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Multi-disciplinary Practice in a Community Law Environment: Clinical Legal Education Combined with Holistic Service Provision

RICHARD FOSTER*

THE MONASH-OAKLEIGH LEGAL SERVICE (MOLS) is a community legal service auspiced by Monash University, Melbourne, Australia, and partly funded by Victoria Legal Aid. MOLS was principally established to provide practical legal education to Monash law students over 30 years ago, but has since evolved to focus on serving community legal needs as well.

Like many community legal services, most MOLS clients experience a form of disadvantage and resultant financial difficulty. Consequently, MOLS deals with a range of legal matters, including: criminal law, family law, tenancy and neighbourhood disputes, and a number of credit, debt, and bankruptcy issues.

In July 2010, the Multi-Disciplinary Clinic (MDC) was established at MOLS to provide a holistic service to clients by involving students from three academic disciplines to deal with client issues.

This paper describes some of the mechanics of how the MDC operates, including how students are assessed and supervised. It also describes the benefits for students and clients. Importantly, the paper examines the contributions of each discipline to a broader goal of integrating equally important skill bases to deliver solutions for clients.

I. THE MDC

Within the MDC, the law practicum is combined with finance students and social work students who, as a team, provide assistance to clients of MOLS. One student from each discipline combines to form a team of three students, which simultaneously takes instructions from clients and refers the cases to supervisors together (one supervisor from each discipline) who then provide advice to the client. The students then return to their client to issue the advice and take any further questions or instructions. The three supervisors sit together with the three students at the same time so that it is a collaborative exercise.

There are currently four teams of three students (all managed by the same supervisors) operating for one clinical session each week.

Law students tend to lead client interviews, and legal matters will usually be prioritised over financial or social issues in the first instance, although non-legal issues often come to share a priority.

Students from each discipline are required to isolate aspects of the client's situation that they can assist with in the context of their own discipline. For example, a client requesting assistance with a criminal theft matter may also experience financial difficulties that may be relevant to the court at the time of sentencing and with which the finance student may assist. Similarly, a family law client may also need assistance with social issues from the social work student (as well as financial assistance).

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II. ASSESSMENT

In addition to supervised casework, law students are required to attend weekly seminars, write and submit reflective journals every two weeks, participate in community engagement, and participate in weekly file reviews. Their assessments are based 60% on casework, 20% on their reflective journals, and 20% on community engagement activities.

Finance students are required to prepare a 3500 word report of their experience in the MDC for submission at the end of the semester, as well as prepare and present a 20 minute presentation based on their report. This report is mostly reflective in nature. They are also required to participate in weekly file reviews. Their assessment is slightly different to that of law students as it is based 50% on their clinical work (supervisory observations of the quality of casework, client and team interaction) and 50% on their report and presentation.

Social work students are rated on seven key areas of development:

1. Values, ethics, and professional practice
2. Organisational context
3. Application of theories and methodologies
4. Processes, skills, and relationships
5. Self learning and professional development
6. Research
7. Social policy

Students are rated in each area on a scale of zero to four; zero is a fail and four is above average. Some areas are assessed through behavioural observations by the supervisor and others are assessed through written tasks.

III. LEARNING AND PEDAGOGICAL OUTCOMES

Orientation programs occur prior to commencing student placements and are conducted separately in each discipline. Law students attend a comprehensive seminar program running over several days. The seminar covers information on specific areas of law likely to be encountered during their placements, as well as interview skills, social justice (including issues affecting those on low incomes, racial issues, family breakdown, and other issues), communication skills, and procedural/administrative information.

Social work students and finance students undergo a more general orientation that introduces them to the roles of MOLS and the MDC, and canvasses the types of matters they are likely to encounter. It is intended that, over time, more advanced and specific sessions will be developed for non-legal students. To date, they have also been encouraged to attend legal seminars on a voluntary basis. In addition to the casework of the MDC, non-legal students also have the opportunity to assist with Court appearances.

Of course, the vast majority of learning for all disciplines occurs in the conduct of casework in the live clinical environment. Although priority is given, at least initially, to legal issues, this often quickly expands to include financial and social issues. Students are required to prioritise the client's needs irrespective of which discipline's expertise may be required and then to prepare a strategy in order to address all issues that have been presented. In some circumstances, clients may disagree with the prioritisation of issues that students (under supervision) determine, or even disengage from the process for a variety of reasons. Nonetheless, in the majority of cases, students are able to work with a client through the various legal, financial, and social issues they are confronting.

This process enables students to quickly and actively assimilate a working knowledge of the other disciplines that are contributing to the client's experiences. Whilst it is not intended that students become versed in all three areas to the extent that they can provide advice in another field, it is certainly a positive outcome that students almost unavoidably develop some knowledge of the capacity of the other disciplines. Consequently, students quickly develop an appreciation of longer-term issues arising from a presenting legal problem. In addition, over the course of the semester students become increasingly adept at recognising longer-term needs of their client even though these needs may be outside the realm of their own disciplinary practice.

