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Wells, Ian B. and Kift, Sally M. and Field, Rachael M. (2008) *FYE2 : recognising and acting on the synergies between the first and final year experiences in legal education*. In: 11th Pacific Rim First Year in Higher Education Conference 2008, 30 June - 2 July 2008, Hobart.

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FYE2: Recognising and Acting on the Synergies Between the First and Final Year Experiences in Legal Education

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Abstract

This paper highlights the importance in Australia of providing an effective final year experience in higher education to bookend the progress that has been made to develop coherent first year experience programs. Though the observations made are of general application, the paper focuses on legal education and argues that the special circumstances of final year students create an imperative to ensure that we “close the loop” on their university studies. The paper considers the synergies in issues of curriculum renewal for first and final year students of tertiary education, and argues that the development of a coherent final year experience/capstone program in Australian universities, and particularly in legal education, is long overdue.

Introduction

This paper discusses a current project at the Queensland University of Technology’s Law School which aims to enhance and build upon our students’ first year experience (FYE) by being intentional and explicit about connecting the FYE to the final year experience in aid of student success, retention and satisfaction. Specifically, the project is striving for coherency around whole-of-program curriculum design from first to last year, with an especial focus on the final year, both to enhance early year engagement and motivation and to provide students with a very concrete sense of course progression. More broadly, the project aims over time to enhance student learning and the ‘capstone year experience’ in Australian legal education at large, with the support of a Carrick Priority Project Grant.

The project is grounded in the authors’ view that the structure and delivery of the final year of Australian legal education is currently relatively disjointed. By this we mean that students must undertake core and eclectic elective subjects, which are not generally

integrated in the coherent, theoretically-grounded way we have sought to achieve now for first year curriculum design. Additionally, there is little attempt to ‘bring together’ students’ fragmented knowledge, and no culmination of their skills bases and professional approaches that might offer them some sense of the ‘big-picture’ of their accumulated learning which ‘closes the loop’ on their tertiary experience of legal education. The considerable work that has been done to develop an engaging and targeted FYE has not yet permeated, at least in Australia, final year curriculum approaches.

Our position is that much of the excellent work achieved in the first year of higher education is in fact undone by the lack of an articulation around, and explicit course progression towards, an integrated *final year experience program* (FYE2); certainly the educational promise of a positive FYE conceivably remains frustratingly unrealised in this context. We argue that final year students “face a transition just as compelling as the one that brings them from high school [and elsewhere] to (university). It is a time for reflection, integration, and closure” (*Capstone Courses Prepare Students for Transition*, 2006, 2). One role of modern curricula is to facilitate the many learning transitions that students encounter over the course of their degree programs, recognising that some transitions are not as major as others, but that all require careful management and explicit negotiation nevertheless for fear of otherwise distracting from (at best) or debilitating (at worst) a positive and successful learning journey. (A minor learning transition might be exemplified by the pedagogical scaffolding embedded to enable progression from one unit to another in a coherent course of study). In this light, there is an urgent need for final year curriculum renewal to close the loop on tertiary legal education and to prepare students for a smooth transition out into the world of professional work, or onto post-graduate study. Our project, drawing directly on what is known about good practice in relation to the FYE, will identify the features of a successful final year experience, and then design, implement and evaluate a final year program for law. The project is a new work-in-progress and, based on our research to date and an audit of current practice in Australian universities, we believe will break new ground in issues of curriculum renewal, particularly for Australian law schools but also more broadly.

In this paper we highlight the importance of an effective final year experience in legal education as a necessary bookend to, and enhancement of, the FYE. First, we explore the connections between work that has been done in the area of first year curriculum renewal and the proposed development of a holistic final year experience. Then we examine the special circumstances of final year students, and the role and value of capstone units as a starting point in developing a more comprehensive final year experience. Finally, we identify potential future directions for curriculum renewal in this context.

