

Reflection on the use of Self-Regulated Learning and Nicol and Macfarlane-Dick's Feedback Principles in Law Clinics: Are there Lessons for Large Class Teaching?

Lucy Yeatman, Director, Liverpool Law Clinic, Senior Lecturer, In-house Solicitor, Senior Fellow HEA, Liverpool Law Clinic, University of Liverpool

Dr Louise Hewitt, Lecturer in Law, Director Innocence Project London, Fellow HEA, University of Greenwich

Abstract

Feedback is an intrinsic part of the learning process in Higher Education. Despite the development of teaching and learning strategies underpinning the usefulness of feedback, lecturers continue to feel frustrated when students do not implement the feedback or feed it forward into their studies. There is a disconnect in literature and also in practice between lecturers perception of how important feedback is, and students perception of what feedback actually means. This paper draws upon the experience of two law clinicians in two very different law clinic settings, reflecting on their use of feedback in Clinical Legal Education and how it has led to a more proactive dialogue on feedback in their large class teaching. The outcome is a recognition of feedback as a form of communication, which builds upon a foundation of good relationships and an atmosphere of trust in our teaching spaces.

Keywords

Feedback/ Law Clinics/ Large Class Teaching/ Reflective Practice/Clinical Legal Education

Introduction

Feedback is an important part of the learning process and can be the most powerful single influence on making a difference to student achievement¹, yet “Higher education institutions are criticised more for inadequacies in feedback to students than for almost any other aspect of their courses”². Despite a growing emphasis on feedback in teaching and learning strategies, student satisfaction scores persistently remain lower for feedback even when students are satisfied with other areas of teaching³. It appears that the reasons for this are complex and the literature suggests there is dissonance between lecturer and student perceptions of what makes good feedback. Lecturers complain of uncollected scripts and comments not acted on while students report that they do not understand what they need to do to improve or that feedback is not detailed enough⁴. In fact, a common theme in research is that “there seems to be little common understanding of what feedback is and means”⁵. While academics generally intend feedback to influence student learning,⁶ the processes are commonly misunderstood.⁷

Both authors teach in a law clinic setting and this has led us to review our teaching practice in more traditional classroom settings. This article is a reflection on how our work in law clinics has encouraged us to explore the reasons for the dissonance between lecturers and students and to consider whether we can bring some of our clinical experience into teaching larger cohorts. Law clinics tend to have the luxury of low numbers and highly motivated

¹ See John Hattie; Paul Black and Dylan William and also David Carless etc

² David Boud and Elizabeth Molloy (2013) Rethinking models for feedback for learning: the challenge of design *Assessment & Evaluation in Higher Education* 38:6 698 – 712 at page 698

³ Berry O’Donovan, Chris Rust and Margaret Price, also Boud and Molloy

⁴ Chris Baumont, Michelle O’Doherty and Lee Shannon (2011) Reconceptualising assessment feedback: a key to improving student learning? *Studies in Higher Education* 36:6, 671 – 687 at page 679

⁵ Andy Adcroft (2010) Speaking the same language? Perceptions of feedback amongst academic staff and students in a school of law *The Law Teacher* 44:3, 250 – 266 at page 265

⁶ David Carless and David Boud (2018) The development of student feedback literacy: enabling uptake of feedback *Assessment and Evaluation in Higher Education* 43:8 1315 – 1325 at page 1315

⁷ Andy Adcroft (2011) The mythology of feedback *Higher Education Research and Development* 30:4 405 – 419 at page 416

students. It can be easy to assume that the experience of teaching and learning in law clinics is so fundamentally different to the experience of teaching and learning in large, lecture based core LLB modules that there is little to be gained from thinking about how practice in the clinic can inform practice in large classes. This article will summarise some of the key themes that emerge from the literature on feedback, reflect on how our experience of feedback in clinics has been different from that of feedback on more traditional modules and offer some suggestions for how law lecturers can engage students in dialogue about feedback on large modules. The emphasis on this article is on how the set -up of the clinic creates an environment that promotes good feedback practice. This is an area of clinical teaching that is frequently overlooked. We do not seek to argue that there is benefit in attempting to replicate the clinic experience in large classes through simulations or fictional case studies. Instead we have analysed the way in which clinic settings lend themselves to a dialogic approach to feedback and used this analysis to explore the way that feedback conversations can be encouraged in a large class setting.

