

Online learning for paraprofessionals in the legal service industry

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Abstract

Online learning is one of the most cost-effective solutions to overcoming barriers to participation in vocational education and training (VET). Due to the challenges currently facing the VET sector in New Zealand, such as provider sustainability, online learning is also an inevitable pedagogical shift (Bahia & Murphy, 2014; Harlett, 2010; Steele, 2014; Tertiary Education Commission, 2019). However, such individualistic and disjointed learning opportunities do not always work pedagogically to engage students. Given the growing emphasis on online learning, it is vital that innovative teaching techniques be explored in order to fulfil the overall goal of creating work ready graduates that can meet the future labour market demands (Hartlett, 2010; Steele, 2014; Olssen, 2001). This paper outlines the steps taken to develop a constructivist online pedagogical approach taken by Toi Ohomai Institute of Technology in their legal studies programme (Chetwin & Edgar, 1999; Kirley, 2015; Martell-Stark, 2017). Such approaches can improve learner engagement and more importantly, by exposing students to problem-based learning techniques, students are prepared for the kinds of organisational shifts that are likely to occur in the legal profession given the consequences of automation (Gedera, 2014; Martell-Stark & Piercy, 2018; Wood, 2008). In order to assess the impact of the shift to constructivist practices, students in the 2017 cohort were asked to provide feedback on their learning experiences. A key finding from this research was that online learning using a constructivist approach encourages and fosters student collaboration and subsequently creates a community of learning that enhances the experiences of all participants (Martell-Stark, 2017). To extend the value of this project, the researchers intend to ask, given the levels of student engagement, what subsequent changes have occurred in the transferability of the skills and knowledge from the New Zealand Diploma of Legal Studies. This question will be answered through discussions with employers and graduates from the 2017 and 2018 cohorts about the benefits and applicability of content and teaching techniques to work practices in legal environments.

Introduction

Law faculties have been notably cautious with the use of technology facilitated distance learning and online education in teaching delivery (Stephen, 2017). The basis of this resistance is the discipline's content driven pedagogy focussed on providing didactic lectures (Butler, 2007). Powerful legal societies and organisations that regulate both the legal profession and legal education within their own countries have also repeatedly placed barriers in the way to moving curriculum online (Leibowitz, 2000, Martell-Stark & Piercy, 2018, Stephen, 2017). For the purposes of this paper paraprofessionals are legal executives. Legal executives (or paralegals) are not qualified as lawyers; however

most have qualifications and are generally skilled in one or more aspects of law and attend to a wide range of legal work, generally specialising in one or more of the following: residential and/or commercial conveyancing, estate administration, trust formation and administration, estate planning and some aspects of litigation (New Zealand Institute of Legal Executives, 2019).

This paper asks; given the ‘supposedly’ unsuited nature of legal studies to online learning what kinds of steps could be taken to ensure beneficial pedagogical design? Second, what benefits can accrue to students and teachers from a shift to online delivery? Third, can the benefits that accrue to students and teachers also be transferred to the workplace? As such the purpose of this paper is to describe the kinds of pedagogical approaches that can be used to promote effective pedagogical design for online delivery in VET. First, the paper describes the motivations for, as well as the steps taken, to develop a constructivist pedagogical approach to facilitate online delivery of the Diploma in Legal Executive Studies at Toi Ohomai Institute of Technology, Tauranga, New Zealand. Second, the paper presents findings from the Toi Ohomai curriculum re-development from a small research project completed with students taking the re-designed papers (Stage 1). The paper concludes with a brief discussion on the findings from Stage 1 and also discusses the next stage of the research process that intends to draw on views from graduates and employers of graduates from the Diploma on the extent to which the re-developed programme is providing transferable skills to the workplace (Stage 2).

Literature review

Challenging the resistance of the legal profession to online learning

Some staunch critics of online learning believe the current wave of technology enhanced education is fraught with pedagogically unsound replications of the worst aspects of teaching and learning from the traditional classroom (Morris & Taub-Pervizpour, 2018; Silver, 2018). However, supporters of online learning argue that online education can be as good as, or even better, than programmes taught in the traditional classroom (Harrell, 2013). Constructivist theory as the basis for a pedagogical approach for online learning has been touted as a powerful and successful method for curriculum design and development. (Biggs & Tang, 2011, Reid-Martinez & Grooms, 2018; Tyler, 1949). One that offers educationalists in legal studies a way forward. As students’ learning styles increasingly shift towards the use and dependency on computers and technology, legal education pedagogy will be driven to change (O’Neil, Singh, O’Donoughue & Cope, 2004). Legal education must continue evolving and incorporate appropriate techniques and pedagogical approaches for the development of an online environment (Chetwin & Edgar, 2000; Stephen, 2017). As part of adapting to the changing nature of work and pedagogy, Stephen (2017) argues that a learner centred approach is key for online programmes as it creates meaningful opportunities to interpret, discuss, negotiate and reflect upon the law and legal processes.

