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### Original Citation

Pescod, Vince and Seagreaves, Emma (2009) E-Learning for legal professionals in the 'virtual' workplace: the use of authentic activities. In: 44th Annual Conference of the Association of Law Teachers, Legal Education: Extending the Boundaries, 5th - 7th April 2009, Royal Tropical Institute, Amsterdam, Netherlands. (Unpublished)

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## **AMSTERDAM CONFERENCE 2009**

### **E-learning for Legal Professionals in the 'Virtual' workplace: the use of authentic activities**

#### **Vince Pescod and Emma Seagreaves**

##### **Background**

The Huddersfield University School of Law currently offers two Professional Practice courses designed to provide training for would-be solicitors. The Solicitors Regulation Authority validates both courses. The courses are:-

- (1) the LLB 4 year exempting degree, which provides a professional route to qualification as a solicitor by integrating both the undergraduate Law degree (LLB) and the professional Legal Practice Course (LPC) to allow students to gain a Master of Law and Practice (undergraduate integrated Masters) and thus move straight from their University degree into a training contract as a solicitor.
- (2) the postgraduate Legal Practice Course which is offered on a one-year full time or two year part time basis and allows students to gain the Postgraduate Diploma in Legal Practice. This course is open to both law graduates and non-law graduates who have gained the Graduate Diploma in Law.

As both of these courses provide training in professional practice, the focus of both courses is inherently practical in nature. The Professional Practice modules on these courses are not taught using a traditional "lecture/tutorial" format – instead tutors use a variety of interactive methods, such as role-playing, group activities, the progression of transactional case studies and skills based training both oral and written. Teaching is divided into large and small group sessions. In many sessions, the tutor acts as facilitator within the session and the majority of sessions are structured in a "problem-based learning" format. Within all small group sessions, students are engaged in a specific type of problem-based learning activity, that of "transactional learning" – that is, the progression of transactional case studies within the module, whereby the student progresses a legal case on a weekly basis to build up a full case study over a period of time. The student completes the course with a number of case studies in a variety of areas of law. For example, in the subject "Family Law and Practice" – students in Week 1 will role play the interview of a new client, will advise the client as to his/her options regarding a divorce and will draft the initial letters in the case; in Week 2 they may institute divorce proceedings on behalf of the client by drafting all the relevant documentation and filing this with the fictional local court; in Week 3 they will receive a letter from the other side to respond to and progress the divorce proceedings and so on.

This method of "transactional learning" has many benefits to the professional legal practice student:-

- The modules in which the case studies are based are designed to allow students to develop their professional legal and problem-solving skills, such that they are able to act on a client's behalf and carry out all the tasks most commonly associated with being a trainee solicitor. They do not require the

- student to be engaged in the academic study of the law (this takes place in the LLB in academic modules);
- Students are engaged in active learning throughout which increases student engagement;
- Students work in groups for many activities and learn team working and project management skills;
- Students learn to act within relevant professional standards when engaged in the transactional case studies, which further depends their understanding of the role of the solicitor;
- Students are able to practice and develop their skills within the “safe” environment of the classroom.

The drawbacks of the current method of teaching on these modules are that, at present, the case studies:-

- are paper based and, thus, mainly effective as a learning tool within face to face teaching sessions;
- have been designed by the law tutors within the Law School and developed specifically for the professional courses, thus are entirely fictitious;
- being fictitious, are somewhat limited in complexity and sometimes, depth, therefore, limited in realism;
- being fictitious, mean that the tutor who designs the scenario also identifies the problems to be addressed by the students, again limiting the realism;
- are limited in terms of the point of the procedure being reached, due to time constraints with the hours allocated to the face to face teaching, hence some cases are concluded somewhat “artificially” by the tutor;
- context within which they are set lacks authenticity in that the student receives only those documents relevant to the case study and thus does not have access to the complete “solicitors” file, which would contain information about costs, time management and correspondence between solicitors, from which the student can gain a full insight into file management.

Whilst the tutors who teach on the professional practice modules also make extensive use of the Blackboard Virtual Learning Environment (VLE) within their teaching, this environment performs a variety of generic functions for all courses and does not lend itself to be adapted to suit transactional learning in a specified format. Barton & McKellar (2007) note that VLE’s perform both educational and administrative functions. They go on to state this dual role of the VLE “tends to constrain educators and course designers into adopting certain approaches to teaching and learning within this environment...” either instructively, via the provision of lecture notes, links to on line materials and quizzes or constructively, utilising discussion forums and group tasks.