The Problem with Feedback

One of the clear themes that emerges from the literature is that students often don't understand the feedback they are given. For feedback to be implemented, it needs first to be understood. Students have difficulty decoding feedback and academic jargon.⁸ Often this difficulty is less to do with the vocabulary itself, but in understanding higher level skills and the abstract terms used to describe them such as critical analysis, coherence, cogency and

⁸ Naomi E. Winstone, Robert A. Nash, James Rowntree & Michael Parker (2017) 'It'd be useful, but I wouldn't use it': barriers to university students feedback seeking and recipience *Studies in Higher Education* 42:11 2026 – 2041 at page 2041 at page 2030s

application.^{9 10} What is more, these terms and concepts do not have unique meanings or context free interpretation. They sit within the discourse of the academic discipline¹¹ which means that understanding marking criteria and grade descriptors requires more than mastering the skills of grammar and spelling that can be cured by a visit to a study skills advisor.¹² There is a level of complexity to academic writing and when we assess students work we often make holistic judgements about the quality of their writing.¹³ A weak structure is linked to a poor understanding of principles which leads to difficulty analysing the subject matter. If we want to improve student understanding of feedback we need to start with improving their understanding of what academic study of law requires of them, challenging their epistemic beliefs so that they are able to make the transition from school to university and develop an approach to learning that enables them to grasp the concepts behind the academic jargon.¹⁴ Surface approaches to learning will lead inevitably to surface approaches to feedback.^{15 16}

If the problem concerning student satisfaction with feedback is, as the literature suggests, linked to students' inability to understand the epistemic culture of their discipline it would seem that more work needs to be done on helping students to understand the concepts and practices underpinning the feedback terminology, yet until very recently much of the literature on feedback placed emphasis on how academics can provide better, more detailed

⁹ Adcroft (n5)

¹⁰ D Royce Sadler (2010) Beyond feedback: developing student capability in complex appraisal *Assessment & Evaluation in Higher Education* 35:5, 535-550 at page 545

¹¹ Sue Bloxam and Liz Campbell (2010) Generating dialogue in assessment feedback: exploring the use of interactive cover sheets. *Assessment and Evaluation in Higher Education* 35:3 291 – 300; Paul Sutton (2012) Conceptualizing feedback literacy: knowing, being and acting, *Innovations in Education and Teaching International*, 49:1 31 – 40 at page 33

¹² Paul Sutton (2012) Conceptualizing feedback literacy: knowing, being and acting, *Innovations in Education and Teaching International*, 49:1 31 – 40 at page 32

¹³ Sadler (n10) page 544

¹⁴ Sue Bloxham (2009) Marking and moderation in the UK: false assumptions and wasted resources *Assessment & Evaluation in Higher Education* 34:2 209 – 220 at page p218

¹⁵ Sutton (n12)

¹⁶ Martina van Heerden, Sherran Clarence and Sharita Bharuthram (2017) What lies beneath: exploring the deeper purposes of feedback on student writing through considering disciplinary knowledge and knowers *Assessment and Evaluation in Higher Education* 42:6 967 – 977 at page 968

feedback.¹⁷ Frequently described as a “transmission focussed approach”¹⁸ the responsibility tends to be on lecturers to keep improving feedback, with little emphasis on the role of learners in how they use the feedback.¹⁹ If we don’t build in strategies to ensure that students understand and use feedback, the detailed and careful comments provided on written work becomes nothing more than “dangling data” because we don’t know if it is improving student learning. There is a need to rethink the way in which lecturers conceive of and provide feedback, which places the students at the centre of the process as active learners who are able to develop judgements about the quality of their own work and that of others.²⁰

Winstone et al argue that “There is an increasing consensus that a critical determinant of feedback effectiveness is the quality of learners’ engagement with, and use of, feedback they receive”²¹. Boud and Molloy argue that we need to distinguish between simply providing students with information about their performance and students engaging with that information and using it to develop. Without the involvement of the students, they would argue that feedback has not occurred.²² In order to involve students actively in the feedback process there is a need for dialogue to occur between tutors and students. Conversations and discussions are needed around concepts, criteria, expectations, exemplars, and feedback comments in order for students to internalise their understanding²³ and to develop a commitment to becoming “effective practitioners in their domain of study”.²⁴

¹⁷ Naomi E Winstone, Robert A Nash, Michael Parker a& James Rowntree (2017) Supporting Learners Agentic Engagement with Feedback: A Systemic Review and a Taxonomy of Recipience Processes *Educational Psychologist* 52:1 17 – 37 at page 17

¹⁸ Ibid page 18

¹⁹ Sadler (n10) page 548

²⁰David Boud and Elizabeth Molloy (2013) Rethinking models for feedback for learning: the challenge of design *Assessment & Evaluation in Higher Education* 38:6 698 – 712 at page 699

²¹ Winstone et al (n17)

²² Boud and Molloy (n20) page 702

²³ David Nicol (2010) From monologue to dialogue: improving written feedback processes in mass higher education *Assessment and Evaluation in Higher Education* 35:5 501 – 517 at page 506

²⁴ Boud and Molloy (n20) page 703

Most students enter the first year of university lacking the skills they need to be independent learners and there is a need to work with students to develop their ability to self-evaluate.²⁵

This is not something that can be addressed in one or two study skills sessions in induction, it is about developing a culture that embeds developmental feedback into the curriculum with space for dialogue about the discipline and how judgments on the quality of work are formed.

