and clarity and a sense of purpose emerged.

> *At the beginning of the year when working on* [redacted, an aspect of the case] *it felt slightly mundane and it did not feel like we were working towards anything in particular necessarily… it finally felt like we were doing meaningful and important work and the issues began to feel more real and I genuinely became invested in the*

*cause. We also spoke about it in firm meetings and it seems we all felt the same* (F, personal file, 9.5.19)

This required management from me but of course factors outside my and the students' control also played a part.

An important additional reflection at this stage is that the large project often offers the opportunity to critically reflect on the role of law in society more generally and what the lawyer's position may be. As has been remarked upon by others (Quigley, 1995), the supervisor has to be aware of these possibilities and cannot simply expect the students to critically reflect simply because of the nature of the project. It is evident that I had assumed that because the whole project was devoted to law reform and I was exposing students to academic critique as well as the problem at hand that the students would have recognised this and be learning from it. However, when I asked the students in the final firm meeting to reflect upon what they might have learned from the law reform issue the conversation in the table below ensued.

| | |
|---|---|
| F | I actually didn't realise until (p) this that that was why I enjoyed working on the case because it was a wider issue. I didn't really realise that before. That was why I enjoyed working on it |
| JH | And why? Because |
| F | (laughing) |
| JH | Because I asked you that question? |
| F | Because you just pointed it out to us oh yeah that's true |
| A | I thought that. We never explicitly said in any meeting |
| F | Yeah |
| A | That we should deal with [law reform issue] which was probably what we were actually driving for at the end of this |
| JH | Uh huh |
| A | And we never said it in any meeting EVER. Yet that was the main aim of the whole process. Obviously to stop it happening it again but also [law reform] |
| | Further conversation not transcribed |
| C | For me it was upon reflection when I first sort of started because I didn't really think about it because I was mainly thinking about what the client would want and I didn't really think [they] would care about that sort of thing. It's learning to look at the bigger picture and how that did actually have a massive impact upon [their] case and how it was necessary to be able to tackle that issue… |

**Table 18 Extract of Dialogue from Firm Meeting 7**

### 4.3 Orchestration in response to individual student need

What emerges from the above results alongside orchestration of the collaborative learning, is that individuals experience different challenges in this environment and that it is possible for the supervisor to orchestrate and respond dynamically to those challenges through the tasks I set, the interactions I have with the student and the interactions I enable for them with others. It confirms the recommendations by other clinicians (Grose, 2008; Shalleck, 1994; and Carpenter, 2013) that we must consider the individual student and the context when deciding upon how and when to intervene.

Producing a description of all of these interactions is impossible. Instead, I have chosen an experience with one student (student B) to indicate how I responded to their work on the cases and interactions with me and the rest of the firm to illustrate how some of the critical themes identified above were responded to. As has already been described above, the large project presented challenges in the first semester to which different students responded in different ways in terms of motivation, confidence and understanding and completion of tasks. They all also had short-term matters that they were working on in pairs and for some students the fact that some cases were not progressing beyond individual interview meant that their sense of progression and confidence was being affected. Student B's individual cases were in this category and they were also struggling slightly with the work more generally. I was of course aware of the issues with the case work and had some insight into student B's progress through my reading of their written work and interactions in firm meetings. I was not fully aware of their feelings at the time, which are illuminated through the personal file entries and their reflective work at the end of the year. It is clear from those that B at the start of the year felt that the other members of the group had the ability and "persona" of lawyers and that B themselves did not possess this characteristic following the first meeting with the rest of the firm:

> *I felt they would prove themselves to be admirable of being part of the legal profession by demonstrating that they were able to 'talk like a lawyer' and 'think like a lawyer' to then go on to become a lawyer. I felt that perhaps my supervisor would notice that I do not possess the legal persona qualities throughout the year and penalise me as a result* (B, assessed optional reflection p.2)

B also expressed in their assessed reflection that they then experienced these issues in firm meetings as the year progressed. For example, when presenting their work on the large project:

> *I managed to bring some resources together, but my presenting skills were not the best and the research I conducted was not what my supervisor was looking for. This was in contrast to other students in my firm who were praised for research and presenting skills. This made me feel quite isolated and I felt it demonstrated how I do not possess some of the qualities required to be a lawyer, i.e. the legal persona unlike my peers* (B, assessed optional reflection p.1)

Leaving aside how I might have given different feedback to B in the moment which might have mitigated these feelings, it began to become clear to me that B was having issues both with their cases and with interactions in the firm meeting. As a result of this, I decided to discuss this with them in the mid-year appraisal. We discussed how B was not enjoying work on the large project, that they were uncomfortable making extended contributions in the firm meetings and generally that their confidence was low. We agreed to concentrate on the work on a new short-term matter that B and their partner were working on and becoming confident in understanding the underlying legal issues and planning to progress that case. Part of the agreed comments I put on the appraisal in relation to the reflection assessment B might write at the end of the year said:

> *I think actually you could write a meaningful and interesting piece of work about the area we've looked at to develop which is communicating with all others purposefully and effectively, planning, becoming more confident, becoming more effective and also contrasting the client interview communication – where you may feel more comfortable and effective - with the firm meeting or other group situation or situation with the tutor*. (my comments on B's mid-year review, 15.1.19).

Following this meeting with B, I decided that the new case that they and their partner were working on provided an opportunity for B to lead on a case with a manageable set of facts, legal issues with sufficient challenge but in a clearly defined area for a client who needed clear and competent legal advice. In the end, B had to take sole charge of this case and advising the client in interview because their partner was not available. I then moved their partner to

taking almost sole charge of another individual client's case where timescales were slightly longer. My diary entries below I believe most appropriately convey the orchestration that was occurring:

> *Doing this work also causes me to think about one of the students* [redacted, B] *who struggled with the complex case and how I moved to give them responsibility on one case – reacting to the dynamic of how they were working with another student and to their mid-year appraisal comments about not enjoying the work. The case was not easy in some ways but I watched them take ownership and confidence and, when asked to step up on another case they did. I can see their contributions growing in meetings after these experiences. How to intervene sooner may be key. I have had these experiences in other groups in the past but not paid as much attention to them before.* (my diary entry 26.3.19)

> *In the firm meeting yesterday – student B who is clearly nervous is much more likely now to speak out. This has taken a long time. They say during it that the large case led to disconnection – couldn't see the point – now can – once there is client involvement. Is beginning to believe that lawyers can be of many types, can see themselves as a lawyer but not the typical one* (my diary entry 3.4.19)
>
> *See student B about their case today. Trying to think about how I can involve student B more in the penultimate firm meeting because they are quieter than most and I think have struggled with contributing to bigger pieces of work. Think to myself: first ask what their other work outside SLO is like. Student is struggling with other deadlines. I want to give the student an opportunity to contribute something. I decide to break down the task so that they have to provide a summary of only 4 pages of a report that the others aren't looking at. I say to the student that I think they have been on a learning curve in firm meetings to be more vocal and explain things more clearly. They agree (I think voluntarily although the way I sometimes suggest answers this may not be the case). They express that they can do the work I have identified.* (JH diary entry 3.5.19)

As indicated, I have not reported the full thematic analysis due to space constraints. I have selected the themes above based upon their close alignment to answering the research

questions and to my developing understanding of my role in orchestration which is described in the next section.

### 4.4 What is observable in the learning environment, an exploration of firm meetings (Rounds)

As indicated previously, the firm meeting (rounds in much of the US based CLE literature) is a critical part of the work in the clinic. It does not form the only interaction for me with students (multiple ad hoc meetings take place with individuals and pairs across the week and I also respond to student draft letters, research and queries on an almost daily basis over email). As also indicated, there is a dearth of research on students' co-construction when not with the tutor and also their own individual approaches to the work. An analysis of these other events is beyond the scope of the current research.

#### *4.4.1 What are firm meetings for?*

As part of this research I first reflected on my own practice and asked what are the activities that I carry out in firm meetings and what is the intention behind them. I have also reported in the literature review some of the limited literature written on clinical rounds written by US academics. Table 19 below sets out the results of my own reflections

| Activity | Intent | Frequency |
|---|---|---|
| **How do we work together?**<br>Introducing each other<br>My role and the students' role<br>What do the students want to achieve or learn<br>What skills do the students feel they need?<br>What skills do the students feel they have?<br>What do the students feel anxious about?<br>What are the office procedures? | Build social relations, get to know each other, set tone of my relationship with the students, I am a support, a guide, a model, a collaborator, I expect hard work and commitment and professionalism but I am also a safety net | Usually just in the first firm meeting. |
| **How are things going?**<br>Issues affecting students in the office<br>How's your other work going? | Making sure students are comfortable and there aren't issues for them and attempts to engage in autonomy involving why is the office organized the way it is. Would they change it?<br>Checking that students are up to date with other work and not overly prioritising SLO | Usually every firm meeting |

| | | |
|---|---|---|
| **How does assessment work?**<br>The assessment criteria – what do they mean to the students? To me?<br>The assessment process | Student understanding of assessment<br>Creating links for the students between the assessment criteria and their work day to day and for the future | Approximately four times during the year |
| **Student preparation for reflective assessment**<br>Discussion of student preparation for assessment and student presentations prior to written assessment. Sharing articles and thoughts | Help the students prepare for the assessment through requiring work and me and peers giving formative feedback<br>Provoke thought and reading as part of the learning experience earlier than just for assessment<br>Provoke broader discussion and learning between students | Usually twice per year |
| **Read an article(s) in advance**<br>Students read and discuss academic papers on the nature of lawyering – particularly in relation to ethics | Provide an opportunity to critically reflect on the role of law and the lawyer in society | Two or three times during the year |
| **The new case (a pair of students lead)**<br>In the new case activity, the pair of students present their case to the group relating the facts of the case, what the client's goals are, their reflections on the interview. A discussion then takes place to elicit the relevant facts, what is known and not known about the facts, what the students know and do not know about the legal issues, identification of research areas for the student pair and any actions that need to be taken. There are clear links between this approach and stages of PBL (see discussion of this in chapter 2). Bryant & Milstein's (2007) analysis of generative topics for Rounds also similarly suggests topics that invite brainstorming. | Ensuring that the whole group (including me) are aware of the client's case for later discussion and agreeing actions<br>Encourage prior activation of knowledge for all of the students<br>Encourage inquiry steps similar to those in PBL<br>Enable the pair of students with primary responsibility for the case to identify their inquiry questions and potential resources for research | Every time students have a new case |

| | | |
|---|---|---|
| **The Existing case in-depth work (a pair of students lead)**<br>Summarise the case for us – someone else in the group<br>Pair with responsibility what's going on? Law and procedure; what do we do next?<br>Bring along some work you've done – for us all to critique and help<br>Bring along some written reflection on something you did on the case | Keep the case moving<br>Understand what is happening on the case<br>Ensure students are both working<br>Keep the rest of the group engaged in the facts of the case and the work on the case and enable them to learn from the case where possible and desirable<br>Pick up on opportunities for deeper learning and discussion where these arise (improvisation);<br>Reflective opportunities for the students involved in the case. I sometimes ask them to prepare reflection in advance or I know I will want them to think about an issue (Bryant and Milstein, 2007, noted this as a common rounds structure in US clinics)<br>Ensure we are going in the right direction<br>Give the pair feedback; to test their understanding; to give them the experience of articulating legal issues<br>To involve everyone in discussion to increase their understanding of procedure; ethics or the law in the area. | Every firm meeting but not every case in every firm meeting but firm meetings always feature this |
| **The existing case just business**<br>Pair just asked what's happening, what are you going to do next? What are the deadlines? Have you done what we agreed to do? | Keep the case moving<br>Me and other students understand what is happening on the case<br>Ensure students are both working<br>Keep the rest of the group engaged in the facts of the case and the work on the case and enable them to learn from the case where possible and desirable<br>Pick up on opportunities for deeper learning and discussion where these arise | Every firm meeting |
| **The large project**<br>Students report their work<br>Discuss legal & other issues<br>Deciding the overall strategy and project direction<br>Agreeing next actions | **To complete** | Every firm meeting |
| **A guest in the meeting**<br>Usually an expert lawyer who we are seeking advice from but sometimes a clinician who asks different questions | Taking the case forward with appropriate expert knowledge<br>Giving the students the benefit of explaining to another expert<br>Giving the students the benefit of seeing how experts work together, that experts can disagree; that students can co-construct with experts | Two or three times per year |

**Table 19 Categorisation of Activities in Firm Meetings**

As can be seen from the table above, at the heart of the firm meeting lies the discussion of the students' short-term matters and the large project.

### 4.5 Analysis of Firm meetings – case work, dialogue, orchestration and improvisation

In this section I will consider my developing sense of how the students and I work together in the firm meeting in relation to the educational and practical purposes of the case work and other discussions and how I have come to view these discussions both in terms of improvisation and the various forms of dialogue that occur in them.

When a student brings a case into the firm meeting and we open up a discussion of the facts of the case, the legal principles involved, the client's objectives, our professional duties in respect of the client work, this is necessarily an inquiry-based learning activity requiring co-construction of knowledge. Even if it were not the case that I seek to involve all of the students in this endeavour on each other's cases it is necessarily the case between myself and the students whose case it is because: the students have to share the facts of the case with me – they have met the client and I have not, they have, or will, carry out research into legal areas that I am to varying degrees not completely aware of, it is they, as well as I, who will have to come to an understanding of the complex legal and factual issues which will determine the advice and action for the client and it is they who will carry it out. The firm meeting has, of necessity, to be a site for co-construction of knowledge. However, this does not predetermine how this will occur in each moment of the firm meeting. Choices are available to both myself as designer of the firm meeting in advance and leader of the meeting in the moment as to the process by which we come to an understanding and the dialogue that occurs. Students occasionally also take control.

I have transcribed and analysed all seven of the final firm meetings that took place from the perspective of the lead sheet (Kvinge, 2018, see chapter 2) which is my original plan for the meeting. I then look at my intent in the moment of the interaction, the extent to which I, and the students at times, are improvising and (through sociocultural discourse analysis) the extent to which collaborative knowledge building is, or is not, taking place. When collaborative knowledge building is not taking place how and why is learning taking place that differs? I intend through this following selection to identify and explain what is observable in terms of this environment.

I have come to an understanding that in the firm meeting it is helpful to utilize Hennessy et al's., (2016) categorization of micro, meso and macro events (see Chapter 2). The micro level is the individual communicative act (CA) by each individual. The meso level is the communicative event (CE) in which the participants, participant structure, purpose, task, orientation and/or general topic remain constant. The macro event is the Communicative Situation (CS)– in this case the whole firm meeting.

In the extracts I present below, there are lengthy transcripts of the dialogue that occurred. I present lengthy extracts because providing the interactional context allows the reader to understand more fully the co-constructed nature of the interaction (Mann, 2011).

### *4.5.1 Rounds structure analysis 1 existing case in-depth firm meeting 4*

This analysis of a firm meeting contains analysis of a lengthy period of dialogue (28 minutes). I have selected this because it illustrates some quite typical dialogue that occurs when we explore an existing case in-depth (extract 1). It also illustrates quite typical improvisation that occurs when students suggest actions or analysis that I had not anticipated (extract 2) but is then followed by a student question that I chose to explore because of its wider professional ethical learning potential and which illustrate many issues. Two CE's take place therefore. In the first (extracts 1-2) we are following the lead sheet in considering the case and the actions that might follow. In the second CE (extracts 3-10), we abandon the lead sheet entirely to consider this broader ethical dilemma.

In the first part of the firm meeting, I adopt a very typical case round approach involving exploration of an existing case in-depth. I ask student B to update the other students on the developments in the case. Student C also works on this case but B is taking the lead. I have consciously given student B the primary responsibility for this case because of the reasons discussed in the thematic analysis above. The case has been running for six weeks and all of the students have discussed both the facts of the case and the underlying legal issues in previous firm meetings. I already know in this case what has happened this week because I have discussed events with B and we have considered the legal and practical issues and the responses to be taken. At this stage of the year B has developed the confidence to clearly and succinctly summarise what the case is about.

| **Communicative Event**<br>• Student B will present the developments on the case<br>• I will ask all of the students to consider this new information<br>• I anticipate that we will consider as a group in detail the new facts, their application to the legal principles and process and potential impact on our advice, changes to our case strategy given the developments, some procedural issues likely to arise given those developments<br>• We will discuss and agree a course of next action and steps on this case | |
|---|---|
| **Individual student/group of students/the client** | **Intended Outcome** |
| Student B | will have another opportunity to practise succinctly conveying relevant information to others in a comprehensible format and receive feedback from them and me through the discussion process. Student B and I have together identified this as an area for B's improvement during the mid-year appraisal |
| Student B | will have an opportunity through the discussion to confirm their understanding of the way forward, identify gaps in knowledge |
| Student B | I will be able to observe student B's efforts and provide formative feedback to B. This also feeds into continuous assessment by me of this element of their work |
| All students | will have the opportunity to learn further about: responding to new factual information, the legal principles involved in this particular case, procedural issues arising in this type of case |
| All students | will further learn from the process of working together to explore professional approaches to client cases and through observation of my approach |
| The client | The client's case will be progressed through a considered discussion of the appropriate advice and agreement of the actions plus monitoring by me of the process to ensure I am content that the student is appropriately progressing the case |

**Table 20: Lead Sheet for Firm Meeting**

In this first extract below we see the dialogue that takes place in seeking to collaboratively come to an understanding about the salient facts of the case and applicable law. The improvisation that takes place is an expected result of planned activity.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1. | JH | ok. B, [client name] | Not within SEDA codes?<br>Initiating an exploratory episode | Follows lead sheet |
| 2<br>3<br>4 | B | [redacted, B gives the group the latest developments on their case] | Not within SEDA codes. Part of initiating the exploratory episode | Follows lead sheet |
| 5<br>6<br>7 | JH | [redacted, several questions from me to B about the facts followed by B clarifying.] | G5 – Focusing<br>Focusing the dialogue on key aspects of the activity | Improvisation to elicit the relevant facts of the case for all. This is not an I-R-E approach. I don't correct B's explanation of the facts, I ask questions that are intended to invite the student to further elaborate |
| 8<br>9<br>10 | JH | Ok. So that's where the case is at. What do people think? Other than B who I've spoken to this about | E1 Invite opinions/beliefs/ideas | Follows lead sheet |
| 11 | H | (p) [Offers view about the case] | E2 Contributes idea | Anticipated possible student response but not applying legal principles as I expected |
| 12<br>13<br>14<br>15<br>16 | H and F | [redacted. Short exchange agreeing with each other's perspective on the case and where it might lead us in dealing with the case]. | B1 Build on/clarify others' contributions | Anticipated possible student response but not applying legal principles as I expected |

| | | | | |
|---|---|---|---|---|
| 17<br>18<br>19<br>20<br>21<br>22<br>23<br>24 | JH | [redacted]…can we quantify it more kind of looking at it from more legal perspectives as well?… [redacted I suggest some outline potential legal perspectives] …C have you got a view because you've looked at the law along with B? | G5 Focusing and I4 Ask for explanation or justification | Students are reaching conclusions together about the direction of the case but without applying legal principles. My intent is to bring this back to legal principles. Improvised approach – bring C in who I predict will have a more detailed analysis. I choose C to consider this in more depth because they have been involved with this case. |
| 25<br>26<br>27 | C | [redacted, gives legal analysis using appropriate legal terminology] | R2 Explain or justify own contribution | Follows lead sheet |
| 27<br>28<br>29<br>30<br>31<br>32 | JH | Have (p) yeah that sounds pretty pretty plausible, and I probably would agree with you, I just-<br>Have they proven [the legal element]? | P6 state agreement with position<br><br><br>G5 Focusing | Follows lead sheet<br><br><br>I want to scaffold the students to understand what would need to happen at court to prove that the legal elements of the case are satisfied |

**Table 21: Rounds Structure Analysis 1 Extract 1**

Some points to note from the dialogue so far. B is responsible rather than me for summarising the facts of the case to the other students and myself. This immediately separates this session in character from a typical seminar in which the students already have a common set of facts that can be assumed and which the tutor is also fully aware of. This both gives student B the responsibility for this element but also greater control of the narrative of these events. It is also evident that in order to assist the other students to give valuable contributions, at lines 5-7 I step in to ask specific questions of B about the facts to enable everyone in the room to understand them. This is categorised as focusing in SEDA terms and is a form of scaffolding (Pea, 2004). This has two purposes: to ensure that all of the group understand what has critically happened, focusing them and B on the salient points to allow them to consider the legal issues but also encouraging B to recognise how they might summarise case facts even more effectively in future. Focusing by me is very common in these firm meeting recordings.

At lines 8-10 we then see that I openly invite the views of the students without constraining the dialogue to a particular topic. H then offers a view about the case and dialogue ensues between him and F about their understanding (lines 11-16). This is a small, 6 second, example of students co-constructing knowledge in a student-student exchange where both briefly build on each other's knowledge without my intervention. However, it can be seen from line 17 that I again step in to focus the group on considering the case from a legal perspective and asking them to justify their position on the case from that perspective.

Student-student interactions do happen in the firm meetings I recorded but the far more dominant discourse is tutor-student-tutor interactions. This dominance of intervention to focus students and invite individual contributions has caused much reflection by me during the course of this research. I had initially expected, or at least wanted, to see greater student-student knowledge building. This becomes evident in further dialogue I present below and seems to be present in certain types of situation (see discussion section). This lack of students entering into co-constructed knowledge building was also found in Yew and Schmidt's 2009 PBL study (see Chapter 2).

I choose at line 24 to bring C into the conversation because I know that, as B's partner, C has researched the law and has some greater understanding of the issues. C goes on to give a 30 second legal analysis which I agree with but then at line 31 I attempt to focus the group again on a key practical legal issue.

So far, the discussion has followed my lead sheet to a large extent. We can see that I play a key role in the discussion in eliciting the relevant facts and focusing discussion on key legal and practical issues and I have to make minor shifts to ask more questions and focus the conversation. So far, we have gone where I expected the analysis of B's case to go with some improvisation by me. In the immediately following section of dialogue Student A makes a suggestion I was not expecting which leads to an improvised discussion of several key legal principles that I decide are worth exploring. I have highlighted (in bold) this critical incident in which significant improvisation occurs.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 32<br>33<br>34 | A | [redacted] is it a sort of [x, legal issue] of some description? | E2 Make other relevant contribution | Major change. This still concerns the case at hand and the intended coming to conclusions about actions on the case |
| 35<br>36<br>37 | JH | what do we think about that? Is it [redacted, x, legal issue]? | I2 Invite building on/elaboration/(dis)agreement/evaluation of another's contribution | I was not expecting this response and was not planning to look at this legal issue. I improvise to allow discussion of this issue. |
| 38<br>39 | C | it depends…[redacted, gives legal perspective]. | R2 Explain or justify own contribution | |
| 40<br>41<br>42<br>43 | JH | yeah [redacted, feedback given with explanation to the group about how this legal analysis works] | G3 Introduce authoritative perspective | Here I am making an authoritative contribution, a teaching point, in response to student C's contribution |
| 44<br>45<br>46<br>47<br>46<br>47<br>48<br>49 | JH | the court's probably going to see that as a y issue [related to x legal issue]. Does anybody know what a [y legal issue] is? [pause] Looking round the room [p] no. [redacted explanation of y legal issue given by me] | B2 Build on/clarify others' contributions<br>G3 Introduce authoritative perspective | Here, I want to see if students understand two related legal principles in dispute resolution. I can see from the reaction to my question that they have not encountered the legal terminology before so I give an explanation of it rather than trying to tease it out |

| | | | | |
|---|---|---|---|---|
| 50<br>51<br>52<br>53 | JH | [redacted, several attempts to ask a question about the y legal issue] why do you think it says…? [redacted] | E1 Invite opinions/beliefs/ideas | My explanation about the y legal issue causes me to think that we can explore one of the principles involved more deeply and so I improvise on the original improvisation in an attempt to explore this – thinking that the students will be able to make the connections. |
| 54<br>55 | D | is that because…[gives explanation, redacted] | R3 Speculate or predict | |
| 56<br>57<br>58<br>59<br>60<br>61<br>62<br>63 | JH | yeah and so…[redacted, gives further explanation of how the y legal rule operates and brings it back to application to the particular case] so if you're ever in this type of situation also think about [redacted] | G3 Introduce authoritative perspective<br><br><br><br>C3 Links learning to wider context | Here, my intention is mainly to illustrate for the students a wider issue concerning the law than the immediate one concerning the case |
| 64<br>65 | All | [discussion returns to the advice to the client] | | Follows the lead sheet |

**Table 22: Rounds Structure Analysis 1 Extract 2**

In the extract above, at lines 32-34 student A gives a response to the question that I am asking that brings in a new legal issue. It is clearly relevant to the case we are discussing but does not concern the legal analysis we are considering in the moment and is not one I had considered discussing today. I have to decide whether to improvise now to explore this issue in full; or immediately give an answer to A and teach it; or to postpone discussion of this issue so that I can focus the group on the planned discussion. I can see that the legal issue that A has raised is one that the students will benefit from understanding generally and it is also relevant to our work on this case, so I improvise and set out to invite the students to explore A's question. At line 38 C responds with a clear and accurate explanation of this issue. At line 44 I see an opportunity to build on this by introducing additional legal concepts that are linked to A's question and when it is clear to me that the students have not encountered this additional concept I can again improvise either by asking the students to look it up for the following session or by explaining it. In the discussion section I will expand on the factors influencing these decisions. In this case, I decide to explain this concept to the students but I still choose to do so by inviting the students to speculate on how and why the concept exists. This interaction ends with my linking these concepts not only to the case in hand but to future situations the students might find themselves in (lines 61-63). There then follows a conversation as to the next actions on the case and an agreement about what B should do next.

In extract 3 below, a critical incident occurs (highlighted in bold) when a student question then opens up a discussion lasting 15 minutes that I had not anticipated arising at all in the meeting and is beyond the task CE at hand. Once it is opened up by the student's question, I see an opportunity to discuss an important ethical issue. In terms of socio-cultural discourse analysis, this question does not form part of the intended CE but does form part of the CS (at the global level, the situation is one in which part of the intended learning outcomes are that students explore and come to an understanding of ethical issues).

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2<br>-10 | **A** | **in a professional setting [redacted, asks hypothetical question about how would lawyers in practice deal with cases where clients want to take action which the lawyer disagrees with and what the lawyer should do – do what the client wants or refuse]** | **I5 Invite possibility or prediction<br>While the student asks me a question about what the professional would do, it is evident from the conversation that ensues that A wants to explore this not simply to ask me for the answer. This student is inviting speculation about what a lawyer would do faced with a particular situation.** | **Not an issue I was considering looking at prior to the session. This is completely off the lead sheet** |
| 11<br><br><br>12<br>13<br>14 | JH | let's go round the room.<br><br><br>So your scenario is [p] em you've advised the client this is unlikely to be successful | I2 Invite building on/elaboration/(dis)agreement/evaluation of another's contribution or view<br>G2 Propose action or inquiry activity<br>Here in the next 10 lines, the student and I are agreeing the framing of the inquiry between us | Improvisation – see discussion below |
| 15 | A | yeah VERY unlikely | G2 Propose action or inquiry activity | Improvisation |
| 16<br>17<br>18<br>19 | JH | you haven't advised them it's completely, completely not going to be successful but you think very unlikely? | G2 Propose action or inquiry activity | Improvisation |
| 20 | A | yeah- | G2 Propose action or inquiry activity | |
| 21 | JH | -correct? That's what we're- | G2 Propose action or inquiry activity | |
| 22<br>23 | A | you're not able to say it's a hundred percent | G2 Propose action or inquiry activity | |
| 24<br>25<br>26<br>27 | JH | ...let's go round the room your question A was what should you do, what should the lawyer do then? | G2 Propose action or inquiry activity | I decide to get everyone's view partly from a research perspective – what do students think about client autonomy. I also want to bring in students who have been quiet so far. I am therefore deliberately structuring this discussion to involve exploration by all of the students |
| 28 | A | Yeah essentially | G2 Propose action or inquiry activity | |

**Table 23: Rounds Structure Analysis 1 Extract 3**

In the extract in Table 23 above, at lines 1-10 we see the student asking a hypothetical question I had not anticipated about what lawyers might do when they strongly disagree with the client's course of action. On the face of it there is a simple answer to this question – as long as the client is fully informed about the consequences of their actions and as long as there is nothing improper in the client's actions then the lawyer who has already been instructed by the client cannot simply decline to act on those instructions. Again, I have choices here in the moment. I can tell the student my answer to this question, I can establish an inquiry to take place after the class, or we can carry out a mini- inquiry now with the students exploring their understanding of professional duties and their feelings in such a situation. I decide to carry out an inquiry now, partly because I know as a professional that the situation is not as black and white as simply following the client's instructions. The ways in which lawyers advise and influence their client's decisions are not as black and white as a simple professional conduct answer would suggest. I decide to do it in the moment because it is of interest to the students in this moment. My experience suggests that sometimes setting later inquiry by the students into an area that is not of pressing relevance to a client's case, does not lead to high levels of engagement.

At lines 11-21, I know that the more ambiguous professional ethical issue here involves situations in which lawyers doubt the wisdom of a client's actions – not where the client wants to do something the lawyer is not permitted to do ethically, so I structure the question with A to ensure both that this is the issue A wants to explore but also to lead the discussion into this area because a civil legal case with absolutely no legal grounds could not normally be ethically pursued whereas an unwise but possible course of action calls for the lawyer to make a judgement about how to communicate this to their client and issues about whether lawyers ever seek to save clients from themselves.

The improvisation is bounded by my own knowledge and experience of these issues and what I know from prior legal experience and teaching are areas that are important to investigate and will yield a fruitful discussion. I also decide to explore this area because I think it will provoke discussion about student conception of autonomy which I believe will yield data for my research. Extract 4 (Table 24) below illustrates the approach I have taken to discussing this issue and the initial contribution by a student to the discussion.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 29<br>30 | JH | D what do you think the lawyer should do? | E1 Invite expression of opinion/idea | |
| 31<br>32<br>33<br>34<br>35<br>36<br>37<br>38<br>39<br>40<br>41<br>42 | D | [p] I'm not really sure 'cos you're meant to act in the best interests of your client. It's probably not in their best interests to go on with something that's completely pointless but at the same time your client's the one that's instructing yer and if she wants you to then [p] then [p] you should? [uncertain tone on "should"] | R2 Makes reasoning explicit | This is a response I am expecting students to raise |
| 43<br>44<br>45 | JH | so you're thinking if they wants to go ahead you should. E you're nodding your head? | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | |

**Table 24 Rounds Structure Analysis 1 Extract 4**

At lines 30-40, student D begins to articulate one of the ethical issues for the lawyer to consider the possible tension between acting in what a lawyer may believe to be the client's best interests and respecting client autonomy. At lines 43-45, I want to explore the issue without giving authoritative feedback at each stage. I am attempting to facilitate the group building its understanding through summarising points of view and putting them to others.