Background

Consistent with international trends, the neo-liberal reforms of the 1990s re-shaped the New Zealand vocational education and training (VET) system to be employer-led and

flexible. One of the policy changes created competition between the educational providers by linking funding to student enrolment numbers (Olssen, 2001). In this environment, the education providers had to manage funding constraints through a mix of: cost-cutting, restructuring, and developing creative new programmes of study that could reach as many potential students as possible. One of the responses to these demands has been the shift to distance learning, with a particular focus on online delivery of educational programmes (Govers, 2010; Walters, 2019).

Concurrently, educationalists were also exploring ways to make study more accessible to learners from a social justice perspective. These social justice aims have often been side-lined in the drive to ensure qualifications are accessible and relevant to industry demand (Law, 1997; Piercy, 1999, Piercy, 2011). Nevertheless, social justice, as well as economic aims can be enhanced by the shift to online delivery of VET programmes, which offer learners flexible, accessible and relevant high-quality learning opportunities (Govers, 2010; Martell-Stark & Piercy, 2018; Steele, 2014).

Qualification redesign

For various historical reasons, including the aforementioned resistance from the professional legal bodies, the New Zealand Diploma in Legal Executive Studies (NZDLES) was not available online as a distance learning option. The targeted review of qualifications (TRoQ) provided an opportunity for a change in the delivery modality of the diploma. The review process, which is part of a quality assurance system that commenced in 2008, requires all qualifications in the VET sector to go through a collaborative exercise (involving key stakeholders as well as educational institutions) over three to five years. The legal studies programmes completed this review process in 2016 where the shift to online pedagogy was fully endorsed by industry. Once the new qualification was registered on the New Zealand Qualifications Framework the development of delivery practices was opened up to new providers and Toi Ohomai took the initiative to develop a fully online programme (Martell-Stark & Piercy, 2018).

The re-development of the NZDLES was also part of a conscious choice to improve Toi Ohomai's online delivery (Steele 2014, Martell-Stark & Piercy, 2018). The team used constructive alignment to redevelop the courses (Biggs & Tang, 2011). Alignment is where the assessment activities need to be connected to the intended learning. The shift in focus from 'topics that need to be covered' to 'what and how the students are to learn' is a powerful and successful method of course design. The model for an aligned curriculum ensures that learning outcomes are formulated first, then the assessment regime is designed and then finally the teaching and student activities are developed and aimed at achieving these outcomes. By deconstructing the original qualification and underpinning the development with a constructivist approach, the legal studies teaching team was able to design a quality online programme built on 'real' problem-based learning, in conjunction with taking an overall learner-centred approach to both teaching and learning (Stephen, 2017; Wood, 2008).

The use of a constructivist pedagogy in an online setting can increase engagement through creating a collaborative learning environment (Reid-Martinez & Grooms, 2018). The advent of new types of collaborative technology, such as, web conferencing platforms and real-time communication tools have facilitated the implementation of constructivist approaches in the online environment (Wang, Jaeger, Lefaiver &

Rothenberg, 2012). The development also took into consideration the belief that doing legal studies can be a bit boring at times. Legal study requires a lot of reading and interpretation of cases and legislation that often will not make a lot of sense until you begin working in this area of the law.

Research Approach

Given the resistance of the professional bodies to the shift to a fully online programme, the teaching team felt it was important that the efficacy of their online Diploma was captured by investigations beyond the level of internal evaluation procedures and anecdotal commentary. The legal studies programme co-ordinator (author 1) in 2017, who was responsible for some of the qualification redevelopment, took the initiative to design a research project evaluating different aspects of the constructivist approach and the use of technology within the revamped diploma (Stage 1).

Stage 1: Student Surveys

The stage 1 research focussed on the students' initial and concluding reactions to the use of scenario-based learning in the online environment. The research question addressed by this stage is: to what extent have the purported benefits of shifting to an online learning environment that uses a constructivist approach been noted by students?