²⁶ If we want to develop students' capacity to self-regulate, we need to move away from seeing assessments as isolated events, but build assessment practice and feedback dialogue across the curriculum. Although the terms formative and summative assessment is now commonplace on university modules, formative assessment is often one piece of work handed in in much the same way as a summative piece of work with feedback comments provided in writing. In law schools where cohorts of students are often very large, it can be hard to develop a feedback dialogue around a single item of formative assessment. Staff can become demoralised, feeling that they are engaged in a pointless exercise of writing comments that may never be used or understood.²⁷ This sense of frustration can be exacerbated by a culture of managerialism whereby assessment and feedback practices become a part of a culture of measurement and accountability. It can feel as if the purpose of formative assessments is as much about monitoring and auditing as it is about educational development of students.²⁸

Assessment and Feedback in Clinics

This article grew from a conversation over coffee about our experiences of working in clinical legal education. We questioned why feedback practice in a clinical environment is so

²⁵ Chris Baumont, Michelle O'Doherty and Lee Shannon (2011) Reconceptualising assessment feedback: a key to improving student learning? *Studies in Higher Education* 36:6, 671 – 687 at page 683

²⁶ Boud and Molloy (n20) page 707

²⁷ Adcroft (n5)

²⁸ Rille Raaper (2017) Tracing assessment policy discourses in neo-liberalised higher education settings *Journal of Education Policy* 32:3 322 – 339 at page 335

different and compared notes on how this has changed our practice in more traditional classroom based teaching. We use the term clinical legal education to mean any form of experiential learning where students are required to apply legal knowledge to real legal problems and to reflect on that process. This can be as part of a credit-bearing module, or as an extra-curricular activity. Clinical legal education can take many different forms and those who work in the field can wax lyrical about the transformational nature of their work and the positive impact on the student experience, learning and employability. One aspect of clinical legal education that is largely absent in the literature is the question of feedback practices²⁹ and how these impact on the learning that takes place in a clinical setting. Our experience of feedback in clinics was that it is qualitatively different from other teaching in more traditional lecture/seminar settings. We wanted to reflect on this and explore whether our clinical teaching practice can inform our practice as teachers more generally.

Different Clinics, Common Ground

We work in very different institutions with very different clinical legal education projects. The University of Liverpool is a research-intensive Russell Group university with an in-house legal advice centre, the Liverpool Law Clinic. The Law School in Liverpool has one of the biggest undergraduate law cohorts in England, with approximately 1,500 LLB and LLB combined honours students. The Law Clinic is staffed by seven practicing lawyers and provides advice and representation in immigration, family and children's social care. Final year undergraduates can take a 15 credit clinic module and there are volunteering opportunities for all year groups. Lucy Yeatman runs the family law services in the Law Clinic, providing a drop-in advice service at Liverpool Family Court and appointments at the Law Clinic. Students take initial instructions, attend hearings and draft letters of advice to

²⁹ Rachel Dunn (2017) A Systemic Review of the Literature in Europe Relating to Clinical Legal Education *International Journal of Clinical Legal Education* 24:2, 81 - 117

clients. They work alongside practicing solicitors from local firms and all letters and work on files has to be completed to professional standards. They work in teams of six and those on the module are formally assessed on the last client the group advises in the semester.

The University of Greenwich is a post-92 teaching focussed institution with a much smaller law department of approximately 300 undergraduate LLB students. There is an in-house legal advice centre providing advice services in employment law, family law and welfare benefits as well as the Innocence Project London (IPL), which is a pro-bono clinic, established in 2010 that investigates alleged wrongful convictions of individuals who have maintained their innocence but have exhausted the criminal appeals process. In January 2016, the IPL became a member of the Innocence Network, which is based in the United States of America. Director, Louise Hewitt leads teams of students in reviewing decided cases to find possible reasons to refer to the Criminal Cases Review Commission (CCRC). All work has to be done to professional standards and as such, feedback and reflection is central to the students learning.

