

CHAPTER 2

Digital assessment for the YouTube generation: Reflective practice in 21st-century legal education

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Introduction

This chapter reviews the use of an innovative form of digital assessment and reflective practice on a new Dispute Resolution Skills (DRS) module at Plymouth Law School. Although this is a localised study involving a relatively small cohort of 80 students, it has much wider potential relevance because its digital platforms and assessment strategies can be utilised with larger cohorts, nationally and internationally, as well as in other skills-based disciplines outside of law. The benefits in enhancing students' transferable skills that are inherent in the revised module are also universally applicable.

Our students are continuously seeking new ways to interact online, something that has been clearly evidenced by the propagation of social media platforms in the last decade. Higher education institutions need to embrace this dedication to social media and this continually improving digital literacy in order to address existing educational debates. There has also been a renewed debate in legal pedagogy since the Legal Education and Training Review (LETR). While the review did not have the far-reaching consequences for undergraduate legal education that was first envisaged, it has encouraged educators and educational theorists

to consider the delivery and design of legal curricular. There has been a specific emphasis placed on embedding transferable skills in programs of study, which has also provoked debate around the assimilation of technology in skills delivery. This has inevitably prompted renewed discussions around the more substantial incorporation of experiential learning, something that the authors believe is key to further developing skills for employability in the modern law school.

Our work lies at the intersection of these subjects. It will demonstrate how we are attempting to consolidate these in an innovative form of assessment. This chapter will undertake a comparative analysis of the use of technology in skills assessment in other disciplines to reveal how we established our mode of assessment. This will lead us into a presentation of our most recent curriculum redesign to demonstrate how online platforms can draw upon the ever-increasing reliance on social media to provide alternative forms of assessment in experiential programs. We will also use this opportunity to showcase our case management platform and reflective vlog component, and evaluate its success so far.

Context: Innovative skills assessment in the post-LETR environment

Skills gaps in commercial awareness, legal research skills, and communication – in particular writing and drafting and, in some contexts, advocacy – were identified in respect of the initial stages of training.¹

The findings of the LETR have acted as a vital opportunity for reflection in many law schools and have provided a starting point for the reinvigoration and modernisation of existing legal curricular. The clear deficiencies outlined by the reviewers, professional representatives and educators demonstrate a serious shortfall in undergraduate education, specifically in the education of general and subject-specific employability skills.²

1 J Webb and others, 'Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales: The Final Report of the Legal Education and Training Review Independent Research Team' (SRA, BSB, IPS 2013) ix–xviii <<http://letr.org.uk/the-report/executive-summary/executive-summary-english/index.html>> accessed 24 August 2015.

2 For a definition and discussion of general and subject-specific employability skills, see generally, CJ Newbery-Jones, 'Trying to Do the Right Thing: Experiential Learning, e-learning and Employability in Modern Legal Education' (2015) 6(1) *European Journal of Law and Technology* 1–26.

The apparent ‘skills gap’ quoted above, alongside those outlined in Recommendation 6,³ are a cause for concern in modern legal education. In an ever-competitive (legal) employment marketplace, we must prepare our students to be as competitive as possible by giving them a wealth of experience that can be drawn upon for applications, assessment days and interviews. Furthermore, the importance of preparing students adequately can have wider implications to the professional and efficient administration of justice. However, the cynical amongst our readers may believe that we are not training whole classes of lawyers and therefore it is not the place of the undergraduate program to outline, teach and reflect upon such lawyer’s skills. But the various destinations of our graduates should not be our principal concern. Instead, we should be focusing on doing right by our students and giving them a broad range of general skills, alongside specific skills for legal practice. For those students who aspire to legal practice, we can provide a valuable addition to the initial stage of legal education, and, for those who have aspirations aside from law, we can develop an employability toolbox to stand them in good stead for wherever their career path may lead them.⁴

The changes that are currently predicted (and in some ways ongoing) within the contemporary legal profession should inform and guide our consideration of skills curricular. Susskind’s *Tomorrow’s Lawyers* has highlighted how our students will need to be more malleable employees rather than mere legal technicians.⁵ Lawyers will need to be project managers, technologists, online dispute experts and various other business–legal hybrids.⁶ This is also closely aligned to the growth of alternative routes of entrance and qualification to the profession. More and more of our graduates will progress to paralegal positions than to training contracts or pupillage. This should inform our practice and should encourage us to expose our students to a variety of employability experiences and inspire us to develop curricular to explore legal and non-legal skills.

3 See also Webb and others (n 1) xiv. ‘Recommendation 6: LSET schemes should include appropriate learning outcomes in respect of professional ethics, legal research, and the demonstration of a range of written and oral communication skills’.

4 See Newbery-Jones (n 2).

5 See R Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (OUP 2013).

6 *ibid.*

The £9,000 tuition fee environment in UK higher education has also encouraged institutions to consider their practices. Student priorities and attitudes have shifted in light of rising costs and mounting debt, with employability topping their concerns.⁷ While students will never be consumers, they are inevitably more willing to enquire around the service they receive and question the level of provision in areas they perceive as important. While we cannot satisfy their every demand, we must acknowledge their priority concerns to ensure that we give them the greatest opportunity to maximise the yield from the investment they make in their future. Employability is continually topping this list.⁸ This is specifically important when we consider a truer definition of employability. As Harvey has defined it:

Employability is not just about getting a job ... Employability is more than about developing attributes, techniques or experience just to enable a student to get a job ... It is about learning and the emphasis is less on 'employ' and more on 'ability'. In essence, the emphasis is on developing critical, reflective abilities, with a view to empowering and enhancing the learner.⁹

This is closely linked to encouraging students to be both reflective learners and professionals, and directing them to consider the skills elements of the course alongside the more substantive elements. It is also imperative to demonstrate to our students the transferable nature of the skills they develop and allow them to reflect upon their courses and to understand their own abilities.