Extract 5 (Table 25) below is an analysis of the continued conversation but illustrates what sometimes occurs when I feel exploratory dialogue is not occurring and some of the pitfalls for the supervisor when trying to orchestrate this dialogue.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 46 | E | yeah because- | | |
| 47 | JH | -would you add to it? Anything? | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | I want to elicit reasoning from E but have interrupted them |
| 48<br>49 | E | no. [overlapping starts] nothing to what D's said [overlapping ends] | Uncoded | |
| 50<br>51 | JH | [overlapping starts] anything to what D's said? [overlapping ends] | I2 | |
| 52<br>53<br>54<br>55<br>56 | E | if they're instructing yer you have to do it but if you're acting in their best interests erm I don't know, don't know what I would say | R2 Explain or justify own contribution | |
| 57<br>58<br>59<br>60<br>61<br>62<br>63<br>64<br>65 | JH | If you had to come down one way or the other [slightly forceful, then gentler] cos sometimes you're just going to come down one way or the other. I think what A's saying you either [overlapping starts] look I'm not [overlapping ends] because I think it's unwise- | E 1 Invite opinions beliefs/ideas | I feel as though the student is repeating the other student's statement. I want the student here to make a judgement call on what they would do rather than say they don't know |

| | | | | |
|---|---|---|---|---|
| 66<br>67 | E | [overlapping starts] ah um [overlapping ends] | | |
| 68 | E | I would probably's would- | | |
| 69<br>70<br>71<br>72 | JH | or I am gonna do it [slightly forceful tone] [overlapping start] you would keep going? [overlapping ends] | E1 Invite opinions beliefs/ideas | |
| 73<br>74<br>75<br>76 | E | [overlapping starts] if they were telling you to I would probably's [overlapping ends] yeah | | |
| 77<br>78 | JH | uh huh and why [emphasised] would you keep going? | I6 ask for elaboration or clarification | |
| 79<br>80<br>81<br>82<br>83 | E | cos that's what they, that's what they, you're acting for them but I'd be a bit hesitant you know I wouldn't really want to but- | R2 Explain or justify own contribution | |
| 84<br>85 | JH | yeah. H? [tone seems curt towards E] | Invite opinion (E2) | Curt towards E? but is also repeated in respect of F a few lines below so may not be as loaded as it sound listening back<br><br>Again, no feedback at this stage, just a move onto the next student. |

**Table 25 Rounds Structure Analysis 1 Extract 5**

This element of the dialogue above was problematic. At line 46, the student has begun to explain their thinking but I am quick to interrupt their flow. My intent here is to attempt to require E to think more independently of other's views and for E to justify that response. It is clear though that my interaction here with E is coloured by impatience.At line 84 there is an opportunity to explore further with E their discomfort and confusion about progress but I am either too impatient with their response or too keen to keep the conversation going with ideas from other students to do so.

This interchange is quite uncomfortable for me to listen to. There is an undertone of frustration with E because they are not offering alternative views or building on the ideas so far but seems to just be repeating the ideas and voicing agreement (cumulative dialogue, Mercer, 2004). In this particular interchange however, E is not really being given the time needed to develop their thinking on this. Even now on reflection and with time to think further about how to respond and bring E's thinking to the surface, I am not sure I would act differently – other than being less abrupt. Perhaps it would have been sufficient to ask E why they would feel uncomfortable carrying out instructions they disagree with. Why they wouldn't really want to try (line 82) and elicit some underlying beliefs and thinking about their role and feelings in this situation. Instead, in extract 6 (Table 26) below, I move the dialogue to H in an attempt to elicit some new thinking.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 86<br>87<br>88<br>89<br>90<br>91 | H | Yeah. I'd just reiterate you know, 'you're probably not going to win but if you want me to keep acting then', they're footing the bill at the end of the day | B1 Build on/clarify others' contributions | This is a response I thought might come from the students |
| 92<br>93<br>94<br>95<br>96 | JH | uh huh we'll assume here that they are paying you cos the Student Law Office retainer's a bit different from an ordinary retainer. F? | G5 Focusing | Improvisation here is again within bounds being set by me. I'm interested in exploring how a lawyer deals with an issue such as this with a client who is paying their own legal costs because I know there are other factors when the client is publicly or otherwise funded or the lawyer is working for free or on a no win no fee |
| 97<br>98<br>99<br>100 | F | Yeah I would personally go ahead with it but I think definitely there's some lawyers who wouldn't | P6 State agreement<br>R4 Speculate or predict | |
| 101 | JH | uh huh | I6 Ask for elaboration or clarification | Not a response I anticipated from the students. I indicate I would like more on this |
| 102<br>103<br>104<br>105<br>106<br>107 | F | who would just say this won't be successful this is not an option for you. Some might not even tell them it's an option if they don't want think it's successful [p] | B2 Clarify/elaborate own contribution | F brings up their view essentially of human nature. Not an issue I was expecting to introduce into the discussion in this way |

| | | | | |
|---|---|---|---|---|
| 108<br>109<br>110<br>111<br>112<br>113<br>114 | JH | right so actually say to them [p] how would you, how would they do that would they just not bother to advise them, would they just say 'look just give up' [pause] you think pragmatically? | I6 ask for elaboration or clarification (I6) | I am seeking to understand how student envisages this happening. Student's thoughts require me to seek further elaboration from them |
| 115<br>116<br>117 | F | or say [p] there is this but it's not an option for you because it won't be successful | B2 Builds on own contribution | |
| 118<br>119<br>120<br>121<br>122<br>123<br>124 | JH | uh huh [p] and so [p] how do you see that advice being given? Is that, do you think that's what some lawyers would do? Would that be legitimate or theoretically legitimate – | P5 Challenge viewpoint/assumption | |
| 125 | F | em- | | |
| 126 | JH | would it be ok to do that | P5 Challenge viewpoint/assumption | |
| 127<br>128 | F | em [p] I don't know how morally ok it is | B2 clarify/elaborate own contribution | |
| 129 | JH | uh huh | I6 ask for elaboration or clarification | |
| 130<br>131<br>132<br>133<br>134<br>135<br>136<br>137 | F | I suppose if they can say this was in the client's best interests then maybe that would be plausible but [p] morally I suppose you should always give the client all of the options and then do what they want | B2 clarify/elaborate own contribution | |
| 138 | JH | ok thanks | | |

| | | | | |
|---|---|---|---|---|
| 139<br>140<br>141<br>142 | B | I think we should still do it if they wanted to do it I would have just exhausted all the options first | B1 Builds on other's contributions | |
| 143<br>144<br>145<br>146 | JH | [p] so you'd exhaust all the options but you'd eventually do what they wanted you to do? | B1 Build on clarify other's contributions | |
| 147 | B | Yeah | | |
| 148 | JH | yeah, C? | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's<br>Contribution or view | I want to gather all of the student's thoughts so move on to C. Time is becoming slightly pressured so I don't ask B to elaborate |
| 149<br>150<br>151<br>152<br>153<br>154<br>155<br>156 | C | I don't know because it's one of those situations where if it gets to a point where they're spending more money than they're actually going to get back then surely that's no longer in the best interests of the client? | B1 Build on/clarify others' contributions.<br>R3 Speculate or predict | |
| 157<br>158 | JH | but what if you advise them of that? | G5 focusing | Again, the improvisation here is to try to get to the issue of client autonomy – a destination I have decided upon |

| | | | | |
|---|---|---|---|---|
| 159<br>160<br>161<br>162<br>163<br>164<br>165<br>166<br>167<br>168<br>169<br>170<br>171<br>172<br>173<br>174<br>175<br>176<br>177<br>178<br>179 | C | [p] em you would just have to advise them that realistically that they're going to end up losing out on more money than what they would gain from it and then the only thing they're going to achieve from that is the satisfaction of saying that they won the case if that's what they really want like at the end of the day it's what the client actually really wants like if at the end of the day they just want the compensation or if they just want to say 'oh we won' because then that's then up to them whether they want to continue or not so that's what's measured in their best interests | R2 Explain or justify own contribution | |
| 180<br>181<br>182<br>183 | JH | so it sounds to me you're saying you give them full advice they make a choice. Yeah? G? | B1 Build on/clarify others' contributions | Again, no feedback at this stage, just a move onto the next student to elicit student views |

**Table 26 Rounds Structure Analysis 1 Extract 6**

In the above extract of dialogue students H and F introduce new thinking into the dialogue which would not have occurred had I simply answered A's original question about what a professional would do in a certain situation. At line 90, H introduces the idea that as long as the client can pay for the action to be taken then it is the lawyer's job to carry out those instructions. At line 99 F speculates that actually in practice lawyers may well not even give their client all of the options theoretically available to suit their own agenda or perhaps from paternalistic motives (protecting the client from themselves), while B's position appears to be that they would exhaust all of the better options with the client before acting on their instructions. Student C then explores what the client's goals are and begins to consider what best interests might mean beyond what the lawyer might immediately imagine (i.e. motives beyond simple economic considerations). I could have explored this further with the students but chose instead to seek G's views and the question G asked (extract 7, table 27 below) took the conversation onto a further stage. My role in this following section has been to manage the dialogue encouraging all students to participate, to ask for students to elaborate on their own and others' ideas and to challenge viewpoints. I am also driving the discussion (lines 202 onwards) to ask the students to consider what is the lawyer's duty when the client has been advised of their options but insists on a course of action we might not agree with.

The conversation continues in extract 7 below where, again, a student's question leads to further improvisation. The dialogue is moved on by student G speculating as a possible way to work with clients in these situations by giving advice and then not acting further if the lawyer disagrees with the course of action. I seize upon this as a way to consider further whether a lawyer can refuse to act in the course of the retainer (basically the retainer is the contractual agreement for service between lawyer and client). I continue the inquiry with the students rather than simply answer the question because I want to explore with them their concept of professional duty to the client. There is a moment at line 207 when I realise I'm playing "can you guess what I'm thinking" (see also Bryant and Milstien, 2007) when I begin to ask if they have heard of the technical term but realise that this question would be simply to check understanding of a technical term and will not move the dialogue further. I decide better of this and give them the term (can you guess what I'm thinking is discussed further below).

The dialogue further continues in extract 8 (Table 28). In this extract student H further takes the dialogue in an unexpected direction.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 184<br>185<br>186<br>187<br>188<br>189<br>190<br>191<br>192<br>193<br>194<br>195<br>196<br>197-<br>202 | G | "yeah I completely agree with what C said. If that's what the client wants to do then you should go ahead with their wishes if you've told them everything that you've got to say. **Is there a way of advising them and then like [redacted, suggests advising the client and then ending the relationship so that the client can take their own action] with it so that we're not actually going against anything that [they] said and still acting in the best interests but [overlapping starts] we haven't carried on [inaudible, overlapping ends]** | R1 Explain or justify another's contribution<br><br>R4 Speculating or predict | Student's question involves further improvisation. They are thinking about ways in which lawyers might behave in situations such as these whereby duty to the client can be met. |
| 202-<br>206<br>207<br>208<br>209<br>210<br>211<br>212<br>213<br>214<br>215<br>216 | JH | [overlapping starts] so and what would that be [overlapping ends] called if you said [p] there's a kind of technical word [p] a technical term [p] oh I'm not going to ask you that question. It's called terminating a retainer. So you're terminating a retainer, saying I've given you all the advice you need off you go I'm not doing this bit for you. Can you do that? [p] can you terminate the retainer? [p] | G3 introduces an authoritative perspective<br>I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view<br><br>Teach | I improvise here because I see an opportunity to explore ending the client relationship (terminating the retainer) and in what circumstances a lawyer can do this if they do not agree with their client's proposed course of action |

**Table 27: Rounds Structure Analysis 1 Extract 7**

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 217 | H | Yes | P6 State agreement/position | |
| 218<br>219<br>220 | JH | M m. And on what grounds would you terminate the retainer? | I6 Ask for elaboration or clarification | |
| 221<br>222<br>223<br>224<br>225<br>226<br>227<br>228<br>229 | H | [p] that [p] you're not acting in their best interests [p]. Or would it actually be to do with [p] if you're going to lose it it's like you don't have to like it's a bleak prospect of winning you don't have to [p] **because of the firm's reputation and things like that** | B1 Builds on/clarify own contribution<br><br>R4 Speculate or predict | The first response is a potential response I had anticipated. I had not expected the second |
| 230<br>231<br>232<br>233<br>234<br>235<br>236<br>237<br>238<br>239<br>240<br>241<br>242<br>243<br>244 | JH | ok. So [p] what are grounds- this comes down to and I know we're doing this quite in-depth [redacted] but it is a problem that does occur in any kind of case which is terminating the retainer. So can you terminate the retainer because you as a law firm because you think as a law firm think 'mm as a law firm this isn't going to look very good on us' for any kind of reason. What do people think? [p] so you know it's unpopular. You've been instructed to represent General Pinochet- | RD2 Reflect on learning process/ purpose/ value<br><br>C3 Link learning to wider contexts<br>G5 Focusing | Further improvisation. A new question has arisen that I choose to pose – emerging from G's question and H's views.<br><br>Completely improvised story unplanned here about Pinochet to try and highlight the dilemma that may occur in practice. I have made an assumption that the students know who Pinochet was |

| | | | | |
|---|---|---|---|---|
| 245 | A | [chuckle] | | |
| 246<br>247<br>248<br>249<br>250<br>251<br>252<br>253<br>254 | JH | As a friend of mine did get involved in that case where Pinochet was being extradited to Spain. That didn't make their firm very popular but they kept going. But could you could you terminate on the basis that it's not going to look good | RD2 Reflect on learning process/ purpose/ value<br><br>I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | Improvisation to give context, allow students to understand that this can happen in real life. Query whether the students knew enough about Pinochet to understand this. I make an assumption they will about an event 20 years ago |
| 255 | H | [p]I think so | P6 state agreement/position | |
| 256<br>257 | JH | does anyone what does anybody else think? | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | Again, no feedback from me at this stage, just a move onto the next student. |
| 258<br>259 | F | [p] [overlapping starts] possibly [overlapping ends] | P6 state agreement/position | |
| 260<br>261<br>262 | A | [Overlapping starts] I think you should be able to [overlapping ends] | P6 state agreement/position | |
| 263 | F | Yeah | P6 state agreement/position | |
| 264<br>265 | A | I don't know but I think you should be able to | P6 state agreement/position | |
| 266<br>266<br>267<br>268 | JH | does anybody. Ok so why should be able to terminate because it won't look good [p] give us a justification | I4 Ask for explanation or justification | Here on listening back I can hear myself struggling not to just say "no that's wrong" trying to keep the discussion going to tease out some of the thinking. |
| 269 | H | business sense | R2 Explains or justify own contribution | |

| | | | | |
|---|---|---|---|---|
| 270<br>271 | A | loss of potential future earnings a- | B1 Build on/clarify others' contributions | |
| 272<br>273<br>274<br>275<br>276<br>277<br>278 | JH | -ok. So you're putting the business interests of the firm higher than the client [p] correct? [p] ok so I'm [laughing] obviously suggesting there's a counter argument | G3 Introduce authoritative perspective<br>P5 Challenge viewpoint<br>I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | Here I give in to my impulse to begin to make it obvious what I think about this. I'm laughing because I realise I'm doing this |
| 279 | A | [laughing] | | |
| 280<br>281<br>282 | JH | by saying that. So does anyone want to counter that or do you all feel the same way? | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | |
| 283<br>284<br>285<br>286<br>287<br>288<br>289<br>290<br>291<br>292 | D | I don't think you would be able to do that because your whole thing is to serve the interests of the client not yourself so would you be in conflict with your professional conduct obligations like [p] if you just [p] drew out [?] [inaudible] [nervous sounding chuckle] | Provides a response and reason for a different viewpoint (R2 and P6) | D's position is the one I agree with and I make that clear after this exchange |

**Table 28 Rounds Structure Analysis 1 Extract 8**

In the extract above, student H (line 227) introduces the lawyers' own interests, a perspective that I had not anticipated and that would not have been discussed without inviting their thoughts. I am aware of course that in reality law firms do consider their own interests and I am probably aware that this may be a consideration that the students think is appropriate but it only surfaces because of the dynamic nature of the dialogue and the fact that it is raised by the student. While I have a strong view about the answer, I am initially interested in what the students actually think about this and elicit some thoughts from them about why they might think that lawyers can legitimately prioritise their business interests in this way. I do not explore it to its fullest extent. It is evident at lines 266-268 that I am frustrated by this thinking on their behalf and try to see if anyone will give a counter position and I abandon any attempt at faux inquiring neutrality as I realise it has become obvious that I disagree with their position (lines 275-278).

The extract below is, again, quite common in these firm meetings. Having discussed a course of action or principle, I will often consolidate through knowledge transmission (coded here as G3 introduce authoritative perspective).

There is a clear element of knowledge transmission in the extract below and when I am teaching in this moment, this length of speech typifies the usual pattern in other transcripted firm meetings. Commonly, relatively short passages of dialogue between student and tutor unless I decide to summarise or teach an issue in which case there are far lengthier passages of speech by me. The students have not just constructed their conception of professional ethics by inquiry without any bounds. I give "an answer" at the end of the discussion but what I am trying to draw out for the students here is that while there is a "hard and fast" rule that is not up for negotiation, the truth is, as we've just explored and constructed for ourselves through all of their different thinking about the realities of client work and client reactions and their own moral position. There is a collaborative construction of belief and knowledge here rather than simply following a path to an understanding. I try to draw this out further by pointing out that we have choices we can make about the way we express things to clients an influence the lawyer can bring to bear through the way they choose to give advice.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 293<br>294<br>295<br>296<br>297<br>298<br>299<br>300<br>301<br>302<br>303<br>304<br>305<br>306<br>307<br>308<br>309<br>310<br>311 | JH | …what we are actually discussing here is something fundamental about the lawyer's relationship with the client which is so different from and makes us different from a plumber or a[p]nother person in business…You cannot terminate just because you know it's getting a bit difficult or you don't like where it's going. You can terminate cos they're not paying your bill [p] you can terminate if they want to do something illegal or something that's improper or brings the reputation of the profession into disrepute…Just because someone wants to do something unwise doesn't mean we can terminate the retainer… client autonomy is quite interesting because [p] what F you said about um what would lawyers really do [p] there is this grey area where some people want to do some very unwise things how far do you go in persuading them that what they want to do is really not a good idea… | G3 Introduce authoritative perspective<br><br>C1 Refer Back | Consolidate the discussion |
| | | [Attention returns to cases for a moment] | | |

**Table 28 Rounds Structure Analysis 1 Extract 9**

I have included this next extract because it includes an episode in which a student is challenging my consolidation of the session and illustrates how inviting possibility thinking or prediction by students has the potential to allow them to explore their own thinking (lines 18-21 and 57-66). It also includes a missed opportunity by me to allow student F to elaborate on a point they are making to A (lines 49-53) and the reasons for that.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2<br>3<br>4 | JH | A you were shaking your head a lot when I was [referring to the passage transcribed above] | P6 A's shake of the head is a statement of disagreement with the position in the profession as advocated by me P6.<br>I6 I then invite elaboration | Improvisation – allows discussion to return to the improvised learning element about professional conduct and ethics |
| 4.<br>5.<br>6.<br>7.<br>8.<br>9.<br>10. | A | it just seems nonsensical to put somebody in the position which you know is going to affect them negatively like you can advise them of all the risks [redacted example] why are you allowed to do that? | R2 Explain or justify own contribution<br><br><br><br><br>I4 ask for explanation or justification | |
| 11.<br>12.<br>13.<br>14.<br>15.<br>16.<br>17. | JH and A | [Discussion becomes one about the distinction between poor/impaired judgement and lack of capacity again arising from points A is making and then returns to issues about what clients decide to do] | | |
| 18<br>19<br>20<br>21 | JH | what would you do…where you're thinking 'this client wants to do something I really don't think is a good idea?' | Focusing (G5)<br>Invite possibility thinking | This is not a common question that I ask of students but is quite productive on this occasion |
| 22<br>23<br>24<br>25<br>26 | A | …I'd probably explain to them what I thought and all the risks that are involved. If they still wanted to proceed I'd be really annoyed | B2 Clarify/elaborate own contribution | |
| 27 | Several | [laughing] | | |

| | | | | |
|---|---|---|---|---|
| 28<br>29<br>30<br>31<br>32 | A | why. But I guess some people are like that. But at the end they might go like 'look at this huge bill I've got' and I'd be like 'well I told you' | R4 Speculate or predict | |
| 33<br>34 | JH | that would be part of the conversation wouldn't it? | G5 Focusing | |
| 35 | A | Yeah | | |
| 36<br>37<br>38<br>39<br>40<br>41<br>42<br>43<br>44<br>45<br><br>46<br>47 | JH | you would be saying [p] er you would be saying I need a thousand pounds on account. I have to warn you that I think you could get a costs order against you. I can't tell you the exact amount but it could be a thousand pounds, ten thousand pounds whatever. I don't think you're going to be successful in this claim I advise you not to continue | G5 Focusing<br>G3 Introduce authoritative perspective | My intent here is to try and provide a perspective on how lawyers will often deal with this sort of situation in my experience – something that the students would not be aware of and which it would be difficult to find in the literature on the subject. |
| 48 | A | Yeah | P4 Acknowledge shift in own position | |
| 49<br>50<br>51<br>52<br>53 | F | As long as they're fully informed they're able to make unwise decisions [p] it's the same with medicine [p] remember [p] [this is aimed at A] | B1 Build on/clarify other's contributions<br><br>C3 Link learning to wider contexts | |
| 54 | A | Yeah | P6 State (dis)agreement/position | |
| 55 | F | As long as they've got all the facts | (B1) Build on/clarify others' contribution | |
| 56 | A | Yeah. I just think it sounds silly. | Student-student | |

| | | | | |
|---|---|---|---|---|
| 57<br>58<br>59<br>60<br>61<br>62<br>63<br>64<br>65<br>66 | JH | Well I guess the question might be what's the other side of the coin? [p] if if you don't like that if you think that lawyers should be able to say 'no I don't like that I don't agree with you find another lawyer what's the flip side of your discomfort? | Not sure where this sits in SEDA. Looks like a challenge viewpoint (P5) | On reflection, I think my overriding intent here is to get A to see my point rather than explore F's intervention at line 53. See further in the discussion below. |
| 67<br>68<br>69<br>70<br>71<br>72<br>73<br>74<br>75<br>76 | A | Yeah I see. Well I guess from another perspective as well people say I don't fancy that and they just keep passing the buck and eventually no one gets any legal service that they require. That's not a good position to be in I suppose. If you just pick and choose what you like. I guess that doesn't work. | Acknowledges shift in position (P4) and builds on position (B1) and speculates (R3) | |
| 77<br>78<br>79<br>80<br>81<br>82<br>83<br>84<br>85<br>86<br>87<br>88 | JH | And I suppose people do just pick and choose to a certain extent. They only do certain types of work…[goes onto give several examples and also says it may come down to how lawyers present advice.]<br>Ok I thought that was a useful discussion to have but where does it leave us. What are you going to do on actions by the end of the…" | Linking learning to wider contexts (C3)<br>Compares and evaluates alternative views (P2)<br>Authoritative (G5) | I realise that we need to move onto other matters at hand so I bring the discussion to a close. I had anticipated we might delve further into the way lawyers might "persuade" clients by the way in which they frame advice. In other words, whether client autonomy is far more ambiguous than might appear on the surface. I decide to "teach" my thoughts about this as we need to move back to the case work. |

| | | | | |
|---|---|---|---|---|
| 89 | B | [Sets out actions intends to take] | P3 Propose a resolution | |
| 90<br>91<br>92<br>93<br>94<br>95 | JH | [directs more rapid action to ensure all work is done by the holiday]and then you can go off for Easter knowing that was done. Does that sound do-able? | Checking in with student about what they can do in the time available, instructing the student here rather than exploratory talk or IRF. | Improvisation is necessary in respect of deciding what to do. I decide to instruct here – motivation is caused by ensuring the client's case is moved on<br><br>I want to check with the student that they feel they can undertake the actions in the timescale |
| 96 | B | "Yeah I think I can do that yeah." | | |
| 97<br>98 | JH | "ok great."<br>[Moves into discussing other students' cases actions]<br>is that all the cases other than [x]? ok great<br>[Then instructs students on actions before the end of the academic year to handover cases.] | Business as usual | |

**Table 29 Rounds Structure Analysis 1 Extract 10**

At line 1 it can be seen that student A feels able in the situation to express disagreement with either my explanation of the ethical issues or disagreement with the rules as they exist. I again improvise to allow the conversation to return to this topic rather than continue with the other business in front of us. At line 18 I encourage the student to think through how they would act if they felt uncomfortable about the situation and A shifts their position to an extent in the light of the conversation. Inviting students to think in this way through speculation is another way to maintain exploratory dialogue which I tend to probably under-utilise.

At line 49 there is an example of one of the smaller number of instances in this dialogue when a student intervenes in the tutor-student dialogue. Student F's contribution is interesting because F is attempting to introduce the legal concept of informed consent (and probably other concepts in medical law with which I am not very familiar) which F knows that both F and A are studying. This is an opportunity to extend the collaborative knowledge building which could have been orchestrated by me if I had chosen to ask F to elaborate. I would know that not all of the students would be studying medical law and that they would not understand this contribution without asking F to fully explain their thinking. As it is, at line 57 I decide instead to focus the discussion on the issue at the forefront of my mind – denial of autonomy and access to justice to clients if the lawyer, for positive or negative reasons, declines to act. I do this with an open question designed to confront A with the consequences of A's proposed actions. This causes A to consider this position (lines 67-76).

On reflecting on this episode, my key question is: if I want to encourage students to construct their understanding together and to bring in their learning from other contexts, why do I miss the opportunity presented by F's intervention to explore this area and to give true responsibility to the students for explaining a different legal perspective than any that I have thought of. I conclude that the dominant cause is probably my own engagement in the argument leads me to want to make my point towards my destination rather than explore the idea of student F and I am caught up in the moment of the ebb and flow and my attempts at persuasion to the exclusion of exploring this idea. Condlin (1981) in his CLE study of supervisor-student dialogue found a pervasive use of this form of dialogue. It is far less pervasive in the seven firm meetings I recorded but this is an example of that.

This CE ends and there is a return to the lead sheet and the case itself and management of it to ensure that actions take place (line 89). Again, the onus on the student is to set out what they have learned from the dialogue and asked to set out the actions. At line 90 I do not initiate a group or student-tutor discussion into whether or not B's timescale is appropriate. I choose instead to come

to a rapid agreement with B about the timescales. Here again, I am making a decision about how directive to be, influenced by the extent to which it would be useful to explore this for B and the other students, the time left in the session and my own decisions in the moment.

Decisions about whether and how, to improvise on what might sometimes be viewed as student miscues/misunderstandings or their surprising questions or unexpected points of view, are often determined by a number of factors. Relevance of the intervention to the case in hand; time available in the session to explore issues; whether the issue requires further research and understanding by the students (I probably adopt this position too infrequently). We can turn this into an extended inquiry outside the classroom when, rather than answer the question in the moment, we can instead work to form the inquiry question and its boundaries. In this case the inquiry question would have been: when is it appropriate for a lawyer to decline to act on a client's instructions. Essentially this would involve adopting a PBL problem identification approach for SDL outside the session. This would place greater responsibility on the students to reach sophisticated informed decisions (Bryant and Milstien, 2007) and reduce the need for me to teach. It might also prevent the dialogue moving spontaneously in interesting directions (Bryant and Milstein, 2007).

In this vein, Cooper (2016) argues that in project clinics rounds should be more structured with higher degrees of student preparation for presentation of their projects and student-led classes on their learning because a core level of commonality is absent between the different projects the students are engaged in. In deciding not to have a more highly structure my firm meeting in this instance, I am also factoring in the extent to which we will lose sight of the immediacy of the issue if it is delayed to the following week and also whether or not the students have time to explore this additional issue.

It is also of note that there is dominance by certain students (A particularly) in the dialogue and the fact that this form of improvisation requires flexibility from the tutor but the willingness also of students to improvise. Student A is comfortable asking questions and putting forward their opinions. The others are less so, but it is notable also that G speculates and asks a question and that all of the students make a contribution. There is a question about interactions with different students and how the tutor gives time and space (and sometimes a requirement) for student contributions, particularly evident in my interaction with E in Table 25.

I am constantly making decisions in the interactions about whether and how far to encourage later inquiry by the students and whether and when to provide authoritative explanations (teach). Those

decisions are influenced by a variety of factors including the time available, making decisions on the cases in the interests of the client, the extent to which there are areas of ambiguity which call for judgement rather than a simple yes or no answer.

