Problematizing Competence in Clinical Legal Education:
What do we mean by Competence and how do we assess non-skill competencies?

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"Techniques without ideals is a menace; ideals without techniques are a mess."
Karl Lewellyn (1952)

Introduction

This conference is about problematizing assessment but I want to start further back and problematize what we mean by competence. I think it is fair to say that when clinicians speak about assessing competence they have in mind the assessment of skills. However, I want to suggest that competence goes well beyond skills, at least if we understand skills in the narrow sense of technical legal skills. I think competence can be said to also include a values dimension. Moreover, it can be argued that if this dimension is added to the notion of skills, and clinical legal education (CLE) is expanded to include an understanding of how lawyers skills are used, for whom and to what end, it might help reverse the traditional and still continuing antipathy in many law schools to CLE. For those like myself, who – as I will make clear – see law clinics as more about contributing to social justice than training lawyers, the reluctance to embrace clinical legal education is rooted in a political and moral stance. But for most academics, the antipathy (or, at best, apathy) towards CLE seems to me to be more to do with its association with skills training and the consequent assumption that it is unintellectual and unfit for the lofty heights of a liberal legal education and thus best left for grubby business of preparing lawyers for practice.

To the extent that CLE is confined to training students in legal skills I have some sympathy with this view, though I do nor see skills training as any less intellectual as the sort of repetitive, uncontextual and atheoretical teaching of black-letter law which often passes for a liberal legal education. However, in a recent article (2015a), I joined a number of others to argue that there is nothing necessarily anti-intellectual about a focus on practice in a liberal legal education. Thus, like Goldsmith and Bamford, I do not see engagement with practice in purely vocational or technocratic terms, but as providing opportunities for connecting the 'aspirations of law students with professional ideals (justice, service, fairness) and the goals of a university-based education' (2010, p. 163; see also Goldsmith 1999, 2002; Boon 1998, 166).

In the rest of the paper I first flesh out this argument and justify the focus on ethical as well as skills competence. I then turn to what exactly I assess in my CLE programme at the University of Strathclyde and, drawing on the assessment regimes in the relevant classes, seek to provide some food for thought about alternative means of assessment and clinical teaching.

Problematising the Notion of Competency

Most people think of competent lawyers as ones who are knowledgeable and technically skilled at using law in the service of clients. Such assessments are made not in terms of ethics and values - indeed they suggest a perceived mutual exclusion of technical and ethical competencies. Such a dichotomy is, however, both dangerous and false. It can be seen to be dangerous when we ask ourselves the question– do we really want lawyers who are very

skilled at giving clients what they want when it is those with power and money who can afford such lawyers, while their opponents either have lawyers who are overworked and underfunded or have no lawyers at all.

The dichotomy is, in addition, false because lawyers with ethical competency can be better for their clients than those who are merely technically competent. Indeed, this is at least implicitly recognised by those who seek to train students in client-centered lawyering (cf Chavkin, 2003-4, 254) in that always seeking the client's informed consent to actions on their behalf helps to promote their autonomy and avoids the paternalism which is inherent in more traditional approaches to client relations in which lawyers make all decisions about how to achieve client ends. Ostensibly, the traditional approach leaves clients free to set their own ends, but this means-ends distinction is unsatisfactory for a number of reasons.

One is the fact that power and (at least assumed) knowledge asymmetries between lawyer and client may mean that the latter is likely to defer to the former on issues regarding ends as well as means especially if they interpret a lawyer's suggestions as to what the client should seek to achieve as technical advice. Another reason is that some decisions as to means might be so significant that the client really should take them rather than the lawyer. For instance, the most effective means to win a child access dispute might be to destroy the character of the opposing parent but - and especially if this done using information provided by the client - this might not be in the client's best interests (let alone those of the children) or even desired by the client who might need to maintain an amicable relationship with the opposing parent in future. But even under the client-centered approach, without exposing students to the full range of issues relevant to the issue of paternalism they will not be as aware of their ability to sway clients even while affording them the power to decide, This may occur through which of the (sometimes myriad) options on offer to put to the client, the way that the choice of alternatives are structured and/or merely by tone of voice in presenting options.

Improved client service can also be achieved by challenging the standard conception of lawyers' role morality in terms of which lawyers are expected to pursue their client's goals irrespective of how immoral they might be or how immoral the means to those goals. Such a stance – often called that of neutral partisanship (see eg Nicolson and Webb 1999, ch 6) does not only raise dangers for opponents, third parties or the public interest, but arguably it may result in inferior services to the client. If lawyers see issues of morality as off-limits they will not engage their clients in what ethicists call a moral dialogue in which they explore whether certain courses of action are moral and can justifiably be pursued. Such moral dialogue is not just a necessary component of being what is called morally activism (see Nicolson and Webb, ch 8), as opposed to being a neutral partisan, but it may provide a better service to the client. For instance, in one of the cases at the University of Strathclyde Law Clinic (USLC), we were suing a law firm for sexual discrimination in making a trainee redundant while pregnant. She mentioned in passing that the same partner responsible for this decision has been accused of sexual harassment. But instead of just going ahead to use this information as a bargaining chip, the student, having studied ethics, asked the client how she felt about using this information and surprisingly learnt that she was not prepared to stoop to using this "dirty trick" (see also Aiken, 2000-1, 304 for a similar example).

Encouraging students to abandon the stance of neutral partisanship may also lead to more empathetic and zealous services for those who do not have the financial resources to buy utmost lawyer zeal There is a strong argument (see Nicolson and Webb, 1999, ch 6) that neutral partisanship leads to moral detachment, in terms of which the lawyer seeks to psychologically distance herself from her moral feelings and beliefs. But this can be argued to hamper the development of *phronesis* (practical wisdom) which allows lawyers to instinctively know how to respond to practical and ethical issues which arise in practice based not on rules

but on the lessons of past experience. According to Postema, phronesis is rooted in 'ordinary moral beliefs, attitudes, feelings and relationships' (1980, 78; see further Postema, 1980, 68ff; Postema, 1983, 306ff) and which is extremely useful in professional contexts where novel situations arise (see also Kronman, 1987 and 1993). Moral detachment may also hamper effective lawyering in the sense that moral arguments may play important roles in legal argumentation (cf Postema, 1980, 79). Lawyers who have shut off their moral faculties are less able to manufacture such arguments than are those with deep moral sentiments.