The key difference between family advice work in Liverpool Law Clinic (LLC) and the IPL is that unlike the LLC where students build the case from the beginning, the IPL works at the end of the criminal justice process. Students doing family advice work are faced with complex and emotional factual situations and need to develop the ability to analyse the facts to determine what is going to be relevant in legal proceedings. IPL students deconstruct the criminal cases and analyse the evidence that led to conviction to identify new evidence or a new legal argument that was not put forward at the initial trial or appeal stage. Students from law and criminology work in small groups, alongside a practicing lawyer and academics. The practising lawyer provides practical advice on their enquiries and Louise as academic Director, provides support in relation to points of evidence. The aim of the work is to submit an application to the CCRC. The CCRC is an independent body which reviews possible

miscarriages of justice in England and Wales.³⁰ They have the ability to refer a case back to the Court of Appeal if they find a new piece of evidence or a new legal argument that was not put forward at the time of the trial, which would render the conviction unsafe in the context that it would have changed the decision of the jury had they had been aware of it. Students that work on the IPL do so voluntarily or as part of a credit bearing module. The teams initially put together timelines of the defence and prosecution case to understand how the client was convicted. From there, they identify gaps in the evidence in the form of questions that require answers and examine the legal arguments as to whether the relevant directions were given to the jury on specific points of law.

Although we have very different clinical experiences, we share a lot of common ground. The first aspect is that we work with highly motivated students. A full exploration of why students participating in clinics are so motivated is beyond the scope of this article, but a common theme in course surveys and reflective diaries is that working on real cases for real people is fundamental in bringing the law to life for the students and in motivating them to want to produce high quality work. In both our clinical settings, students work with complex factual information, are expected to research the relevant law using primary sources and to produce documents to a professional standard. Our students work collaboratively in small groups and are expected to reflect on their experience. We both work with a mix of students some of which are obtaining credit on the module towards their degree and others who are volunteers.

Reflecting on our Feedback Practices

We have both found that our experience of providing feedback in a clinical legal setting has been fundamentally different to that of feedback on more traditional modules. When students

³⁰ Criminal Cases Review Commission <https://ccrc.gov.uk/about-us/>

produce work in a law clinic, we give feedback and they act on this and re-draft the work. Even when students are on an assessed module, the primary aim of feedback is to get the work up to a standard that is acceptable for the client or professionals who will use it. A letter explaining the law and procedure that will help a vulnerable client represent themselves at court, needs to be written to a particular standard in order to be useful to the client. If the students don't get the letter right, the clinic supervisor will have to re-write it themselves before it goes out. Similarly, on the IPL, a letter to the client's previous solicitor requesting the documentation they have when they acted on behalf of that individual, needs to be accurate and concise in order to be considered by the law firm. If the letter is not drafted correctly, the Director of the IPL will have to re-write it before sending it on. Whilst the motivation to produce high quality work is often centred around doing the best for the client, students on the IPL respond to high quality and effective feedback through the group discussions about how to improve their work. There is no getting away from the secondary purpose of the work being beyond getting a mark, but the conversations about how to produce the best work possible are truly developmental in terms of students taking control of their learning.

Nicol and Macfarlane-Dick set out seven principles for feedback to be effective, which are grounded in theories relating to self-regulated learning.³¹ Self-regulated learning theories assume that students can improve their ability to learn, can select and create learning environments, and can play a role in choosing the amount and type of instruction needed.

The type of experiential and reflective learning that we experience in clinics lends itself to the concept of self-regulated learning. We tend to expect students to reflect on their practice and

³¹ David J. Nicol and Debra Macfarlane-Dick (2006), Formative assessment and self-regulated learning: A model and seven principles of good feedback practice, *Studies in Higher Education* Vol 31(2), 199-218

are seeking to move them away from their own tendency to want to be told the “right” answer. When we came to reflect on our own feedback practices in clinic, we found that Nicol and Macfarlane-Dick’s seven principles provided a helpful framework to explore what we do.

On reflection we think it is likely that most student law clinics follow the seven principles, whether consciously or not. There is no one way of giving feedback in clinics and the number of drafts that students might do on a piece of work varies from clinic to clinic. However, there are common themes found between our two very different clinical practices, which mirror the seven principles. The very nature of the experiential learning and the need to produce professional standard work shifts the focus away from marking criteria and how to achieve a certain grade to a more holistic and developmental approach to feedback that builds the students’ capacity to form a judgment on the overall quality of their own work.