As combining students into multi-disciplinary teams at the commencement of the semester occurs randomly (that is, students are grouped without any specific examination of their skills or personalities), the resultant experience of team-based practical experience is amplified. Students do not just learn to "work together"; the experience progresses from initially learning about the expertise of other students to establishing professional relationships with each other, and recognising and respecting the knowledge and function of the other students. The effect of team-based practical experience in a live clinical setting provides for a rather acute form of learning. Students are also encouraged to design their own work plans with minimal intervention from supervisors, thus providing additional opportunities for students to develop their teamwork abilities. With responsibility for the dissemination of duties mostly left up to the students (subject to the relevance and contribution of each discipline), they develop mechanisms by which each student undertakes specific tasks, liaises with the client and/or other parties in relation to particular aspects of a client's case, and maintains an active dialogue with the other students and supervisors in relation to the client's issues.

Of course, each discipline is associated with a different expertise that might otherwise not have received particular attention from the other disciplines yet would certainly be beneficial to them. For example, a strong focus on letter writing and special attention to avoiding ethical conflicts are priorities for law students. Whilst these issues do not usually receive enough attention from the other disciplines, they are undoubtedly matters deserving of similar consideration.

One of the primary considerations for social workers is the identification of possible mental illness. For both lawyers and consumer advocates (finance/accounting students), this identification often goes a long way towards understanding the reasons for a client's predicament and should be given close attention before considering a course of action. Similarly, social work students are given the opportunity to understand the legal process that their clients will confront, as well as the financial options and protections that are available to them.

Finance/accounting students are able to develop a more intimate understanding of legal procedure as well as a more identifiable appreciation of the reasons why many clients find themselves in financial difficulty. The reasons are often matters outside their immediate control, such as behaviours of addiction, unemployment/retrenchment, illness or accident, family/marriage breakdown, mental illness, and a variety of other influences not usually canvassed in the course of an undergraduate education in accounting and finance.

IV. CONSUMER ADVOCACY

The placement experience and work carried out by finance/accounting students is referred to as *consumer advocacy* as this essentially denotes the delineation between law students undertaking civil case work and a consumer advocate seeking to avoid litigation. The work of

consumer advocates (students) at MOLS differs from the “financial counselling” movement in Australia because the financial counselling sector has no formal qualification universally attached to it and has little documented ethical or practical standards. However, the subject matter considered by consumer advocates in the MDC is mostly the same.

Consumer advocates deal with a variety of cases including:

- Credit and debt matters (including negotiations, debt write-offs, and payment plans)
- Bankruptcy
- Disputes with banks, utilities, and insurers
- Tenancy
- CentreLink (social security)
- Fines and infringements

Whereas lawyers are often at a loss to achieve a positive outcome because the costs of litigation in a consumer dispute are prohibitive, and social workers often find it difficult to refer paralegal matters to a cost-effective practitioner (such as a Community Legal Service), consumer advocates are able to exercise a client’s rights under industry codes of practices and legislation, and are able to advocate for clients in jurisdictions such as Ombudsman services and tribunals. Furthermore, consumer advocates learn to assess the validity of a claim against a client prior to considering how to negotiate with the other party. For instance, there have been many instances where Australian banks and finance companies have engaged in predatory lending and other practices resulting in large debts that many disadvantaged consumers are unable to pay. Consumer advocates learn to seek redress for this type of conduct, and which often results in the waiver or substantial reduction of the debt through either negotiation with the creditor, a complaint to an Ombudsman, or a tribunal decision.

Similarly, positive outcomes have been achieved for clients in tenancy matters by considering the claim against the client in light of the regulatory framework and the views of the tribunal (Victorian Civil and Administrative Tribunal). In addition to matters relating to regulation and legislation, consumer advocates can ensure that their clients are receiving all the government entitlements, concessions, and grants to which they are entitled. Students also learn how to dispute the decisions of government bodies such as CentreLink, the Child Support Agency (which assesses child support payments), and the Australian Tax Office, which often involves the drafting of lengthy applications and tribunal appearances.

V. CASE STUDIES

A. MR. N

One of the MDC’s youngest clients, Mr. N, was 13 years old and presented with his father who he had come to live with after having been involved in the assault of his mother’s new partner. At the time that he initially presented, an Intervention Order had been made against him as a result of allegations (later proved) that he conspired with his older cousin to have his mother’s partner assaulted by a number of youths in his mother’s home. Mr. N had been residing with his mother and his younger sister until the time of the assault. His mother and father had divorced some years earlier and the subsequent relationship with his father had not been close. The Intervention Order prevented Mr. N from going to his mother’s home and from contacting both his mother and sister. Shortly after Mr. N’s initial presentation to the MDC, he was charged with Conspiracy to Assault. His cousin was charged with related offences.