The neutrality principle which forms part of neutral partisanship may also undermine the principle of partisanship with requires lawyers to represent their clients zealously. While written discourses on professional legal ethics certainly encourage lawyers to exercise the utmost zeal, the rules allow them a broad discretion to exercise greater or lesser zeal. Such zeal can be so fierce as to run the risk of breaching professional norms on proper behaviour, or it can be so minimal as to come close to incompetence. However, according to the neutral partisanship conception and its allied strategy of detachment, the question as to how much zeal lawyers should exercise in particular cases ought not to be answered by considerations of morality.

Moreover, with the shutting down of moral feeling may also come a shutting down of related feelings of empathy, sympathy and concern. Having detached themselves from moral sentiments, lawyers can no longer see clients in their full humanity. The lawyer becomes interested only 'in that part of the client that lies within his or her special competency' (Wasserstrom, 1975, 21). The plight of clients and the possibility of them possessing the moral high-ground are unlikely to lawyers who come to see clients as 'the divorce', 'the taking without owner's consent' or 'no.20, Queens Road'. This situation is given bathetic force by the comment of Paul Hill, one of the Guildford Four who spent years in jail following his wrongful conviction for murder, that he 'got the impression that any of our barristers could easily have...taken over the running of the prosecution.'(*Stolen Years* (with Ronan Bennet), 1990, 126, quoted in Pannick, 1992, 132.)

Having detached themselves from feelings of morality and humanity, it is likely lawyers will ration zeal according to more material considerations: by the client's status, whether they are one-off or regular clients, by the need to maintain salubrious relationships with those with whom they regularly deal, etc, but above all by their ability to pay. A lawyer's time and energy are not infinite and given the pressures to provide legal services as a profitable business, money is likely to be the quid pro quo for zeal, and to paraphrase Luban: the more quid, the more pro.

We thus see that the competent lawyer is also an ethical lawyer who displays both technical competence and a concern for values. Ethics have a role to play in providing a good service to the client – including care, consideration and respect for clients' autonomy (as well as maintaining confidentiality and acting in their best interests). In this first sense, it is not too much of a stretch to see these as matters of lawyering skills in that the good lawyer is not just technically skilful but has what might be called personal or even emotional skills. However, the importance of ethics also has a second, wider (if you like, public) dimension. Thus it can be argued that the good lawyer is not just good *at* their job. They are also good *in* their job (or just good full stop) in the sense of being aware of the wide moral dimension of being a lawyer. They are not simple amoral technicians prepared to do everything legal and not prohibited by their professional codes for their clients but take account of the harm they might do to others, to the legal system and to the public interest.

Before looking at the role of law clinics in helping to develop this wider conception of competence, it must be stressed that even an expanded notion of competence which goes beyond knowledge, skills and ethics in the sense discussed above, does not go far enough because it does not extend to what I see as perhaps the most ethical value. This is the sense of obligation to ensure that competent and ethical services are not just received by those with enough money to pay for them or fortunate enough to qualify for the constantly shrinking

legal aid pot. As I have recently argued (Nicolson 2013, 2015a), notions of reciprocity or gratitude towards the community which through its taxes pays for school education and, still in Scotland, for much of the cost of legal education suggest that lawyers have a moral obligation to contribute in some way to enhancing access to justice. Public investment in their education enables law students to enjoy substantial financial rewards. However, only those fortunate enough to afford lawyers or qualify for legal aid benefit from this investment. Moreover, a major obstacle to access to justice is the high fees charged by lawyers. Consequently, it can be argued that these lawyers have a moral duty to take some remedial action to repay those who helped put them in their privileged position, but do not benefit from this investment. Two further arguments support a moral obligation on lawyers to enhance access to justice. One is that their earnings are partly – albeit decreasingly – protected by state limitations on who can practice law and access legal processes. Secondly, many access to justice problems, especially of a relative nature, stem from often unnecessary and difficult to understand legal complexities created by lawyers serving their clients (and indirectly themselves by making legal assistance more necessary). Here, lawyers can be said to have a moral obligation to help remedy the resultant access to justice obstacles.

Indeed, by analogy with Rawls's argument that '[j]ustice is the first virtue of social institutions' (Rawls, 1999, 3), it can be argued that the first virtue of the ethical lawyer is to ensure access to justice. It seems obvious to me that ethically aware lawyers either devoting their career to those most in need of legal services or doing so pro bono is an improvement on only providing ethically aware services to the shrinking group of those who can afford to pay or obtain legal aid. In addition, the goal of making practitioners aware of problems with neutral partisanship, confidentiality, conflicts and client autonomy is undermined where their scope for moral manoeuvre is highly constrained by financial considerations which cast morality as an unaffordable luxury or where responsibility for ethics tends to fall into the cracks because of the increasing specialisation of legal work or completely out of sight because of its increasing routinisation (see Nicolson and Webb, 1999, ch. 3).

Accordingly, while it is difficult to stretch the concept of values-based competence to include the notion of an altruistic duty to enhance access to justice (except by unrealistically stretching the concept of competence to something like altruistic competence), I would argue that we are failing in our role as educators if we do not give due weight to this aspect of being a good lawyer.

The goals of clinical legal education

Having problematized the notion of competence, I turn now to the possible role clinical legal education can have in instilling this expanded sense of competence and the expanded notion of the good lawyer. Van der Vleuten and Schuwirth correctly argue that choosing assessment always involves compromises (2005), but the same applies to the goals of clinical legal education). Broadly speaking, clinical legal education can be designed to serve four broad goals:

- skills development, both in narrow technical and broader values-infused sense;
- teaching substantive law in context;
- ethical education – sensitising students to issues of legal ethics, providing them with the relevant tools to resolve them, and hopefully also encouraging them to care about being ethical and developing the moral courage to resist competing pressures (see generally Nicolson, 2008);
- ensuring "justice readiness" – exposing students to social and legal injustice, including inequalities in access to justice and helping them to understand its causes

and to care about addressing these causes (see Aiken, 2012; Wizner and Aiken, 2004; Nicolson 2015(a)).