### *4.5.2 Rounds Structure Analysis 2 Existing Case in-depth Firm Meeting 6*

I have selected this Round from another firm meeting because it again typifies much of the case rounds in the firm meeting with another example of students bringing their work so far on a case into the meeting. It differs from Analysis 1 in two respects. Firstly, in this case we follow the lead sheet throughout. This is more common than moments such as in Analysis 1 (see 4.5.1) where I chose to follow a student's question that had ethical dimensions. It also illustrates a situation in which I am attempting to explore decisions about communication rather than judgements about actions on cases. It also illustrates further common areas in which I function as expert and teach and direct rather than invite collaboration and the reasons for that.

| **The Lead Sheet**<br>**The existing case – in-depth** | |
|---|---|
| **Communicative Event**<br>• Student C will summarise to the group the latest development in the case where a third party has responded with information about our client's case<br>• The whole group will discuss how we might now choose to communicate with that third party – a decision already taken by me and student C | |
| **Individual student/group of students/the client** | **Intended Outcome** |
| Student C | will have another opportunity to practise succinctly conveying relevant information to others in a comprehensible format and receive feedback from them and me through the discussion process. |
| All students | will have the opportunity to learn further about: responding to new factual information, the legal principles involved in this particular case, procedural issues arising in this type of case |
| All students | will further learn from the process of working together to explore professional approaches to communication with other parties and through observation of my approach |
| The client | The client's case will be progressed through a considered discussion of the approach and monitoring by me of the process to ensure I am content that the student is appropriately progressing the case |

**Table 30: Firm Meeting Lead Sheet**

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2<br>3<br>4 | JH and C | [I ask the student to describe what has happened on the case. Student gives the more prosaic issue first, to my surprise and a discussion ensues not transcribed] | Not within SEDA codes? Initiating an exploratory episode | Improvisation by me to allow the student to deal with the issue I am less interested in. Does not follow the lead sheet at all |
| 5<br>6 | JH | So the more er substantive development is? | G5 Focusing | To inform the other students of the most important developments on the case and to follow my intention to discuss forms of communication |
| 7<br>8<br>9<br>10<br>11<br>12 | C | Erm we've had an email response from the [redacted. Third party] erm to say that [redacted]. So I still haven't sent that email yet, I just need to confirm what erm what approach we were taking on that so- | E1 Make other relevant contribution | The student's intent here is that they want to start asking about an email they are supposed to send |
| 13<br>14<br>15<br>16 | JH | -So I'm interested in people's views about this what does the email say? Have you got the file with you? | G5 Focusing | The student is not adequately informing the other students of the information from the third party and so I want them to read it out |
| 17<br>18 | C | Erm I don't think I've printed that version off | Not coded | |
| 19<br>20 | JH | (pause) should be on the client file shouldn't it? (pause) | Not coded | |
| 21<br>22<br>23 | C | I've got it on this file [personal file] because I hadn't printed off that version yet. I hadn't finished it completely and- | Not coded | |
| 24<br>25<br>26<br>27<br>28<br>29 | JH | **-So my view would be always print off any communication straight away. If you're working in an office like we do where the file is the relevant document then it's got to be printed off for the file straight away don't leave it. Ok** | Not coded. This is a direction by me | I have not heard the student here. C is referring to an email they have drafted while I am referring to the email received. Improvisation by me to ensure students all understand the importance of file keeping and implicitly a direction to C that they must keep better file records |

| | | | | |
|---|---|---|---|---|
| 30 | A | [speaking to C] So the email from [the third party] | G5 Focusing | I have concluded that A says this to C to ensure that I realise that in fact I have mistaken what is being talked about |
| 31 | C | Oh I've got that yeah | Not coded | |
| 32<br>33 | JH | Oh that's all right that's what I'm asking for sorry C | Not coded | |
| 34<br>35 | C | Oh I thought you meant my version what | Not coded | |
| 36 | JH | No sorry | Not coded | |
| 37 | C | My email to [redacted, third party] | Not coded | |
| 38<br>39 | JH | Go on just tell me what. Have you written to have I okayed a | Not coded | |
| 40 | C | No that's why | Not coded | |
| 41<br>42 | JH | That's why it's not on the file no that's fine that's totally fine | | I have realised that actually the student has filed the third party email properly and seek to reassure C that this is not an issue |

**Table 31 Rounds Structure Analysis 2 Extract 1**

My intent in the extract above is to talk about the email from a third party, to bring all of the students up to speed so that we can look at my intended learning point – how we should then respond to this third party. C is focusing on their attempt to send another email and so we are at cross purposes. I have selected this section of dialogue because it illustrates another form of action by me in the firm meeting (see in particular lines 24-29 in bold). In this dialogue my actions are closest to the role described by Bryant and Milstein (2007) as expert. I am acting to correct the mistake of C and also to lay down a rule for the rest of the firm. This is not co-construction of knowledge, it is a professional lesson that I am delivering forcefully – the file must have all material on it. It is also interesting that A intervenes because they have realized that I am mistaken, that C has actually put the email I want on the file and so A is actually orchestrating here.

In the extract below, we explore the issue I intended to explore concerning how to communicate.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 43<br>44 | JH and C | [summarises for the group what's happened with C also doing so] | G5 Focusing | I am ensuring that the contents of the email from the third party are understood by the group |
| 45<br>46<br>47 | JH | So what would you do next. Not C but everybody else. What would you do next? (pause) | E1 Invite opinions beliefs/ideas | Follows lead sheet |
| 48 | H | [suggests email to the third party] | E1 Make other relevant contribution | Follows lead sheet |
| 49<br>50 | F | [suggests telephone conversation with the third party] | E1 Make other relevant contribution | Follows lead sheet |
| 51<br>52<br>53<br>54<br>55 | JH | So you might want to have a conversation with them. Why would you prioritise – why would you prefer, if you would prefer. Would you prefer a conversation? | I6 Ask for elaboration or clarification | Follows lead sheet. Attempting to initiate a discussion about communication choice |
| 56 | F | Yeah | | |
| 57 | JH | So why? | I6 Ask for elaboration or clarification | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |
| 58<br>59<br>60 | F | Erm (pause) because it's questions not answered and you might get answers quite quickly | B2 Clarify/elaborate own contribution | |
| 61<br>62<br>63<br>64<br>65 | JH | So the advantage of a telephone conversation is that you might get answers quite quickly. Any other advantages of having a conversation over email correspondence? | Not coded. I am repeating F's statement | |
| 66<br>67 | A | Can't dodge questions quite so easily I guess- | B1 Build on/clarify others' contributions | |
| 68<br>69 | JH | -So you can press for answers. Any other advantages? | Not coded. I am repeating A's statement | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |

| | | | | |
|---|---|---|---|---|
| 70 | C | It's more personal- | B1 Build on/clarify others' contributions | |
| 71 | JH | -it's more personal so what- | I6 Ask for elaboration or clarification | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |
| 72<br>73<br>74<br>75<br>76<br>77<br>78 | C | You build a better relationship so then you er by hearing a person speak you can have a more effective communication so you might be able to engage more what they're thinking. It can be hard to put words to paper in certain situations- | B2 Clarify/elaborate own contribution | |
| 79<br>80<br>81<br>82<br>83 | JH | Yeah so you could gauge what they've got to say and their attitude. What might come out of that (p) what's the possible ways how might they possibly behave when you talk to them? | I5 Invite possibility thinking or prediction | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |
| 84<br>85<br>86 | F | (p) might (p) not know anything, might not know what's going on, might not care what's going on (p) | B1 Build on/clarify others' contributions | |
| 87<br>88<br>89<br>90<br>91<br>92 | JH | So there might be a range of body language particularly if we did it not just on telephone but on skype there might be a range of body language positions that suggest that actually they've [redacted] | P1 Synthesise ideas<br>B1 Build on/clarify other's contributions<br>G4 Provide informative feedback | |
| 93<br>94 | A | [Suggests possible feelings of interviewee] | B1 Build on/clarify others' contributions | |
| 95<br>96<br>97<br>98<br>99 | JH | And what might we be able to convey to them that we cannot convey on paper? (p) so switching it around what might they be able to get out of the conversation | P5 Invite possibility thinking or prediction | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |

| | | | | |
|---|---|---|---|---|
| 100<br>101<br>102<br>103<br>104<br>105 | H | Well if they think [redacted] we can explain how we don't think it is how we have a lot of questions as to [redacted] that we've come up with that they might not be aware of they haven't considered our perspective- | B1 Build on/clarify others' predictions<br>R4 speculate or predict | |
| 106<br>107 | JH | -And we might be able sorry go on | Not coded | |
| 108<br>109<br>110<br>111 | A | I thought that the main thing [we could convey our client's feelings] I reckon that would be a big thing to get across to them | B2 Clarify/elaborate own contribution | |
| 112<br>113<br>114<br>115<br>116<br>117 | JH | Yeah so in fact we can convey even though we've said it in writing [our client's concerns] what are the disadvantages of having that phone conversation? (p) Are there any disadvantages (p) | E1 Invite opinions/beliefs ideas | Follows lead sheet. Here I am pushing the students to elaborate and think more deeply |
| 118<br>119 | C | [suggests communication issues using spoken language] | E2 Make other relevant contribution | |
| 120<br>121<br>122<br>123<br>124<br>125<br>126<br>127<br>128<br>129<br>130<br>131<br>132 | JH | [not expected] I think that's true [redacted]. I think there's another disadvantage. We don't get it in writing so in some ways that's an advantage because someone can be more forthcoming orally rather than in writing because they feel less constrained by what they're officially saying but on the other hand you just had what they said and you have to type it up but you could get round that in some ways you could type it up immediately afterwards and | P6 State (dis)agreement/ Position<br><br>E2 Make other relevant contribution<br><br>G3 Introduce authoritative perspective | I decide here to teach this aspect. I want the students to understand some of my own decision making about when and why lawyers might communicate in certain ways |

| | | | | |
|---|---|---|---|---|
| 133<br>134<br>135<br>136<br>137<br>138<br>139<br>140<br>141<br>142<br>143<br>144<br>145<br>146<br>147<br>148<br>149<br>150<br>151 | JH | send it to the [person] could you confirm that that's accurate we don't want to get anything inaccurate and that way actually you could tie it down to a written version of events from an original oral version and it's obviously why it's a good idea to do an original attendance note but also why lawyers sometimes often tie things down to a written version so they've got a clear record. Yeah? Ok so we're going to give [third party] a call I think. I think it would be good to do a skype if we can [not fully transcribed].<br><br>That probably needs an interview plan. Can I ask you and B. I know you're running this now C but I think it might help if B- | | Here I am orchestrating the work. Ensuring that C has someone to consider this with |
| 152 | B | Yeah | | |
| 153<br>154<br>155<br>156<br>157<br>158 | JH | Helps out (p) maybe sit down and do an interview plan. I don't know if we can get to an interview before you leave. You don't have to do anything past the 16th.<br>Does that sound ok? Is it doable? | Not coded | I want the student to take certain action to advance matters but within what is possible within their workload. I want to check with the student that they can do this. |
| 154 | C | Think so yeah | | |
| 155 | JH | **Are you concerned** | | I have picked up on C's uncertain response to my question |
| 156<br>157 | C | I am a little concerned because I have [other matters outside SLO] | | |
| 158<br>159<br>160<br>161 | JH | Ok. So maybe if instead of doing that you draft the email and send it with my availability. If you could do an interview plan does that sound doable | | |
| 162 | B | Yeah | | |
| 163 | C | Yeah | | |

**Table 32 Rounds Structure Analysis 2 Extract 1**

The section above was mainly intended by me to explore with the students the choices lawyers might make about communicating in writing or orally. I thought about doing this before the firm meeting because my own thought process had been engaged when speaking to C about whether to respond in writing to the third party or attempt to have a conversation. Of course, I could have chosen to simply tell the students why we had decided to have a telephone conversation and that my reason for this was to overcome any misunderstanding that the third party might have about what we were trying to achieve and elicit more information than an email might. The advantage of exploring how they might choose to make the decision is that we can more fully explore their own conceptions of the issues. It is evident also that I have not thought of all of the factors that might go into this decision. At lines 58-60 and lines 118-119 F and C introduce issues that I was not thinking of but which add relevant contributions.

This dialogue is also interesting because of my continued engagement in pushing for elaboration. The dialogue continues to be tutor-student and on many occasions my role is to bring focus, request elaboration and invite students to speculate or predict in order to be able to deepen the conversation. Use of the SEDA framework again alerts me to the fact that inviting speculation or possibility thinking can be a powerful tool for extending the dialogue and student thinking and it is relatively rare in my practice. As suggested by Hmelo-Silver and Schmidt (2008) in the PBL field, assisting tutors and students in asking the right kind of questions is probably one of the keys to the orchestration of knowledge building. It is also clear that in this and many moments I am a facilitator in the dialogue and without that role being fulfilled it might be difficult for the students themselves to learn from the experience and elaborate on their own thinking (Barrows, 1980; Maudsley, 1999; Mayo et al., 1995; and Wetzel, 1996).

The subject could have been opened up further. I could have asked for more contributions or paused or not interrupted so quickly to give students more time for thought (see lines 71, 87 and 106 for examples of this). There is not however limitless time available to so, at the end of this brief exploration I choose to teach an issue about written and oral communication in legal work. This illustrates the flux that often occurs in firm meeting case rounds. Sometimes there is collective inquiry, usually orchestrated by me. However, there are many moments when, in order to impart practical knowledge I will act as expert (Bryant and Milstein, 2007). At the end of this dialogue I do this: teach one of the reasons why a conversation can be more effective (there are of course many) but why also we might want a more permanent record of our understanding.

### *4.5.3 Rounds Structure Analysis 3 Existing large project case in-depth firm meeting 1*

Analyses 1 and 2 above explore a typical interaction in firm meetings that takes place every week and involves looking at case developments. I have selected the excerpt below because in this selection a rarer form of dialogue emerges that is driven by the nature of the work I have chosen to do with the students which involves the large project. In this excerpt three of the students and I have had a prior meeting and consideration of what we might put in a detailed submission we want to make on a case. We are now due to discuss this in the larger firm meeting with all eight students.

| **The lead sheet**<br>**The existing large project – in-depth** | |
|---|---|
| **Communicative Event**<br>• Students A, F and H will summarise to the group where we have got to with the strategy on the case<br>• The whole group will discuss why we have made the decisions that we have<br>• We will decide on the next tasks in the case and involve more of the other students in the next actions | |
| **Individual student/group of students/case** | **Intended Outcome** |
| Students A, F, H | Will have another opportunity to practise succinctly conveying relevant information to others in a comprehensible format and receive feedback from them and me through the discussion process |
| Students B, C, D, E, G | Will understand more about the project and be re-engaged |
| All students | will have the opportunity to learn further about: responding to new factual information, the legal principles involved in this particular case, procedural issues arising in this type of case |
| All students | will further learn from the process of working together to explore professional approaches to client cases and through observation of my approach |
| The client | The client's case will be progressed through a considered discussion of the appropriate advice and agreement of the actions plus monitoring by me of the process to ensure I am content that the student is appropriately progressing the case |

**Table 33 Firm Meeting Lead Sheet**

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1 | JH | can you just tell everybody where we're up to | | Follows lead sheet |
| 2<br>3<br>4 | H | [redacted summarising actions H believes that JH, F, A and H have agreed on case] we're gonna put all that in one letter so it's gonna include- | P1 Synthesise ideas | Follows lead sheet |
| 5 | JH | -after a bit of a debate | C1 refer back | Improvisation but not from a tutor's perspective. See discussion below |
| 6 | F,H | [laughing] | | |
| 7 | H | aft- | | |
| 8<br>9 | A | -I still think that's different from what we decided in the end actually | P5 challenge viewpoint | Improvisation by the student |
| 10 | F,H | [laughing] | | |
| 11 | JH | **no go on go on** | I6 asking for elaboration | **Improvisation** by me to allow debate on the way forwards. Allow A to express A's dissent on the planned course of action. Also because I want to understand A's position for my own benefit because I am not certain of the way forward |
| 12<br>13 | A | I believe that we initially concluded [p] well some people went one way and some people went the other | C1 Refer back | |
| 14 | F,H | [laughing] | | |
| 15 | JH | the three of us disagreed with A | C1 Refer back | I make light of this but I'm also a participant rather than a teacher here |
| 16<br>17 | F | Yeah and they're still not over it, they're still bringing it back up [redacted. F sets out the dispute between us] | P1 Synthesise ideas | Here there is no need for me to prompt the students to engage in this form of dialogue |
| 18 | F | [To A] so what do you think it is now? | I4 ask for explanation or justification | |
| 19<br>20 | A | I think, well we said initially…[sets out what A believes is now the strategy and legal argument] wasn't it? | P1 synthesise ideas | |
| 21 | F | but it's still essentially the same thing | P5 challenge viewpoint | |

| | | | | |
|---|---|---|---|---|
| 22 | A | I don't think it is | P6 state (dis)agreement/position | |
| 23<br>24 | F | no because, because, I'll tell you why [redacted, sets out argument] | R2 Explain or justify own contribution | |
| 25<br>26 | A | no no but I thought it was initially we were going [redacted argument] | R2 Explain or justify own contribution | |
| 27 | F | Yeah | P6 state (dis)agreement/position | |
| 28 | A | now we're going we'd like [redacted argument] because… | R2 Explain or justify own contribution | |
| 29 | F | yeah but we're still asking [redacted argument] | P6 state (dis)agreement/position | |
| 30 | A | yeah but it's different from how we started I think | P6 state (dis)agreement/position | |
| 31 | JH | what do you think H? | E1 invite opinion/beliefs ideas | Improvisation to involve H and attempt to bring in other ideas as discourse has reached impasse. I also want to know H's views because I am not sure of the way forward |
| 32<br>33 | H | [redacted sets out H's understanding of our decision] I think it's being overthought | E2 make other relevant contribution | |
| 34 | F | It is, it's definitely being overthought | P6 state (dis)agreement/position | |
| 35<br>36<br>37<br>38 | A, F, H | [redacted. makes further points. H, F and A continue to come to an understanding of each other's position setting out arguments for 174 seconds with all three contributing] | | |
| 39 | H | we are definitely doing six and two threes right now | P5 Challenge viewpoint | |
| 40 | F | I really do agree I just think it's being overcomplicated | P6 state (dis)agreement/position | |
| 41 | JH | **I think A has got a point [p]** | P4 Acknowledge shift in position | There is no real teaching intent here. I am contributing because I think that A's argument may have some validity |

| | | | | |
|---|---|---|---|---|
| 42 | A | [laughing] | | |
| 43<br>44<br>45 | JH | that doesn't mean I'm right but I still think we can [redacted goes on to suggest a course of action as a result of the discussion] does that sound? | P1 Synthesises<br>P3 Propose resolution | I think I say this because I want to encourage F and H to continue to debate the point. I am also putting my thinking about how we incorporate A's argument (which I have come to view as persuasive) while still meeting the original objectives we agreed upon |
| 46 | F | yeah but I just think [sets out F's thinking] | B2 Builds on own contribution | Framing clearly weak. Student feels able to and thinks it is important to continue to argue their point |
| 47 | JH | so but in the [redacted] couldn't we say.. [gives further ideas] | P3 Propose resolution | |
| 48 | A | Yeah | P6 state (dis)agreement/position | |
| 49 | F | yeah but I do think [redacted continues to disagree] | Speculates on outcome (R3) | Here A and I agree about the way to do this but F continues to disagree. |
| 50<br>51 | JH | [redacted Further explains thinking on this and discusses with F their thinking] | Uses series of Q& A to establish with F why JH favours a particular course of action | |
| 52<br>53 | A | this is my principal argument [redacted sets out their views of the correct analysis] | B2 Clarify/elaborate own contribution | |
| 54<br>55 | JH | possibly, I mean you could argue [redacted further argument] | B2 Clarify/elaborate own contribution | |
| 56<br>57 | H | [To A] What you were saying just then though about [redacted] | C1 Refer Back | |
| 58 | A | Mm mm | | |
| 59<br>60<br>61 | H | that's what I was getting at before that's what I thought you were saying that [redacted sets out H's understanding of A's argument] | P2 Compare/evaluate alternative views | |
| 62<br>63<br>64 | A | that is also [agrees with H's characterisation of his main argument but also adds that they have a secondary separate argument] | B2 Clarify/elaborate own contribution | |

| | | | | |
|---|---|---|---|---|
| | | | E2 make other relevant contribution | |
| 65 | H | right ok | P6 state (dis)agreement/position | |
| 66 | JH | so the argument in the first part would be [redacted] | P3 Proposes resolution | |
| 67 | H | Ok | P6 state (dis)agreement/position | |
| 68 | JH | I mean I think it's an argument to make isn't it? | | |
| 69 | F | Yeah | P6 state (dis)agreement/position | |
| 70 | JH | do you agree? | Exploratory | |
| 71 | F | oh yeah definitely | P6 state (dis)agreement/position | |
| 72<br>73<br>74 | JH | pausing for a second. Er obviously we've had these discussions without you guys. Does any of this make ANY sense at all [p] not really. No. | Not coded – checking understanding | A return to the lead sheet |
| 75 | All | [laughing] | | |
| 76 | JH | Doesn't make a lot of sense | Not coded -checking understanding | |
| 77 | G | No | | |
| 78 | JH | right. Is that true for D and? | Not coded – checking for understanding | |
| 79<br>80 | D | It makes a bit of sense. I think it would make better sense once we've seen [redacted] | | |
| 81 | A | draft 1 coming Thursday | | |
| 82<br>83<br>84<br>85<br>86 | JH | [redacted. Goes on to try to explain further the issues and basic argument and lay out how the whole group will later become further involved and why it is important that they remain aware of the work so that they can move back into it] | C2 Make learning trajectory explicit | Improvisation<br><br>Orchestration |

**Table 34 Rounds Structure Analysis 3 Extract 1**

The dialogue in Analysis 3 is markedly different from that in analysis 1 (4.5.1) and 2 (4.5.2). Of note is that between lines 15 and 40, the three students engage in collaborative dialogue for almost three minutes without intervention from me. The use of the SEDA framework also highlights that different forms of collaborative dialogue are taking place than in the (far more typical) dialogue that takes place in analyses 1 and 2. There are more occasions on which the students themselves seek to build on their own or others' contributions, synthesise ideas and, without prompting, state agreement or disagreement with each other's propositions. There is a to and fro between all three students where they are engaging spontaneously in exploratory rather than disputational talk. The students are not merely disagreeing with each other but critically challenging each other's thinking (Mercer, 2004).

There is also a relatively rare occurrence in the recorded sessions, and in my experience generally, because my position in the incident is very different from my usual one. In this particular case the students and I have worked on this quite complex matter together. At line 5, after student H indicates what they believe is a summary of the actions we have agreed, I say "after a bit of a debate." Unlike most conversations we have about cases in the SLO this is not said from a position of teacher, expert, facilitator or coach. I am spontaneously remarking that A disagreed with F, H and I. In this moment I am a co-participant/collaborator (Bryant and Milstein, 2007) remarking to the whole group that the four of us had debated this issue, not for the purpose of opening up for a discussion but simply from my own natural engagement in the event. A then takes the opportunity (line 8) to disagree with H's summary of what was agreed. We are not of course equal collaborators. It is clear at line 11 when I say to A "no go on go on" that I am still at the same time working to ensure that the exploratory talk continues both because of my pedagogic intent – encourage exploratory talk and full student understanding – and because I want to understand A's position to ensure we take fully informed decisions in the case that I ultimately have responsibility for.

The fact that the students and I are now all explicitly collaborating together is highlighted by the fact that at line 41 I change my own view of the case and acknowledge my shift in position from "the three of us disagreed with A" (line 15) to "I think A's got a point" (line 41). I then acknowledge further that A and I might not be right on this issue "that doesn't mean I'm right" (line 43). What is evident here is a true coming to understanding between the three students and myself as to the optimal argument to put forward in the case we are working on. The conversation involved critical challenge of each other's views; a desire to understand each other's arguments (H to A at lines 59-61 "that's what I thought you were saying") and agreement about a common way forward.

At line 72 it can be seen that I then return to the lead sheet, to my original intent that we bring all of the students up to date on matters so that they are able to participate later. I pause to check on the understanding of the other five students in the room. I am expecting that the students will have been able to follow the summary of agreed actions on the case but, to my surprise, they do not. At lines 82 onwards I attempt to make the learning trajectory explicit for the students but also turn to knowledge transmission mode – seeking to bring everyone along. This is part of an orchestration of the case work over a longer period of time that I am performing. My overarching intent with this project work is that all of the students will work on this project fulfilling different roles. It is a complex matter to orchestrate this because the case itself has parts that I do not control in terms of timing or work that has to be done and it is impossible for me to keep the tasks for each student equal or keep all of them involved at the same time.

This illuminates my orchestration of student work throughout the case. I am aware that five of the students are not as involved at this point and I move to involve them by setting a necessary task for all of the students to engage in – going through the details on the cases. I also decide to appoint H as coordinator of ideas. This is illustrated by Rounds Structure Analysis 4.

### *4.5.4 Rounds Structure Analysis 4 Existing large project case in-depth firm meeting 3*

This analysis considers again the same large project case, in a change from analysis 3 (4.5.3) this is not the report of some work by some students to others with a discussion. In this case the purpose of this communicative event is to collaborate as a group to identify clients who fall within a particular category meeting a legal test as part of the larger work. All students have looked at particular client files and statements by different clients about their cases. H has taken the lead on applying the test and has also looked at all of the files. I have tasked H with this also because H has researched the legal test. These extracts have been chosen both because they illustrate a common event in firm meetings – student responsibility for the factual and legal inquiry on their cases and the rarer event where students take more ownership for leading a particular aspect and the power relationship between me and them is flatter (as described in CLE some time ago by Meltsner and Schrag, 1976).

| The Lead Sheet<br>The existing large project – in-depth | |
|---|---|
| **Communicative Event**<br>• Prior to the firm meeting students will have explored some of the case files<br>• Students will each describe each case they have looked at and how it fits into the legal principles<br>• Student H will indicate their view having looked at all of the cases<br>• The group, including me, will come to a view about which cases best fit the particular categories | |
| **Individual student/group of students/case** | **Intended Outcome** |
| Students B, C, D, E, G | the work they have done in advance of the session has hopefully re-engaged them with the project |
| All students | Another opportunity to practise succinctly conveying relevant information to others in a comprehensible format and receive feedback from them and me through the discussion process |
| All students | Opportunity through the discussion to confirm their understanding of the way forward, identify gaps in knowledge |
| All students and me | We will be able through the discussion to come to an understanding of the facts of each client case and reach conclusions about the way forward |
| All students | I will be able to observe all students' efforts and provide formative feedback to them. This also feeds into continuous assessment by me of this element of their work. |
| All students | Learn from the process of working together to explore professional approaches to client cases and through observation of my approach |
| All students | All the students will have the opportunity to learn further about: the legal principles involved in this case and decision making about strategy for litigation in these types of cases |
| The clients | The clients' case will be progressed through a considered discussion of the appropriate advice and agreement of the actions plus monitoring by me of the process to ensure I am content that the student is appropriately progressing the case |

**Table 35 Firm Meeting Lead Sheet**

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2 | JH | so. Did you find anyone. C did you find anyone? | E1 invite opinions | Follows lead sheet |
| 3<br>4<br>5<br>6 | C | [redacted. Goes through the work C did recounting facts and giving reasons. JH is typing details as recounted. C gives view on client's case and legal test] | E2 makes relevant contribution | Follows lead sheet |
| 7<br>8<br>9 | JH | [Agrees with C about where case seems to fit] I don't know if you have a view about it H because you were looking at the- | G3 authoritative perspective<br><br>I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | Follows lead sheet with some improvisation to bring H in for his contribution |
| 10<br>11<br>12<br>13 | H | -Well I actually meant to ask you C about this. You said in the details you actually use the word [redacted] I'm not sure did that come from the file? | I6 Ask for elaboration or clarification | Student H now improvises. We are following the lead sheet but there is space here for H to assume control |
| 14<br>15<br>16 | C | They yeah I [redacted. Gives details. C and H discuss further briefly to establish a mutual understanding of the case] | B1 Build on/clarify others' contributions | |

| | | | | |
|---|---|---|---|---|
| 17 | H | I believe I've got a maybe for that | E2 Make other relevant contribution | |
| 18 | C | Yeah I said possible but | P6 State (dis)agreement/ Position | |
| 19<br>20 | JH | [redacted facts of client's case] that would be [meet the legal test] wouldn't it? | P5 Challenge viewpoint | Genuine query from me here to arrive at a view for myself and the students relying on dialogue with the students to build an understanding. |
| 21<br>22<br>23<br>24 | H | It would yeah but I think I would take into account er I'm trying to be quite (p) strict with it because obviously we want them to be undoubtedly | R2 Justifies own contribution | Student is taking a position different from mine and I accept their analysis |
| 25<br>26<br>27 | H | er last night when you said er we discussed I just said there were two people I thought | C1 refer back | |
| 28<br>29<br>30<br>31 | JH | Ok so let's have a look at that [as JH is going through the computer looking for something H sent him, A and D are having a discussion themselves] | | |
| 32 | D | that one with the [inaudible] | B1 Build on/clarify others' contributions | Improvisation by A and D to consider other cases while JH and H are considering previous issue |
| 33 | A | I think that was a good one [redacted] | P6 state (dis)agreement/position | |
| 34 | D | Yeah | P6 state (dis)agreement/position | |
| 35 | A | yeah [they] seemed like the best one | P6 state (dis)agreement/position | |

| | | | | |
|---|---|---|---|---|
| 36<br>37 | JH | **which one were you, sorry which one were you thinking about** | I6 Ask for elaboration or clarification | I now improvise to move to consider A and D's contributions |
| 38<br>39 | A | er D had one but we can't remember the name | C1 Refer back | Evidence of students working collaboratively outside the firm meeting |
| 40<br>41<br>42 | D | yeah I think it was [redacted] and I remember talking to A about it at the time and we thought it was quite a good one | C1 Refer back | Evidence of students working collaboratively outside the firm meeting |
| 43 | H | yeah I've got them down | P6 state (dis)agreement/position | |
| 44<br>45 | JH | so you're talking about [redacted] and [redacted] | I6 Ask for elaboration or clarification | My intent here is to understand which cases the students themselves have identified |
| 46 | G | They had quite a lot of the [redacted] | R1 Explain or justify another's contribution | |
| 47<br>48<br>49 | JH | [Reads through the summary. Asks questions of the students to check JH's understanding and reach collective view] | | Co-constructing a decision on the case |

**Table 36 Rounds Structure Analysis 4 Extract 1**

This incident illustrates the dialogue that can occur when I have shifted position largely to a coordinator/facilitator and co-participant of the group's work and my role as expert is diminished. I am in this position from a genuine need to distribute the cognitive task amongst all of us. The work is so large that it requires the students to investigate different elements. In this meeting I need to find out what the students know and what their conclusions are and also test them against my knowledge of the law and facts. It is therefore qualitatively different from the situation in analysis 1 and 2 where I have already fully discussed the far simpler facts with one student and largely come to a decision about the course of action.I have also orchestrated this in advance so that student H has a coordinating task. I have done this because I know that H will be able to cope with this responsibility and because his workload on other cases is lower and H has the time to undertake this additional task.

In lines 3-6 C has responsibility for summarising the cases C has looked at and for giving reasons. This is new factual knowledge to me and some of the students but not to H (and possibly other students as we see later). In some ways, this typifies the inquiry that takes place in the clinic. Students have primary responsibility for the factual investigation (be that through interviewing or investigating documents), for identifying the potential legal issues and carrying out research. It is often in the firm meeting when the discussion takes place such that I, and other students, can come to an understanding of the outcomes of those inquiries, give feedback and agree further inquiry, choose whether or not to simply teach an element and agree further tasks on the case.

In this exchange, C and I are co-constructing knowledge about the case. I am hearing what C has identified and learning about the case and their opinion. I decide that I agree with this but because I have given H the task of oversight of all of the thoughts and cases I turn to H for their view. At lines 10-13 H now takes control of the dialogue. H has a specific question to ask C that arises from the position and we again see a position as in Analysis 3 where student-student dialogue emerges and construction of understanding is taking place collaboratively. At lines 19-20 I ask a question about the legal test on this case, thinking that it does meet it. H's response is to agree but to explain why they are taking a different approach. H then raises (lines 25-27) that they have already sent me and discussed with me two particular cases and so I agree to check that. While I'm doing so, D and A (lines 32-35) start a conversation that is referring back to earlier discussions they have obviously had about the cases outside of the firm meeting (lines 40-42). This exemplifies the fact that on this project the students themselves have organised their own collective inquiry outside of the firm meeting. I have not orchestrated the inquiry to task A and D with thinking together. This is

something they have taken responsibility for themselves. In the discussion that follows it is clear that I and students A, D, H and G are all working to consider one of the cases and make decisions about it collectively.