Connecting First Year Curriculum Renewal with a Final Year Experience

Efforts to effect holistic curriculum renewal that appropriately mediates the FYE and develops student learning to culminate in an equally effective final year experience must confront the many challenges facing contemporary higher education. In particular, contextual issues that are influencing the framing of a coherent first year experience are similarly relevant to the development of a final year experience. This context includes,

for example, the massification of higher education, changing patterns of student engagement, the diversity of the entering cohort, and increased expectations on staff around the professionalism of learning and teaching. Other relevant issues currently impacting on both first and last tertiary years relate to increasing sectoral competition and differentiation, the demands of globalisation, the transformative influence of ICTs, and agitation around quality assurance and accountability measures.

At the program design level, strident demands are made of modern curricula to attend to a growing number of imperatives: for example, designing for learning outcomes around graduate attributes, harnessing blended learning environments, embracing flexible delivery, enacting student-focussed learning, embedding more reflexive professional and ethical dispositions, and assuring the validity and reliability of assessment practices. Tertiary educators have also been called upon to facilitate learning and teaching for a diverse range of curriculum perspectives, including Indigenisation, internationalisation, and work-integrated learning. In this environment, it is critical that design attention is focussed on holistic, whole-of-program, curriculum approaches, particularly if we are to achieve for our students an efficacious ‘start’ that roadmaps for them and then develops them towards a satisfying and effective ‘finish’ to their higher education experience.

Of all the issues identified above, it is perhaps the widening of access to higher education that has fundamentally changed the assumptions that can be made about students’ (entry – and we would add exit) knowledge, skills and attitudes. This has not always led to the necessary changes in learning, teaching and assessment approaches (Johnson, 2002, 11). It is clear, however, that as a result of greater access, the first year curriculum now bears a heavy burden. It must, amongst many other things, assist students’ transition *from* their previous educational experience *to* the nature of learning in both higher education and in their chosen discipline(s) as part of their lifelong learning (Cook et al, 2005). *And* it must do this while building a stable foundational platform on which later years of the curriculum can reliably proceed. In this latter sense, the first year curriculum also bears the onus of assisting student development and supporting their engagement with learning environments through the intentional integration and sequencing of knowledge, skills and attitudes. This needs to be achieved at the end of the first year to at least a benchmark level of competency, regardless of students’ entering backgrounds and experiences. Finally, in the face now of seemingly endemic student uncertainty around their course choice, the first year curriculum must also address issues of vocational relevance and employment opportunities to assuage student anxiety and indecision over their nominated career path. This has certainly been our Faculty’s experience at QUT in undertaking first year curriculum renewal (Kift, 2002), and it is an experience that has resonated in disseminations more broadly in the sector (McKenzie et al, 2005).

It is clear, then, that if we are to achieve holistic curriculum design, effective classroom pedagogy, and integrated support delivery in aid of positive student learning outcomes, we must take account of the new contextual features of our contemporary student cohorts, and the broader social environment in which tertiary learning now takes place. This statement rings true across the undergraduate curriculum and has particular relevance to our approach to students in their first year. Our argument is that it remains true for

students in their final year, resonating equally, if with differing emphases and effects. Final year students continue to be diverse cohorts, with shifting patterns of engagement, and continue to require coherence and support in closing a significant chapter of their academic and social lives to be effective in turning the page and transitioning out to their new world of professional work or study.

Unfortunately, most commentators have observed that, generally, modern curriculum reform has tended to be ad hoc and reactive (rather than reflective and proactive), producing curricula that are overloaded, fragmented and lacking in cohesion (McInnis, 2001). This is our view of current approaches to the final year of law in higher education. In place of this, the final year deserves careful attention to both its theoretical foundations, and the efficacy of its practice. It also requires to be carefully presaged by an explicitly articulated increase in complexity of learning outcome demands and assessment approaches over the program of study. As James (2002, 81) has said:

Universities need to carve out a new model for the undergraduate curriculum – conceived broadly so as to embrace what is taught, how it is taught, and how learning is assessed – based on sound educational principles and an understanding of the new realities of the social context for higher education.