If all law teaching was conducted clinically, then it might be possible to achieve and give equal weight to all four goals, but resource implications mean that most law schools restrict clinical legal education to a term or two, and/or only to a limited number of students, thus reducing what can be achieved. Consequently, most clinicians need to make choices as to which of the goals to prioritise when they clash. For instance, if one's goal is to maximise justice readiness then exposing students to as many vulnerable clients as possible broadens their perspectives on the injustice of the world we live in and the extent to which law is either unable to rectify these injustices or is even responsible for them. Thus, drawing on educational theory, many clinicians claim that student exposure to clients may cause "disorienting moments" (Quigley, 1995) whereby their pre-existing assumptions about the world clash with their observation of social deprivation, unequal access to justice and substantive legal injustice. Moreover, when the experience is that of someone in dire need and it is realised that they may have no source of assistance, knowledge may be transformed into empathetic care and hopefully into a commitment to enhance access to justice on graduation. However, for these insights to go deep, exposure to the problems of social and legal injustice need to be repeated - with the greater the exposure the more varied are the problems students will encounter and the more they will realise that these problems are endemic rather than exceptional (Aiken, 1997; Wizner, 2000-1; Nicolson, 2008; Brodie, 2008-9). Clinics with a high volume of cases are thus better suited to ensuring justice readiness. By contrast, if the focus is on skills development (and possibly also substantive law teaching), students will benefit from a close relationship with clinic supervisors who can guide their learning and skills development and allow them to experiment with different ways of doing them so that they can help them to learn from their mistakes as they make them. This is why CLEO (2007) suggest a staff-student ratio of 1: 12, while the average in US is between 1:6 to 1:10. At the USCL, we have a ratio of around 1:150!

The reason for this is largely that most students' involvement is voluntary. In fact, while the Law School wanted the clinic to be used for teaching the Diploma in Professional Legal Practice, I insisted that it be offered primarily to undergraduates and solely on an extra-curricular basis. At the time I had a number of reasons for insisting on an extra-curricular clinic prioritising social justice over education (see Nicolson, 2006), though these were not a thought through as they are now (see Nicolson 2015b).

- Perhaps the most immediate was the concern, prompted by the apparent experience of other UK clinics, that students might abandon clients or de-prioritise their needs once they have received the required credit for their work.
- Closely related to this was the worry that by the law clinic itself and its staff prioritising legal education over serving the community an implicit message was conveyed to students that their interests - now education, later commercial - trump those of clients and the community. This is arguably not the sort of ethical education we want them to have and shows again how one needs to take decisions about what goals to prioritise. In my view, there is also something inherently morally problematic about practising law on the poor (rather than for the poor.
- And closely related to this worry is my belief that all those who benefit from legal education – including academics who make their living from teaching law - have a moral obligation to ensure that the benefits of a legal education extend to all in society not just to those who can afford lawyers' fees or qualify for legal aid (see Nicolson 2013, 2015a and 2015b). Students repay this moral debt by volunteering to provide free legal services to those in need while at university and subsequently either

> continue to volunteer or better still devote their career to assisting the most vulnerable rather than the most wealthy in society. Staff do so by running or supporting law clinics and helping through their teaching to conscientise students about issues of social and legal injustice and unmet legal need.

This last point shows that law clinics can play both a direct and indirect role in promoting justice: directly by providing legal services to those most in need; and indirectly by developing in students a commitment to do so after graduation or at least sustaining a pre-existing commitment to do so. Moreover, if both these roles are going to be maximised then it follows that clinics should seek to maximise both the number of students involved and the length of their involvement. More students mean more cases or other forms of community service (law reform work, street law, etc). And the longer the student involvement the greater their exposure to both the problems of justice and the satisfaction of helping others, and hence, according to educational theory, the greater the possibility of them developing the habit of helping others. Obviously, these two desiderata are in conflict - all things being equal, more students means that the involvement of each needs to be reduced and vice versa. At USLC we have squared this circle by admitting about a quarter of all undergraduates to the clinic and allowing them to remain there for the duration of their studies (anything from three to five years for full-time students). Thus we currently have around 215 clinic students (though only 190 are trained to engage in face to face client work as opposed to online advice, street law and investigating alleged miscarriages of justice).

However, having being in operation since 2003 I gradually came to realise that the entirely extra-curricular nature of USLC means that it was not fully realising the potential of its "justice mission". This does not relate so much to the more direct means of doing justice through providing quality legal services to those most in need. In order to maintain the quality and not just the quantity of service to the community, students have to undertake intensive induction training, are required to have all letters, pleadings etc checked and are encouraged to attend regular optional training sessions on substantive areas of law and advanced skills like body language interpretation and dealing with vulnerable clients. And it seems to work – we have a 93% success rate in cases going beyond advice.

By contrast, without any formal CLE programme, the USLC was not meeting its potential as regards the indirect means of enhancing justice through educating students for jutice. Thus, according to educational theory, the value of all forms of experiential learning is to be found not just in the experience of putting knowledge into practice but in the reflection on that activity. As is so well-put in Brayne, Duncan and Grimes, learning from experience "occurs not in the doing but in the reflection and conceptualisation that takes place during and after the event." (1998, 47). Thus according to Kolb's well-known learning circle (see eg Kolb, 1984), reflection may lead to the adoption of new, or the adaptation of existing, theories about how to handle issues which can then be put into practice when similar situations arise. It helps "build the skills, values and modes of critical thinking required to frame and solve complex problems." (Casey, 2013-14, 320).

Reflection can be unconscious and subliminal (Calmore, 2003-4, 1172). But it is likely to be more profound and long-lasting if time is set aside for the process and if reflection is guided by the views of others, especially those experienced in the relevant activity or steeped in the relevant theoretical knowledge (Morin and Waysdorf, 2013, 606). Such guidance can be provided via feedback on written reflection or face to face in supervision meetings or in those attended by colleagues as well as teachers where all provide feedback, ask questions and make suggestions and generally deepen the dialogue (what some call "reflection circles": Morin and Waysdorf, 2013). Conscious reflection is also likely to be taken more seriously if assessed and particularly if this is done for marks.

Clinical Legal Education and Assessment at the University of Strathclyde

I only came to the literature about experiential learning after deciding to establish a clinical class as a reward to final year students for their voluntary work. It was initially called Clinical Legal Practice, and involved a mixture of classes by practitioners on advanced clinical skills and classes on legal ethics and access to justice, but slowly the skills elements were dropped both because the students really took to the other aspects especially legal ethics which they had never encountered and because of the difficulties discussed below with assessing skills through case work. Thus, assessment of case work was dropped in favour of greater emphasis on the keeping of a reflective journal in which students make weekly diary entries reflecting on issues of ethics and justice arising in their cases, clinical experience more generally and in class seminars, and a reflective essay in which students develop in more depth the issues arising in one of their cases. As a result of the shifted emphasis, the class was renamed Ethics and Justice.