1. Clarification of what good performance looks like.

In order for students to close the gap between their own achievement and the expected goal, they need to know what *good* looks like.³² Marking criteria and rubrics do not always achieve this, as students don’t always understand the terminology used. Nicol and Macfarlane-Dick recommend, in particular, three methods of clarifying what good performance looks like:

1. providing exemplars
2. allowing students to peer review one another’s work and
3. involving students in discussions about the criteria.

These three steps tend to happen naturally in a clinic setting. Students see letters sent out to clients in their case files which provides examples of what they should be

³² Sadler (n10)

aiming for. They spend time in groups discussing their work with one another, and marking criteria is generally based on what a good letter to a client looks like. Even where clinic work is part of a volunteering project and not assessed, guidance and templates will be provided for producing work which acts in the same way as marking criteria.

Case work does not always follow an obvious trajectory,³³ and the facts of a case can range in their complexity. The students have to consider how the law has been applied and whether it was done so correctly, and whether it could be applied differently. In clinic work such as that undertaken on the IPL where there are large amounts of paperwork that students have to sift through and evidence to analyse, students can spend several weeks exploring the facts and the evidence and applying the law. The sheer volume of information combined with complexity of the law creates a working environment where students work together discussing the issues to reach an understanding. The iterative nature of the drafting process lends itself to cycle of peer review and discussions about what constitutes a good piece of work.

2. *Facilitating the development of self-assessment (reflection) in learning*

Nicol and Macfarlane-Dick remind us that an effective way to develop self-regulation is to provide students with the opportunity to reflect on their own practice of learning.³⁴ The experiential nature of clinic learning lends itself to reflection and it is common practice for clinics to require students to produce some reflective writing. In developing reflection, clinics aim to help students assess the quality of their own work and form their own judgements on whether it is good enough to go to the client. For

³³ Daniel S. Medwed, *Actual Innocents: Considerations in Selecting Cases for a New Innocence Project*, 81 *Neb L. Rev* 1097 (2003) 1035

³⁴

example, in the LLC, weekly tutorials are reflective in nature, the students assess their own and each other's work, using exemplars and marking criteria before meeting with a tutor for supervisor feedback. In the IPL students are asked to judge their own work against the requirements of the analysis, as a form of self-assessment.³⁵ The focal point of every discussion is the work and whether it meets the identified good standard. The process of reflection is ongoing, and it often takes place collaboratively,³⁶ giving students the opportunity to provide alternative solutions to the problems of the case.³⁷

3. *Delivering high quality information to students about their learning*

In both our clinics the emphasis of feedback is always on how to improve the students' work, so that it is of a high enough standard to send to a client rather than on what should or should not have been done to achieve a certain mark. Feedback tends to be constructive and focussed on how to close the gap between the work produced and the intended outcome. The feedback tends to prioritise areas for improvement. Students have no choice but to self-correct using the feedback in order to move forward with what they are writing, especially where analysis of the case is concerned. They cannot simply ignore the feedback because without using it they come to a halt. The letter cannot be sent, and the analysis cannot be completed. The process is ongoing.

³⁵ David Boud (1995) *Enhancing learning through self-assessment* (London, Kogan Page)

³⁶ Keith A Findley, 'The Pedagogy of Innocence: Reflections on the Role of Innocence Projects in Clinical Legal Education' (2006) 13 *Clinical Law Rev* 231 at 45

³⁷ Katherine R. Kruse, *Instituting Innocence Reform: Wisconsin's New Governance Experiment*, 2006 *Wis. L. Rev.* 645

4. *Encouraging teacher and peer dialogue around their learning*

In clinics, some of the power imbalances around teacher student relationships is broken down. The small group settings combined with the shared goal of assisting the client can create a more open and equal atmosphere in the classroom. This lends itself to dialogue, both between students and between lecturer and student, although this does not always run smoothly. Group discussions³⁸ enable students to provide feedback to each other, in a collaborative and equal atmosphere where the main aim is to help the client. The dynamic of the group can still be difficult and can break down. Students can feel uneasy about “criticising” another student’s work, and need help finding ways to discuss their work without being negative. However, the experience for both us is that the structure and dynamic of the clinical setting means that the students are normally able to work through conflict or difficulty in the group and learn to discuss their work in a constructive way.

5. *Encouraging positive motivational beliefs and self-esteem*

Nicol and MacFarlane-Dick remind us that often receiving a mark for work can be demotivational and can disincentive students from reading the feedback comments provided³⁹. When students understand that the feedback is not an evaluation of themselves as a person, but on the quality of the work, they are less likely to be demotivated. Clinics provide a context to focus the feedback away from personal performance by putting the focus on the reasons for producing the work i.e. the needs of the client.