In this next section of this incident we see a different form of orchestration. Something that not just I am in control of but the students, to a certain extent also. We are collaborating here to organise the work on the case.

| Line | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2 | | [Further discussions not transcribed concerning the same large project] | | |
| 3<br>4<br>5<br>6<br>7 | JH | [Redacted. Goes through what's happening on same large project. Checking who's doing what? What deadlines were. Mentions a particular deadline for document x] | | |
| 8 | JH | That [document x] was due today or tomorrow was it? | Uncoded – I am managing the project | Orchestration of the project |
| 9 | F | To-(p) I don't think we set a deadline [for document x] | P6 State (dis)agreement/ Position | Student orchestration of the project |
| 10 | JH | Did we not? | | |
| 11<br>12 | F | No. the deadline for our [redacted. Document y] is today | P6 State (dis)agreement/ Position | Student is taking some responsibility for orchestration |
| 13 | A | Yeah | P6 State (dis)agreement/ Position | |
| 14<br>15<br>16 | F | So we discussed er making the amendments tomorrow and then sending them back to you tomorrow | G2 Propose action or inquiry Activity | Evidence of students working collaboratively outside the firm meeting and of orchestration by them |
| 17<br>18 | JH | Ok. So the [document y redacted] you're going to give to me today, is that ok? | G2 Propose action or inquiry Activity | Manage the flow to get us to achieve objectives but also to check that the workload works for the students |
| 19 | H | Yeah | | |
| 20 | JH | And then the [document x redacted] tomorrow | G2 Propose action or inquiry Activity | |
| 21 | H | Yeah | | |
| 22<br>23 | JH | And I'll ask D to look at them as well, just because you've got some time | G2 Propose action or inquiry Activity | I had asked student D to do some checking of the work so far the day before and am just checking that they understand this task |
| 24 | D | Yeah | P6 state (dis)agreement/position | |
| 25 | JH | But it might be that while | Uncoded | |

| | | | | |
|---|---|---|---|---|
| 26-27 | D | (some inaudible/non-vocal gesture occurs). | Uncoded | |
| 28 | JH | Sorry | Uncoded | |
| 29 | D | I've put some comments | Uncoded | |
| 30 | JH | You've put some comments | Uncoded | To my surprise they had already done this very substantial piece of work by the time of the firm meeting. No feedback here from me to them about the speed of the work completion |
| 31 | D | On it yeah | Uncoded | |
| 32<br>33<br>34<br>35<br>36<br>37<br>38 | JH | Can you put share it with everyone when you send it to me and could everybody look at it and read it for sense, read it for grammar, read it for what you think of it and then let us know if you've got any amendments or any suggestions. Any questions | P6 Propose action or inquiry Activity | |
| 39<br>40 | F | is it the [question is about the legal identity of the opponent] | E2 Make other relevant contribution | I think here F is trying to remind me of an issue that we had identified as having been? this was an issue we had identified as needing to look at. It would be interesting to know if F asked this question because they knew that A had looked at this but that I had omitted to look at it in the meeting. Here F is taking responsibility for part of the agenda of the work<br>Framing is weak |
| 41<br>42 | JH | good question. Is it the [redacted] or [redacted] or... | I2 Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | I intend to throw this out to the whole room for discussion but A has already done the work |
| 43<br>44<br>45 | A | I [p] I was meant to look this up which I did. [redacted. Makes a suggestion about how to deal with the issue]. | R2 Explains own contribution | Framing weak |
| 46 | | [discussion continues, not transcribed] | | |

**Table 37 Rounds Structure Analysis 4 Extract 2**

The above section illustrates dialogue that is mainly about management of the project rather than co-construction of ideas. I have included it because it illustrates that I am not always the orchestrator and that sometimes students either step in to correct the orchestration or begin to orchestrate themselves. At lines 11-13 F and A correct my understanding that we have not set a deadline for one document they are working on but we have set a deadline for a different document. At lines 14-16 it is clear that the students have collaborated to set their own deadline for this other document and are seeking to agree it with me. In the terms of the orchestration metaphor, this is evidence of the students collaboratively orchestrating the work. This is an illustration of a common feature of student work in the clinic as they become more experienced during the year. Instead of my setting deadlines and asking for agreed actions, the students begin to take responsibility.

At lines 22-23 I am again attempting to orchestrate the project by tasking student D with a checking task. I have chosen student D because I am aware of D's strengths in attention to detail and because I know their workload is such that they can cope with the additional burden. I am taken by surprise that D has actually already concluded this work far ahead of the deadline I would have thought possible and following this at lines 39-40 student F asks a question about the identity of the opponent because F knows this is another task that needs to be discussed that I have not raised. I try to open it up for discussion but in fact A had already volunteered to research this issue and has an answer. Another example of students' taking responsibility for orchestration of the case.

In the analysis below, our discussion of the large case project continues to completion in this firm meeting by consideration of student tasks and workloads and interaction to agree this.

| Line/ | ID | Text | Type of talk? SEDA framework or other | My intent/actions and improvisation |
|---|---|---|---|---|
| 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11<br>12<br>13<br>14<br>15<br>16<br>17<br>18<br>19<br>20<br>21 | JH | We obviously narrowed it down to three people for a while because they didn't have cases on and most of you did (p). one question is whether there's things you'd like to be doing over the next- we've got obviously 2 weeks before the end of term and then we've got 2 weeks after the end of term does anybody want more involvement than you currently have er and if so I guess we should just talk about how we make that work (pause). Some people might have a lot of dissertation work on. Some people might you know (pause). It doesn't matter if you don't, I don't think I need you to other than [redacted] but if you feel like you've got some capacity and you want to be more involved then we can involve you more. | RD2 reflecting on the learning process – carrying out the activity | A moment of orchestration here. I am orchestrating the work to ensure that students have involvement where they want to but also that they have capacity to do so |
| 22 | F | I'll have more involvement. | **Doesn't really appear in the coding scheme** | |
| 23<br>24<br>25<br>26 | JH | Well you're already involved F cos you're one of the 3 people who's kind of involved but anybody else. G how do you feel? | | |

| | | | | |
|---|---|---|---|---|
| 27<br>28<br>29<br>30 | G | I could do a little bit but I have got 2 modules this semester and I'm quite I'm quite [inaudible] dissertation so I do have a lot (p) on | RD2 reflecting on the learning process – carrying out the activity | The student has space here to take control of what they do. The framing here is weak |
| 31 | JH | (brisk) ok, right. D? | | Does the brisk tone undermine the honesty of the above statement by me that individuals don't have to get involved in this |
| 32<br>33<br>34 | D | I could be involved. I'm just my only worry is obviously just jumping in I might not understand what's going on | RD2 reflecting on the learning process – carrying out the activity | Student D continues to underestimate her/his ability to get to grips with the case |
| 35<br>36 | JH | But you would like to have more involvement? | Not coded by SEDA | |
| 37 | D | Yeah, whatever I can do. | | |
| 38 | JH | B? | | |
| 39 | B | Yeah I could | RD2 reflecting on the learning process – carrying out the activity | |
| 40<br>41 | JH | You've got some spare capacity have you? E? you have? [E indicates yes] C? | | |
| 42<br>43 | C | I'm just a bit similar to.. I've got too much on | RD2 reflecting on the learning process – carrying out the activity | |

| | | | | |
|---|---|---|---|---|
| 44<br>45<br>46<br>47<br>48<br>49<br>50<br>51<br>52<br>53<br>54<br>55<br>56<br>57<br>58<br>59<br>60<br>61<br>62<br>63<br>64<br>65<br>66<br>67<br>68 | JH | You're just a bit similar to G. You don't have to feel like I'm going to give people extra marks because they're involved. So it's not about stepping up and get- you know it's really just would like some of the experience. So I think maybe just have a little think about that and email me and let me know. So if everybody could let me know. I've heard what G said so (p) well you're involved anyway (gesturing to someone?) cos you're going to look at the. I've heard what you said C and you've been [redacted] as well so that's fine. So if the 3 of you [this will be D, E and B] just let me know if you want to be. And yeah you might be worried that you wouldn't er understand all of it but I'm sure we could still find something that needed to be done that could be done by that person (p) yeah? Does anybody have any questions? Does everybody feel ok about it. Any questions? No. | RD2 reflecting on the learning process – carrying out the activity | E did email me for more involvement and I did try to arrange on one occasion for E to attend a meeting which E was not able to attend and following that neither of us pursued it |
| 69 | JH | Moves discussion onto another topic | | |

**Table 38 Rounds Structure Analysis 4 Extract 3**

In this section above, I'm orchestrating the work but doing this in collaboration with the students. Following the episode in Analysis 3, all of the students have become re-engaged by my asking them to do work on the facts of the cases. Now we need to decide who will take the bulk of the work through to the final few weeks. I already know that A, F and H are fully engaged in the case and that they have the capacity to do the work. I also want to make sure that A and H continue to be fully engaged because their experience on client cases so far has meant that they have not interviewed a client and I am aware that on this project we will need to advise some of the clients. I feel fairly sure that D, G and E have capacity to do the work in terms of the cases they have on in the clinic but I'm also aware that they have all had sufficient experience so far and so, if they have other work or commitments they need not get involved. B and C have active cases so I am less sure of their capacity. At this stage of the year, I feel there is a good level of trust between me and the students in that I can trust them to assess their capacity and I think that they trust me to be genuine when agreeing that they need not take on further work. This dialogue therefore revolves around me giving the students the power and responsibility to decide. At lines 13-21 and 44-68 I am seeking to reassure the students that they can make their own decision about this that will not impact on their mark for the year. I think I had expected G to have capacity but G clearly was nervous about their dissertation deadline (lines 27-30). It is interesting that my tone is brisk in response and this may have undermined my statement about it not affecting the student mark. However, after this, C also feels comfortable to ask not to take on further work. Overall, this is an illustration of the students and I co-orchestrating the work where students have the responsibility for their own workloads.

**4.6 What do the students think about my role and theirs and co-construction and the function of the firm meeting?**

The tentative conclusions that might be drawn about the function of the firm meeting as seen from the dialogue, can be viewed from a different perspective. At times, the students talked about the function of the firm meeting in firm meetings and additionally in the seventh recorded meeting where an element of respondent validation of my emerging analysis was conducted.

In the second taped firm meeting, the students were each discussing their choice of essay topic for the final assessment. E had chosen to write about CLE and the difference between that and more traditional forms of learning law that E had experienced. A consensus emerged in the group that the students felt they were more engaged in the firm meeting than in the traditional seminar.

> *It's just like a lot smaller and everyone talks more like I know that in a seminar I wouldn't really say much but here I have to* (E, tape 2).

When I probed further about this the students agreed that they felt obliged and enabled to be better prepared and contribute more. This seemed to emerge partly from the informality of the environment and trust that seemed to emerge between the students:

> *It's just a bit more uninhibited as an environment. You can say more what you want. It's a bit more informal. Which I guess leads to people sharing their feelings a bit more. Oh that sounds awful (laughs) all hold hands and sing kum by yah* (A tape 2)

> *knowing you're not going to be judged on what they say…seminars you didn't get to know them people.* (comment from G in an earlier meeting, Tape 1)

This concept was further developed by H who saw it partly as a function of a relationship between students with each other and me

> *I've actually had an idea [p] I think the first firm meeting we ever had with you I think that that really changes the whole dynamic compared to a seminar. In a seminar you don't get that 'right let's go round the room something interesting about yourself what's your name' erm and…* (H tape 2)

> *…Also in seminars everybody sits separately . I think that the fact that we're all sat in close proximity to each other. I think it's that sense that we've got to know you in our first seminar group and we're all sat in close proximity if we don't do something we have it's like you're*

*more invested and the fact that you've introduced us to each other it's like we've got a reputation to uphold to each other but to ourselves and you're trying to prove yourself to yourself and others in the room. I think that's the difference. I think it's that first initial meeting. I don't know.* (H tape 2)

H also volunteered that, as far as they were concerned, the firm meeting was a better experience because of the co-construction of knowledge:

*I think we have to pool our knowledge a lot better as well. Draw on other people's expertise. What they've done, what they've considered, other ideas, the way we go through everyone's cases and ask what does everyone else think about this. I think that's really good. You don't get that in a seminar. I was in a seminar yesterday when a student fell asleep. It was UNBELIEVEABLE and er that just sums it up for me really because [p] it's so impersonal. In a firm meeting you know all of our names. In a seminar that's not often the case.* (H tape 2)

and its improvisational structure:

*It's more of a discussion (p) than just a seminar* (E tape 2)

*… It's just a nicer environment to be in I think. Nice way of learning. I prefer it anyway. Some people don't. it's less structured it just goes where it wants to go rather than a formal seminar where you've got 50 minutes 'this is what you've got to do get it done' this is nicer I think* (A tape 2).

However, I also asked what might be less advantageous and it emerged that the practice of looking at each other's cases and attempting to pool ideas had its disadvantages

*When someone's got a case. There's just two of them. Sometimes we can spend an hour discussing their case. From a slightly selfish standpoint that's not very beneficial to me sometimes (laughs). You get a degree of learning from it but ultimately it's a bit like…I enjoy it but at the same time perhaps that's one downside. Not everyone's learning all of the time if that makes sense whereas in a seminar everyone's learning all of the time it's like concurrent learning whereas this is more like slightly more individual* (A tape 2)

This view was partially shared and expanded upon by other students

*It's kind of the person who are working on it research more into it who know it and we skirt around it sometimes not getting into the why it's that. Sometimes we do but not all of the*

*time…it just depends on the case and how long there is to discuss it because there has been times when we have gone into a lot of detail but other times we haven't really.* (C tape 2)

*I do think it is beneficial. I do think sometimes when we do skirt around the problem you don't necessarily learn to the extent that the other person does it so it can sometimes be quite hard when we do go back to it and go 'we spoke about that before' it can be quite hard to go back and think. When you've done it you always remember it but when you're listening sometimes it's hard to go back* (G tape 2)

I discussed further with the students how we might overcome this problem. Various proposals were made such as for short written summaries of each case to be available before the meeting. No consensus was reached on how to improve upon this and the students agreed that summarising and pooling ideas on cases in the meeting was overall a good thing. Ultimately, this is another feature of my role in orchestrating firm meetings. Deciding how much depth is required on each case in each meeting; making decisions balancing the time available with the level of student understanding of each case. There is evidence in the tapes of my using strategies to ensure a group understanding such as asking other students to summarise each other's cases so that I can gauge understanding and students are aware that they need to be know each other's cases as well as their own. Bryant and Milstein's solution (2007, see chapter 2) to this issue is to choose the same types of cases to work on for all of the students (in their cases bankruptcy). There would be advantages and disadvantages to doing this.

The general consensus, even from Student A, seemed to be that the summary of cases was worthwhile for everyone and particularly for the student summarising their case

*I also think it's quite helpful like for me when I'm talking about a case from memory it actually helps me figure where I'm actually going with a case and where it's going to go and I didn't actually understand that bit about the case because I couldn't explain it properly* (D tape 2)

*I find myself sort of preparing a little bit in my head just sort of like I knew what was going on….I wouldn't sort of stress over it but I definitely felt like after the first few firm meetings I needed to come engaged, ready, and sort of refreshed on what I'd just been doing* (H tape 2)

The benefits of summarising cases was mentioned by six out of the eight students in their assessed reflections.

**4.7 What do the students think about the balance between student-tutor interactions in the firm meeting?**

As discussed in the methodology chapters, in the seventh firm meeting I did explicitly seek to triangulate through respondent validation some of my emerging ideas about the learning environment. I was interested in what students had to say about why sometimes they would not volunteer views or the dialogue would not open up.

For some students this was a function of confidence and for at least four it appeared to be not wanting to be thought of as rude.

> *If there was a gap I'd say something but if there wasn't I'd just let it move on and I wouldn't try and go back to that cos I wouldn't want to go back to that I'd want to keep it moving.* (G Tape 7)
>
> this was immediately followed by F
>
> *Yeah sometimes the conversation goes so quickly that the moment's lost. like you can't go back to a point. that's what I've thought on a few occasions (p) but I'm also very conscious of not being overbearing and talking too much cos I am quite talkative. I want to give other people the opportunity to talk as well.* (F tape 7)

Leaving more pauses and gaps may well be a way of encouraging contributions. Table 32 Rounds Structure Analysis 2 Extract 1 above illustrates that sometimes I move rapidly between points, seeking student views but not necessarily giving time for those views to develop or be aired by the less vocal members of the group.

As indicated in the analysis above, I was also interested in exploring why the dialogue was mostly tutor-student-tutor and not student-student. Several of the students responded that they felt it was natural that I would lead the discussions as the supervisor as that was the purpose of the firm and it seemed there was a consensus that my presence in the firm meeting was the student's opportunity to use me as a resource and that, despite my concerns about co-construction, they felt that was going on a lot outside of the room as illustrated by table 39 below.

| ID | Speech |
|---|---|
| A | Also it's like (p) in a weird way we could just talk whenever we wanted out there. We're in here QUITE a lot (chuckle) you're not in here as often |
| F | Yeah |
| A | So we're trying to get as much out of YOU as we can |
| F | Yeah |
| A | Like you're an important resource for us. like you are dictating a lot of the next steps on a lot of the things we do. so if we're sitting here like let's just make our own meeting up kind of thing. What's the point of that? I could have a chat with H out there if I wanted to I don' t need to come in here to make a meeting |
| JH | I suppose one of the things is just that, and this does happen, that you can learn from each other not just from me and we can all learn from each other particularly over softer things |
| A | I'm sure that we do though- |
| JH | Yeah it's not- |
| A | All the time. the [refers to assistance A and H received from D and G on a case]. We ask each other stuff how do you do this, let's have a look at that |
| JH | So that's going on outside quite a lot |
| A | Yeah yeah |
| JH | Ok (p). does everybody agree that it's going on outside quite a lot? |
| H | I didn't really think about it but yeah. we always talk about other cases and stuff. Like you go and talk to B or B even brings it over to us and talks about your case (indicating A's case C?) |
| A | We even had a mini celebration when you (indicating G and D) got the result with the [client] |
| D | Yeah |
| All | Laughing |
| A | At least one's got one |
| All | Laughing |

**Table 39 Extract of Dialogue from Final Firm Meeting**

H did point out that, although H believed that it was more appropriate for me to lead, they had experienced the meeting differently on at least one occasion (Table 40 below). What emerges from this conversation is the fact that H and F both agree that student leadership of the meeting they felt would only occur when that was a natural requirement of the meeting and H had experienced that when presenting on their preparation for their reflective assessment. I suggested (lines 18-21) that other firm supervisors had a practice of constructing leadership of the firm meeting (Campbell, 2015) which F did not think would work (though F had of course not experienced it). There is also reference to my attempt to ask A and G to project manage the large case and lead a firm meeting in the first semester, which A and I at least, remember as me taking over quite rapidly. I suspect this was because I had asked A and G to take on a task that was too challenging.

| Line | Id | Text |
|---|---|---|
| 1<br>2<br>3<br>4 | H | Maybe (pause) I think from my perspective sometimes I just view these meetings as being centred around you though as our sort of supervisor so I don't feel like a discussion (p) I mean obviously it would include you but a discussion that wasn't led by you would be appropriate |
| 5 | JH | M |
| 6<br>7 | H | I guess maybe that's how I view it (p) so (p) I think (p) for example when I did my presentation (p) and I was doing a graph and everything (chuckle) |
| 8 | JH | Yeah yeah |
| 9<br>10<br>11<br>12<br>13 | H | I remember F just sort of talking to ME, F wasn't talking to YOU because in that moment I was sort of (p) leading the discussion in that sense so I was the supervisor for that moment and I think in that instance (p) I think that it very much comes out in who is leading the meeting. I think we sort of wait for you because you are our supervisor and you- |
| 11 | JH | But maybe I could give you more leadership of the meetings |
| 12 | A | We tried that |
| 13 | JH | I did try that |
| 14 | A | You you did (laughs) but you still led it (laughing) |
| 15 | All | Laughing (pause) |
| 16 | JH | Well I had to |
| 17 | All | Laughing |
| 18<br>19<br>20<br>21 | JH | Yeah I felt like I had to. maybe like in that interview where I talked a bit too much (p) not that I really had to (p) I don't know why I did that. I mean some firms, some supervisors allow the students to lead the firm meeting once in a while. they have to construct a firm meeting and lead it |
| 22<br>23<br>24<br>25 | F | It's quite forced though. it's different in that situation cos then it's more forced. I think that makes the person feel more nervous it's not as natural. whereas if (p) if someone was taking the lead in a more natural way maybe that would be more beneficial (p). I don't really see how that could arise |

**Table 40 Extract of Dialogue from Final Firm Meeting**

### 4.8 Can you guess what I'm thinking?

In the respondent validation meeting I also wanted to explore with the students what they thought about my increasing awareness through the research that sometimes I am trying to ask the students to guess what I'm thinking (see also Bryant and Milstein, 2007 who describe this). This tended to occur when I would attempt to improvise during case rounds to explore technical legal terminology or principles in an attempt to check student knowledge (adopting an I-R-E approach). An example of this is reported at Table 27 lines 202-216 above. As can be seen in that example, I had become so

aware of it that I stopped myself from doing it on that occasion. Table 41 indicates the level of student awareness as well.

| ID | Speech |
|---|---|
| A | (laughing) sometimes I'm just like "can you just tell us the answer" |
| All | Laughing |
| A | Five people guessing and we're like "we don't know" |
| All | Laughing |
| A | "we give up" |
| All | Laughing |
| JH | So everybody recognises that? |
| F | Yeah |
| JH | For the benefit of tape everybody is nodding their heads |

**Table 41 Extract of Dialogue from Final Firm Meeting**

All of the students agreed that I would sometimes do this but there were differing views about whether stopping to explain a legal principle in this way was useful or not and this led to a discussion about improvisations by me that led into discussions of specific legal principles were useful or not. For A, this distracted from the story of the case as a whole and A felt I would take things off at a tangent. However, H had a different view that

> *It's weird thinking though as well that like sometimes it's really useful. It's a way of looking at things. I'm quite used to looking at something and then wander about it and come to an answer. where we get to see how you look at something and that can be quite useful for us when we wanna maybe tackle a problem so it's almost like teaching us a certain way of dealing with a problem so it's not useless its useful* (H, tape 7)

### 4.9 Scaffolding

The discussion about "can you guess what I'm thinking" led to another discussion about how I scaffold in firm meetings that I had not anticipated or planned to ask about. This revolved around my practice of an adapted approach to brainstorming that takes place in PBL typically using whiteboards to create a map of the problem but which I also use to picture the case with the students as their research into the facts and law reveals more of the case. For A, this approach gave A a mental photograph of the process – something that assisted because cases have so many moving parts. H agreed with this whereas F stated that they were not a visual learner and so the discussion itself was the most important element.

*I think both are useful I think. The whiteboard stuff helps me to see what kind of direction the case could go in… In case anything crops up halfway through it might need to go into a different direction and I think when you're starting a new case it's quite difficult to see that although it could move to you don't know all the elements. If you're just looking at one thing you don't know what could happen after that so I think the whiteboards helpful for that but then a discussion into all the little bits is more useful as well." (G, Tape 7)*

*I feel like this clarifies understanding and then you can go into the discussions and the discussions are so EASY and so back and forth and you get to go into the intricacies and now you haven't got a problem because you've now got the understanding that you've got on – seeing it on the board. That's how I see it at least." (H, tape 7)*

### 4.10 A complex learning environment

There is no doubt that this is a complex learning environment with multiple variables. In the next chapter I will further discuss these results and consider possible frameworks for conceptualising my composition and improvisation to organise the students' experiences and ways in which those might be achieved differently.

# Chapter 5 Discussion

In this chapter I discuss the emerging answers to my research questions focusing first on considering the nature of the learning environment of the clinic and the relationship of that to the students' experience of learning. The implications for educational situations beyond the law clinic are explored. Following this, the majority of this chapter is devoted to considering the support for student learning and my role in the environment. These have come into sharpest focus as a result of this research. In particular, the supervisor's role in orchestration of the experience and the complexity of that role has been further revealed. I will present a proposed adapted framework building on Kaendler et al's (2015) work on teacher competencies and the categorisation of tasks, resources and interactions proposed by Hämäläinen and Vähäsantanen (2011 – see chapter 2). My research is a contribution to the call by Hmelo-Silver and Barrows (2008) to explore how different participation arrangements, and scaffolding, support knowledge building in inquiry-based learning contexts outside of PBL.

## 5.1 The intrinsic nature of the environment the relationship to the students' experience of learning

To understand how students learn in this environment, and the supervisor's role in it, it is necessary to first understand its intrinsic nature. The law clinic is an inquiry-based, indeterminate and experiential environment in which students individually, in pairs, as a group and with the tutor construct and co-construct knowledge about themselves, their clients and their client's situations (in sociocultural terms knowledge that is new to a small community: Moran, 2010) and very occasionally new knowledge for the world. Much of this is driven by the very nature of this environment. My own long history of teaching in this environment has brought me to this realisation and this research has sharpened that focus. Many constructivist learning environments share some (very occasionally all) of the features of the law clinic but there are usually differences. As is common with social constructivist inquiry learning environments, the role of the supervisor/teacher is to orchestrate through composition: the tasks, interactions and resources of the students and then to respond day to day and in the moment (improvisationally) to student actions and interactions. The differences emerge from the fact that in a law clinic there are also relatively unusual elements present that, of necessity, change the nature of the tasks and the interactions and require different orchestration by the tutor. This has implications not only for the

teacher in a legal clinical environment but also has the potential to explain the nature of a particular form of experience that might be afforded to learners in a variety of settings as detailed below.

### *5.1.1 Inquiry and actions are tested*

In a law clinic we provide students with experiences in which they have to carry out inquiry and their actions have consequences not just for themselves but for others. Consequences that the students experience and through experience come to a different understanding. This is true for the supervisor also. This is not always the case in collaborative constructivist environments. In PBL in medicine and law, for example, the process of collaborative learning may co-construct understanding but that understanding is highly unlikely to be tested in the treatment of a patient or advice to a client. Ultimately the only test of the outcomes of the inquiry are the feedback from the tutor and the co-construction of meaning with other students. This difference provides critical requirements, constraints and affordances for the tutor and students.

### *5.1.2 There is an external recipient of the outcome*

This research highlights the importance of the external recipient of the outcomes of inquiry and action. For both supervisor and student the emphasis has shifted from being only on the individual student's learning and performance to include that focus but also other obligations on both supervisor and students. The student gains the obligation to the client. The extent to which the student "gets it right" no longer simply determines the outcome of an assessment but also outcomes for the client which the student comes to care about for its own sake. The student also gains an obligation to other students and their supervisor. Their actions have the propensity to both support or undermine those others in ways that are rarer between students in most constructivist learning environments (again because students and supervisor are being tested in an environment in which the outcomes of actions have external consequences). For an example see student H's worry that he had "thrown me under the bus" in chapter 4 – that is a rare occurrence in other teaching in law.

As far as the supervisor is concerned, there are also additional obligations. The supervisor has to act in the best interests of the client. They are therefore constantly balancing the educational interests of the students with ensuring that the best interests of the client are obtained. . As indicated in chapter 2, there has been substantial discussion in the CLE literature concerning safeguarding the clients' best interests and the effect that has on the supervisor's directiveness. There are significant tensions here because undue delay in progressing the client's case, while the

students are allowed to inquire into the next course of action, could cause the client's interests to be undermined. To a certain extent, these tensions can be resolved by planning the work that we choose to do. Working in a field in which urgent action is often necessary (for example domestic abuse) will inevitably lead to the requirement for greater supervisor direction at urgent moments. Nevertheless, it is inevitably the case that supervisors are regularly faced with the dilemma of whether or not to intervene and direct students or allow them to conduct inquiries. Ultimately, as Grose (2008) notes, the decision is one that should be adapted to the abilities and needs of the students and the client's case. It should be noted additionally that supervisors are bound to follow their other professional conduct and ethical considerations for the sake not only of the client and wider professional objectives but also for their own professional sake. Ultimately negligence or misconduct of a client's case is the responsibility of the supervisor.

The supervisor's duty to the student subtly alters also. In working with my students in the clinic it is usually the case that they are giving more of themselves and there is more at stake for them than assessment and learning in this testing environment and so it seems to me to become more important to provide support to them in their efforts. These obligations create different forces than are normally present in other environments.

### *5.1.3 In the law clinic the supervisor does not wholly design and control the "problem." Co-construction between supervisor and students arises of necessity and is a natural result of the environment*

The supervisor does not know the facts of the client's problem or the client's feelings and circumstances and cannot wholly control the outcome of actions taken on the client's behalf. It is quite commonly the case that the supervisor does not even know all of the relevant legal principles relating to that problem (Meltsner and Schrag, 1976). They have to rely upon the students to carry out an inquiry into these elements rather than artificially composing a problem in advance with leads for the students to follow. This changes the nature of the relationship between students and supervisor. The student has greater control and responsibility than is usually the case. While the supervisor has more expertise than the student and can often determine the optimal path of inquiry and resulting actions, there is still a mutual reliance between supervisor and student. The inquiry and the actions that are taken are truly collaborative and knowledge has to be co-constructed between the supervisor and student. This is the case even when the supervisor takes a directive

position. At times, the supervisor becomes almost equal co-participant (as was the case in the large project for example).

Students of necessity work together and with a supervisor. As far as the supervisor's involvement is concerned this is borne of necessity rather than only pedagogical intent. Without the supervisor the work cannot be safely performed. To a large extent this is also true of the work of the students together. It might be said that we choose to have students work together for pedagogical reasons but in reality there is a practical and professional reason for the students working in pairs at this level due to the fact that, at their level of professional development and the level of commitment that they can give to the clinic (it is not a full time paid occupation after all), it is safer in the client's interests to have at least a pair of students working on a case.

### 5.2 Implications beyond law clinics - transferability

A realisation of the implications of this choice to organise educational experience via real legal work has potential to influence constructivist approaches to teaching more generally because although these situations naturally occur in the law clinic, in other environments choices can be made about the nature of projects that are selected and also how they are designed to provide some of these features. That is not to say of course that the law clinic is some form of superior model of constructivist learning. These features do not have to be selected, it depends upon the educational intent of the teacher.