However, the experience of seeing students integrate reflection and background reading on issues of ethics and justice persuaded me about the value of experiential learning as the best means of teaching ethics, which is one of my main academic interests, and seeing its potential to strengthen the indirect impact of clinics on social justice through fostering and sustaining "warriors for justice" (Nicolson, 2015a). By not formalising what students learn from their case experience I realised I was wasting valuable educational opportunities as regards ethics and justice teaching. No doubt the same applies to getting the most out of clinics in terms of developing skills and teaching substantive law. However, I don't think it's our task to produce completely practice-ready lawyers. Otherwise we would have to find the resources to provide all students with enough clinical and reflective opportunities. I think that our job is to make students justice-ready or, to put it in the language of liberal legal education, to help develop good citizens, which in the case of those who do go onto become lawyers, means that they are concerned about and equipped to make a contribution to redressing social injustice and who practice in an ethically informed way. I do not see the point, as noted earlier, in producing highly skilled and knowledgeable lawyers if those skills and knowledge are reserved for those who can afford to pay and if they are used to cause even more social injustice on behalf of the powerful in society. And this is where I realised that by merely having raw experience without formal learning, the USLC was under-utilising its potential to produce ethically informed and altruistic practitioners as well as good citizens.

Moreover, after being in operation for a number of years with a strong social justice orientation reproduced from one generation of students to the next through an appointments procedure, supervision, mentoring and informal socialisation, I felt confident that as long as this ethos remained and participation was largely extra-curricular, it would be possible to provide students with credit for their clinic work without my worries about prioritising education and academic credit over social justice and clients necessarily coming to fruition.

Consequently, from October 2011, all students admitted to the USLC can opt to take a Clinical LLB (CLLB) which integrates and assesses their induction training for the clinic, additional training, their case work and reflection on their clinical and educational experiences. But in order to reduce the risk of a watering down of the USLC's social justice orientation, they can only do so after first being admitted to the USLC which involves an interview to assess their commitment to social justice. The CLLB is not a totally separate degree to the standard LLB at Strathclyde. Instead, students take all the standard LLB classes except for Law and Society which is replaced by Legal Theory (thus negating any suggestion that clinical legal education is anti-intellectual). However, at least a third of the classes taken by CLLB students must have a clinical element. Four of these are compulsory:

- Legal Methods (Clinical) adds training basic legal skills (client interviewing, letter writing, case and data management) as well as an introduction to legal ethics to the standard legal methods class;
- Voluntary Obligations (Clinical) augments the standard contract class with training in the skills of advanced legal research, negotiation, advocacy and pleadings drafting in the second semester of the first year;
- Ethics and Justice, taken in the first semester of the final year, involves the renamed Clinical Legal Practice class;
- The new Clinical Legal Practice does not involve any teaching but gives students marks for case performance and for reflective diaries which they must write in the second and third years of the CLLB.

In addition students must take at least two "clinically available classes". These are standard compulsory or optional classes whose subject areas are likely to arise in clinical cases. Where a student has a case relevant to one of the clinically available classes they can opt to replace a portion of the assessment for the standard class with an essay in which they explore the legal, practical, factual, ethical, justice and/or political issues arising in one or more of their past or current clinical cases.

Thus, apart from the various forms of assessment in the standard LLB, the clinic has a variety of forms of assessment, both in terms of what is being assessed and the manner in which it is assessed. These can be categorised as follows.

1. General Skills – Case Performance

50% of the mark for the compulsory Clinical Legal Practice course is devoted to assessment of the student's performance in five of their cases. Where, as is usually the case, they have conducted/are conducting more than five, they choose which to have assessed. Given that the CLLB is aimed at integrating clinical training and experiential learning into the law degree, it seems to make sense to assess students on what they have learnt from their training, supervision and reflection on how to conduct cases. But even though the mark for such assessment is limited to only 1/36th of their assessment for the CLLB (they take six classes each year) – or even 1/48th if they go on to the Honours year (where another six classes are taken) – I remain uneasy about the validity of this form of assessment for three reasons.

The first is that it is difficult to specify the standard against which students are being marked (see Appendix A for our attempt to do so). This might arguably be a general problem of putting conventionally accepted academic standards into marking schemes. Having marked for years with other colleagues at a number of institutions, being subjected to externals and having acted as an external at different institutions, I am fairly confident about my judgment of academic work, such that I rarely if ever refer to marking schemes and am pretty sure that if I did they would function at the level of justification rather than discovery of the "correct" mark. But marking according to conventions within a particular marking community is infinitely more difficult, if not impossible, in regard to assessing case performance for three reasons.

- There are usually few clinicians involved in marking within any one institution and so there can be no strong sense of "we all do it this way".
- There is also relatively speaking a much smaller clinical educators community in the UK and certainly in Scotland, as compared with the US, Australia and South Africa, for instance.
- It is difficult if not impossible to get appropriate moderation or even feedback from other supervisors and from externals on the marks allocated to a particular case if as is

certainly the case with externals, they have not been involved in observation of the case performance.

Colleagues and externals can of course review the written file, but not any other aspects of case performance. This highlights two other main problems with assessing case performance. The first is that, unless the supervisor attends every single client interview, negotiation and court appearance (which in my view would lead to an unjustified reduction in the quantity of clients served), they cannot assess overall case performance except in terms of how successful the outcome was. Even then, there may be no way of knowing whether this was due to luck or the student's ability when the case was successful or whether the student still performed well despite a disappointing result. Given this difficulty, students who keep an impeccable file and produce impressive documents may get a high mark despite an otherwise poor performance, and vice versa.

This obviously leads to arbitrariness in marking – a problem which is exacerbated by the huge role fate plays in terms of what sort of cases are allocated to students. These range from the very simple, when clients need only to be interviewed and given advice on simple matters to month-long disputes ending in litigation and even an appeal. How does one compare the perfect performance of a few simple tasks with the competent but inevitably not perfect performance in a case involving complex law, procedure and facts, well-resourced professionally legally represented opponents prepared to pull every trick in the book to win, and a possibly fractious court. To some extent one can apply a tariff approach as in sports like diving where simple dives performed perfectly do not receive full marks but very difficult dives can still get high marks despite not being perfect. But it seems unfair not to give full marks to students who do a perfect job given that they are not given the choice of which cases to take on.

One could of course abandon marking for case performance and merely ascribe a satisfactory/unsatisfactory judgment to performance. But this could be disastrous for students under the current regime because one unsatisfactory decision could mean that the student fails the class and thus does not get their degree until they can gain another case and perform to a satisfactory basis. It also seems unfair not to reward students who have put in an enormous effort to assist clients in a caring and competent fashion. Thus currently students tend to get very high marks for their cases, leading to high overall marks for Clinical Legal Practice and eyebrows being raised at examination boards.