With this in mind, the authors have redesigned a core module on the LLB program (DRS) to embed general transferable skills, subject-specific employability skills and collective legal values within the core curricular. While the team considered at length the skills that were to be developed on the course and the manner through which they would be assessed, the experiential nature of skills-based education meant that reflective practice was of paramount importance.

7 M Tomlison, *Exploring the Impact of Policy Changes on Students' Attitudes and Approaches to Learning in Higher Education* (HEA 2014) 27.

8 *ibid.*

9 L Harvey, *Transitions from Higher Education to Work: A Briefing Paper* (LTSN 2003) 3 <<http://bit.ly/oeCgqW>> accessed 26 August 2015.

Reflection is key to the success of experiential programs. Much of learning can be seen as learning by experience,¹⁰ but what sets experiential learning apart is the ability to reflect and learn from prior experience in order to guide and inform future experiences.¹¹ This symbiotic relationship between experience and reflection is of fundamental importance to the success of experiential programs for skills-based education.¹² Students must be guided towards continual reflection upon their skills, legal subjects and (holistically) their course, if it is to have any profound effect. It is also important to place a greater emphasis on reflection in order to best prepare our students as modern professionals.¹³ Widespread reflection is a reality of modern employment regardless of their future pathway. For example, personal development planning is a part of most spheres of employment, and continual reflection is actively encouraged by employers.¹⁴ In an age of negative public images of lawyers and other highly paid ‘experts’, guidance on reflective practice can also stimulate more holistic consideration of their future practice, including ethical and social responsibility.

In legal education, the importance of reflective practice is multifaceted, but has two principal points of emphasis for its inclusion in our course. The incorporation of reflection allows students to become reflective practitioners and encourages an evaluative approach to study. By incentivising this through assessment and embedding it throughout the whole course, we can encourage our students to undertake reflection seriously and comprehensively. The second reason for the integration of constant reflection is the ability to allow students to review and critique skills developed during the course. This is essential for their professional development. Much of what students need is the ability to evidence and articulate their skill set for potential employers, and this can be encouraged

10 I McGill and S Warner Weil, ‘Continuing the Dialogue: New Possibilities for Experiential Learning’ in S Warner Weil and I McGill (eds), *Making Sense of Experiential Learning* (SRHE/Open University Press 1989) 258.

11 J Saddington, ‘Learner Experience: A Rich Resource for Learning’ in J Mulligan and C Griffin (eds), *Empowerment through Experiential Learning* (Kogan Page 1992) 44.

12 See generally, JA Moon, *A Handbook of Reflective and Experiential Learning Theory and Practice* (Routledge 2006).

13 See generally, DA Schön, *The Reflective Practitioner: How Professionals Think in Action* (Basic Books 1983).

14 D Stam, A de Vet, H Barkema and C De Dreu, ‘Why Quiet Reflection Improves Development Performance’ (2014) 17(1) RSM Discovery 14–15.

through signposting and individual reflection. When Harvey's definition of employability is considered, by incentivising reflection we can empower the learner to enhance their employability.

Students in DRS were expected to reflect bi-weekly on their ongoing tasks and were assessed on an overall oral reflection at the end of their course. This was assessed through 10 key marking criteria based around their skills learning and their ability to feed-forward for future development. These were recorded in video format in order to encourage the development of oral reflection skills and uploaded to our bespoke learning environment.

This format of digital video assessment was also designed in accordance with the Plymouth University Policy of Inclusive Assessment.¹⁵ This policy is encouraging all staff to consider more varied forms of assessment for various learning styles and the inherent requirements of our students. This is important for linking assessment more closely to the learning outcomes, and ensuring that we design assessment for our diverse student population. Inclusivity is not about weakening the rigour of assessment but about 'enhancing practice to offer students greater opportunity to develop both skills and disciplinary knowledge in a supported and challenging environment'.¹⁶ This is particularly important in law as the assessment requirement for the foundations of knowledge have been relaxed immensely in the last decade. The study of law has been bound by written exams for numerous years and examinations have become an ingrained part of legal study. However, as legal curricula evolves to incorporate the changes prompted by various reports, investigations, technological innovations and pedagogic reflection, alternative forms of assessment must be developed in order to best align assessment with learning outcomes. Specifically, skills assessment poses such challenges, and digital solutions can encourage better engagement from the student body and assessment of skills provision, which is sometimes seen by the students as less important than 'proper' academic study.

The majority of students are engaged with social media and digital communication via the internet. It follows that all universities should be utilising this technology to engage with students, and exploiting their

15 Plymouth University, *Inclusive Assessment* (Plymouth University 2014) <www.plymouth.ac.uk/your-university/teaching-and-learning/inclusivity/inclusive-assessment> accessed 25 August 2015.