#### *5.2.1 Features that might be selected in environments beyond law clinics*

Providing projects that involve inquiry by the students into knowledge which is new to the student and teacher or even the discipline or society (Brew, A., 2013) has the potential to give students greater control of the inquiry and provides an opportunity for co-construction between students and teachers and for students to learn that even experts have to carry out inquiries:

> *We were quite heavily involved in the meeting, we were asked a significant amount of questions and I felt we answered these well. When we did not have the answer we simply told K, N and O [all legal experts] that we 'don't not know' and they were happy with that…It was interesting to see that at one point N and O were having a disagreement about what provision of the [legal issue] could be used to give a legal basis for processing. They were debating over to use [specific element of the law]. This was reassuring to me as it showed*

> *that even distinguished professionals of a field don't know everything off the top of their head. This showed me that often the purpose of these meetings is to confirm suspicions and scrutinise decisions in an effort to take the best possible steps going* forward (H, assessed skills reflection)

In the above case, the students and professionals are working on a problem where the professionals do not know all of the answers and are partly reliant on the students for some of the details of the problem. The questions the professionals ask are not for the purpose of promoting students' understanding or inquiries. They are for the purpose of understanding the problem for themselves and it becomes evident that for the professionals there is a difference of opinion and no certain answer.

Providing projects that students can experience consequences of their understanding and actions from allows for learning that comes from the experience of something we have one theory for and that not working, or alternatively it working, in experience. In the case described above, the students could see the effects of their work, what questions their work answered, where the gaps might be, the fact that a solution might require further dialogue and work.

Providing projects with an external recipient and an output that is of use to that recipient has the potential to motivate students, changes their goals and, when that output is presented to the recipient, can create an experiential opportunity for further testing of the students' and their supervisor's understanding.

Providing projects that truly require collective endeavour between the student, the teacher and others allows for not only co-construction of knowledge about the project. Other students, the supervisor and other professionals becomes sources of knowledge, feedback and emotional support.

### 5.3 Supporting the students and the role of the supervisor. The implications of this research for orchestration in the clinical legal environment (and beyond)

While the very nature of legal clinical work promotes certain forms of learning described above, this research also highlights both the impact on the supervisor's orchestration of the process and the choices that can be made by them in both the planning and interactive phases. Chapter two explores Kaendler et al's., (2015) framework for teacher competencies for implementing

collaborative learning and Hämäläinen and Vähäsantanen's (2011) categorisation of orchestration through tasks, interactions and resources.

This framework and categorisation is helpful in understanding the orchestration of the collaboration. There are two major caveats. Firstly, those working in this field and the related sociocultural discourse analysis field (for example Henessy et al., 2016) generally seek to separate and identify collaborative and creative learning from other forms of learning. They do not of course deny the place for other forms of learning (Mercer and Littleton, 2007)). Concentrating analysis solely on the collaborative episodes is useful in understanding those further but in the clinic (and I would argue most) environments there are many times, as we have seen for example in the debates concerning directive and non-directive supervision (summarised by Martinez, 2016), when the supervisor must choose direction over co-construction. To further understand the whole picture decisions of the teacher concerning direction rather than orchestration of co-construction are as important as the orchestration itself.

I have also reconsidered both the phases and teacher actions in the pre-active, interactive and post-active phases. This categorisation is useful but in the clinic these phases are not occurring in a neat cycle of plan, conduct firm meeting, post-active (teacher reflection), because my interactions with the students occur in groups and individually over the course of the week not just in the weekly firm meetings and are dictated by tasks required on cases rather than planning by me. In addition to the planning (pre-active), monitoring (interactive); supporting (interactive); consolidating (interactive) and reflective (post active) actions described by Kaendler et al., do not fully capture moments of actual collaboration with the students – when the tutor becomes a co-participant.

### *5.3.1 An adapted framework for this environment*

I propose a framework that includes the following:

Global Level – pre-active overall environment

Macro Level – long term decisions that the supervisor makes

Meso Level – more immediate, often day to day planning decisions

Micro Level – in the moment interactive phase encompassing both interactions between students and supervisor but also actions taken and external events.

To fully understand the phases of clinical work I have added two phases to the planned pre-active phases. The first, the Global Level describes the planned pre-active overall environment in which the teacher is working. It is difficult to understand the orchestration of tasks, interactions and resources if we do not first understand the constraints, requirements and affordances of the teaching environment itself. At the Global Level, the work that the clinic can undertake is somewhat fixed (largely work for those who cannot afford legal services or whose case is not financially viable with paid legal advice) or decided through clinic policy such as whether the clinic offers initial advice and assistance or full representation or other layers of legal service. Institutional decisions determine group sizes, the physical and other resources of the clinic, the required student learning outcomes. The supervisor's influence over this Global Level is clearly variable depending upon circumstances but in my clinic there is the potential for supervisors to influence changes at the Global Level.

I have also broken down the supervisor's pre-active phase into two phases. The first, at the macro level describes the decisions and planning that I make in the longer term (typically at the start of each year but also over a period of years) and the meso level day to day planning in the clinic. Typical decisions at macro level include the type of work I choose to do which is influenced by my pedagogical intentions but also my professional expertise and the values I hold as a lawyer in a clinic.

#### *5.3.1.1 Moving from the Macro to the Meso and Micro levels*

The meso level pre-active phase is, then, the planning of tasks resources and interactions that is constantly taking place in my work. It can include planning task setting for students, planned activities for firm meetings, decisions on a regular basis about whether or not to take a new case on. There is extensive overlap between this phase and the interactive phase in many cases because (as but only one example) increasingly during the year tasks that I may have decided to set without student input become decisions that are made in the interactions with the students as they become more experienced (see Rounds Structure Analysis 4 in chapter 4 as a key example of this).

At the micro level sits the interactive phase described by Kaendler et al., but this can encompass interactions that take place between the students when I am not there and between the students and me. This encompasses interactions in firm meetings and collaborative work in the clinic. I have added to this phase however because there are two further factors that exist beyond our interactions and my planning. The first is the action of external events. I do not plan these events (though sometimes they may result from the action that the students and I take). In Rounds

Structure Analysis 3 in chapter 4, for example, we discuss an email that has arrived from a third party and we are discussing how to respond to it. The interactions that I have with the students and the actions we decide to take are heavily influenced by the content of that email. Because this is an environment in which the actions we take have consequences and lead to inquiry and further action this second active element needs to be recognised and the influence that these four elements have on each other is continual and complex.

The relationship between and within the Global, Macro, Meso and Micro levels is described in Figures 1 and 2 below.

**Figure 1: Orchestration Framework - Global Meso and Micro Levels**

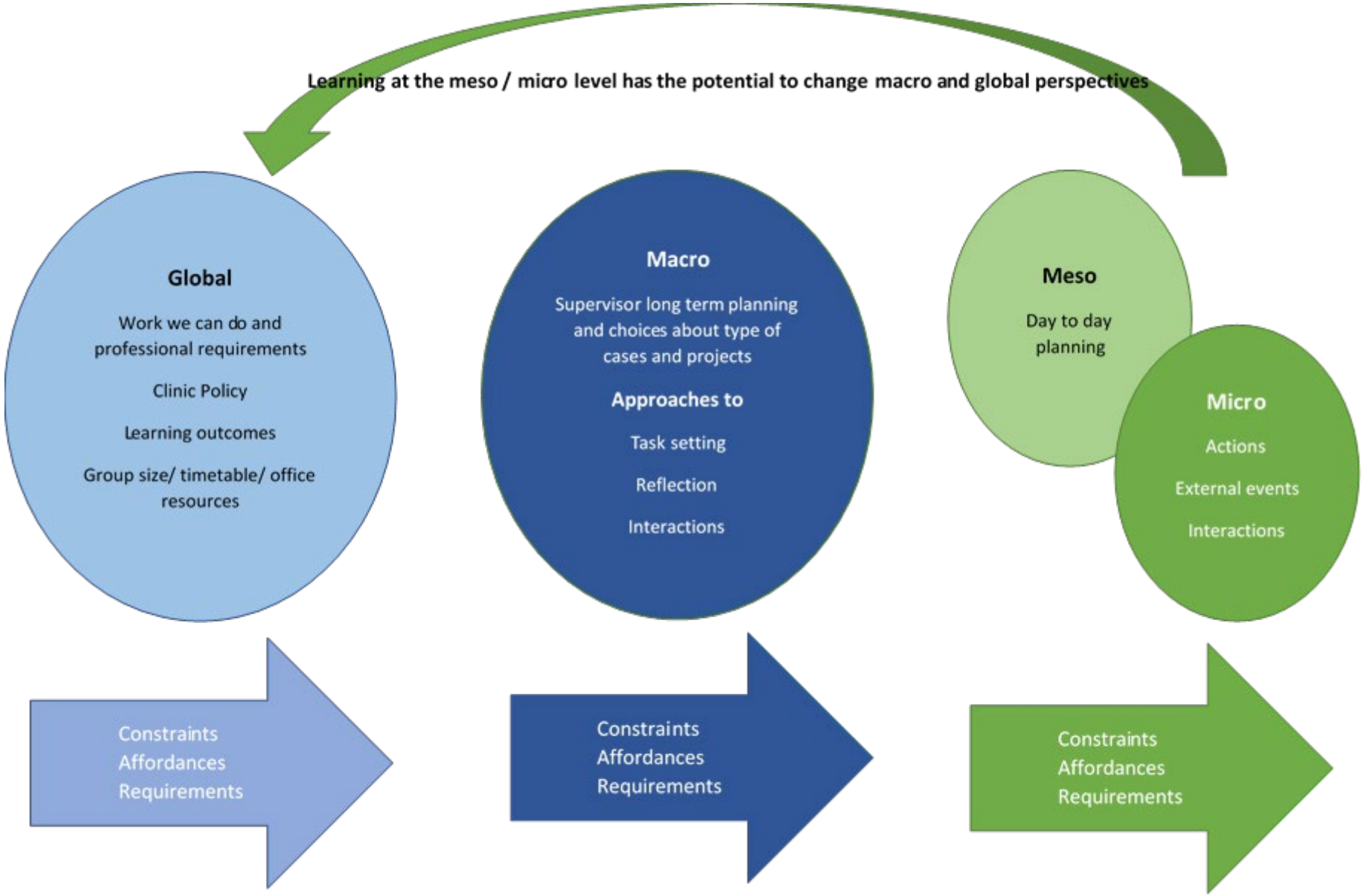
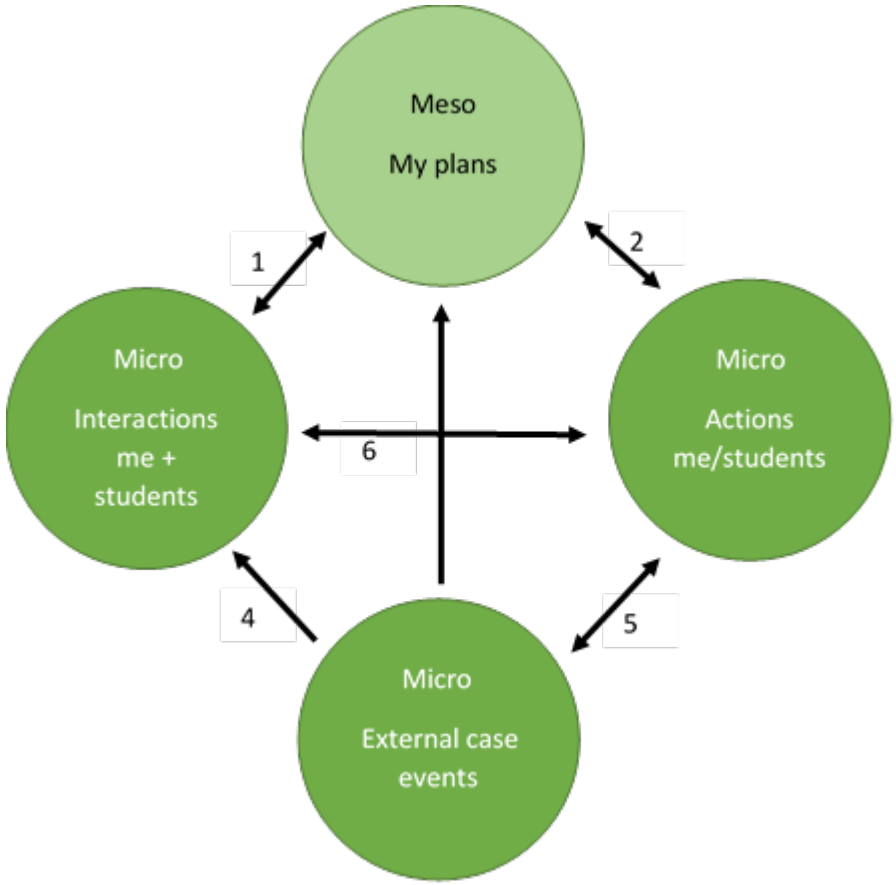


**Figure 2 Orchestration Framework Meso and Micro Levels**




1. As a result of planning by me, interactions take place or as a consequence of interactions, I plan further actions or interactions

2. I might go from planning task/actions straight to taking the action myself or requiring a student to (usually urgent matters) or a student's action may lead me to plan other interactions/actions

3. (*one way*) An external case event causes me to plan a task or interaction

4. (*one way*) Student reports an external case event in the interactive phase

5. External case events may lead to an immediate action. Immediate actions can influence external case events

6. A student may report an action taken for discussion or we often agree an action in the interactive phase

### *5.3.1.2 The framework in action – understanding orchestration of tasks, interactions and resources across the phases*

In tables 42, 43 and 44 below I set out resources, interactions and tasks that are orchestrated across the phases. The tables are illustrative rather than comprehensive. While the phases are set out distinctly, each are capable of interaction and, in particular, what occurs in the meso phase often overlaps with what occurs in the micro phase. Some of the interactions between these two phases are illustrated in the accompanying text.

Following these illustrative tables, the remainder of this chapter will be devoted to considering two areas in more detail. Firstly, the impact of choosing to do large project work as a chosen orchestrated task. This is because my research reveals the nature of this work in some detail and thus the compositional choices in undertaking it and the resulting dynamic orchestration that becomes necessary. Secondly, I undertake further unpacking of orchestration moves at the meso and micro levels.

| **Resources** | | | |
|---|---|---|---|
| **Global<br>pre-composed by the institution/clinic/nature of legal work** | **Macro<br>pre-composed by me and external events** | **Meso<br>pre-composed by me on a regular basis and prior to interaction with students** | **Micro<br>improvisational in the moment decisions** |
| Digital Reading List<br>Library and databases<br>Practical Legal Research template and training in PLR<br>Templates (e.g.: client care letters)<br>Interview plan requirement (includes prompts for students)<br>Firm meeting minutes<br>Project plans<br>Reflective theory and models | My expectations that students will use the resources<br><br>My approach to the use of critical literature | Firm meeting minutes kept by me with clear actions for all students as a record<br><br>Feedback from me on the use of scaffolding resources | Instruction, feedback and reflection on use of the scaffolding resources<br><br>Signposting to scaffolds |

**Table 42: Orchestration Framework in Action- Resources**

As can be seen from the table above, many of the external resources available to the students are designed as scaffolds at the global level. Interview plan templates, PLRs and the client care letters all act as prompts for students to consider the issues that they need to address while working on client cases. To a large extent, at the meso and micro levels, my orchestration is about ensuring the

students know about and use these resources and to give feedback on their use. I often have to insist on the use of the PLR format.

This is an area in which it is likely (my initial analysis of the PLRs suggests this but as indicated in chapter 3B I have not fully analysed them) that I am prone to focusing only on whether the student has completed the task competently in order to provide a professional service to the client rather than on their effective use of the scaffold. It is fair to say that I spend less of my time orchestrating resources than I do orchestrating tasks and interactions.

| Interactions for collaboration - For individual inquiry/ For my inquiry - To check work | | | |
|---|---|---|---|
| **Global**<br>**pre-composed by the institution/clinic/nature of legal work** | **Macro**<br>**pre-composed by me and external events** | **Meso**<br>**pre-composed by me on a regular basis and prior to interaction with students** | **Micro**<br>**improvisational in the moment decisions** |
| **Students' group interactions with each other**<br>Assessment criteria include commitment to the work of the firm/contribution to firm meetings<br><br>The social environment of the clinic<br>Physical<br>Cultural<br>Social relations already existing between students<br>Clinic team building (quiz night, end of year party, charitable activities)<br>Student voice in the running of the clinic | **Students' group interactions with each other**<br>My approach that all students should contribute in firm meetings and to each other's work | **Students' group interactions with each other**<br>Planning for student presentations to the group on areas of law that they have researched<br><br>Planning to show one student's work (typically a letter) to the whole group for feedback<br><br>Planned social events and social niceties e.g.: quiz night, buying coffee/cakes for the firm | **Students' group interactions with each other**<br>Signposting one student to another student's expertise<br><br>Asking another student to contribute their knowledge to other students |
| **The student pair**<br>Expectation that students will work in pairs | **The student pair**<br>My own expectations of how pairs will work | **The student pair**<br><br>Monitoring work presented by the student pair as an indicator of interactions<br><br>Changing the student pair to provide different collaborative opportunities | **The student pair**<br>Initial pairing of students based on impressions of confidence, competence and students' own interests in particular cases in the first firm meeting<br><br>Agreeing expectations of the pair working relationship<br><br>Monitoring the interactions of the student pair. Supporting the interactions |
| **Firm meetings**<br>Requirement of one firm meeting per week. The time given in workload for staff to conduct firm meetings<br><br>Contribution to firm meetings is an assessment criterion | **Firm meetings**<br>My overall purpose of firm meetings:<br>Preparing to work as a pair and group<br>Case reporting for educational and client interest purposes<br>Reflecting<br>Preparation for assessment<br>Managing student workload<br>Modelling<br>Deciding on actions | **Firm Meetings**<br>The lead sheet for each firm meeting – choosing appropriate activities to meet the overall purposes of the firm meeting | **Firm Meetings**<br>**Responding by**<br>Manage Collaboratively – scaffold/manage<br>Creating a further inquiry<br>Tutor involved collaboratively<br>Teach or Direct<br>Feedback |

**Table 43: Orchestration Framework in Action - Interactions**

Given what my research reveals about the importance to students of interactions in supporting their learning, orchestration of this area is critically important. At the meso and micro levels, as one would expect, there is substantial complexity. The student pair work is probably the most crucial and is highly dependent on the personalities involved. At the meso level I regularly monitor the work that I am receiving from the student pair – who is sending me the work, which parts of the work has each student worked on and so on. It may be that over time, it becomes clear to me that the students' working relationship is problematic (sometimes I can sense this, sometimes a student will raise it). I can then plan interventions with the students to address these issues and occasionally we will agree to change pairs. This is not necessarily because of negative issues with the working relationship. At the micro level, in the moment I often respond to issues with working immediately by investigating with the students and agreeing different understandings or ways of working.

There is more that can be done in relation to student working relationships (as has also been identified in the PBL research: Yew and Schmidt, 2009). This can commence at the Global Level where the SLO currently does not provide substantial induction into pair working and could be further reinforced by long term planning by me as to how to arrive at an agreement with students about pair working and agreeing expectations together. In terms of firm meetings, this research has further uncovered the importance of collaborative knowledge building in the firm meeting and the intricacies of decision making where the supervisor (and the students) have to make decisions about interactions that may at times require instruction or at other points true collaboration but much of the time a mixture of approaches. I am aware from Northumbria colleagues that while my practice is based around discussion of the cases in the firm meeting (which appears to accord with at least some US based practice, Bryant and Milstien, 2007), other colleagues do not necessarily regularly look at student work on cases in firm meetings. This reveals a substantially different approach with implications for the nature of interactions as well as tasks as my research has revealed the manner in which the interaction is changed when the student(s) present their case to me and the group. This has implications for practice in my own clinic and elsewhere – the opportunity to discuss in greater detail our supervision practices in firm meetings and the benefits of particular interactions.

| Tasks | | | |
|---|---|---|---|
| **Global**<br>**pre-composed by the institution/clinic/nature of legal work** | **Macro**<br>**pre-composed by me and external events** | **Meso**<br>**pre-composed by me on a regular basis and prior to interaction with students** | **Micro**<br>**improvisational in the moment decisions** |
| **The type of work and clients who we are able to work for**<br>Including legal costs risks for clients, the clinic's resources, the sort of clients who generally need our help, the service that it has been decided we can deliver | **The work I choose to do generally (pedagogic and other intentions)**<br>Large projects<br>Projects requiring other professionals<br>Short term matters<br>Long term matters<br>Legal and factual complexity<br>Importance – to the client and/or society<br>Urgency<br>Cases in my expert area | **Work taken on during the year for enquiry**<br>The work that is actually available or that I have made available<br><br>Initial case volume for students<br><br>When to take on new cases? Which type of cases? | **The extent to which we can agree to assist a client (pedagogic and other intentions)**<br>Decision taken in the moment following students' account of the client's problem |
| **Students' tasks**<br>Work on which the students will be assessed and which they need to have experience of (e.g.: interviewing/ research/written communication)<br><br>Professional requirements – file keeping/information for the client etc | **Students' tasks**<br>A general plan to start with students sharing responsibility and work on tasks jointly and equally and moving to each taking a lead as experience and confidence grows | **Students' tasks**<br>Which student pairs do which cases?<br><br>How many cases does each pair have?<br><br>Next actions on particular cases (research, advice, negotiate, mediate, court action etc) and who will perform them<br><br>Giving the student a lead on the case and dividing work between the students on the case or large project | **Students' tasks** |
| **Student Reflection**<br>Assessment criteria and task | **Student Reflection**<br>My planned approach to reflection through the year<br><br>The work I choose to do and its influence on reflection | **Student Reflection**<br>Identifying student experiences that are ripe for reflection<br><br>Planning particular firm meeting reflection activities and student preparation | **Student Reflection**<br>Improvising to promote reflection on particular moments that arise in firm meetings (see Rounds Structure Analysis 1) |

**Table 44 Orchestration Framework in Action - Tasks**

In relation to Tasks (Table 44), at the Global and Macro levels, the cases that we are able to work on in the clinic and what we choose to take on have a very substantial impact on the student learning experience. There is significant review in the CLE literature of the impact of decisions about types of case (for example Meltsner and Schrag, 1976; Shalleck, 1993; Kruse, 2002; Krieger, 2004; Carpenter, 2013). In chapter 2 I reviewed Krieger's critique of CLE from a cognitive load perspective because, while I partly disagree with his conclusions, it illuminates the fact that choosing to do difficult or complex work will have an impact on the extent to which the tutor intervenes and delivers instruction. I tend towards the view that a combination of relatively short-term matters and large projects provides opportunities for different levels of responsibility and collaboration for students and can be carefully combined to organise different experiences (Srikantiah and Koh, 2009).

At the Meso and Micro levels, a very large part of my work is engaging in the orchestration of student tasks. Clearly, much of the professional service that we provide to clients hinges on the actions that we take on their cases. The cell in the table labelled "students' tasks" briefly describes these actions. In reality, they move between pre-planned decisions by me and decisions in the moment with the students in the micro cell in the table. These are driven less by pedagogical intent and more by the need to act in the client's best interests. However, awareness of the tasks we set our students and the degree and nature of support required have a profound effect on the student experience.

#### *5.3.1.3 Choice of Tasks – Live Project Work*

The work I choose to do has significant implications for the learning experience and so this form of pre-composed orchestration is worth considering in some depth. I have taken as one important example, my decision to undertake a case that was a hybrid between a long-term matter and large project work (Carpenter, 2013). Table 45 sets out the nature of large project work experience, and the implications for day to day planning (meso level orchestration) and dynamic orchestration/improvisation that is made in the moment (micro-level).

In this table, I represent the nature of the experience of the large project and its implications for day to day planning (meso) and improvisational decisions (micro). The nature of the experience of the large project should be taken into account at the macro level when planning.

| Macro level orchestration | Nature of the Experience (see analysis of large project experience in chapter 4) | Implications for meso and micro-level orchestration |
|---|---|---|
| Involve the whole student group in a large project | Provides opportunities for whole student group to contribute to one inquiry together including the process of working in a larger group | Requires careful orchestration and task setting.<br>Interpersonal relationships in the group are critical – includes providing resources for students to develop teamwork<br>Consider project management role for student(s) |
| Consider the extent to which other professionals are required to meet the objectives of the large project | Opportunities for co-construction for all students and collaboration with supervisor and with other professionals and building of professional identity (Srikantiah and Koh, 2009) this conclusion is supported by the findings from my research in the thematic analysis | Allow and empower students to have more control of the dialogue and task setting where appropriate |
| Consider the nature of contact in the large project at the outset | Risks lack of identification with the clients' case and ownership (Meltsner and Schrag, 1976) and/or students cannot see the impact of their work | Provide early opportunities for interaction with "client."<br>Consider how students will identify with the project and take ownership |
| What is the purpose Of this large project? Will the goals be clearly definable for students? | Greater uncertainty as to goals and big picture | Provide a clear overview<br>Monitor student understanding on a regular basis, provide a map of when the work is planned to bear fruit |
| Consider the size and complexity of the large project at the outset. | Cognitive overload for students due to size and complexity of project | Scaffold student understanding – examples include explicit requirements for each student to inform others as well as the supervisor of their learning. Are there elements where knowledge transmission rather than inquiry are necessary? |
| Are there tasks within The project that students can undertake with support? How much support? | Risks: supervisor taking too much control due to size and complexity of the project | Supervisor needs to reflect on their own interventions and guidance. What is the balance between instruction and inquiry? |
| Does the project require all students to meet the objectives? | Risks: supervisor losing sight of individual students and their roles | Jointly monitor individual student engagement and work |
| Does the project require all students to meet the objectives? | Risks: uneven progress in different areas of the project – individuals with too much or too little to do | Jointly monitor individual student engagement and work. Balance with short -term matters? |
| Is the large project one containing issues of social justice or broader professional roles? | Greater potential for critical reflection by students on broader social justice issues and their own potential role as lawyers in broader change | Planning reflective discussions and inquiries which illuminate that potential and dynamically responding in the moment to the |

| Macro level orchestration | Nature of the Experience (see analysis of large project experience in chapter 4) | Implications for meso and micro-level orchestration |
|---|---|---|
| | | potential "disorienting moment" to initiate critical reflection (Quigley, 1995) |
| **Complement large project work with short term matters** (Srikantiah and Koh, 2009) | The short term matter provides the complementary experiences of ownership, impact, identification, other tasks and actions | Jointly monitor individual student workload and range of experiences to achieve a balance between work and experiences on the project and work on the short-term matters |

**Table 45: Nature of the experience of the large project and its implications for day to day planning (meso) and improvisational decisions (micro)**

#### *5.3.1.4 What are the dynamic orchestration moves and triggers in the moment?*

As we have seen in the results chapter, my research has highlighted dynamic orchestration that is taking place in the moment. This is illuminated in the seven recorded firm meetings. It takes place also in the ad hoc meetings I have with individual students and pairs but probably to a lesser extent. There are a series of moves that I choose to make in the moment that are triggered by events or interactions with students. These moves are dependent upon what I perceive occurring, my intended goals but also my own patterns of behaviour in certain teaching situations that may or may not be conducive to the goals I have. Table 46 illustrates some of these moves.

| Dynamic orchestration | Common Triggers | Typical pattern of dialogue? | My reflections |
|---|---|---|---|
| Knowledge transmission teaching or directive to students to take an action | To consolidate a discussion<br>A decision needs to be taken in the client's best interest and inquiry is not appropriate (e.g.: urgency)<br>An inquiry appears to be of little benefit vis a vis other more important or urgent matters (e.g.: reminding students of file keeping procedures – Rounds Structure Analysis 2) | Often takes the form of I-R-E or monologue from me<br><br>Risk of "can you guess what I'm thinking?" | Perhaps consolidation could be achieved through asking students to summarise the outcome more often rather than my teaching it |
| Conducting a collaborative inquiry with supervisor principally as expert and use of dialogic moves | Student or event raises an important issue for decision on a case or learning about legal issues/process/skills/attributes<br>Very commonly arises when I and/or other students do not know the facts or law on a case<br>Very commonly arises where I know students will have more expertise for discussion than simply setting out a legal principle and for which options may be more uncertain (e.g.: should we write to the opponent or ring them is a question of potential human relationships not always dependent upon knowledge of a particular legal issue or process) | Typically tutor-student-tutor<br>Typically quite short CA's<br>Sometimes tends towards cumulative (agreeing without adding to previous statements) rather than exploratory dialogue (Mercer, 2004) | Consider student comment that sometimes it can be difficult to follow other people's cases. How to maintain student knowledge and engagement?<br>Some evidence of inviting opinions and ideas and neglect of other possible dialogic moves – for example I could ask: "E can you give a justification for A's point of view" rather than my typical "do you agree?" or "what do you think?"<br>Other possible dialogic moves to choose speculation/predict |
| Deciding to get everyone's views/asking particular students to contribute | I know student has particular knowledge<br>Student body language/gesture suggests wish to make a contribution<br>Student is not contributing<br>Student(s) are dominating the dialogue | Typically tutor-student-tutor<br>Typically quite short CA's are relatively frequent cumulative rather than exploratory dialogue | Balance because I know sometimes that students will take things further than others and we have to make decisions and make progress on cases so I cannot always involve everyone |
| Conducting a collaborative inquiry as collaborator/co-participant rather than an expert | I don't know all of the answers (typically large projects but other cases also)<br>Or there is no one right answer and I myself am wondering about the best course of action | Tutor- Student-student-tutor-student<br>Typically longer CA's<br>Typically greater levels of exploratory talk | Certain cases and projects intrinsically more likely to produce this dialogue but opportunities to create it also |
| Setting further student inquiry outside of the moment in the room | Balance of time/importance/urgency/ sometimes I just want to deal with it now and tell the students | Some form of exploratory dialogue followed by agreed inquiry for students | Consider setting further inquiries more often particularly around areas of common interest – e.g.: ethical issues |

| Dynamic orchestration | Common Triggers | Typical pattern of dialogue? | My reflections |
|---|---|---|---|
| Improvisation completely away from the lead sheet | I see the potential for critical reflective inquiry<br>I see the potential for learning something important and relevant beyond what was planned | Can go on to take any of the patterns of dialogue depending upon my approach | |
| Introducing an authoritative perspective/refer to other practice | Often when I feel as though the conversation has run its course and I want to summarise but also wish to draw wider perspectives beyond the case at hand | Often takes the form of I-R-E or monologue from me<br>Risk of "can you guess what I'm thinking?" | I could ask the students themselves to speculate more about what the applications might be in wider practice |
| Checking student workload and agreeing tasks | Tends to be routine part of firm meeting as part of consolidation of weekly review of student's case<br>Conversations about workload can be triggered by time of year (near assessments); or when I assess that there is a lot of work for the student(s) to do<br>Occasionally workload is raised by the students | Typically tutor-student-tutor<br>Typically exploratory dialogue, not I-R-E | |
| Allocating a particular task to a particular student, or appointing leads on cases | Commonly a sense that one or more of the following is occurring: a student needs:<br>more responsibility – often to increase confidence;<br>more experience of a particular issue<br>I need to see more clearly what each individual student is doing<br>Students need support in dividing the tasks | Tutor-student-tutor<br>Can be exploratory but sometimes directive | |
| Asking students to elaborate/justify/clarify | I don't understand the student's point or I sense that other students don't<br>A student has partially articulated understanding and I want them to articulate a principle in greater depth | Typically more naturally occurs when I need to know the student's rationale rather than simply for educational purposes | |
| Acknowledging my own understanding changing | I don't know all of the answers (typically large projects but other cases also)<br>Or there is no one right answer and I myself am wondering about the best course of action | Dependent upon context but appears more likely in collaborative inquiry patterns | |
| Use of a tool (typically whiteboarding) | The outset of a case when I want students to establish facts, understanding and questions (similar to brainstorming in PBL) | Tutor-student-tutor | |

**Table 46 Dynamic Orchestration Moves, Triggers and Dialogue Patterns**

### 5.4 Orchestration and improvisation as metaphors

As my research increasingly illuminated the sociocultural inquiry element of the clinic, and my role in it, the metaphors of orchestration, dynamic orchestration and improvisation increasingly provided an attractive device through which to understand the work. At the Global Level we can understand this orchestration as being partly pre-determined much as elements of a musical performance are – the size of the orchestra, the environment it is playing in, the genre of music which is chosen for playing. At the macro and meso levels, the supervisor as partly composer/conductor is able to also pre-determine many aspects of the performance.