³⁸ D. J Nicol and J T Boyle (2003) Peer instruction versus class-wide discussion in large classes: a comparison of two interaction methods in the wired classroom, *Studies in Higher Education*, 28(4), 457–473.

³⁹ Nicol and Macfarlane-Dick (n31) page 211

6. *Providing opportunities to close the gap between current and desired performance*

Boud describes this as one of the “most often forgotten aspects of formative assessments... Unless students are able to produce improved work neither they nor those giving the feedback will know that it has been effective”⁴⁰ In the clinics students often provide advice to more than one clients so each letter that is written provides an opportunity to implement and use the feedback that was provided on the letter before. For clinic projects such as the IPL where students work on a large case over a long period of time, work often has to be repeated or improved, thus closing the gap each time the work is done.

7. *Providing information to teachers that can be used to shape the teaching*

The frequent and regular dialogues in both our clinics enable us to identify student confusion and misunderstanding quickly. Levels of guidance and input can therefore be adjusted according to the performance of each group

Can any of this be used to inform our practice as teachers in larger more traditional modules?

Does the massification of higher education, the pressures of ranking, student anxiety about grades and the forthcoming introduction of the narrow and impoverished vision of legal knowledge⁴¹ that is SQE1 mean that what happens in the clinic has to stay in the clinic?

Academic lawyers reading this may well think that without the small numbers and motivation of live client work none of this is transferable to an average LLB core module, or even a large

⁴⁰ Nicol and Macfarlane-Dick (n31) page 213

⁴¹ Luke Mason (2018) SQEzing the jurisprudence out of the SRA’s super exam: the SQE’s Bleak Legal Realism and the rejection of law’s multimodal truth, *The Law Teacher* Vol. 52, No. 4, 409–424

elective. We beg to differ. It might not be possible to replicate the conditions of a law clinic into a large lecture based module, but what we have learned about feedback in a clinical setting has invigorated our belief that the hours spent writing comments could be better spent on classroom activities that require the students to engage with feedback. What we have both learned in a clinic setting is that students need to use feedback in order to engage with it. If students are going to use feedback, they need to understand it and they need a reason to engage with it. If the right conditions are created, feedback becomes a meaningful exercise for everyone concerned. This is not to absolve academic staff from the responsibility of providing feedback that students can use, but without student involvement in the process the feedback is not serving the purpose of closing the gap between the students' actual performance and where they want to be⁴². We have both found that working in a clinical setting has helped us to understand the importance of engaging students with feedback and providing students with opportunities to see the benefit of acting on feedback comments. For large cohorts, the idea of having a dialogue with students around their feedback can seem like an impossible task, but dialogue does not need to involve 1:1 appointments. In fact, there is research suggesting that 1:1 appointments are not always effective⁴³. It is perhaps more helpful to think in terms of a series of conversations rather than a single dialogue.⁴⁴

Peer review is frequently put forward as a solution to increasing dialogue in large cohorts. Sadler, regards peer review as an essential mechanism for exposing students to a sufficient amount of work so as to enable them to develop the type of holistic and complex appraisal needed to form a judgment on the quality of the work.⁴⁵ Peer review can help students to internalise and make sense of the marking criteria and a dialogue between provider and

⁴² Royce Sadler (1989) Formative assessment and the design of instructional systems *Instructional Science* 18:119 - 144

⁴³ Winstone et al (n17) page 28

⁴⁴ David Nicol (2010) From monologue to dialogue: improving written feedback processes in mass higher education *Assessment and Evaluation in Higher Education* 35:5 501 – 517 at page 510

⁴⁵ Sadler (n10)

receiver of peer feedback can help to activate cognitive processes but the students need the input of a lecturer to help them develop their ability to evaluate work.⁴⁶ The potential benefits of peer review are that it helps develop the ability to take ownership of evaluation criteria, to make informed judgements about the quality of the work of others, and ultimately “the ability to evaluate and improve one’s own work based on these processes.”⁴⁷ One of the first barriers to overcome with peer review is student perception, where they often lack confidence in their colleagues’ abilities and they don’t always engage in the process⁴⁸. The value for students in peer review can sometimes be found more in the providing of feedback rather than the receiving⁴⁹, probably because it helps them to make sense of and apply marking criteria. David Nicol prefers the term peer critique to peer review. It is important for lecturers to be able to explain to students why they are being asked to look at one another’s work. They need to understand that it is not a replacement for tutor feedback but is a way for them to develop their own ability to form judgments on the quality of work, and to be able to articulate what constitutes a “good” answer. One way of developing student’s confidence and capacity to peer critique is to engage them in conversations about exemplars at an early stage.