16 Plymouth University, *Inclusive Assessment Good Practice Guide* (Plymouth University 2014) <www.plymouth.ac.uk/uploads/production/document/path/2/2516/Good_practice_inclusive_assessment_updated_May_2016.pdf> accessed 26 August 2015.

digital literacy to revolutionise assessment. Engagement with online platforms aside from their institutional Digital Learning Environments (DLEs) can also assist students in developing a more varied skills-set. While students are often savvy social media users, their ability to collaborate and engage in online working environments and organise themselves accordingly is something that can seem alien to them. Yet, the majority of legal practice and employers are becoming dependent on online collaboration and cloud-based file-sharing platforms. Students need to be exposed to online collaborative resources beyond the existing DLE environment,¹⁷ especially when undertaking skills-based education.

Finally, legal education in England and Wales is currently in a period of unprecedented growth. The free-market nature of recruitment, wrought by the £9,000 fee environment, has seen class sizes in some Russell Group and 1994 Group universities grow exponentially. With increased numbers comes a greater assessment burden. Technology and non-traditional modes of assessment can ease this burden and the process through which we engage students in effective and timely feedback.

Framework: Dispute resolution skills

‘That was an amazing performance, well done; didn’t realise how good you were.’

‘Well, I guess you’ve never really seen us in action before.’

This exchange with two of our second-year law students after they had won a negotiation competition at the offices of a local law firm struck a chord. It was true that we did not really know what they could do. Their performance had been assessed as part of our legal skills module, but it was just a snapshot of their skills, and they had not achieved first-class marks. The module required them to role-play being junior lawyers for 20 minutes in relation to a scenario that they had been provided with a few days beforehand. It did not capture the development of their skills, the planning and preparation beforehand, and the reflection upon what they had learnt afterwards.

17 See M Hughes, H Gold, P McKellar, P Maharg and E Nicol, *SIMulated Professional Learning Environment (SIMPLE)* (UKHEA 2008).

We had always felt that our legal skills module was rather good, receiving very positive feedback from the students. The module evaluation indicated high levels of overall student satisfaction (87 per cent in 2013–14 and 85 per cent in 2012–13). In terms of assessment the students also obtained very good marks (73 per cent with a 2:1 or better in 2013–14 and 74 per cent in 2012–13). And it had received positive comments from the external examiners.¹⁸ But the gentle put-down from the students was still ringing in our ears, so we decided that the module needed changing to better capture and assess the whole of the students' skills-set to ensure that they, like us, reflected upon how they might further develop those skills. Moreover, we wanted to give the students a more authentic experience that would better prepare them for modern practice.

This was timely, as Plymouth University was embarking upon a major review of the delivery of all of its courses pursuant to its Curriculum Enrichment Project (CEP). A key strand of CEP is enhancing student engagement by having two 'short fat' half-academic-year semesters rather than one 'long thin' yearlong term. The stated objectives of CEP are:

- more blocked teaching
- more opportunity for students to broaden and contextualise their learning
- more inclusive assessment
- a greater emphasis on feedback
- a more tailored and explicit approach to preparing students for life after study.¹⁹

Several of these new objectives aligned with our current practice of skills teaching. For a number of years, the teaching and learning strategy within Plymouth Law School had embedded an effective 'skills stream' across the curriculum. This included a compulsory second-year lawyering skills module designed to develop students' practical skills and to introduce some 'real-world' experiential learning. It taught and assessed a range of practical lawyering skills such as client interviewing, letter writing, negotiation and advocacy. It was designed to align with other elements of the curriculum such as personal development, career planning and the option of work-based learning in our Law Clinic.

18 'I am very impressed with the practical skills module': External Examiner 2012–13 end of year report.

19 Plymouth University Teaching & Learning Strategy (CEP summary) as at October 2015.

However, we recognised that there were a number of flaws with the module in terms of realism and assessment. The scenarios were quite varied and the students did not work through a case study in any detail. This led to a lack of authenticity and inadequate preparation for the increasing number of students who were electing, from their second year, to work on client's cases as part of our expanding pro bono Law Clinic. There were some problems with students attending and participating, with knock-on effects for effective formative role-play. The assessment only provided a snapshot of their performance rather than a longer-term review. Although we required a range of there and then (instant) formative reviews of students' performance, including elements of peer review, the students' perspective reflection upon their performance was somewhat limited and their primary focus was on the marks they achieved in summative assessments rather than ongoing skills development and review. In terms of inclusive assessment there was, for some students, too much emphasis upon upfront performance skills, which benefited the more confident students, and not enough on background preparation and reflection.

We were also influenced by the lack of development of so called 'soft skills'²⁰ that many employers are looking for,²¹ such as problem-solving, interpersonal skills, project management and process improvement, and by the fact that we only assessed these indirectly. We were also aware that our school was similar to many others in having a significant percentage of students who do not progress into the legal sector and fewer still who end up as trainee solicitors.²² So developing and accessing more transferable skills was key to enhancing our students' wider employment opportunities.

In addition to the flaws we identified in the module, we were also very aware that several other law schools across the UK teach and assess experiential modules that, like ours, include elements of dispute resolution skills and reflection,²³ though some of these were via Law Clinics rather than taught courses. Others offer modules with a focus on specific types

20 'Top 10 Soft Skills in Demand' (livecareers.com) <www.livecareer.com/career-tips/career-advice/soft-skills-in-demand> accessed 12 October 2015.