This question was answered by evaluating students' experience of an assessment item focussed on building rapport and collaboration to enhance the development of each other's professional communication skills. This pedagogical aim was based on the belief that learning with technology is more than making activities digital, it is about using these technologies to create meaningful ways for the students to interact with each other and share their knowledge and ideas (Yelland, 2006).

There were two assessment items in this research project. Both items involved students getting into pairs to do simulations. The first item was a client interview simulation and the second item was a negotiation. For each item there was one practice simulation done prior to the assessment simulation. Each practice simulation was done in a breakout room which was a feature available as part of the web-conferencing software. Recording is not available in the breakout room function so only the assessments were recorded. The two assessment simulations were done online in real time (synchronous) in a virtual meeting room that was named and set up specifically for each pair of students. The recordings played a crucial part in the assessment as students were required to evaluate and write up a reflective report on their performance of the skills for each assessment. The web-conferencing software used in this research project is called Adobe Connect (Gedera, 2014; Martell-Stark, 2017).

At the conclusion of the first and second iteration of the assessment the surveys were sent out to all the participants. Seven students were recruited and filled out the first survey, while six students completed the second. The students were mostly mature and female with one male participant. Some of the participants were transitioning from prior careers in different industries to conveyancing and legal executive work. Others already

employed in law-based settings were taking the online qualification for professional development and/or career advancement within their workplace.

The survey questions asked the students to share their views on the clarity of instructions, their experiences with the technology and assess the areas designed with the principles of constructivism, for example: Did working and interacting with your fellow students during this activity assist your learning? How? The second survey shared a similar focus but also was designed to ask the students to reflect on the resources provided and the experience of learning online. These questions are listed in full below:

1. Were the instructions and information clear about the Negotiation practice and assessment simulations? If they were not clear, please describe?
2. How effective was it to have a video recording of the instructions before the negotiation practice and assessment? Describe.
3. How useful was it to have access to the Negotiation Assignment before doing the Negotiation simulations? Why or Why not?
4. Did working and interacting with your fellow students during this activity assist your learning? How?
5. How would you describe the overall experience of using the Adobe Connect meeting rooms/software for these online simulations?
6. What changes would you suggest to improve these online simulations for future students taking this course?

The survey questions were designed to investigate the use of the technology and the pedagogical approaches used to encourage collaboration and to assess the impact of the shift to other constructivist approaches (learning alignment and scenario/problem-based learning). The responses were analysed for mentions of key terms from literature that discuss constructivism, such as engagement and collaborative learning. For this stage, ethics approval was sought and gained from the Research Committee of Toi Ohomai where the students were enrolled. The survey research was also overseen by researchers within the University of Waikato Teaching and Learning Development team.

Findings from Stage 1 Research

Overall the feedback gained through the two surveys was positive except for some issues around technical difficulties that occurred. The quotes provided below exemplify comments made that reflect the benefits of the constructivist approach in relation to collaborative learning and problem-based learning.

Collaborative learning

Although the students generally enjoyed the experience of interacting with each other one student was not convinced that she learned anything more and one student struggled during the simulations. For instance: “I am not sure I learnt anything extra from it than from the tasks of analysing online videos and filling out questioning templates... ...I understand each person learns differently so having a variety of activity styles is good.”

However, there were a number of comments given by the students about the benefit of collaboration. For example, one student stated: “working and interacting with my fellow students during the activity assisted in my learning, as it gave me the opportunity to interact with a person with a problem that I had to solve....”.

Another example was: “I was pressured but later had a lot to take away, my partner was great.”

Significantly one student pointed out: I need to be able to understand body language as well as talking in a clear understandable manner to a client.” Clearly, the online environment was not a barrier to observing non-verbal cues.

Problem-based learning

The students could clearly see the relevance of the scenario-based learning activity illustrated by the following statements:

It helped me to: “...realise the other client's perspective of the problem as well and understand that the task of creating value in a negotiation and to balance the claim is actually a challenging task.

“...it allowed me to experience the situation I would be placed in when I first meet a client.”

“I was pleased that the simulation exercises online were as real as a meeting that would take place via skype or teleconference. It had the same quality that the bank, law firm and court use.”

“It's been cool to get a feel for real life workplace client/ interview processes.”

Another student noted: “I feel like this is the only paper in the conveyancing/legal executive where we are conducting an activity which is necessary to our future profession. I've come to realise what I need to work on and what is required to help a client”. This student also stated: “in the future when I am working, it is critical to be able to discuss with clients issues they are going through.