The School of Law agreed that a different, more specialist approach to teaching and learning was necessary on the professional practice modules which could not be provided by the Blackboard system.

### **Situated Cognition Theory**

Brown, Collins & Dugaid introduced Situated Cognition Theory in their article ‘*Situated cognition and the culture of learning*’ where they identified problems related to teaching outside of the environment where the taught information is used.

“Unfortunately, students are too often asked to use the tools of a discipline without being able to adopt its culture. To learn to use tools as practitioners use them, a student, like an apprentice, must enter that community and its culture. Thus, in a significant way, learning is, we believe, a process of enculturation.”

“When authentic activities are transferred to the classroom, their context is invariably transmuted; they become classroom tasks and part of the school culture. The system of learning and using (and, of course, testing) thereafter remains hermetically sealed within the self-confirming culture of the school.”

Brown et al 1989 ‘Situated Cognition and the Culture of Learning’ *Educational Researcher*.

In relation to Situated Cognition Theory which was developed by Stein, there were said to be four aspects of the instructional process affecting the learner:

- 1) **Content:** the facts and processes of the task;
- 2) **Context:** the situations, values, beliefs and environmental cues by which the learner gains and masters content;
- 3) **Community:** the group with which the learner will create and negotiate meaning of the situation;
- 4) **Participation:** the process by which learners working together and with experts in a social organisation solve problems related to everyday life circumstances learning becomes a social process dependant upon transactions with others placed within a context that resembles as closely as possible the practice environment.

[Stein 1998]

‘Context’ in situated learning refers to the learning environment within which students undertake their learning tasks and ‘while knowledge must be learned in context according to the learning model, that context can be [1] the actual work environment; [2] a highly realistic or ‘virtual’ surrogate of the actual work environment; or [3] an anchoring context such as a video or multimedia program. [Mclellan 1994]

## **The Penfield Project**

Academics in the University of Huddersfield School of Human and Health Sciences have developed in recent years the Penfield software programme and computer based Virtual Learning Environment and, within this system, have created the Penfield Virtual Hospital. Penfield is a fictional district in which the local Penfield Hospital is situated. The environment is utilised by the School of Human and Health Sciences in the training of nurses and other health related disciplines, incorporating a series of ‘real life’ case studies whereby the student logs into the Penfield system as a medical professional, enters the hospital, enters a particular ward and progresses a medical case over a period of time. The hospital is divided into a number of wards, with a variety of patients in each. Students are given instructions within the Penfield programme and attend different patients, progressing their cases. The Penfield method of teaching utilising the “transactional learning” model sits beside other more traditional face to face teaching sessions, thus creating a blended learning environment in which healthcare professionals are taught.

## **Collaboration**

The School of Law saw the benefits of utilising the Penfield software to create a Virtual Learning Environment for the training of legal professionals. The School of

Human and Health Sciences and the School of Law are now in collaborative partnership, utilising funding from the University Teaching and Learning Fund to pilot the Penfield software within one of the professional practice modules on the Legal Practice Course. It is also a useful opportunity for the School of Human and Health Sciences to evaluate the software in a legal context and assess its transferability to other disciplines.

### **The Key to Success – Authentic Transactions**

What sets Penfield apart from other Transactional Learning Environments which have been developed within the higher education sector is that fact that all cases have all been adapted with consent from “real” cases encountered by local health practitioners/hospitals, thus introducing realism into the teaching of medical professionals within the School. The Penfield Hospital takes on the persona of a real hospital where students have access to full medical records of patients, case notes, X-rays and photographs of injuries.

The School of Law has followed the same route, adopting a number of anonymised cases with consent from real cases provided by regional law firms, with whom the School has existing relationships.

### **The Penfield Legal Concept**

The District of Penfield has now been extended to create a number of virtual solicitors’ offices. Students studying on professional legal practice modules will become “employees” of the fictional firm of Firth Street Solicitors. Upon accessing the Penfield system, a student arrives at the virtual reception area for Firth Street. The firm is divided into a series of departments, each specialising in a particular area of law. The student enters the department in which they are working at that time and is greeted with a number of clients’ cases, representing the case file system of a solicitor’s office. It is anticipated to have several client’s cases “live” in each department at any particular time to add further realism to the environment – on a particular day, a trainee solicitor would, in practice, work on a number of client’s files.