21 'Applying for Jobs: What Skills do Employers Want?' (prospect.com) <www.prospects.ac.uk/applying_for_jobs_what_skills_do_employers_want.htm> accessed 15 October 2015.

22 Law Society figures indicate that there is roughly one traineeship available for every four law graduates (as at September 2013). The Law Society, *Entry Trends* (lawsociety.org.uk) <www.lawsociety.org.uk/Law-careers/Becoming-a-solicitor/Entry-trends/> accessed 17 October 2015.

23 For example, the universities of Kingston, Kent, Stirling and Canterbury.

of dispute resolution and arbitration.²⁴ We were also conscious of the fact that problem-based learning (PBL) has been adopted in some law schools²⁵ and other vocational subjects have long since embedded practical skills via problem-based learning and role-play, in this country and abroad, such as schools of medicine²⁶ and business.²⁷ Others still utilise sophisticated simulated environments to create a virtual legal ‘world’.²⁸ So, ideally, we needed to come up with something that was slightly different, gave students exposure to real-world practice and technologies rather than theory, and gave them opportunities for ongoing reflection based on feedback.

The first key change was to ensure that we exposed the students to running a whole case study in teams as if they were trainees in a firm. This was designed to cover a range of soft skills such as teamworking, problem solving, taking the initiative and time management. It was also important to us that students felt an element of real-world time pressure, on-the-spot problem-solving and competition. So drip-feeding the students information from the client and their opposition and requiring them to respond to this and subsequent changes (curve-balls) in more or less real time were important elements for both authenticity and reflection upon resulting hard and soft skills.

The second key change was to give students exposure to working in an online working environment. As Susskind has argued, lawyers of the future will be working in a very different legal environment and will be required to adopt a range of electronic skills and practices.²⁹ LETR has also identified that it is incumbent upon undergraduate law schools to instil students with greater real-life competencies,³⁰ including 21st-century technologies.³¹ In this context, Susskind’s suggestions about law schools exposing students to future legal practice is also noteworthy.³²

24 For example, City and Westminster universities and Brunel University.

25 Notably, York Law School in the UK.

26 For example, Peninsular and Hull-York in the UK and Southern Illinois in the USA.

27 For example, Maastricht University in Holland and Monash University in Australia.

28 Such as Hughes and others (n 17).

29 Susskind (n 5).

30 Webb and others (n 1) at section 4.

31 *ibid* at section 4.70.

32 R Susskind, *Provocations and Perspectives: A Working Paper Submitted to LETR* (letr.org.uk, 2012) <<http://letr.org.uk/wp-content/uploads/Susskind-LETR-final-Oct-2012.pdf>> accessed 8 June 2018.

We chose to use the SANSSpace learning environment. The benefits and problems with this system are identified later, but the ability to capture ongoing student performance and reflection on their case ‘file’ and providing ongoing tutor review of this was critical. SANSSpace offered the capacity for students to demonstrate a wide range of their work as it progressed, including e-conferencing with their group opposition and their tutor/client as well as ongoing recorded group reflections that tutors could add to or ‘edit’ with their own recorded feedback.

The third key change was to shift the emphasis in assessment from final performance in a limited number of practical skills to ongoing review and reflection in relation to a wider range of skills, including soft skills. The aim here was to encourage students to be holistic reflective learners in order to assist them in becoming reflective practitioners in the world of work. As Phil Race has commented:

The act of reflecting is one which causes us to make sense of what we’ve learned, why we’ve learned it, and how that particular increment of learning took place. Moreover, reflection is about linking one increment of learning to the wider perspective of learning – heading towards seeing the bigger picture. Most of all, however, it is increasingly recognised that reflection is an important transferable skill, and is much valued by all around us, in employment, as well as life in general.³³

Others have commented upon the problems of traditional reflective reports in terms of adequately capturing and assessing performance and insights,³⁴ including the so-called ‘patchwork’ reflection that stitches together a sample of selected student performance and reflections. As Michael Maisch has commented:

The separation of the evidence/record of practical skills development and learning from the parallel reflective process on learning can result in the portfolio becoming a collection of individual episodes or moments of learning rather than a seamless representation of the whole learning experience as one ‘joined up’ piece of work.³⁵

33 P Race, *Evidencing Reflection: Putting the ‘W’ into Reflection* (ESCALATE Learning Exchange 2002).

34 J Gibbons, ‘Oh the Irony! A Reflective Report on the Assessment of Reflective Reports on an LLB Programme’ (2015) 49(2) *The Law Teacher* 176–188.

35 MM Maisch, ‘Restructuring a Master’s Degree Dissertation as a Patchwork Text’ (2003) 40(2) *Innovations in Education and Teaching International* 194–201, cited in K Clubb, ‘Assessing Law Clinic: The Use of Digital Patch Assessment as an Alternative to Traditional Portfolios’ (2014) 20(2) *International Journal of Clinical Legal Education* 615–632.

The file and recordings captured within SANSSpace provide the possibility of a wider and less selective review of students' ongoing development and collaboration and the capacity for quick and ongoing feedback. Moreover, the recordings using this technology and the underlying reflective process provide the students with rich examples to cite to potential employers.