Examples of how we have adapted teaching to include more peer review based on clinic experience

On the IPL students are taught to engage with the importance of reflecting and using feedback by being given the opportunity to discuss a piece of feedback that has been given to

⁴⁶ Qiyun Zhu & David Carless (2018) Dialogue within peer feedback processes: clarification and negotiation of meaning *Higher Education Research and Development* 37:4, 883 – 897 at page 893

⁴⁷ David Nicol, Avril Thomson & Caroline Breslin (2014) Rethinking feedback practices in higher education: a peer review perspective *Assessment and Evaluation in Higher Education* 39:1 102 – 122 at page 120

⁴⁸ Winstone et al (n17) page 28

⁴⁹ Zhu and Carless (n46) page 893

them in response to a particular task. The students are put into pairs and asked to discuss with each other the feedback they received using the following four questions:

- 1) How did it make you feel when you received this feedback?
- 2) Did you understand why this piece of feedback had been given to you?
- 3) Did you understand how to use this piece of feedback and if not did you ask questions in order to understand?
- 4) Have you been able to use this piece of feedback since it was given to you in other work or tasks you have done?

The students are brought back into a larger group discussion where they are asked to think about the exercise that has just taken place and what they learnt from it. At this point they realise that feedback can evoke feelings of disappointment on the basis that the work was not up to the standard required, that understanding how to use the feedback in other tasks or work requires some thought, and that not questioning feedback in order to understand it is common. For Louise, this exercise in the clinic helped to reinforce the importance of using group discussions around responses to feedback and led to a re-think on a formative assessment on a first- year module.

In the 15 –credit first-year module, students give in a short piece of assessment early in the first semester. This forms the first part of a longer piece of assessment handed in at Christmas. Students can use the feedback to improve the first draft for the second submission. On the face of it, this is good practice, but students did not always act on the feedback or make substantive changes to the assessment. Reflecting on her experience of student engagement with feedback on the IPL Louise introduced a feedback lecture where half of the time is devoted to the common mistakes which arose in the first piece of coursework. Examples are given as to the context of those mistakes, and then examples are

given as to how they can be rectified so the students can see what good performance looks like. The second half of the lecture is interactive. Using Mentimeter, Louise gives the students questions relating to the mistakes identified in the first half of the lecture and they discuss them in small groups before anonymously voting on what they will do differently in their second piece of coursework. These themes are then picked up and discussed in subsequent workshops so the conversation continues and the lecture including the voting results are saved as a PDF and made accessible to the students. The use of an interactive voting system in a large group lecture encourages discussion, provokes the students to think about what they have heard and also enables them to instantly use the feedback which promotes a feeling of accomplishment and also enables them to see that learning is attainable and not out of reach. The student feedback relating to this exercise included comments such as: 'This feedback is really helpful for developing your own work' and '...helping a student does not mean giving them the answers, on the contrary [the feedback] actually really helps us to understand what we are doing', in addition to 'When we received the feedback it was extremely helpful because it was clear and concise as to what I needed to improve and where I needed to improve.'

One way in which Lucy developed peer conversations around assessment criteria was to take the experiential learning concepts from the clinic into the family law module. In the clinic the students are expected to draft a letter to the client, based on their research, without being given detailed instructions on what to include in the letter. The experiential premise of the teaching means that students are expected to work things out through trial and error. She therefore took this "back to front" approach into the classroom based module. Instead of delivering a lecture on one of the topics, students were set pre-reading and the lecture slot used for students to write an answer to an exam-type question under timed conditions. The answers were not taken in and marked, instead students brought them to the next seminar

where the whole seminar was spent examining the answers and developing an outline structure for a good answer. Students found this task challenging, complaining that they had not known where to start, how to structure the answer, or what they needed to include. However through comparing their answers in groups, discussing the legal principles with feedback from the lecturer and applying the marking criteria the whole class were able to put together an improved outline answer to the question by the end of the seminar. Students had the choice to rewrite this and could bring their answer for discussion in office hours if they wished. Teaching the substantive law through a peer discussion on an assessment meant that the students had to reflect on their work and engage with the criteria enabling them to internalise the feedback in a way that was meaningful to them. Instead of the formative assessment creating an extra task for students and lecturers it was embedded into the delivery of the curriculum in a way that engaged the students in the task and helped them to learn from their mistakes in a non-threatening way.