2. Specific Skills – Simulated Exercises

For these reasons, I remain very ambivalent about marking case performance in live cases. I feel far more comfortable about the marking of the display of specific skills in simulated exercises, even though on pedagogical grounds I am persuaded about the better learning experience involved in live cases than in simulated ones. I am also persuaded, at least in theory, by van der Vleuten and Schuwirth's argument that it is better to assess overall performance involving a variety of skills than the separate assessment of discrete skills (2005, 312-13) But in practice it seems easier and fairer to assess carefully controlled simulated exercises involving one or only a few skills. And this is what we do in the initial two classes in the CLLB.

Thus in Legal Methods (Clinical) a statement of facts and a letter of claim based on a simulated interview are each given a mark out of 5, with a further 5 marks for reflection on the client interview itself (rather than on the interview itself)[1] and ten marks for a report on

[1] This is because students interview in pairs but such pairs often but not always involve a mix of CLLB and non-CLLB students, thus meaning that cannot be marked as a pair or individually

ethical issues arising out of the interview (with the remaining 75% of the assessment being devoted to standard issues of legal methods). Then in Voluntary Obligations (Clinical), the 50% of class assessment devoted to clinical training is divided as follows: an in-depth research exercise on the sort of contractual issues that arise in clinic cases (25%); drafting of pleadings based on the research (10%) and then participation in either a simulated negotiation or advocacy exercise based on the same case (15%). Compared to the assessment of general case performance, I feel much more comfortable with this form of assessment. We are able to give quite specific guidance on what is expected, can ensure fairness between students because of the simulated nature of the exercise and can ensure moderation by colleagues and externals as all exercises are either written or video-recorded. The only slight concern is that, once again, students tend to do better in such practical exercises, though this is offset by the fact that the clinical assessments replace aspects of the standard classes in which students also tend to do well.

3. Learning about Law - Reflective Essays

For their clinically available classes, students write an essay on a topic based on a relevant ongoing past case which they set in consultation with me. Here, assessment guidelines are broad[2] because the idea is that the students take an issue or issues which they find interesting, challenging, surprising and/or on which they have already done some detailed research and would like to do more. In subjects like Legal Theory or Legal Process, the topics tend to be quite broad and not unlike an essay set by an academic except that they are sparked by an actual case. For instance students might explore in Legal Theory what an employment case or cases tells them about the alleged neutrality of law and in Legal Process whether mediation is always an appropriate means of dispute resolution. Topics in substantive law subjects can also be broad, such as the common topic of evaluating the effectiveness of new rent deposits, but very often they are more narrow, reflecting the actual substantive law question the student had to research for their case. For instance, a recent essay in property law explored "the extent to which consent of a co-owner is a necessary requirement in the area of law concerning repairs and alterations?",whereas in employment law a student asked "Is the band of reasonable responses still effective as the determining test in unfair dismissal cases? If not, is there a better alternative?" In this way, these essays reflect to a far greater extent the sort of enquiries lawyers have to make in practice as compared to the artificial and unrealistic tasks set in traditional problem questions in law.

But apart from the possibility that, as befits the more instrumental nature of research in actual cases, such essays are narrower than the standard essay questions in the class, there are only two real differences between these reflective and standard essays. One is that in the former students might already have commenced research and thus can benefit from doing additional deeper research. The second is that they have chosen the topic out of interest or in order to assist the client and thus tend to put more effort into the essay. Both of these give CLLB students an advantage over other students, but then this needs to be offset against the fact that they often have very large burdens imposed on them by their case work. Moreover,

[2] For instance, the Legal Process (Clinical) Handbook states: "The aim of this assessment is to test student's ability to evaluate aspects of the legal process raised by a case they are undertaking or have completed in the Law Clinic. They are expected to reflect on what the case illustrates and says about relevant aspects of legal processes, whether it shows these processes in a good or bad light, whether and in what way matters could be improved, and what implications there are for any suggested reforms. The student can discuss any issue or issues relevant to the Legal Process (Clinical) syllabus, as long as they first get permission of the Class Co-ordinator. Once you have permission to write an essay reflecting on a Law Clinic case, you should research it using the reading referred to in the reading materials accompanying the class and any suggestions from the Class Co-ordinator or class lecturers."

unlike other students on the class, they have to devote time to thinking of an appropriate essay topic and in most cases engaging in a number of exchanges with myself to ensure an appropriate essay topic.

4. Learning about Ethics and Justice - Reflective Essays

Similar considerations apply to the very similar reflective essays which form 50% of the assessment in Ethics and Justice where students are simply instructed to discuss "the relevant various justice and/or ethical aspects of a case undertaken by the student". However, here before the student commences on the essay, they will have first presented the case at one of the weekly one hour "case surgeries" that are held alongside the two hour more formal seminars. The aim of the surgeries is for one or two students to present a case that they think raises ethical issues or where they have already had to address ethical issues and then to open up for general discussion on how the case might be resolved, what further issues are raised and what reading might be helpful in discussing the case. A topic is then set at the surgery or subsequently once the student has had time to think and do more research. But apart from this, reflective essays on ethics like those on substantive law topics are not that different to standard essays or more accurately dissertations - which students will have to write in their honours year - and thus CLLB are given a head start in the art of choosing a workable research question.

5. Learning about Law, Life and Legal Practice – Reflective Diaries

What is more novel for students and what they most struggle to get to grips with is writing a reflective diary – often called a journal or even turned into the horrible verb "journaling". Diary writing starts in the student's second year after initial training is over and students must produce a (maximum 500 word) entry every fortnight in each semester (except in the semester when they take Ethics and Justice when they must write an entry for each week). Half way through each semester, they are encouraged to hand in their entries thus far in order to obtain feedback. I read them and respond with the aim of getting them to think more deeply, raise related issues or suggest relevant reading. The students can then respond to these comments (maximum 200 words) ensuring a limited dialogue between us.

For all semesters other than those in which they take Ethics and Justice the issues on which they can reflect are very broad. Thus the Handbook states:

> Relevant experiences on which you can reflect will include, most obviously, any case work, but also Clinic training, attendance at an IAC [Initial Advice Clinic],[3] and attendance at surgeries. As long as it somehow illuminates one of your various clinic activities, you may even reflect on what you have learnt in the standard LLB from, for example, classes in Legal Process on access to justice, classes in Legal Theory on substantive justice or ethics, and any class in which you learn law relevant and helpful to the conducting of one of your cases.

For Ethics and Justice, students are told the diary should cover "the student's activities in handling cases and participation in case surgeries, as well as reflection on the student's performance, what they are learning from the class and from their clinical experience, and how they might improve their performance".