McInnis (2001, 9) also advocates for more sophisticated curriculum design and management, asserting that “defining the curriculum as an organising device is probably the key to universities shaping the future of the effective undergraduate experience.” It can also be said that an intentionally interventionist approach to learning engagement is now required, given that students on the whole spend far less time together in small learning groups on today’s campuses (McInnis, 2001, 11; Krause et al, 2005). In this regard, faculties and curricula actively need to encourage desirable interpersonal development to take place in conjunction with students’ intellectual development, understanding that interpersonal development will enhance academic development.

Our position, then, is that drawing on what we know from the hard work of, and serious thinking around, improving the FYE, our attention must now turn to replicating that work and thinking for proactive curriculum renewal for the final year. This will contribute to carving out the (holistic) new model for the undergraduate curriculum which James exhorts; a model that is grounded, workable, and successful, and one which can be outlined cogently to first year students to encourage their learning engagement and solidify their learning commitment. To develop our argument about the importance of bookending the FYE in this way, this paper now turns to exploring the special circumstances of final year students that justify recognition and action. We also briefly sketch what has been done to date in Australia to respond to these circumstances, and follow this with our suggestion for a two-pronged approach for an improved future direction. Whilst the focus of our project is on legal education, our observations and conclusions, we believe, are of cross-disciplinary relevance and significance.

Recognising the Special Circumstances of Final Year Students

As we acknowledge above, students entering their first year of study, generally, and (for our purposes specifically) in law, are now often the target of significant pedagogical attention and support. For example, many institutions offer extensive orientation programs that are designed to ease transition to tertiary education and discipline study. Many make other various and explicit efforts to welcome and engage students, and to assist with early tertiary level skill development. And yet, “four or five years later, the same students typically receive minimal attention” (Shea, 1998-99). Further, whilst there is an abundance of literature concerning the transition into university and the ‘first year experience’, the period of transition from university to the profession and the ‘capstone experience’ has received comparatively little attention from universities and researchers (Gardener, 1999, 7; Jervis & Hartely, 2005, 314). It can be said, therefore, that universities generally are currently failing to endow students with suitable ‘capstone intellectual experiences’. Indeed, according to Gardener, final year students are being ignored and neglected, despite the fact that, like first year students, they have unique needs (1999, 5).

Our 2008 audit of current practice in Australia in relation to the provision of (explicitly named) capstone units and/or programs affirms these assertions, and shows, particularly, that Australian law schools are failing to bookend their efforts in first year program innovation with an effective final year experience. Our general audit indicates that of the forty-five (45) institutions of higher education in Australia (these are the institutions that are eligible for grant schemes offered by the Carrick Institute, not just universities), only nineteen (19) have implemented some form of ‘capstone’ unit or program in any of their course offerings. Thus, 58% of the providers of Australian higher education are not currently ensuring that final year students benefit from an explicit final year experience. Of those universities providing capstone experiences of some sort, only one (1) is within the legal discipline. Clearly, then, the final year experience is currently an ill-established component of all curricula, but particularly so in law. It should also be noted that the identified law capstone unit (a core subject entitled *Capstone Research Project*) appears on closer scrutiny to be more like an advanced research subject. This may mean that whilst the name of the unit is reflecting the importance of a capstone experience, in fact the unit is simply offering something commonly found in final year legal curricula, and not necessarily grounded in a solid theoretical foundation regarding learning and teaching practice that supports the capstone needs of students.

What then are the special circumstances of students in their final year? Why is it that we argue that universities bear an onus to support and assist final year students in as comprehensive a way as they do the first year cohort? Gardener, who interestingly is also a renowned first year advocate, identifies four major factors that highlight the need for universities generally (and we argue law schools in particular) to focus resources on developing an effective final year experience. These can be categorized as relating firstly, to the high expectations of final year students; secondly, to the special needs of final year students as students in transition; thirdly, to the fact that the final year is our last opportunity to ensure our students graduate with appropriate attributes and capabilities;

and finally, to the fact that final year students will soon become our alumni (Gardener, 1998, 4-7). Substitute “first” for “final” or “last” in these indicia and replace the alumni dimension with the desire for positive entry, retention and satisfaction, and the similarities between the bookend experiences are remarkable in their commonality as the following brief discussion further illuminates.