Discussion and initial conclusions

This research adds to the scholarly writing that supports an approach to online learning of legal studies that successfully meets the needs of the legal profession. Legal study students are required to develop, practice and be assessed on a number of communication skills such as client interviewing and negotiation. The online environment presents a particular challenge in developing these skills as it requires interaction and engagement of students who only see each other in a virtual environment. Scenario-based learning fits nicely into simulation activities such as client interviews and negotiations that were part of the evaluated assessment. From the quotes provided above it is clear to see that the purposeful engagement in real life practice situations enabled the students to learn from their direct involvement, enactments, interaction with other students and reflections on the simulations (Errington, 2003). More importantly this approach contributed to the establishment of a community of learning between the students, as well as within the student/teacher relationship,

illustrating the benefits that can be captured in the shift to an online learning environment. The teaching of communication skills to paraprofessionals shows the effectiveness of using synchronous web-conferencing software in fostering a collaborative learning environment for online students. Research, like this, that illustrates the benefits of constructivist instructional design in the development of online legal studies programmes may remedy the hesitation of law societies and legal education policy makers to deliver legal studies programmes fully online.

Continuing resistance

Despite the potential gains from the use of constructivist pedagogy and the affordances provided by a fully online delivery there is continued resistance from the professional bodies to the online qualification (Martell-Stark & Piercy, 2018). While the research in stage 1 was focussed on determining the expected benefits perceived by the students it is clear that further research could be used to demonstrate the potential gains to students as well as employers. If employers can see the benefit to the online qualification then this could provide a basis for continuing to heed the call to move legal studies education into the future. As a result, the research in stage 2 is seeking more details and specific feedback from the qualifications end users students who have graduated and employers of those graduates. The subsection below describes the subsequent research approach and how it addresses the last question of the paper: can the benefits that accrue to students and teachers also be transferred once students are graduates and in the workplace?

Stage 2: Master Research: Graduate and Employer Interviews

The intention of the research is to gather information that may strengthen the alignment and relevance of the qualification to industry and produce graduates that adapt quickly and successfully during the transition from tertiary study to employment. In doing so, the research findings will also support the compliance requirements in relation to the graduate outcomes set in the approved NZQA programme documentation. Ethics approval has been obtained from both the University of Waikato and Toi Ohomai for the second part (stage 2) of the research that focuses on interviews with a small number of graduates and a small number of employers who have recruited students with the Diploma. Stage 2 of the research builds on the evaluation of the online constructivist approach in the Diploma by taking a qualitative look at the transferability of the skills and knowledge from the perspectives of working graduates and their employers.

The stage 2 research approach draws on auto-ethnographic observations and in-depth key informant interviews. The information that will be analysed thematically includes interviews, biographical reflections from teaching on the Diploma and field notes taken during the interview research process. The interviews will be recorded, partially transcribed and thematically analysed to collect the qualitative data to assess the alignment of the graduate outcomes with the experience of graduates and employers. There are two groups of participants for the interviews. Group 1 participants will be past-legal executive students who have graduated from Toi Ohomai with the NZ Diploma in Legal Executive Studies and Group 2 will be law firm employers who have or currently employ these graduates.

This research is currently in the recruitment stage. To date three graduate students and one employer legal firm have been recruited. Rather than recruit only employer solicitors the decision has been made to focus also on practice managers who often recruit and interview the legal support staff and follow up with their supervising solicitors to see how they are adapting in the work environment. This point of contact will assist the researcher in deciding which staff member would be the most appropriate to interview.

Limitations

The research limitations which have been identified for stage 2 the first limitation is resourcing, interviewing is time intensive as such only a small number of interviews will be completed limiting the generalisability of the interview findings. There are also recruitment challenges to overcome in locating graduates and employers, especially because in order to reduce risks to participants, these two groups will need to be recruited from different organisations. Furthermore, in order to limit the enduring impact of the student teacher relationship on the graduate student participants the interviews will be conducted by a research assistant who will have interview topics provided to them.

The planned research in Stage 2 will provide further insights in the use of constructivist pedagogy in the online legal studies programme and give a more complete view of the student successes in the programme once employed in a legal environment. The outcomes will assist in the further development of online programmes in legal studies and beyond by providing feedback on the content and delivery. The results will also provide evidence and support for those institutions considering an online option for their legal studies programmes. By providing a strong evidence-based approach it is hoped that the case that legal studies can work in an online environment will be strengthened further.

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