[3] These are run by USLC but advice given by pro bono solicitors, usually USLC alumni.

Given that reflection is for most students a novel experience, many struggle to know what to write about and how to go about reflection. As Morin and Waysdorf also found, "meaningful and effective reflecting requires that we teach students the process of reflection." (2013, 603). To this end, the CLLB commences with a session on the theory of clinical legal education which looks particularly at the role of reflection. In addition, fairly detailed guidance on reflection is provided in the CLLB handbook. This is reproduced in full in Appendix B, below, but the following provides an idea of the main advice, which is also repeated in a session just before students commence writing diaries for the first time..

> *... a diary entry should involve at least three elements:*
>
> ***What****?*
>
> *Here you want a clear, focused and engaging description of experience or at most two experiences. Relevant experiences on which you can reflect will include, most obviously, any case work, but also Clinic training, attendance at an IAC, and attendance at surgeries. As long as it somehow illuminates one of your various clinic activities, you may even reflect on what you have learnt in the standard LLB from, for example, classes in Legal Process on access to justice, classes in Legal Theory on substantive justice or ethics, and any class in which you learn law relevant and helpful to the conducting of one of your cases. ...Choose an experience/experiences which most engages you and/or are which lends itself/themselves to deep reflection and theory development: something that was, for example, shocking, pleasing, embarrassing, disappointing, unexpected, etc and/or which made your change your views, values, ways of doing things etc; something that lead to self-appraisal, some form of change and/or personal growth (in emotions, understanding, values, experience, etc). You are strongly advised to discuss one or two issues in great detail than skate over a few in superficial detail.*
>
> ***So what?***
>
> *This involves deep reflection on what the experience) meant in terms of ideas, emotions, skills and capacities, and/or values. Ask yourself what did the experience mean to you, what did you learn, how did you feel before, during and after the experience, what went well or less well than you expected or could be expected. In short, ask yourself how has the experience changed me, my ideas, my values, my future plans, etc? What did you think/feel before and how do you think feel now; how does it compare with what you already know from previous experiences, what others have told and what you learnt through study, how did such learning help you understand (or not understand) your experience? Here you can reflect on the implications for further study, for your clinic experience, future career, etc. In other words, what does the experience(s) tell you about legal education, legal practice, justice, ethics, society, other people, etc.*
>
> ***Now what?***
>
> *What does your reflection means for the future:*
> • *what will you do, think or feel differently?*
> • *how can you about making further improvements or changes:*
> • *what literature can you read, course can go on, what person can you speak to – or indeed what do these already consulted sources tell about what you need to do?*

In addition to this guidance, students are provided with a number of diaries from previous years which I marked highly and are invited to submit a diary entry as a dry run.

But it is clear that reflection is an art which is learned from practice and with the help of comments on diary entries and by marks and general comments at the end of each semester. Many students comment on their difficulties they have at the beginning of the process, but equally many also comment on how they have come to appreciate the task and learned from being required to reflect on their experiences. This was particularly so with those students who took the option of providing an introduction to the diaries pulling together themes and providing a retrospective analysis of their growth. For example, one student provided the following overview of her years doing the CLLB

> *The process of keeping a diary and reflecting on case work has been a very helpful one in monitoring my development and learning. By taking time out to think about what I have done and how I have done it has helped to prepare me for what lies ahead in the legal world. I can see legal problems now as a mix of different issues which may all need some attention or at the very least some consideration as potentially significant factors in whether we will act or how we do act if we decide to.*
>
> *I found that at the beginning of my Law Clinic experience I was concerned about client interactions and making sure that I was representing the client's best interests, and not acting in a paternalistic manner. As my experience grew in this area, and I began to get involved in cases which required representation, my focus turned to the myriad of issues which present themselves when a court or tribunal hearing looms. First of all is the thorny issue of who out of the co-advisors is going to do the representation. This is left to the co-advisors to resolve, and needs to be dealt with delicately.*
>
> *Preparing and representing at the hearing is obviously a highly stressful time, and it tests your strength of character and ability to relate to your co-advisor as well as the client. Dealing with clients in these stressful situations is also challenging, and this is where a good relationship with your co-advisor is essential. The importance of investing in establishing those relationships early on cannot be underestimated, and this made a big difference to me when I was faced with the challenge of representation.*
>
> *As I have become more established in the Law Clinic I find that my reflections have turned to some of the more perplexing aspects of practitioner work: viz. what is substantive justice? and; can it be achieved? I am not convinced that I have found the answers to these questions, but what I have discovered is that there are many different ways of considering these questions, and that each case needs to be considered on its merits. I believe that the merits of a case go beyond what the black letter law says and extend to a consideration of the fairness of the situation, and the ease with which the client can advocate on their own behalf and represent themselves in a formal setting. I have discovered tensions around this issue given the finite resources that we have at our disposal. This means that tough decisions need to be made about who we do and do not represent.*
>
> *In summary, the reflective process has caused me to consider some of the wider issues of client representation. It has opened my eyes to potential problem areas and constraining factors which could jeopardise a client's case. Time will tell, but I believe this has had a major influence on my development as a learning lawyer*.

From this it can be seen the wide range of issues on which one student reflected – teamwork, ethics, justice (legal, substantive and access). To these can added myriad others – more practical issues of how to effectively represent clients, the values of clinical legal education, career choice and even learning about highly personal experiences such as being raped or witnessing a murder. If taken, the opportunity for reflection thus prompts students to prepare for their future careers and for the rest of their personal life.

The above extract from a student's introduction to her diaries also shows the value of not just reflecting on experiences as they occur, but also on looking back to see how their views and behaviour have changed and how they now see themselves as persons and potential professionals. Indeed, I have recently made an introduction to each semester of diaries as compulsory rather than optional. The other insight I have gained about diary writing from my students' diaries is the value of the dialogue between myself and the student which results from my commenting their entries to that they can respond to those comments. Such academic intervention can:

- alert students to potentially problematic ethical and practical issues which they had not noticed or which if they noticed, had regarded as unproblematic;
- expose them to new issues through imagining alternative versions of the facts of their cases or by asking whether a possibly immoral or impractical solution which they had not contemplated might ever be justified;
- require students to clarify for themselves the exact nature of their stance on particular issues;
- refer students to relevant reading to enhance their understanding of issues;
- encourage students to adopt new perspectives in dealing with issues, think more deeply and in a more sophisticated way about issues they had raised or justify ethical or practical positions they had taken.

