

“Professional simulation tools online as a means to promote work-based learning of legal skills”**Dr Max Lowenstein, Senior Lecturer in Law, Bournemouth University, UK****Ms Jasmin Bonello – Mooting student lead 2016-17, Bournemouth University, UK****Mr Joseph Dance & Mr Simon Curry – Mooting student lead 2018-19, Bournemouth University, UK***Introduction and relevance of mootings research project 2016-19:*

The importance of students’ developing competence in legal skills, which involves critical analysis and explanation of the law matters within academia and legal practice. Learning legal skills involves the development of students’ speaking, listening, reading and writing skills, which according to legal education pedagogy particularly matters to professional legal authorities and employers, (Gillespie & Watt, 2006). According to (Gerber & Castan, 2012), mootings literature identifies a broad variety of legal and work-based skills that are enhanced by students’ involvement in moots. These skills include advocacy, communication skills, critical thinking skills, self-confidence and teamwork. In legal education pedagogy, the focus in the past has thus far encompassed the mastery of legal skills, rather than exploring the students’ learning journey associated with them. As a result, this funded research project focussed upon exploring the learning experiences of 1st and 2nd year LLB students as they learnt examination in chief, cross-examination and witness handling skills, in readiness for a full criminal show trial with judge, jury, witnesses and media reporting.

This rare qualitative project considered how learning these legal skills could promote students’ self-confidence, engagement and their CVs. Through constructive feedback delivered within the courtroom setting to each individual within the team, students developed effective team learning. They learnt not just from their own individual feedback, but gained confidence in legal skills by observing and sharing their learning journey with each other. The research projects’ survey data revealed that transferable team-building skills, ready for the legal workplace had been developed as well as greater awareness of the codes of practice issued by professional legal authorities such as the Solicitors Regulation Authority and Bar Standards Board, (Lowenstein, 2019). The project recommended the promotion of work-based learning of legal skills, particularly in the early stages of undergraduate teaching of the law, (Lowenstein, 2019).

Advancing work-based legal skills learning:

The teaching of legal skills can present a series of challenges for both academic and professional legal education providers. It can be difficult to get funding for a purpose built courtroom venue, which many Higher Education Institutions in the UK and globally consider important for their law students to utilize. After gaining a learning and teaching fellowship from Bournemouth University in 2016, the award provided the sole researcher with the funding to initiate a purpose built courtroom venue as well as purchase law court props (robes, wig, a lectern and gavel) in order to provide an authentic courtroom simulation. Legal education pedagogy, promoted mootings skills acquisition, but did not explore how students learned legal skills and what could be learned from their learning journey perceptions (Baskind, 2017). To plug this gap in our knowledge, qualitative surveys capturing the students’ learning journey were developed. The data gathering informed the Virtual Learning Environment (VLE) website and complemented the informative videos of students show casing their legal skills within professional simulations. The mootings competitions which are the

norm for legal skills learning globally, were innovated upon by creating full criminal show trials, which are very rare globally. They were co-created by the researcher and the student volunteers as unique online learning tools. They were based upon fictional criminal law scenarios at the Crown Court level. It took time to co-create criminal courtroom videos and relevant legal skills learning guidance materials. Both online tools were refined using feedback gathered from the students' self-reflective journals, building upon existing legal skills pedagogy globally, (Snape & Watt, 2004). It then took more time to qualitatively analyse the survey data gathered leading to publication of the results at legal education conferences, (CELebrate Conference 2016, BCUR Conference 2017 and SLSA Conference 2019).

Improved student engagement and performance:

In 2017, further funding secured under the Bournemouth University, Student Research Assistantship (SRA) Scheme, enabled the research project to capture the learning journeys of the students by funding a mooting lead student to help deliver legal skills workshops alongside the sole researcher. These workshops were extra-curricular. They explored the courtroom roles and perspectives of the criminal justice judiciary, prosecution and defence legal counsel, witnesses and jury members with a particular focus upon developing advanced criminal advocacy skills (trial witness and jury handling). With the mooting lead student, co-created surveys (Andres, 2010: 47) were developed to explore the learning journeys of students within the 6 weekly workshops from 2017-19. The indicative shared perceptions of 75 students covered the following areas and included relevant likert attitudinal scales:

- 1) Extent of access to mooting guidance resources and rating their helpfulness when learning advanced legal skills (high to low)
- 2) Extent of self-confidence and engagement gained from the show trial roles including the students' perceived learning challenge (high to low).
- 3) Reflection on emotions associated with learning advanced legal skills over time (positive to negative).
- 4) Feedback for improving the learning experience (positive to negative)

Applying Biggs' 3P Model of Teaching and Learning (1989) model, the survey data design considered how presage (student interested and motivated in advocacy), led to deep learning, (self-reflection on their mooting skills development) which then resulted in enhanced student engagement and involvement with legal skills via the website VLE (engaged learners). It took time and numerous student volunteers in order to regularly deliver the weekly surveys. However, the meticulous data gathering filled a knowledge gap in legal education pedagogy, (Lowenstein, 2019). Student volunteers supported by the researcher became active data gatherers, embedded in the data gathering process, rather than passive data receivers, (Lowenstein, 2011.)