Instructions to the student are issued on screen when a student has accessed a particular department and the file of the client they wish to work on. Clients’ case files are divided into the documents which a trainee solicitor could expect to see in a “real” solicitors office, namely, correspondence between the solicitor and the client and between the solicitor and others, for example, the opposing firm of solicitors, court documents, witness statements, experts’ reports and other documentary evidence. The system allows for the timed release of information to students in a logical order i.e. following the progress of a case. Information can be set to be released either at particular dates and times for prior consultation by students before a teaching session or to follow up a teaching session.

The student completes the tasks for that particular date and time and submits their work based on the information previously released. The student is then provided with a key code to “unlock” or release the next documents/correspondence in the case. In this way, the student progresses the case to a conclusion. As the case studies used are “real” case studies, the conclusion will be the “real” conclusion in the case – rather than an artificial tutor-led conclusion imposed due to time constraints.

By way of example, in a case study on Domestic Violence in Family Law, students could, within a teaching session, role play the interview of a ‘client’ requiring an

injunction, as a practical exercise. Feedback would be provided by the tutor in the session on interviewing techniques and how to extract information from a client efficiently. After the session, students would log into Firth Street Solicitors and go to that client's file where they would be provided with an already completed attendance note recording the correct information from the interview (adapted from the real case file). The on-screen instructions would ask them to complete the appropriate court application forms to apply for an injunction order. An on-line link would take them to the relevant website where they will search for and find the appropriate application forms, complete them and submit them. At the next teaching session, the students would then role-play the ex parte injunction hearing. The 'virtual' case would move forward in time and students would be provided electronically with a further telephone attendance note from the client complaining of additional harassment, together with a memo from their training principal (the tutor) asking them to consider what advice would be most appropriate for the client. Within Penfield, students would then draft a letter on-line setting out their advice. The students would be asked to send their letters to the training principal for checking before being sent to the client. In reality, the tutor would receive the letter to check. As legal writing is one of the professional skills assessed within the Legal Practice Course, the letter could serve as formative assessment, allowing the tutor to give feedback in the guise of the training principal or as summative assessment towards their final mark.

The system is designed to be utilised as an assessment tool. Tutors are able to keep track of work submitted and assess the same. It is anticipated that the system could be used for both formative and summative assessment – however the latter is limited at this time to the assessment of professional legal skills, which are assessed on a Competent/Not Yet Competent basis. As the professional Legal Practice Courses are validated by the Solicitors Regulation Authority (SRA), generic assessment regulations produced by the SRA have to be adhered to as regards the summative assessment of substantive areas of law – however, the Penfield system can be utilised extensively for formative assessment and feedback from the tutor to the students, within the environment of the Firth Street solicitors office.

In this way, students will simulate the progression of a series of legal transactions both within and outside of the classroom. They will do so within the confines of a "safe" Virtual Learning Environment, where mistakes can be made and students may learn from those mistakes without finding themselves on the receiving end of a negligence claim.

### **Authentic Activities**

Studies have shown that students learn better in the transactional learning environment if realism is used within case studies.

"From the perspective of research in situated cognition, problem solving must be real-world [authentic] in its complexity, 'ill-defined,' and 'interactive' between the learner and the context [including other learners]; making it a process through which ...perceiving and acting create meaning on the fly, rather than reading it back from something [representational or schematic] in the head" [Young & McNeese, 1995].

"A situated learning environment also provides authentic activities which are ill-defined; students find as well as solve the problems. It is an environment where tasks can be integrated across subject areas and it provides the opportunity to detect relevant and irrelevant material" [Herrington & Oliver, 2000].

By using “real” case studies provided by firms of solicitors, the Penfield Legal environment brings authenticity to transactional learning. Students are engaged in active learning through the execution of a series of transactions and those transactions are truly authentic, being based on “real” case files from genuine solicitors.

Keith Ward, lead developer of the Penfield Virtual Hospital, states that the hospital already provides the environment for authentic activities which are ill-defined — students find as well as solve the problems. It is an environment where tasks can be integrated across subject areas and it provides the opportunity to detect both relevant and irrelevant material a key situated learning requirement. [Brown *et al* 1989].