However, when it comes to the actual interactions with students the jazz metaphor seems more appropriate. The supervisor is both the leader of the jazz ensemble but also a player themselves in ways not allowed for in an orchestra. They often have a plan (lead sheet) for the interactions in the firm meetings but have to be prepared to improvise, often intuitively, on the playing (and mistakes) of the other members of the ensemble. The music each member of the ensemble plays is mutually dependent but not fixed. There has to be room for other players (students) to take the lead sometimes and there is constant innovation and change – there is no pre-composed piece of music that the supervisor has devised.

Like all good metaphors however, there can be no perfect fit. Two significant elements are hard to capture within this picture. Clients who we are working for are not an audience. Though this research does not focus primarily on the client, it is vital that we remember that their interests and autonomy are usually paramount. I have given some consideration as to whether they are “players” in the ensemble but this does not seem to be appropriate. On the other hand they should have far more influence on the playing by the ensemble than the musical metaphor allows for. This leads us to the second connected element – the music being played is not wholly determined by the lead sheet and the members of the ensemble. Our actions in the clinic take place in an environment which we do not control. Events and responses to our actions are unpredictable and require us to adjust both our habits and actions to adapt to them. We are not free to make the music we choose.

## 5.5 Limitations of the study

As a naturalistic study, it is not contended that the results are generalisable but rather transferable (Lincoln and Guba, 1985). A sufficiently thick description is provided, partly through the richness of the data (especially the extent of the dialogue recorded) and partly through the links that are made in the literature review between CLE and PBL to allow some of the findings to be transferred to other contexts. This group of students were clearly a convenience sample of eight students. The particular personalities of the group and the ways in which they learned in the office are specific to them.

The findings are credible in that there has been significant triangulation through the use of various methods (students' diaries and writing as well as recorded firm meetings) and a degree of respondent validation. However, it was not possible to conduct respondent validation on all aspects of the findings with the students, this being limited to a discussion of my emerging findings relating to firm meetings in the final firm meeting. There were also areas that some of the thematic analysis suggests could have been further explored (student mention of the effect of uncertainty and working outside the comfort zone). This suggests that further exploration of this issue with the students might have uncovered a richer description of factors that might be related to the concept of the zone of proximal development (Vygotsky, 1978). The lack of time available has left this avenue unexplored.

The extensive citation of students' speech in these contexts provides a further check for the reader and goes some way to providing an opportunity to see if the problem of my being teacher, assessor and researcher has led the students to be influenced in their comments. I have to recognise however, that inevitably this will have occurred to a certain extent. The extent of the data provided should assist the reader in determining whether or not my own values and position have impacted on data collection, presentation and analysis to an undue degree.

In terms of dependability, the thesis does provide a transparent description of the process that occurred as the research was undertaken, including the changed research questions and design. While the use of methods was not as broad as originally envisaged, data was used from a number of sources which increased the dependability of the findings (Bryman, 2016).

My use of the discourse analysis scheme, SEDA, has illuminated for me that nature of co-construction in dialogue with the students. I present it for this purpose and have not been able to work with other coders in a team in order to reach agreements about coding. This is recommended by Hennessy et al., (2016). I would argue that as I have used it as a device for my further understanding of the nature of these interactions rather than to build quantitative data for reporting, this is less important than it would otherwise normally be.I deal with Heikkenen et al's., (2007) call for research to be tested in the extent to which it has pragmatic utility and a critical view of change in the final chapter.

# Chapter 6 Conclusions

In the sections below, I set out the research questions and the overall conclusions in relation to those questions, including my contributions to knowledge and some proposed directions for future research and practice in this area.

## 6.1 Research questions 1 and 2: What is the nature of this learning environment and what is the relationship between the learning environments of the clinic and the students' experience of learning?

The law clinic is an inquiry-based, indeterminate and experiential learning environment. The findings in my research emphasise that these students experienced this environment as one in which, along with individual learning, they co-constructed their learning with both their supervisor, other students and other professionals (see Chapter 4.1). The research also highlights the more unusual elements of this environment when compared to many other inquiry-based educational efforts. The testing of our new conceptions of knowledge in the law clinic in the real world and the impact of our actions on external recipients create different motivational forces and produce feedback that allow us to further reflect on our conceptions of the world (see Chapter 4.1.7).

## 6.2 Research question 3. What supports the students in their learning?

For the students in this research, the social aspects of the environment were highly important. The feeling that they could rely on each other, me and other professionals was a critical aspect of their experience. This was evident both in the formal teaching sessions (observable in the data) and in the students' daily interactions (reported by the students). It is clear from the findings that the firm meeting has a central role to play in providing the students with guidance from the supervisor and different experiences and perspectives from other students (see Chapter 4.6 in particular). There remain challenges due to these experiences being disparate and ensuring that all of the students can learn from and participate in the dialogue. See for example the difficulties of allowing and requiring all students to participate in the

dialogue (Chapter 4.5.1, Rounds Structure Analysis 1 Extract 5) and Chapter 4.3 (orchestration in response to student need).

## 6.3 Research question 4. What is my role as supervisor in this environment?

Two main themes emerge in the answers explored to this question. The role of supervisor as it might be understood broadly in relation to this form of education and the more personal benefits that have emerged in relation to my own professional practice.

### *6.3.1 Understanding the supervisor's role and supporting development*

The supervisor is expert (teacher); facilitator; co-participant/collaborator and coach (Bryant and Milstein, 2007). This research has highlighted the requirement that the supervisor be constantly aware of these roles and that we can move between them flexibly according to the situation and the needs, skills and feelings of our students and clients. This requires a recognition of teacher competencies and the levels in which teachers are operating both in planning and in the moment. The pre-active overall environment (Global); long term decisions that the teacher can make (Macro); more immediate and often day to day planning decisions (Meso) and the interactive phase that takes place between students and supervisor but also the actions that are taken and interaction with external events (Micro). It is illuminating to see these phases as operating in the context of resources, interactions and tasks (Chapter 5.3.1.2). Supervisors are constantly making decisions about and being influenced by these elements. Becoming more conscious of the impact that these variations can have on learning can assist in making decisions. If I choose to run a large-scale project (see discussion at Chapter 5.3.1.3) with my students, for example, there are very significant implications for, amongst other matters, student motivation; cognitive load; learning opportunities and collaborative knowledge building. At the Macro level, we can consciously make the decision about whether or not to take on this kind of work. At the Micro and Meso levels our orchestration and dynamic improvisation has to adapt to the different challenges posed by this type of task.

In a real inquiry-based environment we cannot act on pure inquiry and co-constructed knowledge alone. The client's needs and the complex environment mean that we are constantly taking decisions about whether or not to ask students to carry out inquiries or choosing to direct. Choices about this are multi-factorial including the urgency and importance to the client; whether or not it will be fruitful for the student to inquire; the cognitive load that the student will experience (bearing in mind the legitimate concerns of clinicians such as Stefan Krieger (2006); the benefit to be had from the inquiry. The important point is to be aware of those decisions and why we are making them.

Presenting situations in which inquiry can be fruitful and motivated beyond the self with ownership and some control that can be powerful opportunities but the lawyer supervisor's role is critical in planning that environment and orchestrating it in the moment. We have to be mindful of the group but also the individual's responses and needs in that situation, paying particular attention to social aspects. Looking at tasks, interactions and resources to ensure students can grow.

### *6.3.2 The personal benefits emerging from this professional inquiry*

This research has highlighted for me the likely importance to the students (all of the students in this study at least) of their confidence and trust in this environment. In terms of the group, paying attention to scaffolding the fostering of relationships within the group and with me is more important than I had appreciated. Successful orchestration involves not only this awareness but also careful consideration of each individual's needs (see also Mlyneic, 2012). The clinic I work in has a high staff student ratio but nevertheless, it is easy to lose sight of each individual student. If I can pay particular regular attention to the experience of each student; if there is an open channel of communication between us and if we both raise issues that seem to be arising, it is often possible to make adjustments that enable them to continue to develop.

## 6.4 Contribution to knowledge: inquiries for all

This reflective inquiry began (both on the page and, much earlier, in my thoughts) with my experiential learning in childhood. My own personal educational values are strongly

influenced by the power of learning through experience and inquiry. Connecting the education of the child astronaut and the budding young student lawyers are the agency, creativity, collaboration (with each other and teachers), exploration and experience that result from these endeavours. Of course, the age and experiences of the students are important but if we turn to theories such as andragogy, we ignore the central lesson that pragmatism offers us: that all human beings create new knowledge through inquiry and experience. This is just as true for the small child as it is for the adult. Recognising this could help us avoid the trap at every stage of education of supposing the student cannot carry out an inquiry until they have first been taught to be sufficiently expert. The risk at all levels is that we start with the "basics" and only permit curiosity and experience later in the journey; subjecting ourselves and our students to only instruction and worked examples for years prior to the more exciting inquiry that lies ahead.

Rather than asking whether a student has sufficient expertise to carry out an inquiry, the question should rather be: given the age, knowledge and capability of the students, what type of inquiries and experiences are conducive to learning? How can these be incorporated alongside other pedagogies that will be more focused on traditional instructrivist methods? The outcomes of this research are therefore of use beyond CLE, legal and higher education – just as my research has been informed by thinking and research beyond my context. We know that inquiry and experiential learning are not simply unguided discovery but beyond this the teacher's role in selecting and organising the experiences, in deciding when to scaffold inquiry and when to "teach" are critical to the experiences of the individuals and the group. This is as true for my teacher taking us to the moon as it is for me accompanying my students to court. Our choices as orchestrators and improvisers can be informed by some of the insights offered by this research.

The adaptation and merging of Hämäläinen and Vähäsantanen's (2011) conception of tasks, interactions and resources with Kaendler et al.,'s (2015) framework for teacher competencies offers the teacher at any educational level a potential perspective encapsulating not only the Global orchestration at play (over which they have less control) but also further illuminates the interaction between long term planning, day to day planning and improvisation in the moment.

The research also has the generally applicable potential to inform teacher choice of inquiry tasks in the knowledge that those which are open ended; or in which the teacher does not pre-compose all variables; or have external audiences and outputs; are likely to lead to different forms of inquiry and relationship than those without those features. A teacher who decides to plant a garden for the community with their children is conducting an inquiry and experience that is different from a role play of a journey to the moon. Choosing the type of task will privilege the types of learning that are more likely to occur. When planting the garden, teacher and students will test their knowledge in the experience of the actual growth of the garden and their motivation will be affected by the extent to which the garden is intended for and finally experienced by the community. This is not to discount the value of the journey to the moon or other inquiries but I believe it helps inform us in the experiences we choose to organise.

Of general applicability also, is a nuanced view of the role of the teacher in inquiries that recognises that the teacher's role can be more than that of a designer and scaffolder. We can move between expert (teacher); facilitator; co-participant/collaborator and coach (Bryant and Milstein, 2007). Choices as to whether to directly teach or scaffold and the types of scaffolding we offer are highly dependent upon the individual and the group and the context in which we are working. My research findings suggest that practitioners can become more aware of the triggers which lead them to make choices and the likely outcome of those choices.

Insights from this research into decisions that are made in the moment are generally applicable to other professionals in my context but there are also others that are specific to me and my values. Engaging in this research over a lengthy period has sharpened my awareness of the reasons why I personally am drawn to this form of education. I have realised that much of the attraction is the learning that is possible for students in the indeterminate situation which is nonetheless scaffolded by me and others. One in which students can take more control of their learning while learning from others in ways that are rare in much of the rest of their educational experience. This is of course a bumpy experience for most students but when I perceive that that there is something that is fundamentally interrupting that opportunity I am likely to find that this is a trigger for action. One of the clearest examples of this from my work with this student group is student B's initial perceptions of themself as a

potential lawyer (or not); their difficulty with the tasks and feedback given to them initially and how we both worked to change those experiences resulting in what appears, in their and my eyes, a positive change in their learning experience in the latter half of the year. My efforts may not always be optimal or bear fruit but realising that this trigger exists may help me in becoming more aware of each individual student's needs and the, albeit limited, extent to which my role is to provide opportunities for change.

Sociocultural discourse analysis has revealed to me the different forms of discourse that take place when I am working with students. Not only do certain types of work tend to lead to different types of discourse, there are choices to be made within the discourse too. For example, leaving more room for students to elaborate; asking students to explain or justify their own or others' answers, to speculate about the outcomes of suggested actions, may sometimes lead to a greater level of co-construction than currently. If I more frequently ask students to prepare to present areas within their growing expertise and immediate interest to the group, some of the focus can shift from me as expert to others.

At the same time, the feedback I received from this group of students suggests that I need not necessarily go too far in shifting the emphasis from myself as lead player. Not only is this appropriate given the expertise and client responsibilities I have but given appropriate structure, scaffolding and opportunities, students outside of their interactions with me can truly collaborate to co-construct knowledge in ways that will be different from and complement their interactions in the group with me.

### 6.5 Implications for Future Practice and Research

Study of the sociocultural dialogue illuminates how the group are learning together and the nature of the dialogue with the tutor. In dialogue in inquiry it is possible to take decisions that promote student construction of meaning for themselves through different dialogic moves. Awareness of our position and the potential can enable us to do that. It is also important to remember that not all discourse will be dialogic and that modes such as I-R-E can be just as much a part of the dialogic inquiry project as other forms (Wells and Arauso, 2006). Discourse analysis in CLE, and these inquiry environments generally, has the potential

to inform us about what is happening and ways in which we may improve opportunities for inquiry.

Even more importantly, we should try to find ways to understand student collaborative and independent learning when we are not with them. These remain a black box (Yew and Schmidt, 2011). This research has echoes of these hidden experiences in the student diaries and comments in firm meetings but if we could understand more about what they learn from each other, we could better scaffold those experiences with them.

Finally, as teachers in clinics we do of course have greater expertise than students but by putting ourselves in a position where we do not control all aspects of the inquiry (neither its original parameters, nor the outcomes of our actions, nor the decisions of our clients) there is a far greater opportunity for us to learn from and with our students than in most educational situations. There is a spirit of mutuality as joint inquirers recognised by Bloch (1982) 40 years ago, and others in CLE from as early as the 1960's. This is illustrated from two short extracts from my personal diary:

> *Today we're holding a press meeting with a journalist about a case. I'm nervous – not done one before. Students have been asked to prep certain bits. They and I don't know what will actually happen. Makes me think more and more about this relationship where I am not the font of all knowledge – I can act as a guide at times but not the all-seeing.*
>
> *In the session with the journalist I led the way but 3 of the students had parts where they came in and I invited them to speak about their bits. Felt like a good balance and realistic about who could do what.*
>
> *After the talk with the journalist one of the students (H) said it felt great to feel their work was valued. After I'd given some feedback, student (F) said that they wanted to give me feedback on how good I was. They all said they were surprised that I didn't regularly do this kind of work. I admitted to them that I don't. It's interesting that the student felt able to give me feedback (even if just complimentary). It doesn't happen that often and may say something about the nature of the collaborative relationship.* (My diary 5.4.19)

*Attended client interview with 4 of the students. Two were taking notes, two were advising on elements and I was advising on another element. The two advising gave a good set of advice to the client but I was interjecting to try and ask questions and get the client to talk about what they wanted. Afterwards we reflected on this together and how we could have given the client more of a say in the interview. The students pre-occupations were on more of the basics – repeating themselves, getting lost in their plans etc. But students noticed client's emotional reactions and feed that back to me afterwards. I hadn't spotted this emotion even though I was in the room and part of the conversation. I think to myself: "am I sometimes oblivious to emotional response and can I think more about the person's response who I am speaking to rather than the details I'm trying to get or what I'm trying to say?"* (My diary, 23.4.19)

Earlier I explored concerns that pragmatic research runs the risk of only leading to incremental rather than emancipatory or transformative change (Johnson and Onwuegbuzie, 2004). I am confident that the further illumination by this research of the potential of inquiry-based learning environments to lead to mutuality and co-participation for teacher and student tends to suggest that pragmatic research such as this can lead to a critical view of change.

That change being to a different, more reciprocal, learning relationship between tutor and undergraduate students. This thesis presents an elaboration for a framework for understanding orchestration in inquiry-based environments. A greater awareness of the environment in which we are working and choose to adapt to and construct can enable teachers to collaborate with their students in learning from these experiences of the world.

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# Appendices

## Appendix 1 SLO Assessment Guide, Learning Outcomes and Assessment Criteria

**Assessment of Student Law Office**
**Live Client Programme 2018-2019**

**This handout describes the process for assessing your work on the live client programme in the SLO. Section A covers the personal file, section B the reflections and section C the LPC skills. The appendices show the marking criteria/grade descriptors, reflections matrix and LPC competency criteria.**

**The SLO year 4 assessment regime described below is subject to the assessment regulations as set out in your course handbook.**

The year 4 programme of the SLO is assessed in two parts:

1. 70% of the marks are awarded for the practical work that you do during the year, as evidenced by your personal file (sometimes referred to as your portfolio or practical file).

2. 30% of the marks are awarded for two pieces of reflection on your work, handed in as part of your personal file. The two pieces are equally weighted at 15% each.

If you do not achieve a pass mark of 50% for each individual component (or fail to hand in all components, that is, the personal file and both pieces of reflection) you will still pass the module (and not be required to resit) if you achieve an overall pass mark of 50%.

You are also required to successfully complete your LPC skills of legal writing and interviewing, which are marked on a competent / not-yet competent basis.

Your supervisor will mark the assessment. Internal moderation will take place and therefore your mark may be moderated by other members of the Student Law Office teaching team. A sample of the assessments will also be moderated by an external examiner.

**Section A: The practical work – assessment brief – the personal file**

| | |
|---|---|
| **Programme:** | M Law |
| **Module Code:** | LA0667 |
| **Module Title:** | Student Law Office Year 4 |
| **Submission Time and Date:** | To be submitted by 12 noon on **16 May 2019** |
| **Word Limit:** | Not applicable - personal file |
| **Weighting** | This coursework accounts for 70 % of the total mark for this module |
| **Submission of Assessment** | Personal files must be submitted to the admin staff in the Student Law Office, Northumbria University, School of Law, Room 114 City Campus East, Newcastle upon Tyne, NE1 8ST<br>***It is your responsibility to ensure that your personal file arrives before the submission deadline stated above. See the University policy on late submission of work (the relevant extract is set out below).*** |

**Instructions on Assessment of Personal file**

You can hand in before the deadline - speak to SLO admin staff and your supervisor if you would like to do this.

**Late submission of work**

Where assessment work/coursework is submitted without approval, after the published hand-in deadline, the following penalties will apply.

For work submitted up to 1 working day (24 hours) after the published hand-in deadline without approval, **10% of the total marks available for the assessment** (i.e.100%) **shall be deducted** from the assessment mark.

*For clarity: a late piece of work that would have scored 65%, 55% or 45% had it been handed in on time will be awarded 55%, 45% or 35% respectively as 10% of the total available marks will have been deducted.*

The Penalty does not apply to Pass/Fail Modules, i.e. there will be no penalty for late submission if assessments on Pass/Fail are submitted up to 1 working day (24 hours) after the published hand-in deadline.

Work submitted more than 1 working day (24 hours) after the published hand-in deadline without approval will be regarded as not having been completed. **A mark of zero will be awarded for the assessment**.

*For clarity: if the original hand-in time on working day A is 12noon the 24 hour late submission allowance will end at 12noon on working day B.*

These provisions apply to all assessments, including those assessed on a Pass/Fail basis.

**Word limits and penalties**

There is no word limit for the personal file.

**Plagiarism and collusion**

Because of the nature of the Student Law Office, work carried out in relation to cases and in firm meetings is often jointly contributed to, but each piece of your work in the personal file should be clearly marked in terms of contribution by you/your partner to avoid issues of plagiarism, and you should not seek to take credit for work which you have not contributed to.

**Academic Misconduct**

The Academic Regulations for Taught Awards (ARTA) states that students are expected to observe University regulations which define and proscribe **cheating, plagiarism and other forms of academic misconduct.**

The University Academic Misconduct Procedure is set out in the Regulations and Procedures applying to cheating, plagiarism and other forms of academic misconduct and is available at: https://www.northumbria.ac.uk/sd/central/ar/qualitysupport/asspolicies/

You are reminded that plagiarism, collusion and other forms of academic misconduct as referred to in the regulations and procedures are taken very seriously by the Law School. Assignments in which evidence of plagiarism or other forms of academic misconduct is found may receive a mark of zero.

**The practical work – FAQs**

**What do you mean when you say I am graded on my practical work?**

*You are graded on the work that you have done during the whole year. Everything that you do will have been overseen by your supervisor, who will be assessing your work against the marking criteria/grade descriptors in the Appendix to this handout.*

**Does it matter that when I started in the SLO I wasn't as good as I became by the end?**

*We expect that the year will be a learning process for most students and that your work will therefore improve during the year. We do not penalise you for not being as good at the start of the year as you are at the end!*

**If I am graded on the work that I do, then what is the role of the personal file?**

*The personal file is your evidence, showing the work that you have done. You need to include all your work – including drafts of documents where your supervisor has commented on and edited your work. The personal file shows not only how much work you have done, but how you have learnt from your experience during the year. It therefore provides the basis for your reflective pieces (see Section B).*

**What goes into this personal file?**

*Throughout the year you will use your personal file to store copies of any significant documentation from your case files which demonstrates your progress in your practical work. This is likely to include non-routine letters, drafting, interview plans and notes, research, some detailed attendance notes and file management records. It is also the place to keep any reflective notes on how you felt the interview went etc.*

- *Copies for your personal file should be printed on plain, not letterhead, paper.*

- *Do not copy short or routine documentation for your personal file; be a bit selective.*
- *Never remove original documentation from a case file to put on your personal file.*
- *Keep copies of all your draft work which has had to be amended by your supervisor. These drafts should show the comments/amendments made by the supervisor.*
- *If you have worked with another student on a piece of work you should mark on it what proportion of the work was carried out by you.*
- *Your personal file cannot be taken out of the SLO without the consent of your supervisor which will only be given in exceptional circumstances.*

**What if the work I've done has been collaborative?**

*During the course of the SLO programme you may have worked on a case file with one or more students from your firm. You may also have used precedents and text books in the preparation of your cases. In the preparation and submission of your personal file please pay particular attention to how you present such documentation.*

*Where you have worked with another student in the preparation of one or more of the documents included in the personal file you **must** identify this clearly on the piece of work usually by marking your contribution as a percentage, on the piece of work itself or on the 'case summary' form referred to below. Similarly, where you have used a precedent or used text from books or other sources you must identify this on the document. Failure to acknowledge involvement of another student or reference to texts and other sources is a breach of the assessment regulations. Assignments in which evidence of plagiarism or other forms of academic misconduct is found may receive a mark of zero.*

**How do I organise my personal file?**

*To help with assessment of your work, you are asked to complete a 'case summary' form, in which you give a brief summary of work done on that case, and place this at the front of the materials relating to that case in your personal file. These forms will be made available in the SLO as a template on 'k' drive.*

*The logical way to organise your personal file therefore is by case name – putting the work done on each case in a separate section.*

*Some students prefer to show their skills development by putting all examples of each skill in a separate section – such as Interviewing/Research/Writing and Drafting/File and Case management. This is possible, but you will still need to complete the case summary forms.*

**How does my supervisor actually award the grade?**

*Please see Appendix A at the back of this handout for the **marking criteria/grade descriptors**. These describe the different kinds of conduct that might suggest that a student is within one grade or another.*

*For example, the criteria/descriptors suggest that a student who has reasonable/fair written communication skills; "sometimes shows clarity, precision and accessibility'' may be working at 2/ii level in this respect. A 2/i student's work is likely to show "good written communication skills; regularly shows clarity precision and accessibility,"*

*The marking criteria/grade descriptors tell you what the supervisors are looking for. Some descriptors may be of critical importance. If for example a student demonstrates "a very good level of commitment or enthusiasm for achieving the best solution for clients" [First class] but accompanies it with "poor knowledge and understanding of law/legal practice issues" [Fail], then the student's fundamental inability to get the law right is likely to undermine his/her strengths in other areas.*

*Use the marking criteria/grade descriptors – as your supervisor will – to judge how well you are performing the various aspects of your role.*

**What feedback do I get on my performance?**

*In the SLO you will be getting continuous feedback from your supervisor – and from your fellow students. Every time you do a task your supervisor will be checking your work and telling you whether it needs to be improved. In firm meetings and in the SLO generally you and your fellow students will be discussing your cases and commenting on the work you are doing.*

*The whole SLO experience is therefore built around feedback.*

*There is a formal mid-year review meeting with your supervisor, where you complete a mid-year review form, focussing on the different aspects of your work up to that point. At that meeting your supervisor will give you more formal feedback on your work as a whole, and will discuss the key areas where you can improve your performance, but the feedback process is continuous.*

**What are the arrangements for students who need to re-sit SLO?**

*Only a very small percentage of students fail the SLO programme. For those students that do you will be required to resit the component(s) which you failed by attending the SLO for a maximum of 3 weeks to improve upon the failed work. It is anticipated that this 3 week resit period will commence on either the week commencing 22nd or 29th July. This will also be the dates for students who defer their SLO module. You will be notified of the exact date and any changes in due course and exact details will be agreed by the Examination Board.*

**B: Assessment brief - Student Law Office- Reflections**

| | |
|---|---|
| **Programme:** | M Law |
| **Module Code:** | LA0667 |
| **Module Title:** | Student Law Office Year 4 |
| **Submission Time and Date:** | To be submitted by 12 noon on **16 May 2019** |
| **Word Limit:** | 2,000 words per reflection (2 reflections in total) |
| **Weighting** | This coursework accounts for 15% per reflection (i.e. a total of 30%) |
| **Submission of Assessment** | All assignments must be submitted to admin in the Student Law Office, Northumbria University School of Law, Room 114, City Campus East, Newcastle upon Tyne, NE1 8ST<br>***It is your responsibility to ensure that your assignment arrives before the submission deadline stated above. See the University policy on late submission of work (the relevant extract is set out below).*** |

**Instructions on Assessment of Reflections:**

**Please include your name and student number at the top of each reflection, and hand them in to the SLO admin team.**

You can hand in before the deadline **-** speak to SLO admin staff, and your supervisor if you would like to do this.

**Late submission of work**

Where coursework is submitted without approval, after the published hand-in deadline, the following penalties will apply.

For coursework submitted up to 1 working day (24 hours) after the published hand-in deadline without approval, **10% of the total marks available for the assessment** (i.e.100%) **shall be deducted** from the assessment mark.

*For clarity: a late piece of work that would have scored 65%, 55% or 45% had it been handed in on time will be awarded 55%, 45% or 35% respectively as 10% of the total available marks will have been deducted.*

The Penalty does not apply to Pass/Fail Modules, i.e. there will be no penalty for late submission if assessments on Pass/Fail are submitted up to 1 working day (24 hours) after the published hand-in deadline.

Coursework submitted more than 1 working day (24 hours) after the published hand-in deadline without approval will be regarded as not having been completed. **A mark of zero will be awarded for the assessment**.

*For clarity: if the original hand-in time on working day A is 12 noon the 24 hour late submission allowance will end at 12 noon on working day B.*

These provisions apply to all assessments, including those assessed on a Pass/Fail basis.

**Word limits and penalties**

The word limit for this assessment is stated above.

The University Word Limits Policy is available at:
https://www.northumbria.ac.uk/-/media/corporate-website/new-sitecore-gallery/services/academic-registry/documents/qte/assessment/guidance-for-students/word-limits-policy.pdf?la=en&hash=D06E866BA9C788D7B1FD8EE3E7E3F34026CE9673

Where a student exceeds the word limit by more than 10% the marker will stop reading when they judge that the word count exceeds the word limit by more than 10% i.e. for a 3000 word assignment, the marker will read only the first 3300 words and will indicate on the text where they stop reading. A mark will only be awarded for content up to this point.

**The word limit includes the following:** Text, Sub titles and sub-headings and in text citations e.g. (Smith, 2011). It does NOT include the bibliography or footnotes.

Your word count should be declared on the front page of your assignment.

**Academic Misconduct**

The Academic Regulations for Taught Awards (ARTA) states that students are expected to observe University regulations which define and proscribe **cheating, plagiarism and other forms of academic misconduct.**

The University Academic Misconduct Procedure is set out in the Regulations and Procedures applying to cheating, plagiarism and other forms of academic misconduct and is available at:

https://www.northumbria.ac.uk/about-us/university-services/academic-registry/quality-and-teaching-excellence/assessment/guidance-for-students/

You are reminded that plagiarism, collusion and other forms of academic misconduct as referred to in the regulations and procedures are taken very seriously by the Law School. Assignments in which evidence of plagiarism or other forms of academic misconduct is found may receive a mark of zero.

**Guidance on reflection**

**What do we mean by reflection?**

*"Serious thought or consideration"* – OED definition.

*For our purposes, reflection is the process of thinking about your effectiveness in undertaking the various legal tasks arising from your cases and considering how to modify your future approach to such work.*

*In addition to reflecting on your practical skills, we also expect you to relate those experiences to their wider academic, professional and societal contexts. In doing this you will be drawing on your knowledge of Law as an academic subject. You may also be drawing on some of the legal theory which you studied earlier in the course to ask how well those theories match the reality of legal practice that you have observed.*

**Why do we assess reflection?**

*The SLO isn't simply about teaching you to use your legal knowledge and skills in the real world. It offers you the opportunity to think about what we are doing – and to question both the law and legal practice. The pressures of practice are such that you may not find it easy to do this when you are in full time practice.*

*By teaching you to think in a structured way about your performance and your role as a lawyer, we aim to equip you to go on learning as you enter into practice as qualified lawyer.*

*Reflection fits with one of the Benchmarks for Law degrees – namely the ability to learn from your learning – which must include the ability to recognise areas of weakness and to make good these weaknesses; the ability to build on existing areas of strength; the ability to reflect effectively on experiences and to relate those experiences to their wider academic, professional and societal contexts.*

See Appendix A for the reflection marking criteria.