Platform: SANSSpace

In order to allow students to experiment and engage with an online collaborative workspace, we adopted an existing technological platform and utilised this as a virtual boardroom. Exposing students to digital collaboration platforms encourages them to reflect upon their own contributions to a digital community as well as being part of a physical real-world team. While teamworking is a fundamental transferable skill for employment, this was not the priority function. Due to the nature of contemporary legal practice, and a more widespread reliance on cloud-based collaborative tools in modern employment, it was agreed that students required exposure to such online platforms and develop a familiarity with workflow in the digital sphere. Therefore, we required a platform that could act as a collaborative workspace, communication tool and a centre for reflection. This included uploading and providing feedback on notes, minutes and documents, organising these notes, communicating within their groups and with opposition groups, communicating in real-time using a chat function, and recording audio and video notes and logs. It was decided to use a language-learning environment called the SANSSpace platform³⁶ designed, released and operated by SANS Inc.

The primary design purpose of SANSSpace was to provide an interactive learning platform for language teachers to encourage and engage with experiential student assessment and provide a means of regular feedback in a timely manner. This is due to the traditional teaching and learning modalities of the study of language. They have particular skills components that are continually assessed throughout a student's study of the language. Most notably, these include reading, writing, speaking and listening. Much like other platforms that exist for hosting DLEs, the tutor is able to upload and share various different formats of information, set exercises and guide

36 SANS Inc., *SANSSpace Virtual Learning Platform* (sansinc.com) <www.sansinc.com/products/sansspace.php> accessed 25 August 2015.

students to external resources, but unlike some other platforms it was designed to provide pinpointed feedback on student recordings. Tutors are also able to monitor student engagement with the materials hosted on the platform and get individual analytics of student engagement. Functions for students include the ability to upload written work, record audio and video of presentations and conversations, and communicate with tutors via video chat, text chat and internal messenger functions.

The main advantage of SANSSpace as a learning tool lies in the tutor's ability to provide prompt and direct feedback on the work. When it comes to written work, the tutor can mark it in a way similar to Microsoft Word track changes. But with audio and video recordings the tutor can 'drop' written, audio or video feedback (using a flag system similar to YouTube's caption function) into the timeline. This means that when a student reviews the work they get direct feedback and corrections at the precise point of the recording that they have made an error, overlooked an issue or could do more to improve. The tutor can embed this feedback directly in the recording, creating a repository of assessment that the student can use as a guide for future assessment. It also provides students with an active form of feedback, as to engage with the feedback they must watch their own performance again with the guidance from the tutor. This facilitates true reflection on these experiential aspects of the student's learning.

Digital platforms such as SANSSpace can also ease the assessment burden in some respects. Traditionally, individual and group student presentations, oral testing and viva voce examinations are time consuming. Providing students with the ability to record their own presentations and assessments, and upload them to a bespoke environment that accommodates feedback opportunities in a straightforward and accessible way is much more efficient. However, it must be acknowledged that there are some drawbacks to this. As the assessment is recorded, the tutor is unable to question the students directly but can only phrase questions after the fact and neither do students gain the experience of presenting their research findings to a group of their peers, something that is often cited by the student body as the benefit of presentations.

In DRS, SANSSpace was used in conjunction with our DLE to allow students their own space for group collaboration. The students were divided into groups (law firms) and each group was given their own collaborative space (or virtual boardroom). Students were expected to use these platforms as a collaborative environment to work on their caseload,

record minutes of their meetings, present research findings and prepare for written and practical assessment. The platform also allowed students to group files as a secondary desktop and share drafts of documents and organise their case-file documents in a professional manner. They were also expected to communicate with their peers and record bi-weekly reflective video blogs on their progress and skills.

SANSSpace has the capacity for student groups to video conference each other and capture this as part of their portfolio. This is obviously a valuable 'real-world' skill. Tutors played the role of supervisor and client, but the platform would allow the tutor to be played by a professional, such as a lawyer. The client could be played by an 'actor'.

Students undertake various tasks related to specific and general employability skills and engage in ongoing critical evaluation to reflect more holistically on the whole curriculum.³⁷ While all the individual elements of the portfolio were not explicitly assessed, the portfolio was assessed as a whole (see Appendix 1). The final assessment component was a group video blog requiring students to holistically reflect upon their own skills development during the course, guided by bespoke detailed assessment criteria.³⁸ Assessing and marking reflection has often been cited as a difficult assessment conundrum, due to the often personal and individualistic nature of the task.³⁹ However, pedagogic theory has suggested that assessing student reflection can be done through the design of a specific and detailed rubric.⁴⁰ This is especially true for video reflection.⁴¹ The development of a detailed rubric and clear explanation to students at the beginning of the course can also prompt and guide

37 J Butcher, S Sinclair and A Clarke, 'The Challenge of Assessing Reflection: The Open University's Access Programme' in W Miller, J Collings and P Kneale (eds), *Inclusive Assessment. PedRIO Papers 7* (Pedagogic Research Institute and Observatory (PedRIO) 2005) 25–29; and C Kamin, P O'Sullivan, R Deterding and M Younger, 'A Comparison of Critical Thinking in Groups of Third-Year Medical Students in Text, Video, and Virtual PBL Case Modalities' (2003) 78(2) *Academic Medicine* 204–211.

38 K Burton and J McNamara, 'Assessing Reflection Skills in Law Using Criterion-Referenced Assessment' (2009) 19 *Legal Education Review* 171.