On reflection, through our clinical teaching we have been consistently reminded that learner agency and good communication provides the groundwork for a transformative educational experience where students are able to see themselves as agents of their own change.⁵⁰ If students are going to use feedback effectively, students need to be supported in developing a “mindset of *proactive recipience*”, in other words becoming active rather than passive receivers of feedback.⁵¹ Students can develop a “sense of disempowerment around using feedback”. They may see skills as fixed and therefore believe they are unable to change, or may understand what needs changing, but not know how to go about changing.⁵² In other words there is a need to focus as much on the development of the student’s sense of self and

⁵⁰ Boud and Molloy (n2) page 705

⁵¹ Winstone et al (n17) page 2039

⁵² Winstone et al (n8) page 2034

the relationships that they have with academics and peers as on the wording of the comments written on their work.

Conclusion

If we recognise feedback as a form of communication then we can change the way in which we understand the barriers to students understanding or using messages we are sending.⁵³ It is easy to underestimate the impact of emotion and social relationships in feedback processes, but in the context of how students learn, emotions are key as they contribute to their motivation and self-esteem. This does not mean that students are too fragile to be told that their work needs improving, but if we want them receive the message and act on it we need to build relationships of trust and respect first. If there is a good relationship of trust small amounts of feedback can be effective and have a significant impact on student development.⁵⁴ As Sutton found: “The development of feedback literacy may therefore be enhanced when learners experience the social relations of teaching and learning as being characterised by an ethos of care.”⁵⁵ We realise that building relationships of trust and nurturing students’ ability to form critical judgment on their own work is not easy on large modules but the literature suggests that time spent building good relationships and an atmosphere of trust in our classes is as important as, if not more important than, time spent writing lengthy and detailed comments on students’ work.

Lecturers need to “nurture learners proactive recipience in holistic rather than piecemeal manner”⁵⁶ which means viewing formative assessment, feedback literacy and feedback

⁵³ Winstone et al (n8) page 2041

⁵⁴ Vivienne Bozalek, Veronica Mitchell, Arona Dison and Melanie Alpersitein (2016) A diffractive reading of dialogical feedback through the political ethics of care *Teaching in Higher Education* 21:7, 825 – 838 at page 836

⁵⁵ Paul Sutton (2012) Conceptualizing feedback literacy: knowing, being and acting, *Innovations in Education and Teaching International*, 49:1 31 – 40 at page 39

⁵⁶ Winstone et al (n17) page 34

comments, not as additions to the curriculum, but as a fundamental part of the way we design and plan our teaching. If we want to develop learners who can actively build their own capacity to form judgements based on evidence and legal reasoning, we need to recognise that this is a complex and social process that involves more than writing comments that may never be read or acted on, (however carefully we construct those comments). We need to find ways to build conversations in an environment that supports communication at the heart of our teaching⁵⁷. This may seem like an impossible task in the context of large cohorts. It is not uncommon on law programmes to have over 300 students on a module so the idea of building trust and social relationships feels daunting. But so too can writing feedback comments on 300 pieces of formative or summative coursework that may never be read. What we have learned in the clinic setting is that the work put into building conversations and developing an atmosphere of trust pays dividend in terms of student engagement. Taking time to design the curriculum so that class time can be used to engage with feedback processes in a meaningful way is important and could free lecturers from the disempowering and frankly soul destroying task of writing comments on 300 pieces of work half -way through the semester because the University quality processes demand a piece of formative assessment. Sometimes it is hard to change a culture and a habit, but the idea that good feedback is all about lecturers telling students where they have made mistakes is not supported by the research.

The new paradigm posed by Winstone and Carless that feedback is about sense-making, student uptake, students generating their own comments and based on a social constructivist understanding of learning, provides a framework to help re-conceptualise the way in which we design formative assessments. We would encourage readers to use the seven principles to

⁵⁷ David Nicol (2010) From Monologue to Dialogue *Assessment & Evaluation in Higher Education* Vol. 35, No. 5, 501–517 which has lots of suggestions of in class activities for how to engage students with marking criteria.

reflect on their feedback practices as a starting point for reviewing their practice. We would also urge you not to be daunted by the idea of a dialogue with 300+ students. It does not mean a 1:1 conversation with every student. If you want to develop ways of engaging students with feedback, both David Nicol's article, *From Monologue to Dialogue* and the more recent book *Designing Effective Feedback Processes in Higher Education* by Winstone and Carless⁵⁸ are full of ideas and practical suggestions for in-class activities.

⁵⁸ Naomi Winstone and David Carless, *Designing Effective Feedback Processes in Higher Education* (Routledge, 2020)