**What do I have to do for the reflections?**

*You must produce two pieces of reflection. One of the subjects is compulsory – skills in practice; the other piece is optional – drawn from a list of five options.*

**What is the compulsory piece of reflection?**

*The following is for guidance only. You are not restricted to addressing the matters outlined below.*

- **Skills in practice:**

  *This is an opportunity to analyse the development of your legal skills through your time in the SLO. You may decide to focus on issues like: how did your skills change during the year – what particular problems did you encounter and how did you address them – how well prepared did you feel at the start of the year – what skills do you feel are most important to the area of law in which you plan to work and so on?*

*If you want you can try to look at all of the skills – although this risks spreading yourself very thin – or you can focus on one or two particular skills (such as interviewing, writing, case management or research, for example). This should enable you to tailor the reflection to the skills that you developed most during the year.*

*It is likely that good reflections will be able to draw upon actual examples and also on some of the scholarship that has been written about skills development.*

**What is the optional piece of reflection?**

*In order to tailor the reflection to your own interests, you have a choice of areas on which to base your second piece of reflection.*

*In order to support your reflection we will use the Year 4 online lectures and firm meetings to discuss further. The optional topics are as follows:-*

- **Law in action***: To what extent does your academic analysis of the law accurately reflect the reality of legal practice? This is an opportunity to engage in legal analysis arising from your SLO work and bring your academic skills to bear on the practical work that you conducted in the SLO.*

  *You should look for one or more academic points of law that you encountered in real life in the SLO – you may explain the extent to which you consider that an academic understanding of the law in this area fully addresses the reality of law in practice – what unexpected issues did you encounter – how did the practice of law differ from the account given in textbooks – to what extent was the law shown to work effectively and equitably in real life – is there a need for law reform?*
- **Clinic and legal education:** *reflection on the role of clinical legal education – theories of legal education – your experience of clinic – positives and/or negatives of clinical teaching – comparison with other learning on your course;*
- **Justice and ethics:** *critical account of issues relating to justice and/or ethics that you have encountered in your SLO work – how do these issues relate to your own moral outlook, standard ethical norms, formal rules of professional conduct and/or to the concepts of justice that you have studied elsewhere?*
- **Clinic and your career:** *your plans for your legal career – how has the SLO impacted on these plans - what issues has clinic enabled you to identify for your career planning. This may include comparisons between the SLO experience and private practice. How does the remit of the SLO as a free advice clinic with an educational purpose affect such things as the relationship between ourselves and clients; the kind of cases which we are prepared to take on; the time we devote to them; the way we run them.? What are the pluses and minuses of this and how is it likely to differ from private practice? What issues around access to justice/legal aid have you encountered?*
- **Clinic and Public discourse:** *reflection on the submission of a piece of work that you have undertaken during the year which seeks to educate the public on an area of law, or to inform public policy. This might, for example, take the form of a significant contribution to an SLO response to a Government White Paper, or the creation of a client information leaflet in relation to a particular area of law, or significant engagement in an SLO research project (for example, the research project on failure of local lawyers to use civil mediation schemes).*

**What is the format of these pieces of reflection?**

*Your reflections must be submitted as a word documents, they should be handed in separately from one another and from your personal file –* ***see the assessment brief above at the start of this section B for details on word count****. If you refer to particular pieces of client work that you have done, make sure that you flag these up in your personal file so that we can cross-refer.*

**Can I work collaboratively on the reflective pieces?**

*No. These must be your own work – external quotations should be properly referenced. In short, the normal rules on plagiarism, collusion and citations apply.* ***Please refer to the assessment briefing information at the start of this section B for details on word limits and penalties, and also on plagiarism and collusion.***

***Can I get feedback from my supervisor on my reflections?***

*You can submit up to one side of A4 as a draft reflection at your mid-year review meeting, and your supervisor can provide feedback on that draft piece. You can then incorporate this into your final pieces for submission.*

*However, your supervisor cannot read your final pieces of reflection and give feedback on those before hand-in.*

## C The LPC skills

Two of the LPC skills assessments are completed within the SLO; **legal writing** and **interviewing**.

Both of the LPC assessments are marked on a competent / not yet competent basis.

**Interviewing**

Interviewing will be assessed by consideration of one of your recorded client interviews. If possible you should select an advice interview for assessment (i.e. rather than a fact find interview). You are expected to prepare a first draft of the interview plan alone (see below for guidance on collusion).

It is possible to be assessed on an interview that you carry out jointly with your partner - discuss this with your supervisor beforehand, to check that there will be sufficient material to be assessed on, and for guidance on how this will work. You will be expected to prepare and submit to your supervisor the draft interview plan for your part of the interview, alone and without collusion, although you may subsequently need to merge your plan and your partner's to create a joint plan, working together. You can work together to produce the attendance note.

You will receive more information about this aspect of your skills assessment from your supervisor.

If your interview is found to be not yet competent you will be given one further opportunity to satisfy the requirement within the course of the year.

**Legal Writing**

You will be assessed in the context of a letter arising out of one of your Student Law Office case files. It will normally be a letter of advice although it may be any letter with substantial legal content. You will be able to identify an appropriate letter with the agreement of your supervisor and you will write the letter and submit it to your supervisor by the arranged deadline.

You may not discuss your letter with anyone other than your supervisor prior to submission. You supervisor is not able to comment on the contents of the letter prior to marking it for competency. You are strongly advised to have written at least one letter on a different issue/ case with substantial legal content prior to submitting a letter for assessment.

If your letter is found to be not yet competent you will be given one further opportunity to satisfy the requirement within the course of the year.

**Plagiarism and collusion**

For your LPC skill of legal writing, you are expected to prepare the written piece alone and not jointly with your partner in the SLO, and this also applies to your first draft of your interview plan for the LPC skill of interviewing. You are reminded that plagiarism, collusion and other forms of academic misconduct referred to in the assessment regulations are taken very seriously by the Law School. Assignments in which evidence of plagiarism or other forms of academic misconduct is found may receive a mark of zero.

Assessment criteria for these skills assessments are attached to this handout (Appendix B)

**If possible, we suggest that first attempt at the LPC competencies be handed to your supervisor by 4 March 2019 at the latest to allow for a second in-course re-sit attempt if required, but this is guidance only. First and second attempts must be completed by the SLO hand in date at the latest.**

## *Marking Criteria/Grade descriptors: Student Law Office programme*

These descriptors describe student performances by the end of the programme.

In line with the draft QAA Benchmark for Law, the descriptors are bunched around (i) Autonomy and (ii) Ability to Learn. In the Benchmark these are the "key feature of graduateness".

*Autonomy will include*:

- the ability to identify and apply law with accuracy;
- the ability to plan and progress client cases;
- demonstration of a professional commitment to the client's best interests;
- efficiency in managing the case.

*Ability to learn* will include:

- the ability to recognise areas of weakness and to make good these weaknesses;
- the ability to build on existing areas of strength;
- the ability to reflect effectively on experiences and to relate those experiences to their wider academic, professional and societal contexts.

***Marking Criteria/Grade descriptor for Student Law Office – 2018-2019***

This marking criteria/grade descriptor provides a description of the various levels of performance of a student completing the Student Law Office year 4 live client programme. The grades are **fail** (below 50%); **2:2** (50-59%); **2:1** (60-69%) **1st class** (70-79%) and **high 1st class** (80% and over). The assessment criteria are in the left hand column followed by the grade descriptors in ascending order from fail to high 1st. Each descriptor is linked to the assessment criteria and is differentiated from the other descriptors by qualitative statements (poor, fair, good etc.). The descriptors are not intended to be a comprehensive illustration of student performance but rather are meant to provide a guide to the likely performance level required for each criterion. Student performance will not necessarily match exactly against a descriptor or may have elements of more than one descriptor. The supervisor will need to make a judgement about which grade band the student should fall within. It is not an exact science. The high 1st class band is reserved for students who have shown exceptionally good performance over and above that normally expected from 1st class students. An additional element (in italics) has been added to these descriptors to indicate the type of performance expected of such students.

The assessment criteria are equally weighted.

| **Marking Criteria** | **Grade descriptor** | | | | |
|---|---|---|---|---|---|
| | **Fail (below 50)** | **2:2 (50-59** | **2:1(60-69)** | **1st (70-79)** | **+1st (80+)** |
| Autonomy and efficiency | Poor initiative shown; routinely relies on supervisor / routinely requires instruction / routinely requires prompting / requires prompting significant correction of work | Fair/reasonable initiative shown, and often relies on supervisor / often requires instruction / often requires prompting / often needs significant correction of work | Good initiative shown but there is some evidence of the following; reliance on supervisor / requirement for instruction / prompting / significant correction of work | Very good initiative shown and there is little evidence of the following; reliance on supervisor / requirement for instruction / prompting / significant correction of work | Excellent/outstanding initiative shown, and the following are extremely rare; reliance on supervisor / requirement for instruction / prompting / significant correction of work; *a very high level of trust and responsibility can be given* |

| | | | | | |
|---|---|---|---|---|---|
| Knowledge and understanding of the law / legal practice | Poor knowledge and understanding of law / legal practice issues; rarely draws on appropriate prior knowledge or legal principles | Fair/reasonable knowledge and understanding of law / legal practice issues but little thinking across subject disciplines; sometimes draws on appropriate prior knowledge or legal principles | Good knowledge and understanding of law / legal practice issues including thinking across subject disciplines; regularly draws on appropriate prior knowledge or legal principles | Very good knowledge and understanding of law / legal practice issues including thinking across subject disciplines; routinely draws on appropriate prior knowledge or legal principles | Excellent/outstanding knowledge and understanding of law / legal practice issues including thinking across subject disciplines; almost always draws on appropriate prior knowledge or legal principles; *stretches supervisor's own understanding* |
| Strength of oral communication skills | Poor oral communication skills indicating enduring difficulties in articulating legal and factual material; regularly fails to plan, listen or adapt to the needs of the audience | Fair/reasonable oral communication skills; sometimes shows strong ability to articulate legal and factual material, plans, listens and adapts to the needs of the audience | Good oral communication skills; regularly shows strong ability to articulate legal and factual material, plans, listens and adapts to the needs of the audience | Very good oral communication skills; routinely shows strong ability to articulate legal and factual material, plans, listens and adapts to the needs of the audience | Excellent/outstanding oral communication skills; almost always shows strong ability to articulate legal and factual material, plans, listens and adapts to the needs of the audience; *instils confidence in clients* |
| Strength of written communication skills | Poor written communication skills; rarely shows clarity, precision and accessibility; drafts routinely require significant amendment | Fair/reasonable written communication skills; sometimes shows clarity, precision and accessibility; drafts often require significant amendment | Good written communication skills; regularly shows clarity, precision and accessibility; drafts sometimes require significant amendment | Very good written communication skills; routinely shows clarity, precision and accessibility; drafts rarely require significant amendment | Excellent/outstanding written communication skills; almost always shows clarity, precision and accessibility; drafts very rarely require significant amendment; *excellent sentence and* |

| | | | | | |
|---|---|---|---|---|---|
| | | | | | *paragraph structure displays eloquence* |
| Strength of research skills | Poor research skills; rarely shows appropriate depth, detail and comprehensiveness; reports rarely display effective practical awareness and application | Fair/reasonable research skills; sometimes shows appropriate depth, detail and comprehensiveness; report sometimes display effective practical awareness and application | Good research skills; regularly shows appropriate depth, detail and comprehensiveness; reports regularly display effective practical awareness and application | Very good research skills; routinely shows appropriate depth, detail and comprehensiveness; reports routinely display effective practical awareness and application | Excellent/outstanding research skills; routinely shows appropriate depth, detail and comprehensiveness; reports almost always display effective practical awareness and application; *research addresses problems holistically* |
| Commitment to clients and the Student Law Office | Demonstrates little commitment or enthusiasm for achieving the best solution for clients; rarely puts more than the minimum required to perform tasks; completes insufficient work | Demonstrates some commitment or enthusiasm for achieving the best solution for clients; performs tasks with fair/reasonable diligence; completes sufficient work | Demonstrates a good level of commitment or enthusiasm for achieving the best solution for clients; performs tasks with a high degree of diligence and shows pride in the work; completes sufficient work and shows willingness to help further | Demonstrates a very good level of commitment or enthusiasm for achieving the best solution for clients; performs tasks with a very high degree of diligence and shows pride and zeal for the work; completes sufficient work and actively seeks to help further | Demonstrates an excellent/outstanding level of commitment or enthusiasm for achieving the best solution for clients; performs tasks with an excellent degree of diligence and shows pride and zeal for the work; completes sufficient work and goes the extra mile for clients and the Student Law Office; *Supervisor has to work hard to keep up* |

| | | | | | |
|---|---|---|---|---|---|
| Case management and strategising | Cases are progressed poorly; very few ideas about cases are offered or are poorly formed and not thought through; there is little or no evidence of proactivity or thinking about the overall strategic direction of clients' cases | Cases are progressed reasonably; some ideas about cases are offered – these are sometimes poorly formed or not thought through; there is some evidence of proactivity or thinking about the overall strategic direction of clients' cases but this tends to be limited and lacking imagination / insight | Cases are progressed effectively; quite a few ideas about cases are offered – these are often well formed and thought through but with inconsistency; there is good evidence of proactivity or thinking about the overall strategic direction of clients' cases with some imagination / insight | Cases are progressed highly effectively; lots of ideas about cases are offered – these are regularly well formed and thought through; there is very good evidence of proactivity and clear thinking about the overall strategic direction of clients' cases with imagination / insight | Cases are progressed excellently; lots of ideas about cases are offered – these are routinely well formed and thought through; there is excellent/outstanding evidence of proactivity or thinking about the overall strategic direction of clients' cases with imagination / insight; *routinely thinks "outside the box" which generates creative potential solutions to problems* |
| Organisation: time and file management | Displays poor organisational skills; makes little effective attempt to manage time; regularly fails to anticipate how long tasks will take or to plan use of time effectively; late on more than three occasions; files are often disorganised and not up to date; copes poorly under pressure and fails to achieve | Displays fair/reasonable organisational skills; makes a real attempt to manage time; sometimes fails to anticipate how long tasks will take or to plan use of time effectively; late up to three occasions; files are reasonably well organised but inconsistent and are sometimes not up to | Displays good organisational skills; makes a good attempt to manage time; generally anticipates how long tasks will take and plans use of time effectively but with some defects; late up to two occasions; files are well organised and up to date with few significant defects; copes well under pressure | Displays very good organisational skills; makes a very good and sustained attempt to manage time; routinely anticipates how long tasks will take and plans use of time effectively with few defects; late up to one occasion; files are very well organised and up to date with very few significant | Displays excellent/outstanding organisational skills; almost always displays excellent time management; almost always anticipates how long tasks will take and plans use of time effectively with no significant defects; never late; files are excellently organised and up to date with no significant defects; |

| | | | | | |
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| | results when time is of the essence | date; struggles under pressure but manages this | | defects; copes very well under pressure | *organisational skills reveal a calm, unhurried attitude that can easily cope with significant pressure* |
| Teamwork skills and contribution to firm meetings | Poor working relationship with Supervisor / partner / peers; ineffective or negligible or disruptive contribution to firm meetings; may sometimes fail to attend firm or other meetings; relies heavily on other people to achieve client goals | Fair/reasonable working relationship with Supervisor / partner / peers; some effort to contribute to firm meetings but mainly reactive / focused on own cases; contributes to achievement of client goals but provides limited support to others and little leadership | Good working relationship with Supervisor / partner / peers; good effort to contribute to firm meetings including discussions of other people's cases and general discussions; contributes to achievement of client goals; provides ideas and support to others and some leadership | Very good working relationship with Supervisor / partner / peers; very good, creative contribution to firm meetings including discussions of other people's cases and general discussions; contributes fully to achievement of client goals; provides ideas and support to others and effective leadership but does not dominate others | Excellent/outstanding working relationship with Supervisor / partner / peers; excellent, creative contribution to firm meetings including discussions of other people's cases and general discussions; contributes fully to achievement of client goals; provides ideas and support to others and strong leadership but does not dominate others; *embraces the notion of mutual assistance in clients' best interests* |
| Understanding of client care and professional conduct | Displays a poor understanding of professional obligations; fails to take client care procedures seriously or fails to ascertain the | Displays a fair/reasonable understanding of professional obligations; tries to comply with client care procedures but | Displays a good understanding of professional obligations; complies with client care procedures with limited guidance; follows | Displays a very good understanding of professional obligations; complies precisely with client care procedures with very little guidance; | Displays an excellent/outstanding understanding of professional obligations; complies precisely with client care procedures with |

| | | | | | |
|---|---|---|---|---|---|
| | appropriate office procedure; commits a significant breach of the Code of Conduct or error of professional judgment | requires significant guidance; follows basic office procedure but is not always fully aware of the significance of this; struggles to articulate the rationale for ethical rules; treats clients well | office procedure and is aware of the significance of this; is capable of articulating the rationale for ethical rules; treats clients with care and respect | follows office procedure and is fully aware of the significance of this; clearly articulates the rationale for ethical rules and appreciates the context of SLO service; treats clients with a high degree of care and respect | no significant guidance; follows office procedure and is fully aware of the significance of this; clearly articulates the rationale for ethical rules and appreciates the context of SLO service; treats clients with a high degree of care and respect; *makes clients feel the utmost confidence that their best interests are being served* |

***Reflections Matrix Student Law Office 2018-2019- marking criteria***

| | **Third/fail** | **Lower Second** | **Upper Second** | **First/strong first** |
|---|---|---|---|---|
| **Reflective Analysis** | No significant analysis or reflection on the topic | Fair analysis and reflection on the topic. Using some detailed examples but primarily descriptive with a lack of development or analysis. | Good analysis and reflection on the topic. Specific and personal, using some detailed examples, showing good ability to synthesise and evaluate information and ideas | Excellent relevant in depth analysis and reflection on the topic. Specific and (where appropriate ) personal, using detailed examples showing excellent ability to synthesise and evaluate information and ideas |

| | | | | |
|---|---|---|---|---|
| **(Self) Awareness and insight (where appropriate, dependent on the topic) *** | Exhibits little or no self-awareness, generalises experiences, fails to take into account other perspectives or examine potential value | Exhibits fair/reasonable levels of self-awareness, but some generalisation of experiences, sometimes takes into account other perspectives and examines potential value | Exhibits good levels of self-awareness, avoids generalisation of experiences, often takes into account other perspectives and examines potential value | Exhibits high /very high levels of self-awareness, avoids generalisation of experiences, always takes into account other perspectives and examines potential value. Evidence of development/learning and future development/learning needs |
| **Context (Knowledge of relevant material and sources)** | No evidence of relevant knowledge or independent reading. | Little evidence of relevant knowledge. Relies solely on personal anecdote. | Some evidence of independent reading such as books or journal articles. | Good/ Excellent evidence of independent reading such as books or recent journal articles which supports the reflection and or provides context |
| **Clarity of expression** | Not always clear what was intended. Very poor style. Extensive grammar or vocabulary errors | Some points may not be expressed clearly. Poor style. A number of grammar or vocabulary errors. | Most points expressed clearly and succinctly. Mainly engaging and comprehensible style. Mainly correct grammar and vocabulary | All points expressed clearly and succinctly. Engaging and comprehensible style. Correct grammar and vocabulary |
| **Organisation** | Little or no organisation of the material | Clear organisation of material but at times the transitions are unclear. | Very clear organisation of material. | Excellent organisation of the material, forming a coherent whole. |

*this may be slightly less relevant in some of the optional titles, such as Clinic and Legal Education

## *LPC skills assessment criteria*

**Marking Criteria for Legal Writing 2018/2019**

Students should be able to produce written work which:

1. Uses the appropriate medium, form and style;
2. Tailors the written communication to suit the purpose of the communication and the needs of different clients or recipients;
3. Uses accurate, straightforward and modern language;
4. Use correct spelling, grammar, syntax and punctuation;
5. Has a clear, logical, consistent and appropriate structure and format;
6. Has been checked and edited;
7. Forms a coherent whole and, where appropriate, advances the matter;
8. Addresses accurately and correctly all the relevant legal and factual issues;
9. Where appropriate, identifies practical options including the costs, benefits and risks of those options;
10. Identifies clearly clients' objectives and priorities, addresses their concerns and carries out their instructions;
11. Accurately and systematically record a meeting or presentation and its outcomes.

**Marking Criteria for Interviewing 2018/2019**

Students should be able to:

1. Plan, prepare for and identify the objectives of an interview;
2. Understand how to conduct an effective interview that elicits the relevant information, allows the client to explain any concerns, anticipates the client's questions and has clear outcomes;
3. Distinguish between relevant and irrelevant information;
4. Be able to listen actively and use appropriate questioning techniques;
5. Advise the client taking into account the client's objectives, priorities and constraints and addressing all relevant factual, practical and legal issues;
6. Identify possible courses of action, the legal and non-legal consequences of a course of action (including the costs, benefits and risks) and assist the client in reaching a decision;

7. Identify any further decisions to be made or steps to be taken and manage the client's expectations including likely outcomes and timescales;

8. Agree the action to be taken by both parties subsequent to the interview and an appropriate timeframe for such action;

9. Accurately record an interview, advice given orally, decisions made by the client and follow-up steps and, where appropriate, confirm instructions;

10. Establish a professional relationship with the client and deal with any client care or professional conduct issues that may arise when advising the client;

11. Identify the circumstances in which to take instructions or seek advice from a supervising solicitor.

**Appendix 2: Information sheet for Participants and Consent Form**

Northumbria University
NEWCASTLE

# Clinical Legal Education – a problem based and Self Directed Learning Environment – how and to what extent do students in this environment respond in relation to the regulation of their learning and development of self-directedness?

# Participant Information Sheet

You are being invited to take part in this research study. Before you decide it is important for you to read this leaflet so you understand why the study is being carried out and what it will involve.

Reading this leaflet, discussing it with others or asking any questions you might have will help you decide whether or not you would like to take part.

## What is the Purpose of the Study

The purpose of this study is to explore how your experience in the Student Law Office requires you to undertake self-directed learning, your responses to those demands and how you are supported in the environment. This will assist in expanding our knowledge about the nature of the experience for students and how we might support students in preparing for and undertaking this type of experience. It forms the thesis element of my Doctorate in Education at Newcastle University.

## Why have I been invited?

You are a student of mine in the Student Law Office and I am working with you to facilitate your learning – including the development of your self-directed learning and this provides an opportunity for me to explore with you, your experience which is a part of the learning relationship in any case in the office.

## Do I have to take part?

No. It is up to you whether you would like to take part in the study. I am giving you this information sheet to help you make that decision. If you do decide to take part, remember that you can stop being involved in the study whenever you choose, without telling me why. You are completely free to decide whether or not to take part, or to take part and then leave the study before completion. Whether or not you are taking part you will receive the same level of feedback and teaching from me as any other participant in the study. Deciding not to take part, or leaving the study, will not affect your assessment in the Student Law Office.

## What will happen if I take part?

You will be asked to take part in the following:

Your usual teaching experience. If you agree to take part in the experience you are agreeing that I may:

- Consider the interactions in the firm meeting in the light of my research questions having audio recorded them with your permission
- Consider your work and my work with you through your case work, portfolio, mid-year appraisal and assessments in the light of my research questions
- After final confirmation of your marks and graduation, consider your grades across the programme in the light of your experience and work in the student law office

## What are the possible disadvantages of taking part?

There is a possibility that at some point you may feel discomfort or distress in speaking about your experiences in the Student Law Office in the firm meetings. You can of course raise this issue with me and/or withdraw from the research at any time. You can also speak to your personal tutor confidentially if you experience distress or discomfort.

## What are the possible benefits of taking part?

Taking part in the study may assist you in developing your professional awareness and approaches to self-directed learning which may assist you both in the remainder of your studies and in later life.

Your name will not be written on any of the data I collect; the written information you provide will have an ID number, not your name. Your name will not appear in any reports or documents resulting from this study. The consent form you have signed will be stored separately from your other data. The data collected from you in this study will be confidential. The only exception to this confidentiality is if the researcher feels that you or others may be harmed if information is not shared.

## How will my data be stored?

## How will my data be stored, and how long will it be stored for?

All paper data, the typed up transcripts from firm meetings and your consent forms will be kept in locked storage. All electronic data; including the recordings from your interview, will be stored on the University U drive, which is password protected. All data will be stored in accordance with University guidelines and the Data Protection Act (2018).

Your personally identifiable data will be retained for 3 years after the conclusion of this research. The research is due to conclude following conclusion of my doctorate which is scheduled for July 2020.

## What categories of personal data will be collected and processed in this study?

When discussing your learning experience with you I will collect data relating to your approach to learning and the work that you are doing in the Student Law Office. At the conclusion of the study and after your degree is confirmed I intend to review your assessment performance on the programme as a whole. It is not my intention to collect, but it may be that you choose to discuss, and therefore I collect, data relating to your political opinions, religious or philosophical beliefs and health as they relate to your learning experience

## What is the legal basis for processing personal data?

Processing is necessary for the performance of a task carried out in the public interest and for scientific and historical research purposes.

## Who are the recipients or categories of recipients of personal data, if any?

*None*

## What will happen to the results of the study and could personal data collected be used in future research?

The general findings might be reported in a journal or presented at a research conference, however the data will be anonymized and you or the data you have provided will not be personally identifiable, unless we have asked for your specific consent for this beforehand. We can provide you with a summary of the findings from the study if you email the researcher at the address listed below.

## Who is Organizing and Funding the Study?

Northumbria is organizing this study

## Who has reviewed this study?

The Faculty of Business and Law Research Ethics Committee at Northumbria University have reviewed the study in order to safeguard your interests, and have granted approval to conduct the study.

As my doctorate is at Newcastle University it has been reviewed by my supervisory team, the research approval panel and Newcastle University ethics approval panel.

## What are my rights as a participant in this study?

*You have a right of access to a copy of the information comprised in your personal data (to do so you should submit a Subject Access Request); a right in certain circumstances to have inaccurate personal data rectified; and a right to object to decisions being taken by automated means. If you are dissatisfied with the University's processing of personal data, you have the right to complain to the Information Commissioner's Office. For more information see the ICO website.*

**Contact for further information:**

**Researcher email: Jonny.Hall@northumbria.ac.uk**

**Pamela Woolner (Pam.Woolner@newcastle.ac.uk)**

**Name and contact details of the Data Protection Officer at Northumbria University: Duncan James (dp.officer@northumbria.ac.uk).**

***CONSENT FORMS***

Project Title: Clinical Legal Education – a problem based and Self Directed Learning Environment

– how and to what extent do students in this environment respond in relation to the regulation of their of self-directedness?

Principal Investigator: Jonny Hall

*please tick or initial where applicable*

| | |
|---|---|
| I have carefully read and understood the Participant Information Sheet. | ☐ |
| I have had an opportunity to ask questions and discuss this study and I have received satisfactory answers. | ☐ |
| I understand I am free to withdraw from the study at any time, without having to give a reason for withdrawing, and without prejudice. | ☐ |
| I agree to take part in this study. | ☐ |
| I also consent to the retention of this data under the condition that any subsequent use also be restricted to research projects that have gained ethical approval from Northumbria University. | ☐ |

| |
|---|
| Signature of participant..... Date.....…….. <br><br> (NAME IN BLOCK LETTERS).....……. |
| Signature of Parent / Guardian in the case of a minor <br><br> ..... |
| Signature of researcher..... Date.....…….. <br><br> (NAME IN BLOCK LETTERS).....……. |

**CONSENT FOR TAKING PART IN A STUDY WHICH MIGHT CAUSE PSYCHOLOGICAL DISTRESS**

Project Title: Clinical Legal Education – a problem based and Self Directed Learning Environment

– how and to what extent do students in this environment respond in relation to the regulation of their of self-directedness?

Principal Investigator: Jonny Hall

*please tick or initial where applicable*

I have carefully read and understood the Participant Information Sheet. ☐

I have had an opportunity to ask questions and discuss this study and I have received satisfactory answers. ☐

I understand I am free to withdraw from the study at any time, without having to give a reason for withdrawing, and without prejudice. ☐

I agree to take part in this study. ☐

I understand that by taking part in this study I may be exposed to situations that may generate some psychological distress that may become apparent during and/or after the study has finished. I accept the small risk of experiencing psychological distress as part of this research ☐

I also consent to the retention of this data under the condition that any subsequent use also be restricted to research projects that have gained ethical approval from Northumbria University. ☐

Signature of participant..... Date.....……..

(NAME IN BLOCK LETTERS).....…….

Signature of Parent / Guardian in the case of a minor .....

Signature of researcher..... Date.....……..

(NAME IN BLOCK LETTERS).....…….