39 J Sumsion and A Fleet, 'Reflection: Can We Assess It? Should We Assess It?' (1996) 21(2) *Assessment & Evaluation in Higher Education* 121–130; B Pee and others, 'Appraising and Assessing Reflection in Students' Writing on a Structured Worksheet' (2002) 36(6) *Medical Education* 575–585.

40 HS Wald, SP Reis and JM Borkan, 'Reflection Rubric Development: Evaluating Medical Students' Reflective Writing' (2009) 43(11) *Medical Education* 1110–1111; and MJ Devlin, A Mutnick, D Balmer and BF Richards, 'Clerkship-Based Reflective Writing: A Rubric for Feedback' (2010) 44(11) *Medical Education* 1143–1144.

41 S Koole and others, 'Using Video-Cases to Assess Student Reflection: Development and Validation of an Instrument' (2012) 12(1) *BMC Medical Education* 22.

students towards a more critical approach to the reflection on their skills.⁴² In DRS, this rubric was accompanied by an online portfolio handbook, which contained a guide to reflective practice and an outline of what employability means and why it is important in modern legal education. This was further complemented by lectures or podcasts focusing on subject-specific employability skills and collective legal values.

Students were required to submit their reflective videos and their final reflection vlog using the SANSSpace platform and they were marked using the bespoke rubric. Feedback was then provided digitally and students were encouraged to continue this process for their future practice. These videos also allowed the students to experiment with oral reflection and engage with YouTube. Most, if not all, students use YouTube and engage with it in some way, usually through leisure-time usage. By framing assessment in such a way, we can encourage a greater engagement with such resources as consumers and producers. It can encourage individuals to use these sources as an educational tool, giving them a valuable skill set in producing educational and public relations tools and allowing them to orally reflect upon their own development. From the tutor's point of view, conducting individual reflective interviews (modelled on professional development reviews) with a full cohort of students is time-intensive. Assessing students using a vlog achieves a similar result in less time.

Evaluation: Digitally assessing the YouTube generation

'Now I know what I don't know, but at least I have some good ideas about how to fix that before I have to do it for real!'

This comment by one of our students on the end of a module evaluation form is a reference to the stages of learning that we highlight at the start of the course:

- I don't know what I don't know.
- I know what I don't know.
- I don't know how much I know.
- I know how much I know.

42 HG Andrade, 'Using Rubrics to Promote Thinking and Learning' (2000) 57(5) Educational Leadership 13–18.

The student's comment is self-deprecating but instructive because it demonstrates what we are trying to achieve with the module: reflection on exposure to real-life practical skills and feed-forward to consider areas for improvement. It's also to be hoped that the reason the student knows how to fix it is not just a by-product of increased self-awareness but also because of the ongoing reflection on her performance that the module was able to provide.

The statistical breakdown for the interim and end of module feedback is set out in Appendices 2 and 3. There a few key points worth highlighting from this data. The good news is that the students clearly found the module to be interesting and useful (100 per cent interim, 90 per cent final). They also value the employability and soft skills they have gained. These are cited as one of the top-three aspects of the module in both the interim and final surveys (18 per cent and 23 per cent, respectively). Pleasingly, there are also positive comments on the value of reflection and feedback thereon (56 per cent strongly agreed or agreed about its value in the final surveys and 67 per cent really valued or valued the summary vlog). The 20–25 per cent not applicable ratings in this and other categories can be explained by the fact that not all the students in the group took a lead part in that element of assessment. Only 2 per cent of the students queried why it was a compulsory module, so it seems the students saw its wider value in terms of transferable skills.

However, one of the key problems we encountered was with one of the central design features, SANSSpace. The features of this platform are impressive but the functionality of the platform is questionable. The layout of the interface is very difficult to navigate and, even following a live demonstration and video tutorial, students found the platform difficult to engage with. In our student evaluations, SANSSpace received negative feedback from 79 per cent in the interim survey and 91 per cent in the final survey. There was also mixed feedback about group working via SANSSpace; comments in the final survey place it as both the second-best aspect of the module and the third-highest problem area. There are also some negative comments about organisational aspects of the module. This is perhaps linked to the fact that the module is different to other second-year modules requiring more independence and initiative, or it may be linked to issues with SANSSpace.

One of the biggest resultant challenges that we faced was the migration of our students to other social media platforms. The general familiarity and engagement with Facebook, Twitter and YouTube meant that as soon as our students encountered problems with SANSSpace, they moved to these as surrogates. This fundamentally undermined the purpose of creating a collaborative environment and affirmed the importance of creating a bespoke environment to act as a bridge between social media and online collaborative workspaces.⁴³ Furthermore, it also encouraged us to use social media, specifically YouTube, to assess students. Interestingly, when we delivered this paper at the Institute for Advanced Legal Studies for the Association of Law Teachers symposium celebrating 50 years of assessment, we had never considered using YouTube as a platform for assessment due to its social media badge and lack of feedback functionality on the platform itself. However, this will be our platform of assessment for the coming year. Students have expressed the desire to use YouTube, citing its familiarity as the key to easing their learning.

The overall level of satisfaction was 68 per cent, which is reasonably good, especially given the problems with SANSSpace, but it is lower than the comparable figure for the old module on Lawyers' Skills (87 per cent).