The Penfield Legal environment follows the same concept. By adapting “real” case studies, students are faced with a genuine client and their initial statement. Students will need to engage in a fact-finding exercise to discover all the facts involved in the case. The evidence base being built up by the student will inevitably (as most real cases do) contain a variety of relevant and irrelevant information; the student will have no choice but to engage in sifting the relevant from the irrelevant and thus find the problem(s) to be solved.

Keith Ward goes on to state that in the real world of clinical practice, the solution to a problem is rarely neat, rarely has a single answer and rarely are the only facts available to the learner the ones salient to the problem. The same is true for legal practice, for example, a case being inputted for the Family Law module currently has a divorce, domestic violence issues, issues of non payment of maintenance and its consequences, unravelling a family business and other financial matters all within one case to be identified, broken down and analysed by the students within the context of the transaction.

A good law student needs to be able to “demonstrate the ability to identify material facts, research relevant law and apply it to hypothetical but realistic legal problems.” [taken from the University of Huddersfield School of Law LLB 4 year exempting degree Course Learning Outcomes]. The Penfield Legal environment provides the tools for the student to learn to do this but utilising an authentic as opposed to hypothetical case and a set of authentic problems. Students must learn to solve “real” problems (unlimited by tutors’ imagination) and, thus, properly imitate the tasks a trainee solicitor in practice would really encounter.

### **Benefits of the Penfield system to Law students and Law tutors**

- The use of “real” case studies for learning and teaching within the professional practice courses will greatly enhance student learning and engagement. Currently the case studies used in the professional modules are written by the module tutors and are limited to the information required to complete study tasks. This is in part due to the work required to provide a detailed realistic background and lack of access to ‘real’ solicitors files. It is virtually impossible to make up the complexity of ‘real life’ cases. However, if complete and relatively complex cases were inputted into Firth Street Solicitors, the tasks set by the tutors for the students could be regularly changed and adopted to suit teaching requirements and to increase interest from year to year. This would greatly enhance the student learning experience on the professional Law modules, as students would be gaining valuable relevant context based learning.

- The use of realistic and complete case studies, thus adding authenticity to the modules, would allow a thorough work through of a case study to a proper conclusion rather than a tutor-led one, which, it is hoped, will increase student engagement with the professional practice courses and thus increase student retention and progression.
- The use of detailed and complex “real” case studies and the timed release of information to students would allow greater flexibility to the School of Law to design a more blended learning approach to the courses. Sharpe et al (2006) define the term blended learning as being “scenarios which blend technology with face to face teaching”. They define a number of models of blended learning, one of which is a course which makes “extensive use of other technologies that are available to enhance and... change how students study, interact and learn.” Should this project prove successful, the professional Legal Practice Courses within the School of Law will make use of a Virtual Learning Environment which allows for extensive interaction and a way of learning which does not involve the student in the classroom for a large percentage of the time.
- Students learn from the experience of being in the situation [Barton & McKellar 2007]. As the case studies are real, so the student experience is more akin to that of a trainee in the office, rather than being provided with artificial case studies in a more controlled environment.
- Students would benefit from the experience of reading through solicitors correspondence, court documents and expert reports as an indirect result of undertaking tasks in a case study.
- Student activities/tasks would not be limited to completion of clearly defined activities. A situated learning environment also provides authentic activities which are ill-defined – students find as well as solve the problems. It is an environment where tasks can be integrated across subject areas, and it provides the opportunity to detect relevant and irrelevant material. [Herrington and Oliver 2000].

## **Conclusions**

The School of Law hopes that this project, if successful, will greatly enhance the student learning experience on its professional Legal Practice Courses. The use of “real” case studies enables students to practise their legal skills in a “safe” environment, all the while practising with authentic cases with real conclusions. Students are “employees” of Firth Street solicitors and may have, at any one time, a number of cases in different departments to work on, thus increasing the authenticity of the learning experience. By learning in this way, students begin to realise what it is like to be a trainee solicitor in practice and begin to develop as legal professionals.

In September each year, the Law team at the University of Huddersfield state to the new cohorts of legal practice students that they need to regard their legal practice training as the first year of their training contract, as opposed to another year at University. By developing the Penfield environment to be used in the legal sphere, it is hoped that the Law team will further instil this sense of professionalism in their students.

With thanks to Keith Ward (School of Human & Health Sciences) for his advice and assistance.



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