

A RIT mediation clinic

Dr Leo Raznovich and Ben Waters

Department of Law and Criminal Justice Studies

Background

A Law curriculum can be developed in many different ways in order to provide experiential learning opportunities or clinical legal education (CLE) to students at university level. With the assistance of RIT funding and after a year of preparatory research, two members of the Law/Legal Studies team within the Department of Law and Criminal Justice Studies at CCCU have set up a mediation clinic as a fundamental element of the development of the study of law and, in particular, to enhance the recently introduced Law degree.

The clinic at CCCU is unique because it is the first such clinic to be based within a UK university and provides students with the opportunity to learn experientially in an innovative way. The aim of the CCCU mediation clinic is threefold:

- to provide mediation services to the local and wider community by offering a dispute resolution service facilitated by a third party mediator in a neutral setting
- to enhance teaching and learning across curricula by making use of the work undertaken by the clinic, involving students in the running of the clinic, enabling students to observe negotiation and mediation and reinforcing the theory which underpins practice in these areas
- to encourage research in order to inform pedagogy; this will be achieved through projects undertaken by members of academic staff connected with the clinic and by partnering external bodies to assist in projects of mutual interest.

The research aim will enable the clinic to act as a forum for knowledge sharing.

The idea of experiential learning (or learning by doing) is not a new concept but it is one which could be promoted through the development of a university-based mediation clinic. Kolb (1984) believed that students learn by doing through reflection and conceptualisation that takes place during the event. It enables teaching staff to engage in new and innovative teaching and learning strategies and will allow students to develop a range of legal practice skills as well as transferable skills to use in their studies and future employment and thus enhance employability aspirations.

Approach/methodology

The project leaders undertook mediation training with two leading UK training providers in order to be able to operate the clinic.

An extensive literature review and online research has been carried out. Meetings have been held with members of a number of differing sectors, including the University of Kent Law Clinic, a District Judge and the Head of Legal Services at the County Council. This established a local need and enthusiasm.

Mediation models in the US were thought most likely to be useful – most law schools of any note have some form of legal clinic and the use of CLE, which focuses on enabling students to understand how the law operates through becoming involved in the process, is widespread in the US. The project leaders therefore travelled to the US to visit five institutions with live clinics.

Outcomes

When developing the curriculum with an experiential emphasis in mind, it is important to consider the most suitable type of clinic given a whole range of criteria. At the outset, it was envisaged that an important pedagogical aim of the clinic would be to provide students with actual experience of 'real life mediation'. Hence the model adopted is a live clinic combined with simulation, to provide students with a good understanding of mediation as a method of resolving disputes and a clear knowledge of how the process operates.

The initial research undertaken during the conceptual stage of the project enabled the project team to set up a mediation clinic, within the envisaged timeframe. The clinic has been established with the aim of informing curriculum delivery, introducing a mediation service and engaging in research at a time when alternative dispute resolution is becoming ever more popular in the UK. Two undergraduate modules have been created at HE Levels 5 and 6 to link into the work of the clinic; the Level 6 module enables students to learn in a more experiential way, through which they gain valuable transferable skills.

Students following courses of study in association with the CCCU mediation clinic gain an appreciation of the importance of effective problem solving. They also develop professional skills and an understanding of ethical issues. Importantly they have a sound knowledge and understanding of the benefits and limitations of mediation and other methods of dispute resolution.

For students pursuing the Law or Legal Studies degrees the clinic introduces them to the range of legal skills required to more effectively deploy their knowledge and apply it to both intellectual and practical legal problem solving.

Students who successfully pass the Practice of Dispute Resolution module together with the Open College Network (OCN) component (see below) will not only gain 20 credits towards their degree, but will also be awarded a certificate of community mediation.

The skills that graduates gain through their experiential learning enhance their employability. The clinic also provides a possible focus for postgraduate study.

Staff associated with the project have been able to develop new skills through individual accreditation as mediators. In addition to the personal development of staff members, the Department has been able to develop the curriculum through the introduction of experiential learning approaches. The clinic will also provide opportunities for staff to combine their interest in research in this area with supervision and postgraduate teaching.

Enhancing RIT

Teaching and learning have been enhanced by the mediation clinic project through the development of clinical pathways which have been built into the degrees in Legal Studies and Law. An agreement has been reached with the local community mediation service about conferment of a mediation qualification through an OCN course for students enrolled on participating mediation modules. For the academic year 2009/10, the OCN component forms part of the Practice of Dispute Resolution module at Level 6, and this element of the module is taught by the manager of the local community mediation service, with assistance from academic members of staff. Students learn experientially by being given the opportunity to manage their own mediation cases under supervision and to act as assistant mediators.

Advice for others

Careful planning and realistic goals should be set. For a project such as this it was essential to meet and talk to those with experience in the relevant subject area.

Reflections and any future plans

The goals set by the research team, which broadly speaking included the setting up of a mediation clinic and developing the curriculum to link in with the work of the clinic, have been achieved. Discussions are ongoing both within CCCU and externally at local, national and international levels, with a view to continuing to develop the curriculum and provide training to externals. Seventeen mediations, led by members of the newly created panel of mediators, have been successfully completed and steps to retain an increased level of mediation work are in place.

From the point of view of mediation service provision, the clinic has achieved a success rate of well over 90%, ie cases mediated in the clinic have produced a settlement either on the day or soon after.

Contact for further information:
ben.waters@canterbury.ac.uk