The law student acted for Mr. N by taking instructions and briefing counsel in relation to the criminal charges he was facing in the Children's Court. The social work student worked with Mr. N to try to rebuild the relationship with his mother and his sister, and to deal with issues relating to his mother's new relationship. The social work student also gave attention to Mr. N's current living arrangement with his father who had gradually disengaged. Living with Mr. N and his father were Mr. N's elderly grandparents who appeared increasingly reliant on Mr. N after his father started to spend more time travelling back to his home country.

The finance student was made aware of some financial difficulties that Mr. N's father was experiencing. He had accumulated approximately \$60,000 in credit card debt and his only income was unemployment benefits. School fees owing to Mr. N's private school were also unpaid; it was considered important by all students and supervisors to maintain stability by keeping Mr. N in the same school, particularly because it had been especially supportive. Since Mr. N's father did not own any material assets, it was considered that his best option would be bankruptcy and an arrangement was reached in relation to the outstanding school fees. Declaring bankruptcy would extinguish his liability for the debts he could not pay. Mr. N's father, however, had applied and been granted a partial early release of his superannuation over one year earlier and was advised that he could do the same again. In addition, Mr. N's father instructed that he also wanted to declare bankruptcy. In essence, the combination of a partial early release and a declaration of bankruptcy would mean that he would be advising the superannuation regulator that he was seeking funds from his superannuation in order to pay his debts, when in actual fact he would be declaring bankruptcy and not paying his debts at all. This arrangement would result in him gaining the money from his superannuation under false pretences and not using it to pay his debts. Obviously, this raised serious ethical issues leading us to advise him that we could not act on these instructions. Consequently, Mr. N's father instructed us that he would seek the early release of his superannuation himself (having done so before). We understand that he returned to his home country and remained there for quite some time.

Mr. N was required by the Children's Court to continue counselling. The Court gave due regard to a report by the social work student, and the efforts of the finance student were exceptional despite the somewhat questionable motives of Mr. N's father. Regardless, the finance student (as well as the other students) gained an invaluable insight into both a new set of options for clients in these circumstances, as well as the ethical considerations that must be given to client instructions.

B. MR. A

Mr. A's presenting legal issue was a criminal charge of Obtaining Property by Deception (i.e. fraud) from CentreLink, the organisation responsible for social security in Australia. The charge arose from Mr. A under-declaring his earnings over several years and thus receiving a larger unemployment benefit than he would ordinarily be entitled to. He was working as a taxi driver and was declaring some but not all of his earnings.

The MDC's law student took instructions and briefed counsel in relation to Mr. A's criminal matter on which he pleaded guilty. Emerging from Mr. A's instructions in relation to his criminal matter was the issue of some \$30,000 owing in traffic infringements. For the most part, this debt related to the regular use of a toll road without the requisite vehicle tag and account.

It was apparent to the students that Mr. A did not completely understand why he had been accused of fraud against CentreLink, nor did he have an adequate comprehension of his obligation to report all of his earnings. This gave rise to some concern about his neurological

capacity yet, despite all attempts, Victoria Legal Aid would not agree to fund a neuropsychiatric assessment. The social work student, however, was able to prepare a psychosocial assessment that was presented to the Court and given some weight.

The finance student scrutinised the Brief of Evidence that exposed inaccuracies in the quantum of the alleged fraud. The prosecution had relied upon information from CentreLink which essentially considered only Mr. A's gross taxi takings in respect of the earnings that he ought to have declared. This calculation was inaccurate because it did not take into consideration the costs of insurance, the toll road (although the fees were unpaid), and fuel for the taxi. The amount was consequently re-calculated by the finance student and the Brief was amended by the prosecution accordingly. The finance students continued to assist Mr. A in connection with his traffic infringements with a view to these infringements being dealt with by a Magistrate in Court.

Mr. A's criminal matter was dealt with by the Magistrates' Court and, due in no small part to the contribution of the social work student's report, escaped without a conviction for the offence. Despite efforts to require substantial repayments of the amount owed to CentreLink, with the assistance of the finance student, these repayments were minimised.

In short, a summary of pedagogical outcomes can be seen as follows:

- Lateral analysis of problem solving with exposure to other disciplines
- Teamwork across disciplines; negotiation and collaboration
- Broad understanding of non-legal aspects of legal casework
- Appreciation of social disadvantage and the causes and effects of poverty
- Greater awareness of social justice issues and how the various disciplines can play a corrective role

VI. CONCLUSION

The benefits of multi-disciplinary practice are somewhat obvious for students, but the benefits to clients should not be understated. Where there are benefits to students, there are usually benefits to clients as well.

It will always be a challenge to find the right supervisors – ones with appropriate and relevant practical experience and knowledge, and who have the ability to teach and mentor. However, once this challenge is overcome, subsequent challenges that inevitably arise are easier to dispense with. For example, it is clear that the very nature of multi-disciplinary practice almost invites opportunities for disagreement and conflicts with the priorities of the different disciplines. However, dealing with these constructively and respectfully creates even greater learning opportunities for students and better outcomes for clients.