## Appendix 3: The Practical Legal Research Report

## Appendix 4: Scheme for Educational Discourse Analysis

| Cluster code | Cluster name | Description |
|---|---|---|
| **I** | Invite elaboration or reasoning | Invite others to:<br>1. Respond critically to ideas, perspectives, problems, situations or artefacts through: explanation, justification, argumentation, analogy, categorisation, making distinctions, use of<br>evidence; as well as exploration of possibilities, prediction or hypothesising, speculation. The invitation has to be explicit through typical key words or phrases such as: 'why?',<br>'how?', 'what caused…?' for reasoning; or conditional phrases such as 'what would/could/might happen if…?', when asking for speculation/prediction.<br>2. Elaborate, reformulate, provide examples, extend/add to or build on contributions/ideas/theories; evaluate or (dis)agree with another's contribution/idea/theory.<br><br>Includes invitation to carry out the above actions based on one's own or other's contributions. |
| **R** | Make reasoning explicit | Make reasoning explicit through: explanation, justification, argumentation (providing an argument or a counter-argument), analogy, categorisation, making distinctions, use of evidence;<br>as well as exploration of possibilities, prediction, speculation, hypothesising, and extrapolation.<br>Turns coded R should indicate a clear attempt at reasoning, typically (but not necessarily or sufficiently) through key words such as 'because', 'so', 'therefore', 'thus,' 'if…then', 'not…<br>unless', 'it's like…', 'imagine if…'. The attempt need not be 'successful' — that is, reasoning need not be judged good in order to be coded. It should be remembered that when engaging in<br>reasoning speakers will often be tentative and less than clear in their expression.<br><br>Includes explaining or speculating based on one's own or other's ideas |
| **B** | Build on ideas | Make a relevant contribution to the dialogue by building on, giving examples, adding to, reformulating or clarifying one's own or other's contributions. Contributions should add something<br>either in terms of content or in the way ideas are expressed; excludes repetition of one's own or other's ideas.<br>Includes judging ideas to be similar or different to each other without evaluating them, and without giving reasons. If reasons are given, use R instead.<br><br>When referring to comments, ideas or resources from outside the immediate dialogue either in time, place or person, use C instead. |

| | | |
|---|---|---|
| **E** | Express or invite ideas | This cluster includes:<br>1. Inviting or expressing opinions, ideas, beliefs or perspectives without specific or explicit reference to prior contributions, ideas or artefacts. Includes open, general questions that do not name ideas or participants, but not closed questions that seek yes/no answers.<br>2. Providing contributions that bring something not yet expressed to the discussion, but related to the general subject. The contribution must be pertinent to the dialogue or task at hand. Includes generating ideas during a brainstorm or bringing ideas from a small group discussion into a larger discussion on the same topic — without making links to others' contributions.<br><br>Includes simple feedback such as “I think that's a good point” or “I can see that point”, but not simple “yes” or “no” responses. |
| **P** | Positioning and coordination | This cluster includes:<br>1. Taking a position/stance in the dialogue by:<br>Evaluating different ideas/perspectives/arguments by comparing/contrasting/critiquing them; offering an opinion on the value or lack of value of an idea/position/argument/ artefact in relation to the task at hand; explicitly acknowledging a shift of position; challenging other's arguments, beliefs or assumptions; stating agreement/disagreement/ partial (dis)agreement with others.<br>2. Coordinating ideas by:<br><br>Proposing to resolve differences/agree a solution; synthesising or bringing together ideas, or generalising. |
| **RD** | Reflect on dialogue or activity | This cluster includes:<br><br>1. Explicit self or group evaluation or metacognitive reflection on purposes/processes/value/outcome of learning or activity.<br>2. Engaging in talk about talk/protocol for dialogue.<br>3. An invitation to engage in any of the above. |
| **C** | Connect | Make explicit links to ideas/positions/arguments/artefacts/prior contributions or knowledge beyond the immediate dialogue or context by:<br>1. Referring back to earlier contributions within the group (not immediately preceding).<br>2. Making trajectories of learning explicit, including referring forward to an activity or contributions to be requested.<br>3. Referring to wider contexts: present, past or future, beyond the classroom or to prior knowledge and experiences.<br>4. Inviting inquiry beyond the lesson. |

| | | |
|---|---|---|
| **G** | G Guide direction of dialogue or activity | Take responsibility for shaping and directing dialogue or activity by:<br>1. Using scaffolding strategies such as: feeding in/highlighting salient ideas; introducing an authoritative perspective as part of the dialogue in response to participants' level of understanding; providing informative feedback on which the recipient can build; guiding or focusing the dialogue in a desired direction or towards key aspects of an activity (excludes simply reading out a task/question/text).<br>2. Encouraging student–student dialogue (includes whole class contexts; excludes simply setting group work without an explicit dialogic element).<br>3. Proposing possible courses of action or inquiry.<br>4. Explicitly inviting or proposing thinking time. |

***Discourse Analysis Breakdown***

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| **I1** | Ask for explanation or justification of another's contribution | Ask participant(s) to explain or justify another's or collective ideas, reasoning or the process of arriving at a solution. | Invite participants to take up someone else's or collective ideas, perspectives, reasoning, position, concept, hypothesis, viewpoint, academic content, or the process of arriving at a solution in order to respond critically to them through explanation, justification or argumentation. Asking someone to 'put themselves into another's shoes'. The invitation has to be explicit through phrases such as: 'explain what Jane meant by…'. 'why do you think Ana said that?'. It does not include simply asking others to repeat someone else's statement. |
| **I2** | Invite building on/ elaboration/ (dis)agreement/ evaluation of another's contribution or view | Use previous contribution to elicit further responses, inviting addition to or elaboration/ clarification/(dis)agreement/positioning/ comparison/evaluation of another's contribution or idea. | This act includes:<br>1. Inviting participants to take up others' contribution(s) in order to promote the clarification, paraphrasing, extension, elaboration, or deepening of ideas. Includes bringing private contributions or knowledge objects (e.g. outcomes from group work) into the public arena, when further responses/additions are then invited. Reference to specific prior ideas/contributions/views/theories must be explicit (through naming an individual or referring to a specific idea). Excludes ambiguous cases such as "What do you think, Mary?"<br>Consider E1—'Invite opinions/beliefs/ideas' for this. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | 2. Inviting ideas that are different or similar to others', or inviting others to identify whether ideas are similar or different.<br>3. Asking participants to evaluate or comment on or compare/agree/disagree with another's argument/position/conclusion by:<br>– Asking participants to take a position in relation to the topic at hand or to agree/disagree with possible courses of action;<br>– Asking for confirmatory or alternative perspectives;.<br>Consider additionally coding C1—'Refer back' where positioning is invited in relation to a reference back to an earlier contribution. |
| **I3** | Invite possibility thinking based on another's contribution | Invite speculation/imagining, hypothesis, conjecture, or question posing based on another's contribution. | Invite participants to imagine new scenarios and to wonder, speculate, predict or formulate hypotheses about possibilities connected to previous contributions. Typically this might include a conjunction linking to a previous comment: e.g. 'So, what might happen if…' or 'Based on Billy's idea, who has a further question?'<br>The important feature of this code is that, whilst it includes invitations to participants to ask open-ended questions, which are typical of creative and divergent thinking, it explicitly links these to ideas already expressed, rather than inviting new ideas (which would be coded as I5—'Invite possibility thinking'). |
| **I4** | Ask for explanation or justification | Ask other(s) for justification/evidence or explanation of reasoning or the process of arriving at a solution. | Ask others to make their reasoning explicit. Includes asking for: explanation, justification, argumentation, analogy, categorisation, making distinctions, use of evidence, providing the meaning of concepts/ideas.<br>Invitations must explicitly ask for reasoning, typically (but not sufficiently) with the use of key words such as 'why?', 'how?', 'what caused…?'. Otherwise, consider E1—'Invite opinions/beliefs/ideas' when ideas/views are invited; or I6—'Ask for elaboration or clarification' for invitations to add information or clarify previous ideas. |
| **I5** | Invite possibility thinking or prediction | Invite speculation/imagining, hypothesis, conjecture, or question posing. | Invite participants to imagine new scenarios and to: wonder, speculate, predict, make a conjecture, pose a question, or formulate hypotheses about possibilities and theories to explain a phenomenon based on present information or activity. Often involves extrapolation. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | Invitations must explicitly ask for possibilities, not just ideas/views; typically (but not sufficiently) identified through use of conditional tenses or thought experiments as in phrases such as 'what would/could/might happen if…?' Invitations sometimes use future or conditional tense (e.g. thought experiments; especially use of 'would', 'could' or 'might'). Also consider E1—'Invite the expression of different opinions/ideas/beliefs', including for open-ended creative thinking; or I4—'Ask for explanation or justification' for post-hoc explanations/justifications. |
| **I6** | Ask for elaboration or clarification | Probe/ask for clarification or elaboration or extension or example. | Ask for opinions/ideas/beliefs, without either: – an explicit reference to previous speakers, comments or ideas in the dialogue; or: – an explicit relation to evidence, theories, disciplinary knowledge, support or further argumentation. Emphasis on promoting participation by the collective, but includes asking just one person. Typically involves asking a question like 'What do you think?' Contrasts with invitations to guess the one 'right' answer. Excludes just calling on someone in order to invite them to speak (which is uncoded unless another function is explicit). Includes inviting open-ended creative thinking, but consider I5—'Invite possibility thinking', when inviting speculation, hypothesis, conjecture or question posing. Also consider I4—'Ask for explanation or justification', which asks for reasoning, not just ideas/views. |
| **R1** | Explain or justify another's contribution | Provide or elaborate justification/evidence or explanation of another's reasoning or the process of arriving at a solution. | Explain or justify someone else's or collective ideas, perspectives, reasoning, position, or the process of arriving at a solution by: providing an argument or a counter-argument, drawing analogies, making distinctions, or breaking down or categorising topics/ideas. It may also include bringing evidence from inside or outside the current context into the dialogue to support an argument, opinion, proposal, prediction or theory. As in 'stepping into another's shoes'. The reference to another's contribution has to be explicit. It does not include simply repeating |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | someone else's statement. |
| **R2** | Explain or justify own contribution | Provide or elaborate justification/evidence or explanation of own reasoning or the process of arriving at a solution. | This category encompasses various forms of reasoning, including: providing an argument or counter-argument, explaining, drawing analogies, making distinctions, and breaking down or categorising topics/ideas, as well as accounting for the process of arriving at a solution. It may also include bringing evidence from inside or outside the current context into the dialogue to support an argument, opinion, proposal, prediction or theory. Also consider B2—'Clarify/elaborate own contribution' for clarifications without explicit reasoning. |
| **R3** | Speculate or predict on the basis of another's contribution | Speculate, hypothesise, conjecture, imagine or express one or more different possibilities on the basis of another's contribution | Speculate, predict, hypothesise, conjecture, imagine or express one or more different possibilities and theories to explain a phenomenon on the basis of another's contribution. Includes thought experiments or more explicit predictions/hypotheses. It also includes the expression of different possibilities based on present information or activity. The reference to another's contribution has to be explicit. Often involves using future or conditional tense (e.g. 'if… then', 'not… unless', 'would', 'could' or 'might'). |
| **R4** | Speculate or predict | Speculate, hypothesise, conjecture, imagine or express one or more different possibilities or theories. | Speculate, predict, hypothesise, conjecture, imagine or express one or more different possibilities or theories to explain a phenomenon. Includes thought experiments or more explicit predictions/hypotheses. It also includes the expression of different possibilities based on present information or activity. Often involves using future or conditional tense (e.g. 'if…. then', 'not…. unless', 'would', 'could' or 'might'). It is different from compare/evaluate alternative views in P2, which requires exploring the difference between at least two possibilities or theories. Also consider R1—'Explain or justify reasoning or solution' for post-hoc explanations/justifications. |
| **B1** | Build on/clarify others' contributions | Build on, clarify, revoice, elaborate, make explicit, highlight or transform contributions provided by | Make a responsive contribution based on another person's previous comment, argument, idea, opinion or information. This is used when building on, clarifying, reformulating, exemplifying, elaborating or transforming someone else's idea/opinion/ |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | other(s) or collective idea, opinion or reasoning. | suggestion. It goes further than the original contribution did: it may either clarify (to them and/or to others), add something, or change it qualitatively.<br>It includes:<br>– Paraphrasing (but not just repeating) another's contribution to emphasise, clarify or make it explicit to others,<br>– Explicitly recognising the contribution made by another, but not just by praising.<br>– Completing an idea or comment and chaining ideas between two or more participants;<br>–introducing a different, new idea that is related to a previous contribution.<br>– Rephrasing technical terms used by a previous speaker.<br>– Identifying one's own idea(s) as similar or different to another's. |
| **B2** | Clarify/ elaborate own contribution | Clarify, elaborate, exemplify or extend own opinion/ idea/belief or question. | Applies when the same person makes a new comment/response based on their previous comment or elaborates their own previous question (without a justification). It goes further than the original contribution did: it may either clarify (to them and/or to others), add something, or change it qualitatively.<br>Also consider R2—'Explain or justify reasoning or solution' for justification.<br>Also consider E2—'Make relevant contribution' for extended contributions including elaboration of a new idea. |
| **E1** | Invite opinions/ beliefs/ideas | Invite the expression of opinions/ideas/beliefs/ knowledge from others. | Ask for opinions/ideas/beliefs, without either: – an explicit reference to previous speakers, comments or ideas in the dialogue;<br>or:<br>– an explicit relation to evidence, theories, disciplinary knowledge, support or further argumentation. Emphasis on promoting participation by the collective, but includes asking just one person.<br>Typically involves asking a question like 'What do you think?' Contrasts with invitations to guess the one 'right' answer.<br>Excludes just calling on someone in order to invite them to speak (which is uncoded unless another function is explicit).<br>Includes inviting open-ended creative thinking, but consider I5—'Invite possibility thinking', when inviting speculation, hypothesis, conjecture or question posing. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | Also consider I4—'Ask for explanation or justification', which asks for reasoning, not just ideas/views. |
| **E2** | Make other relevant contribution | Offer a pertinent, contribution/suggestion/idea/ perspective/information that progresses the collective activity at hand. | Offer a pertinent, contribution/suggestion/idea/perspective/information that progresses the collective activity at hand. Includes generating ideas during a brainstorm or bringing ideas from a small group discussion into a larger discussion on the same topic — without making links to others' contributions.<br>To use this code, the contribution has to bring something not yet expressed to the discussion that is related to the general subject, and it must be pertinent to the task at hand.<br>Does not apply when someone repeats or emphasises their own prior contribution, except when doing so to someone not present before.<br>Includes simple feedback such as "I think that's a good point" or "I can see that point", but not simple "yes" or "no" responses.<br>Important: Always use a more specific code (only) where one applies. |
| **P1** | Synthesise ideas | Synthesise or summarise others' or collective idea | Bring multiple perspectives or ideas into inter-relation and draw out or distil a key idea(s)/conclusion/implication. Must include ideas from more than one person/source (two in total is sufficient), or own ideas in the collective synthesis.<br>May include ideas from immediately preceding discussion or earlier in lesson/lesson sequence; as well as integrating or summarising or recapping, e.g. after class brainstorm or during/at the end of a group discussion.<br>Also consider B1—'Build on/explain/clarify other's contributions'. |
| **P2** | Compare/ evaluate alternative views | Compare/evaluate different opinions/perspectives/ beliefs. | Compare/evaluate at least two arguments/positions/suggestions (may include own or other's), with explanation or justification.<br>Also consider B1—'Build on/explain/clarify other's contributions' for identifying similarity or difference between ideas without judging their value.<br>Also consider R4—'Speculate, hypothesise or predict' for speculations, hypotheses and predictions |
| **P3** | Propose resolution | Propose a resolution after discussing a task, issue or problem. | This act includes the result of seeking consensus/agreement, either by suggesting a solution that could be shared by all, or by suggesting that participant should partially agree, or disagree entirely, after discussing a task, issue or problem. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | Other participants need not agree or share the viewpoint. |
| **P4** | Acknowledge shift in position | Participants acknowledge that they have shifted their position in response to the preceding dialogue. | It includes clarifying a misconception or changing opinions/ideas/beliefs. There has to be evidence of the shift/adjustment in position or change of mind in the dialogue. E.g. change in the argument or idea that the participant was exposing earlier. It requires an explicit statement. Also consider P6—'State (dis)agreement/position'. |
| **P5** | Challenge viewpoint | Challenge viewpoint/assumption | Challenge/confront others' view/assumption/argument. The challenge must be evident through verbal (or nonverbal) means, including questioning. This should not be used when a simple 'no' response is given. Includes partial agreement. |
| **P6** | State (dis)agreement/ position | State that one or more participants (dis)agree with others or acknowledge differences | One or more participants state that they agree or disagree with at least one other. This act includes the result of seeking agreement, either by arriving at a solution or acknowledging participants' differences after discussing a task, issue or problem. For agreement, at least 2 positions must have been expressed previously so that one is chosen over the other. For disagreement or partial agreement, a simple statement is sufficient (since we assume two perspectives have been compared). Includes agreeing a course of action (under above conditions). Positioning in relation to other must be explicit. For a statement of different viewpoint, consider P5—'Challenge viewpoint'. If a reason is given, also code with R2—'Explain or justify reasoning or solution.' |
| **RD1** | Talk about talk | Participants talk about talk, reinforce protocols of dialogue, or model effective dialogic techniques. | This includes: – talking about or constructing ground rules for communication. Refers to metacognitive talk about talk rules/protocols, whether rules are established or not.-Modelling productive ways of interacting, e.g. by showing how to 'think aloud'; how to explain; how to argue by providing reasons, justifications and evidence; and how to hypothesise. Includes talk about quality or purpose of talk. Does not include reflection on use of language, e.g. technical terminology; consider RD2- 'Reflect on learning process/purpose/value'. |
| **RD2** | Reflect on learning process/ purpose/value | Comment/talk about the process of carrying out the collective activity or evaluate own performance. Or | This includes: 1. Analysing the processes involved in the development of the task and/or the effectiveness of their (individual or collective) |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | reflect on the importance, usefulness, purpose or outcomes of learning or of the task, as part of a collective activity. | performance during a collective activity. Participants might reflect on how they are learning/have learned (including from others) or whether they are/were using effective strategies for the task at hand; how well they performed; their level (or lack) of understanding; what they can do to improve their performance; what the next steps are to complete the task; to what extent they have achieved the goals of the activity, etc. Assumes an element of evaluation or reflection. In this act there has to be an explicit statement that refers to the collective activity. Includes affective dialogue: feelings/experiences about working together; e.g. How did I feel when we were doing the task together? What do I feel about my performance? What do I feel about the outcome of the collective activity?<br>2. Analysing, reflecting on or evaluating the importance of learning and/or outcomes. Includes discussing and reflecting on past/present-future trajectory. E.g. Why do we need to learn x? How/where can we apply what we learned? When will it be useful?<br>Includes talk about the purpose of a shared discussion activity, where there may be no ground rules explicitly operating. Includes reflecting on use of language, e.g. technical terminology.<br>Also consider RD1—'Talk about talk'. |
| **RD3** | Invite reflection about process/ purpose/value of learning | Invite others to reflect on the importance, usefulness, processes or outcomes of learning from collective activity. | Encourage others to analyse or evaluate their own learning processes and/or outcomes. There has to be an explicit statement that refers to the collective activity. Includes inviting to reflect on purposes/goals of learning or the activity or on past-present-future trajectory (e.g. Why do you learn x? How/where can you apply what you learned?); and encouraging affective dialogue, such as feelings/experiences about working together (e.g. How did you feel when you were doing the task together? What do you feel about your performance? What do you feel about the outcome of the collective activity?) |
| **C1** | Refer back | Refer back to prior contributions or observations or knowledge objects or discussions after contributions. | This code should be used when explicitly reviewing, referring to or bringing in a specific contribution (by an individual or group; of one's own or another's) or observation, linking prior knowledge, concepts, beliefs, hypotheses, agreements/conclusions reached, opinions, |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | arguments, ideas, learning content to the current topic or activity. Contributions could come from the current or previous lessons.<br>Includes reference back to prior learning from interaction with texts including multimedia resources where these are linked to present/<br>future activities.<br>Consider E2—'Build on others' contributions' when responding rather than explicitly referring back, even if the contribution responded to<br>was earlier than the preceding turn.<br>Consider C2—Making learning trajectory visible (if reference is to activity or to prior learning from/interaction with texts including<br>multimedia resources, rather than contributions). |
| **C2** | Make learning trajectory explicit | Make learning trajectory explicit, providing<br>continuity within and across lessons, including by<br>highlighting relevance to prior or future activity. | This code should be used when reviewing past activities and linking them to present/future activities, as part of making the trajectory<br>explicit. Includes referring forward to an activity or contributions to be requested and encouraging others to record ideas and/or outcomes<br>of dialogue. May include making explicit goals or purpose of learning trajectory.<br>Also consider C1—'Refer back' for linking to past contributions.<br>Consider B1—'Build on/clarify others' contributions'. |
| **C3** | Link learning to wider contexts | Make links between what is being learned and a<br>wider context. | Bring knowledge from outside of the classroom or school (i.e. beyond, before or after the current lesson) into the discussion of what is<br>being learned, relating previous experiences within or outside the school, linking given and new information. This relates to the temporal<br>dimension of learning (in different time frames, from very local to very extended in time, and also creation of inter-textual and inter-contextual<br>relations). Includes generalising to other similar instances/contexts.<br>This may include personal experience/memory, analogy or anecdote, especially from younger children and/or when used to justify. |
| **C4** | Invite inquiry beyond the lesson | Ask others to pursue their own inquiry before, or<br>after lessons. | Ask others to pursue inquiry prior to teaching a topic or to deepen knowledge afterwards. (This leaves open the possibility for inquiry. It<br>sustains and extends dialogue across time and space). This may include asking others to pursue individual or shared enquiry, withholding information, evaluation and feedback, or ending a lesson in<br>suspense. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| | | | It may also include inviting individuals or groups to conduct an independent investigation beyond the lesson and bring back results to be collated and/or discussed as a whole class.<br>For enquiry within the lesson consider G2—'Propose action or inquiry activity' or I5—Invite possibility thinking. |
| **G1** | Encourage student–student dialogue | Encourage student–student dialogues by giving pairs/groups or class the responsibility for the direction and/or outcomes of the dialogue or the collective activity. | Includes allocating responsibility to students, pairs or groups for the dialogue or the activity — whether or not the teacher is moderating the discussion.<br>Not used when simply setting group work or asking pairs to work together; there needs to be some dialogic element in the task. |
| **G2** | Propose action or inquiry activity | Propose possible courses of action or an inquiry activity. | Propose a course of action in the context of a dialogue or collective activity, or propose an inquiry activity.<br>It may also include inviting individuals or groups to conduct an independent investigation and bring back results to be collated and/or discussed as a whole class within the same lesson<br>This is not applicable to simple instructions which are not of a dialogic nature (such as reading out a task or question, which is uncoded).<br>Consider R2—'Explain or justify reasoning or solution' if it includes explanation or justification of reasoning.<br>For inquiry beyond the lesson use C4—'Invite inquiry beyond the lesson'.<br>Also consider I5—Invite possibility thinking. |
| **G3** | Introduce authoritative perspective | Explicitly introduce authoritative perspective or explanation as part of the flow of dialogic interaction, in response to participants' level of understanding. | Implies invoking voice/perspective of expert from beyond the present dialogue, e.g. to challenge others' thinking or to take on that perspective.<br>This may include authoritative contribution — i.e. making a teaching point — that builds on a learner's contribution or knowledge.<br>Includes introducing or bringing in technical terms.<br>NOTE: Determining if it is adjusted to learner's level is difficult and needs to be established through the particular context of the dialogue.<br>In addition, an authoritative explanation deals with reliability and knowledge of the content.<br>Act may be accompanied by diagnostic strategies such as closed questions or prompting to confirm that students have understood or learned target concepts, but these strategies are not part of the CA. |

| Cluster Code | Key Words | Definition | Description |
|---|---|---|---|
| **G4** | Provide informative feedback | Provide informative feedback on which others can build. | This refers to formative or diagnostic feedback instead of simple positive, negative or non-committal judgement, or mere repetition of the respondent's answer. This code may be used alongside others that indicate the form of feedback, e.g. B1—'Build on/explain/clarify others' contributions', or it may be accompanied with justification, explanation or elaboration, in which case assign two codes. |
| **G5** | Focusing | Focusing the dialogue on key aspects of the activity | This may be used when guiding or focusing the dialogue in a certain desired direction or towards certain key aspects of the activity. Involves feeding in/highlighting salient ideas. This act may involve: (1) feeding in through questioning or suggesting or pointing out salient information about the task or problem. This includes clarifying the task or problem or deepening the discussion. May help to narrow the field of focus or pre-empt undesirable conclusions. This includes bringing participants back to the matter at hand. Excludes repeating an earlier question. (2) extending the field by stimulating thinking in another direction not yet thought about. (3) encouraging others to 'discover' new knowledge (as in scaffolding). Excludes simply reading out or turning to a task or set question (which is uncoded). G5 may be used alongside other codes that indicate the form of focusing, e.g. I6—'Ask for elaboration or clarification', I4—'Ask for explanation or justification' or R3—'Speculate on the basis of another's contribution'. |
| **G6** | Allow thinking time | Invite or propose to pause to think, reflect, or respond or talk. | An explicit invitation or proposal to pause, for example to think or reflect or decide. Optionally: Code when the elicitation is not verbally explicit and there is a pause of at least 3 s after an invitation. Code only pauses within the exchange. |

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**Appendix 5: Thematic Analysis and Inclusion in Findings**

| Theme | Potential sub theme | Include? |
|---|---|---|
| **Confidence** | Confidence is important in the SLO and my experiences in the SLO have improved my confidence | Yes. All of the students refer to this and it appears key in their minds to success and thus to most of the research questions including my orchestration |
| | Lack of confidence (or greater confidence) comes partly from a fear/no fear of being judged for being wrong | Yes. Significant for at least four of the students and was key to their explanation of their involvement in the discourse in firm meetings |
| | Learning from mistakes is about confidence (D) | No. Powerful theme from student D but no evidence shared by other students |
| | Confidence in a confrontation (H) | No. Powerful and rich theme from student H about confrontation with another professional but very personal to that student and their experience |

| Theme | Sub Themes | Include? |
|---|---|---|
| **Collaborating with the group and outside the group** | Members of the firm can trust each other and others in the clinic | Yes. Students all clearly valued this and relied upon each other and others |
| | You have to work together to get the best for the client and the case | Yes. Lengthy discussion about this with the students and the difference between this and other areas of the programme. Very clearly related to the research question about the nature of the environment |
| | Members of the firm and SLO and other legal professionals are a resource for knowledge and professional identity | Yes. Strong agreement amongst students about this. Goes to the heart of the nature of the environment but what can also be orchestrated by our choices |
| | Members of the firm provide different perspectives and emotional support | Very clear in sources other than the firm meetings (diaries and assessed reflections). Goes to the heart of the environment and interactions |
| | The group can distribute tasks and knowledge but thought is required, new members and larger groups are more problematic but can be dealt with | Yes. All students agreed on the benefits of this for a large project. Include also some students remarks that it also causes problems |
| | Social relations matter (quiz night) | Yes. Striking reference in four student diaries to one particular social event at the start – quiz night and links strongly to all students' sense of trust in each other |

| | | |
|---|---|---|
| | Fostering and nurturing work environment<br>- A lot more interaction than I've seen in traditional settings<br>- A lighter humour | No. Student F mentions this very prominently in assessed optional reflection and firm meetings and I suspect this may be important but it is not really referred to or evidenced otherwise by other students |
| | Confrontation, emotion and parallel thinking | No. Strong reflective and interesting theme from student H who developed this throughout their time but no real mention by other students |

| **Theme** | **Sub Theme** | **Include** |
|---|---|---|
| **Collaborating with a partner** | The partner provides a different perspective or model | Yes. All students refer to it. key part of collaborative learning in the office |
| | The partner is a resource and support | Yes. All students refer to it (particularly clear in diary mentions of the other partner) |
| | Co-constructing with a partner | Yes. Links to other two sub themes above. Clear exploratory relationship beyond cumulative or disputational (Mercer) |
| | A sense of obligation to the partner | Yes. All students agree. Relates to the research questions because it appears to drive student engagement in this environment |
| | Different partners require different working styles | Probably. Accords with literature and my own previous experiences and shared by 3 students strongly |

| **Theme** | **Sub Theme** | **Include?**<br>**General issue as not mentioned in discussions as much but clear reasons for this and some important points raised that relate to research questions** |
|---|---|---|
| **Collaborating Relationship with supervisor** | Obligation to supervisor not to let down/expose but also assessed by the supervisor | Yes. Clear from four students. Important part of the difference of this environment from others |
| | A Safety Net | Probably. Important to three of the students and other evidence in diaries suggests that students need reassurance about direction |
| | Supervisor can model professional practice | Yes. General agreement among students. C found it particularly useful dealing with emotional situations |
| | Supervisor can take too much control | Yes. Relates strongly to literature, orchestration and I perceived it – which was confirmed by one of the students as being felt by the others. |

| Theme | Sub theme | Include? |
|---|---|---|
| **The impact of real work** | A real client requires me to shift my focus from myself to the other | Yes confirmed by all students in discussion as important and relates to nature of environment |
| | Seeing the impact on a real person and that it matters/does not seem to matter to them | Yes confirmed by all students in discussion as important and relates to nature of environment. Also clear that when a matter did not seem to be important to a client this could have a demotivating effect |
| | Real work is different because of the impact on the client | Yes confirmed by all students in discussion as important and relates to nature of environment |
| | A real case requires preparation and time management | Yes. Four students indicated that the fact that there was real work with real deadlines caused transformation in their time management |
| | Will our work actually be used? | Yes. Relates particularly to large, slow project work which students began to wonder if it would be used |
| | I value real work because it prepares me for practice | No. Very important to Student A but does not feature as heavily with other students |
| | Real work can lead to anxiety | Yes. Clear anxiety for several students which it is important to manage (part of orchestration). Students B, D, G and E all mention this |
| | Large projects challenge connection and ownership | Yes. See comment on will our work actually be used |
| | Is the work too complex, challenging enough? | No. features for student C (and possibly A) but not really evident in discussion or other student reflection |
| | Area of law I'm interested in is motivating | No, only specifically mentioned by C. some sense that it was true also for those who didn't get their first choice of clinic firm but not entirely clear why this was an issue for them (i.e. interest or fear of civil dispute topic) |

| Theme | Sub-theme | Include? |
|---|---|---|
| **Feedback on my work** | Feedback helps me gauge where I am in my skills (H) | I have decided not to include this theme. Feedback is clearly an important part of any educational situation. I have decided that there is an absence of discussion on this and these glimpses only emerge from the reflective diaries which do not give a strong enough picture of the students' experience |
| | Lack of constructive criticism on one occasion (C) | |
| | Positive feedback encourages me (D) | |
| | Positive feedback to others and not me increases alienation (B) | |
| | Prefer oral feedback (F and G) | |
| | Reassurance that I'm on the right track (G throughout much of November, D) | |

| Theme | Sub Theme | Include? |
|---|---|---|
| **Uncertainty can be a good thing outside of the comfort zone** | Pushed out of comfort zone by having to research the unknown (E) | These two areas are ripe for investigation but not addressed by many students in discussion and would require further exploration |
| | The need to get it right stops me from guessing (G) | |

| Theme | Sub theme | Include? |
|---|---|---|
| **Discussing cases** | When it's my case, when it's not my case | To be discussed as part of the analysis of the firm meetings |
| | Provides a framework for thinking about future cases | |
| | Helps to co-construct knowledge | |
| | Visual or verbal | |

| Theme | | Include? |
|---|---|---|
| **Can you guess what I'm thinking** | | To be discussed as part of analysis of firm meetings and respondent validation |

| Theme | Sub theme | Include? |
|---|---|---|
| **What Hinders me expressing ideas - confidence** | When it's my case, when it's not my case | To be discussed as part of the analysis of the firm meetings |
| | Provides a framework for thinking about future cases | |
| | Helps to co-construct knowledge | |
| | Visual or verbal | |

| Theme | Sub theme | Include? |
|---|---|---|
| **Assessment has an influence** | | Needs to be mentioned but only actually raised by one student. Include in limitations |