High Expectations of Final Year Students (Gardener, 1998, 5): By the time students reach their final year of study they have invested significant time, energy and financial resources in their degree outcomes. Their future expectations are high, nurtured by extensive FYE programs and by enhanced teaching and learning support and delivery practices. They have good reason to expect support and guidance from us (academic and professional staff alike) as our final contribution to the success of their learning journey.

Special Needs of Students in Transition (Gardener, 1998, 5): Students in their final year also face significant transition issues which are just as challenging as those facing first year students entering the tertiary environment (Jervis & Hartley, 2005, 314). Like first years, they are again juggling many competing priorities: they must maintain their progress to graduation, make decisions on their future options and compete with their fellow students (friends and now competitors) for positions in their chosen profession.

In legal education in particular, there is growing evidence that Law School may need to take responsibility for assisting its students to be better prepared for the risk, rigours and pressures of legal practice, particularly in terms of their self-efficacy, practice and coping skills (Stuckey et al, 2007). Law students, lawyers and judges have criticised legal educators for this deficiency in legal education (Strachan, 1989, 523). Final year students are particularly concerned about their abilities and competence, and feel ill-prepared to adapt to life post-university (Shea, 1998-99). Their fears are affirmed by assessments that students are not graduating from university with the knowledge, skills and attitudes necessary to handle the competitive legal profession or its demanding employers (Black & Wirtz, 1997). It seems, then, that law schools are not doing a good job of preparing their graduates for the transition to law practice and should do more (Eckmann, 2004, 258; Trail & Underwood, 1996, 202). In our view, a more comprehensive and integrated approach to law’s final year experience provides a viable and valid answer to those who argue that law schools must take up their responsibility (and moral obligation) to provide law students with an education that develops skills in readiness for professional life (Bahrin, 1994; Dunlap, 2005).

The Final Year is Our Last Opportunity with Students (Gardener, 1998, 6): The final year is our last opportunity to ensure students leave with the knowledge, skills and attitudes they will require to meet the growing demands of professional practice and that they are fully cognisant of the extent of their learning acquisition in this regard. Now is the time to again work closely with our students (as we did in first year) and help them negotiate their entry into a newly bewildering world and identity (for which we have been preparing them, though the reality and immediacy of which may only now be dawning).

Focusing on Our Future Alumni (Gardener, 1998, 6): The role of alumni in universities is increasingly important, particularly in law schools. At a time when universities are competing to be the first choice for prospective students, alumni have the potential to promote the university and increase enrolments – a further synergistic closing of the experience loop: “Graduating seniors are the school's ambassadors to employers, the general public, and potential future students” (Shea, 1998-99). Alumni can also be a significant source of funding through donations, scholarships and sponsorships. For Australian Law schools, and for QUT in particular with its “real world labeling”, alumni also represent an effective entrée to the profession to assist in the development of clinical programs and placements, and to provide involvement in assessment activities.

Although this discussion is necessarily brief, it is clear that the specific circumstances of final year students justify both support to deal with imminent life-changes, and the provision of integrated opportunities to see how their various undergraduate experiences have contributed to their overall development as learners. In other words, there are significant reasons to assist and encourage final year students to reflect on their academic experience, and to make connections between that experience and their possible future career paths (Gardener, 1999, 7). The next sections of this paper explore options for achieving final year curriculum renewal in this way through, first, specific capstone units, and second, the development of an integrated, holistic final year experience program.

Capstone Units as a First Step

Currently, the most commonly adopted approach to meeting the needs of final year students is through individual capstone units. The literature reflects that capstone units are being used, for example, in disciplines as diverse as business, agriculture, engineering, and sociology (Reid & Miller, 1997, 1771). Clearly, as our audit of current practice indicates above, however, there is a gap in terms of the use of explicit capstone units in undergraduate law curricula in Australia. In our view, moving towards the development of such units across law, and other curricula, is an important first step in curriculum renewal for the final year.