When teaching legal skills for a professional courtroom, the comprehensive model of work-based learning developed by (Raelin, 1997: 573) was adopted. Applying his model, which attempts to align work-based learning theory with practice, students first, debated relevant legal theory relating to criminal advocacy, procedure and morality, (Audi, 2009). This conceptualization challenged any assumptions that they may already have had. Second, by ensuring students received feedback on

their advocacy skills within teams, this helped them to develop a 'community of shared practice', (Bohm, 1985: 27).

Academics have reported that in developing extra-curricular legal skills education opportunities, there are difficulties in finding the time, funding and institutional support to create professional courtroom simulations, (Kammerer, 2018). In delivering extra-curricular legal skills workshops, the researcher experienced all of these difficulties. Teaching advanced legal skills to predominantly 1st year law and non-law students, who had little prior legal knowledge, required significant teaching support from student volunteers, who assisted with court simulation feedback, (Lowenstein, 2019). Short case studies for the workshops were developed, (McSharry & Jones, 2000) to explore different courtroom actor perspectives regarding the criminal law. This promoted group discussion and student confidence to try courtroom role-play, (Erturk, 2015: 2).

According to (Banks, 1999: 467), developing case studies in law for work-based learning, engages with both 'the students' reality and the social context in which law operates'. However, despite the time and cost difficulties faced, the criminal show trials were found to be effective at boosting the future employability of students due to the show casing of legal skills on the VLE. Employers during the placement year were more receptive to students who had completed the extra-curricular mootings. Student self-confidence and engagement increased, their legal skills competency improved and their understanding of criminal law and procedures became enhanced. The VLE website also promoted a better public understanding of criminal court processes and procedures within the general public, (Lowenstein, 2019).

Towards a lasting legacy:

There may well be time limitations for both academics and legal practitioners tasked with delivering legal skills, which typically requires workshops, moot trials and the provision of extensive formative feedback, fully preparing students for summative assessments in legal skills (mooting) or indeed legal practice. Guided by current education pedagogy gaps in knowledge, the researcher had planned and then designed a unique and rare courtroom experience. However, the task was not easy to accomplish.. The lasting legacy was the promotion of wider student engagement with legal skills learning as well as to stimulate wider public debate regarding the criminal law and its' procedures, (Collins & Rogoff, 1991). The extra-curricular mootings project from 2016 to 2019 created a unique legal skills VLE - <https://www1.bournemouth.ac.uk/about/our-faculties/faculty-media-communication/our-departments/department-law/moot-court-experience> The VLE included two criminal show trials with a judge, jury and legal counsel showcasing unique legal skills and advancing the innovative teaching of them internationally.

Drawing upon (Biggs, 2006) constructive alignment theory was applied to ensure that the extra-curricular moot court experience VLE content aligned well with the learning outcomes of the researchers' curricular units on the LLB Programme. The short case studies and role-plays developed at the extra-curricular level, enhanced teaching on first year and second year units where legal skills were taught. For example, one of the learning outcomes considered the operation of the Civil and Criminal Justice systems as part of the English Legal System. Students in feedback had reported that they found it difficult to understand these complex systems in their first year of LLB studies. The moot court experience VLE provided informative videos, which demonstrated the operation and processes of Criminal and Civil law systems.

The VLE became a useful teaching aid utilised by other academics teaching the English legal system across the UK and internationally. For example, one academic by email had praised the VLE as enhancing their teaching of the criminal justice system to their undergraduate law students in the UK, at New College of the Humanities, London in 2017. Beyond England, the VLE was reported by another academic to have assisted the learning of English linguistic skills for postgraduate students in Spain at UIC University, Barcelona in 2019. Specifically there, the moot court experience VLE content videos were considered to be relevant and helpful to the teaching of Legal English to Spanish Master de Abogacia (Masters in Law and Advocacy) students. The latter shows that legal skills learning innovation can reach out globally and in an ever more competitive global legal market, it is our UK law students who will need to stand out from the crowd.