As an aside it can also be noted that reading the diaries have proved incredibly valuable not just for students development, but in terms of running the Clinic and CLLB. For instance, having repeatedly read about the benefit of having to attend evening advice session staffed by pro bono solicitors, it was decided to make these compulsory for all first year Clinic – and not just CLLB – students.

A final point about the diaries is that while the diaries were at least initially difficult to mark, I had far less problem with marking them than with marking case performance. Although there is no core of knowledge that you can look for as there is in more standard forms of academic work, similar to academic work one is looking for insights and the use of existing learning and additional research. Consequently though it has taken a while to put into words, I found it relatively easily to get a feel for what is poor, competent, good, etc work and have subsequently, with the help of external examiners and others who assess diaries developed the marking scheme set out in Appendix B. Ensuring reliability of assessment would be helped enormously by having more clinical staff to co-mark. This is I think is one of the most effective means of ensuring reproducibility of results. When markers discuss with and justify to each other the marks they give to the same assessment and, in my experience, they relatively quickly come to a fairly uniform standard. However, short of this, this assessment method is about as reliable as one can get in the context of any marking which involves making subjective evaluations.

Moreover, it should be clear that, whatever the problems with reliability, assessment on the CLLB must score high in terms of validity, given that, as espoused by van der Vleuten and Schuwirth (2005, 312-3) clinical elements assessed are largely based on real-life activities or, failing that, simulated exercises based on real-life activities. Moreover, when it comes to case performance we are interested not in discrete skills but in a student's ability to competently perform all those skills in which practitioners should be competent – both technical and softer skills such as the display of empathy, care and consideration for clients. . And then when it comes to diary reflection, we are looking for student insights into an even wider sense of competency which extends beyond both types of skills to an awareness of the

role of ethic and justice in the practice of law and to the development of the individual students sense of professional identity.

Conclusion

In this paper, I have argued that legal competence should be about values as well as skills, ethics as well as knowledge, and that clinical legal education should aim to assist students become effective and ethical practitioners, and to develop their own style of practice and own sense of professional morality – in short their own professional identity. While various individual exercises and examinations can help them in this regard and certainly with the acquisition of knowledge, it is reflective diaries which are most important in this regards Perhaps most importantly, the diaries encourage students to develop the habit of being a reflective practitioner – one who constantly reflects on what she is doing both after and also, later as they become more experienced, during behaviour. This process is enhanced by the fact that reflection on the CLLB occurs over a period of years rather than months. This opens up the possibility of students returning to issues they had previously encountered with similar but often subtly different experiences. This in turn ensures repeated circles of Kolb's learning circle, which may lead to the development of an increasingly nuanced "theory" of how to act in the future as subtle differences in the context in which the issue arises encourages adaptions to the initial theory of how to respond. I see this regularly in relation to ethical issues relating to the lawyer-client relationship. Indeed one student's experience in trying to negotiate an appropriate course between paternalism, which she first unwittingly displayed before being exposed to ethical theory, and acting in the client's best interests, which she completely ignored in her next case due to the desire to prioritise client autonomy, led her to write a dissertation on this ethical issue while in practice- surely a supreme example of life-long learning! In any, even if such repeated reflection on the same issue does not occur, the process of regular reflection throughout the law degree is likely to make reflection a habitual aspect of the student's make-up which in turn is likely to enhance their competence in both its narrower and wider manifestations.

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Appendix A - Marking Criteria for Cases

Your case should be conducted and your files maintained in accordance with the rules and guidance contained in the Law Clinic Handbook, in particular the Practice Rules and the Law Clinic Guide. These documents contain a step by step guide on how to handle a case including, for example, the requirements relating to communication with your client, how your paperwork should be managed and what should be recorded on the electronic case management system. The table below gives an indication of the criteria used for marking your files.

	Unsatisfactory	Competent	Excellent
Communication	Infrequent, lacking in clarity and inappropriate. Failure to respond within reasonable time	Regular, clear and appropriate with reasonable response time	Frequent, clear and appropriate with quick response time
File Management	Poor record of work undertaken with no evidence of research, failure to print e-mails etc., missing papers from file, papers not kept neatly or in proper order, failure to record work on CMS, poor communication with co-advisors and/or staff.	Accurate record of work undertaken with some evidence of research, paper files adequately maintained, CMS up to date and accurate and good communication with co-advisors and staff.	Clear, accurate and up to date record of all work undertaken including research, calls, e-mails etc., all papers files correctly and neatly, CMS up to date and accurate, excellent communication with co-advisors and staff.
Legal Knowledge and Skills	Little or no evidence of relevant research, poor understanding of law with poor analysis of legal position, poor explanation of law to client and little or no awareness of practical and procedural matters, poor advocacy and/or negotiating skills	Evidence of relevant research, good understanding of law and good analysis of facts and application of relevant law, good explanation of law to client and good awareness of practical and procedural matters, good advocacy/negotiation skills	Evidence of extensive and thorough relevant research, excellent and accurate analysis of facts and application of relevant law, very clear explanation of law to client and excellent awareness of practical and procedural matters, excellent advocacy/negotiation skills.
Drafting	Poor drafting of letters, summons, ET1's and other legal documents lacking in clarity, containing irrelevant material and factual inaccuracies	Clear, concise, accurate and relevant drafting of letters, summons, ET1's and other legal documents	Very clear, concise, relevant and accurate drafting of letters, summons, ET1's and other legal documents
Relationship with	Uncaring, insensitive,	Professional and	Professional and

Client	and/or unprofessional	competent service provided	competent service provided, but also caring and sensitive to their needs, and prepared to go the "extra mile"
Ethical Awareness	Unaware of any relevant ethical problems	Aware of most ethical problems but simplistic solution to the problems provided	Aware of all relevant ethical problems and sophisticated and nuanced solutions to the problems provided
Reflection on performance	Poor awareness or insight into difficulties presented in case, personal performance or any ethical issues arising	Good awareness of difficulties presented in case, personal performance, any ethical issues arising.	Excellent awareness of difficulties presented in case, personal performance, any ethical issues arising.

Note:

1. The above categories of "unsatisfactory", "competent" and "excellent" broadly translate into a mark of, respectively, less than 40%, between 40-69% and over 70.
2. You will not be marked equally on each of the criteria; some are more important than others, and some, such as ethical awareness, or negotiation or advocacy skills, may be inapplicable.