A capstone unit is typically defined as:

a crowning (unit) or experience coming at the end of a sequence of (units) with the specific objective of integrating a body of relatively fragmented knowledge into a unified whole. As a rite of passage, this (unit) provides an experience through which undergraduate students both look back over their undergraduate curriculum in an effort to make sense of that experience, and look forward to a life by building on that experience (Durel, 1993, 223).

A review of the existing literature identifies many benefits of individual capstone units with respect to achieving positive learning outcomes for students, and enhancing student development in the final year (Nilsson & Fulton, 2002, 4). Some of the recognised qualities of such units include: assisting students to synthesize their knowledge, preparing students for their career, promoting holistic thinking, and increasing confidence and self-efficacy (Bailey et al, 2007, 68). A capstone unit can also be said to enrich students’ understanding of their academic discipline, to enhance students’ problem-solving,

decision-making, critical thinking and human relations skills (Kerka, 2001), and to introduce students to professional life (Reid & Miller, 1997, 1772; Kerka, 2001).

Our conclusion, then, is that there is evidence to support the development of capstone units, because not only do they assist students to experience a greater sense of completion to their degree, but because they also help universities ensure that students are well-prepared and possess the necessary skills (problem-solving, communication and life-long learning skills) for the outside world of the professions. In short, capstone units, like the foundational units in first year before them, promote coherence and integration, enrich understanding, enhance important skills, and prepare students for transition. They can certainly be seen as a positive first step in curriculum renewal for the final year.

The Need for an Accompanying Comprehensive Final Year Experience Program

Capstone units may present a positive way forward, but they represent only part of the picture. In the same way that it has been recognized that one unit cannot provide students in transition to university with a coherent first year experience, so too one capstone unit, however well thought through, cannot provide a comprehensive final year experience to students completing their tertiary journey. To be effective, a final year experience must facilitate “integration, reflection, closure and transition” (Gardener, 1998). This requires a comprehensive, integrated and holistic approach that is embedded across the final year curriculum, that also incorporates extra curricula programs and activities – much like the approaches we have adopted in optimal first year curriculum design .

At this stage, research concerning students’ experiences during their final year in tertiary education is limited because the ‘final year experience’ has only relatively recently become a subject of consideration by the higher education community (McCoy, 2003). Literature does exist on the aims, structure and methodologies of teaching final year or capstone units in tertiary education (Levine, 1998; Cuseo, 1990; Henshied, 2000), and on “related concepts such as the purpose of higher education, desired outcomes of the undergraduate experience, and student development” (McCoy, 2003, 5). However, this literature comes mostly from the U.S.A, and addresses capstone experiences in a general sense, or in the context of disciplines other than law. In the U.S.A, for example, the Association of American Colleges and the Boyer Commission have recommended that capstone units be included throughout all undergraduate programs (Andreasen & Trede; Jervis & Hartley, 2005, 314; Boyer Commission, 1998).

Again, our contention is that a better approach to curriculum renewal in the final year requires the development, for Australian contexts, of a grounded and tested program that includes a comprehensively defensible curriculum, specific capstone units, and tested extra-curricula programs and activities. This is work we hope to achieve through our project, with the support of a Carrick Priority Project Grant.

Conclusion

This paper is a contribution to the newly emergent Australian literature recognizing the gap in adequately providing for the higher educational experience of final year students. Our conclusion is that the first and final year experiences are inextricably linked: without a coherent and effective final year experience, the important work done to develop FYE programs is undermined and, we would suggest, diminished. Our commitment is to develop a program that provides students with an integrated and reflective approach to achieving closure on their degree and to facilitate a process that enables them to make meaning of their undergraduate experience (Gardener, 1999, 7). It will also assist students with their transition to applying theory to 'real life' in professional contexts, thus enhancing their future performance as practitioners (Bailey et al, 2007, 77-78).

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