In order to fully achieve our aims of a rigorous and vigorous method of assessment, we clearly need a more effective and engaging platform. While the ability to flag and drop feedback directly within the videos is an excellent feature in theory, the issue with SANSSpace's functionality is clearly a bigger distraction than its assessment virtues. Students found the ability to create a digital case file a valuable experience, but the issues with SANSSpace again complicated this. In response to student feedback, we have migrated the case file management to our Virtual Learning Environment (VLE), within which the students are placed in closed groups. Students will also still have to reflect on their performance and skills development orally, but instead these videos will be hosted on YouTube (using an unlisted video) and a link will be posted into these VLE groups. Yet, it is clear that in order to fully achieve the aims and

43 See the discussion of the ELGG-based virtual boardroom in Newbery-Jones (n 2).

objectives of this course and mode of assessment, we need to consider designing a bespoke learning environment. Resnick's warning in 2002 can't help but ring slightly true here.⁴⁴

If we had a more reliable e-platform, such as Office 365 or the like, then it is clear that the form of collaborative e-learning and assessment as a 'firm' offers some valuable preparation for the 21st-century practitioners. We are currently piloting a range of initiatives to link to the module and enhance employability. Most of these could be employed outside of the legal sector. A summary of these pilots is set out below:

1. Enhanced links with practitioners. We gave a training partner in one of the larger regional firms access to the virtual site and one group/firm's work. This enabled him to comment on the students' work and to throw in the odd curveball, such as the client changing their instructions/mind. He was also able to provide 'precedents' that students could utilise on a just-in-time basis. Obviously this could be expanded with willing practitioners.
2. Enhanced use enables students to work together on real files and capture their clinical developments for assessment purposes. This tool is employed in other disciplines to assess practical skills.⁴⁵ Subject to confidentiality, it would be possible for clients to participate in the virtual world, for virtual meetings and interviews for example.
3. Links with and lessons from other disciplines. We have teamed up with the university's medical school so that a group of law students and medical students are working together on a simulated, PBL-style case study that has ethical and legal dimensions to the patients' palliative and/or end-of-life care. An effective SANSSpace-style learning environment would work well here both in terms of collaborative learning and practically, in terms of the problems of coordinating regular face-to-face meetings. Other lessons from the practice of the medical school will no doubt flow. Our business and accountancy schools also utilise relatively sophisticated simulations

44 Resnick warned of using existing technology to update traditional teaching modalities. See M Resnick, 'Rethinking Learning in the Digital Age' in GS Kirkman and others, *The Global Information Technology Report 2001–2002* (OUP 2002) 32 <<http://unpan1.un.org/intradoc/groups/public/documents/un/report.pdf>> accessed 18 July 2019.

45 For example, the assessment of therapeutic skills on the PhD in Clinical Psychology at Canterbury University.

to train their students online in small groups. Legal input into these simulations, that often involve the steps in developing and taking a product to market, is being trialled.

4. Links to online dispute resolution and case management systems. One of the regional firms has agreed to give some of our students access to parts of their online civil litigation and mediation systems. Links to this via the SANSSpace-style learning environment would enable students, and us as educators, to be more familiar with current legal tasks, practices and teamwork.
5. Links to our alumni. Our alumni who are working as junior lawyers and paralegals are best placed to advise us and our students about the skills and practices needed in the current and future legal environments. This mirrors the view of Professor Susskind, who is a strong advocate of the need to consult with young lawyers.⁴⁶ The SANSSpace-style learning environment would allow our alumni to offer peer-style assessment of student's work, which the students are likely to accept more than a tutor's!
6. Links to the changing legal landscape. It is widely acknowledged that the provision of legal services is likely to change dramatically over the next few decades and the work undertaken by junior lawyers will change. So, ensuring that aspiring lawyers are familiar with these online virtual processes and are trained to deal with tasks that they are likely to perform is crucial. Links to aspects of a firm's training via a SANSSpace-style learning environment would facilitate this process. As observed in LETR:⁴⁷

It is not sufficient to ensure that trainees or prospective trainees understand how technology is used to facilitate current work tasks without also helping them to understand how it can radically change, and is changing, their business models and the way clients may access and use legal information. In this context Richard Susskind's (2012) suggestion that law schools should include an optional course on developments in legal services deserves to be taken seriously.

46 Susskind (n 32) at para 13.

47 Webb and others (n 1) at para 4.70.

Professor Susskind usefully raises the following question:

Are we, therefore, training our young lawyers to become traditional one-to-one, bespoke, face-to-face consultative advisers specializing in individual jurisdictions and charging by the hour? Or are we nurturing a new generation of more flexible, team-based hybrid professionals able to transcend legal boundaries and motivated to draw on modern management techniques and the power of information technology?⁴⁸

We would like to think that future developments to our DRS module would help to achieve the latter.

Conclusion

Despite the problems encountered with SANSSpace as an e-learning platform, it is clear that its potential use to create a collaborative learning environment, via a virtual boardroom, has wide potential application not just in law but a range of subjects. The ability to work together in a virtual environment and to developed related practical and soft skills is becoming essential for 21st-century practice.

It is also clear that embedding skills in all university subject areas is becoming increasingly important. The new Quality Assurance Agency for Higher Education (QAA) Subject Benchmark for Law (2015)⁴⁹ describes the law student as possessing ‘considerable transferable generic and subject-specific knowledge, skills and attributes’.⁵⁰ However, reflective assessment can signpost the skills developed and encourage students to actively and meaningfully engage with the development of those skills to aid their employability and future roles as the professionals of tomorrow.