Appendix B – Guidelines on the **Reflective Diary**

According to some educational theorists: 'Learning occurs not in the doing but in the reflection and conceptualisation that takes place during and after the event'. The writing of a diary constitutes the main form in which such reflection takes place. From the first semester of the second year of the CLLB, graduate entrant students must keep a fortnightly diary during each semester in which they reflect on any relevant clinic experience they have during this period or in previous fortnights which they have yet to reflect on in the diary. In other words, in any one applicable semester you will have to submit **six** diary entries to gain the necessary credit for the CLP class, except for the semester in which you do the Ethics and Justice class (when you only have to submit diaries for that class, albeit written on a weekly basis). The rest of this section relates to the standard diary– for the specific requirements for the Ethics and Justice class, see the relevant handbook.

4.2.1 **Guidance on Writing a Diary**

Introduction

Writing a Diary is an exercise in extended reflection on experience. It involves at least three aspects of Kolb's learning cycle:

- having a *concrete experience*,
- *reflection* on that experience
- the development of a new, or adjustment of an old, theory (what he calls *abstract conceptualisation)*

Moreover, if similar experiences are repeated within relevant period of reflection it might also involve fourth – *active experimentation.* This would involve the application of a new theory of action, thought, feelings or values to a new experience relevant to the first one. According, a diary entry should involve at least three element (with active experimentation possibly coming up in a late entry, allowing for further reflection, abstract conceptualisation, etc):

What?

Here you want a clear, focused and engaging description of experience or at most two experiences. Relevant experiences on which you can reflect will include, most obviously, any case work, but also Clinic training, attendance at an IAC, and attendance at surgeries. As long as it somehow illuminates one of your various clinic activities, you may even reflect on what you have learnt in the standard LLB from, for example, classes in Legal Process on access to justice, classes in Legal Theory on substantive justice or ethics, and any class in which you learn law relevant and helpful to the conducting of one of your cases. If you are unsure whether a particular experience is worthy of reflection for the purpose of writing a diary entry, you should contact the CLLB Director.

Choose an experience/experiences which most engage you and/or are which lend themselves to deep reflection and theory development: something that was, for example, shocking, pleasing, embarrassing, disappointing, unexpected, etc and/or which made your change your views, values, ways of doing things etc; something that lead to self-appraisal, some form of change and/or personal growth (in emotions, understanding, values, experience, etc). You are strongly advised to discuss one or two issues in great detail than skate over a few in superficial detail.

So what?

This involves deep reflection on what the experience(s) meant in terms of ideas, emotions, skills and capacities, and/or values. Ask yourself what did the experience mean to you, what did you learn, how did you feel before, during and after the experience, what went well or less well than you expected or could be expected. In short, ask yourself how has the experience changed me, my ideas, my values, my future plans, etc? What did you think/feel before and how do you think feel now; how does it compare with what you already know from previous experiences, what others have told and what you learnt through study, how did such learning help you understand (or not understand) your experience? Here you can reflect on the implications for further study, for your clinic experience, future career, etc. In other words, what does the experience(s) tell you about legal education, legal practice, justice, ethics, society, other people, etc.

Now what?

What does your reflection means for the future:

- what will you do, think or feel differently?
- how can you about making further improvements or changes:
- what literature can you read, course go on, what person can you speak to – or indeed what do these already consulted sources tell about what you need to do?

General

Ensure that the dairy entries are well-written, well-punctuated, grammatical, clearly structured, free of typos, etc. You should strive for the same levels of written communication as is required in essays, clinic letters, pleadings, etc,

Ensure that diaries are submitted for comments, that you respond to comments and that invitations to read further or otherwise gain information are taken up.

Ensure consistency in quality and quantity of reflection.

Favourable Features of Diaries

Discussion of experiences that lends itself to deep reflection on relevant topics
Honest, open and *non-defensive self-appraisal*
Curiosity
Awareness of and thinking through perspectives other than one's own
Signs of Personal growth – change in thoughts, feelings and values as well as knowledge
Symbiosis between experience, theory and learning
Use of what taught and what read in reflection
Strong sense of how experiences lead to new outlook on law, society, other people, being a lawyer, and being a human being

Unfavourable features

Badly written, eg unclear, ungrammatical, stream of consciousness writing, repetitive and waffly
Bland and descriptive
Over or well-under the word limit

No submission for comments
No response or very thin response to comments

For an example of the best diary entries by previous students, see the CLLB MyPlace site under "On-going Requirements".

Marking the Diaries

In marking diaries, the following matrix will be used:

	Unsatisfactory	Satisfactory	Competent	Good	Excellent
Length	Very brief, no response to comments	Mostly uses full word length in initial entries and provides some responses	Mostly uses full word length in initial entries and responses	Use full length, full response to all comments	Use full length, full response to all comments
Style	Very Bland, highly descriptive, opaque	Mostly bland description, not very clear	Clear but mixture of bland description and more engaging writing	Clear and costly engaging	Crystal clear and highly engaging
Presentation	Ungrammatical, littered with spelling mistakes, typos	A substantial number of typos, and grammatical, spelling errors	A few typos, and grammatical, spelling errors	No grammatical, spelling errors, and only a few typos	Free of all errors
Structure	Stream of consciousness, repetitive	Some structure but mostly stream of consciousness and some repetition	Largely well-structured , with some lapses	Well-structured , albeit occasionally a bit "flabby"	Clear narrative structure, concise and succinct
Analysis	Description only, no attempt to learn from experience	More description than analysis	Mixture of description & analysis;	Good balance between analysis & description; some use of learning from other sources (eg reading, other classes)	Deep analysis and very insightful; excellent use of learning from other sources
Reflection on personal development,	Description only,	Mostly descriptive one or two insights into personal	Fair amount of reflection on personal development, with a few	Some good insights into personal development and openness	Extremely insightful about personal development, open to

		development, but largely rigid and defensive attitude to change and no self-disclosure	good insights and some openness to self-disclosure and change	to change	change
Reflection on law, justice, ethics, professionalism and future career	Description only, no reflection	Mostly descriptive but one or two insights into law, justice etc	Fair amount of reflection on law, justice etc	Some good insights into law, justice etc	Extremely insightful about law, justice etc

Note:

- the above categories of unsatisfactory, satisfactory, etc roughly correspond to a fail, 3rd, 2.2, 2.1 and a first.
- the various elements are not equally weighted. For instance, elements relating to substance (analysis and reflection) are far more important than those relating to presentation. Thus really insightful entries with a few typos and even grammatical and spelling errors may still gain a first class mark; on the other hand, even well structured, perfectly written and lengthy entries which are bland and purely descriptive will struggle to fall into more than the "satisfactory" category, unless there is at least some reflection.

Further Reading

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