48 R Susskind, *Provocations and Perspectives: A Working Paper Submitted to LETR* (letr.org.uk, 2012) at para 3.5.

49 QAA Subject Benchmark Statement for Law (Quality Assurance Agency for Higher Education, July 2015) <www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/sbs-law-15.pdf?sfvrsn=ff99f781_10> accessed 18 July 2019.

50 *ibid* 4.

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Appendix 1

Dispute Resolution Skills Assessment Mark Sheet

Group Name:
0 = failed to address the criteria; 1 = ineffective in meeting criteria; 2 = effective in meeting criteria in some respects; 3 = effective in meeting criteria generally; 4 = highly effective in meeting criteria overall; 5 = met criteria in every respect

		Mark and Comments
1	<i>Reflection on Employability Skills</i> – An awareness of employability, what skills you have acquired or developed, and how you have developed these skills.	
2	<i>Reflection on Working Atmosphere/Relationship</i> – Reflection on wider issues of teamwork, collaborative working and group dynamics.	
3	<i>Reflection on Engagement</i> – Reflection on the level of group engagement with the virtual boardroom (SANSSpace)	
4	<i>Research</i> – Reflection on the research undertaken in preparation for practical exercises	
5	<i>Problem Solving</i> – Reflection on the development of problem solving skills	
6	<i>Reflection on Performance in Skills Assessments</i> – Reflection on how you undertook practical exercises	
7	<i>Informed and Holistic Reflection</i> – In-depth reflection on the whole learning process	
8	<i>Informed Recommendations</i> – How can you continue to improve your employability?	
9	<i>Feeding Forward</i> – How will the skills developed on this course help with your move into the world of work?	
10	Delivery and Communication Skills	
Total		

Additional Comments:

Appendix 2

Plymouth Law School

STUDENT MODULE EVALUATION SURVEY INTERIM SURVEY	
MODULE CODE:	LAW2200
MODULE TITLE:	DISPUTE RESOLUTION SKILLS (15/16)
(Based on a 40% return rate – 32 students)	

	Agree or Strongly Agree	Neither	Disagree or Strongly Disagree	N/A
The module aims and intended learning outcomes seem clear	74%	16%	10%	
The module seems well structured and organised	42%	10%	48%	
I am finding the module interesting and/or useful so far	100%			
The DLE module site is useful and easy to navigate	79%	16%	5%	
The virtual learning environment SANSSpace is useful and easy to navigate	21%		79%	
Group working is developing useful employability skills	80%	10%	10%	
The core text is a useful resource	75%	10%	5%	10%
The materials for this module are useful	69%	16%	10%	5%
Overall I am satisfied to date with this module	53%	37%	10%	

The best aspects of this module so far have been:		I think this module could be improved in Term 2 by:	
Practical skills/experience	33%	Better SANSSpace/VLE	52%
Team working	23%	Clearer deadlines/timeline	18%
Employability via soft skills	18%	Team working	15%
Working on own case	10%	Input from client/tutor	7%
Interactive module	10%	Clarification re reflection	4%
Independent learning	6%	Group & individual marking	4%

Appendix 3

Plymouth Law School – Student Module Evaluation Survey

We value your comments in respect of each module and therefore ask you to complete this questionnaire as fully as possible.	
MODULE CODE:	LAW2212 (DRS)
(% 'scores' based on 46% return rate including comments – 37 students)	

THE MODULE	Agree or Strongly Agree	Neutral	Disagree or Strongly disagree
The module was well structured and organised	58%	20%	22%
The module was interesting & informative	90%	2%	8%
The module provided an academic challenge	84%	11%	5%
There were adequate library facilities for this module	51%	40%	9%

MODULE MATERIALS	Strongly Agree or Agree	Neutral	Disagree or Strongly disagree
The Module Outline was available on the portal/ Tulip (the Digital Learning Environment)	86%	9%	5%
Other module materials e.g. lecture outlines/PowerPoints were useful	64%	28%	8%
SANSSpace/the VLE was useful	9%		91%

LECTURES AND OTHER CLASSES	Strongly Agree or Agree	Neutral	Disagree or Strongly disagree
I could understand the lectures and they were well paced	83%	17%	
Classes such as tutorials, workshops etc. were useful	86%	14%	

2. Digital assessment for the YouTube generation

ASSESSMENT	Strongly agree or Agree	Neutral	Disagree or Strongly disagree	N/A
I was given the opportunity to do enough practice assessment	57%	19%	4%	20%
I found ongoing reflection useful	56%	14%	5%	25%
I found the summary vlog useful	67%	11%	2%	20%
I found the feedback I received for my assessments useful	67%	8%		25%

OVERALL	Strongly agree or Agree	Neutral	Disagree or Strongly disagree
Given my overall experience, I am satisfied with this module	68%	20%	12%

Please identify anything that you liked about this module and why:	
Practical skills development	43%
Employability and soft skills	21%
Interactive/enjoyable module	16%
Working on own case	11%
Team working	7%
Independent learning	2%

Please explain if you rated anything as disagree or strongly disagree, or think there is something that could be improved in this module:	
SANSSpace/VLE	48%
Clearer deadlines/timeline	20%
Team working	16%
Input from client/tutor	12%
Group marking	2%
Optional module	2%

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