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APPROACHES TO STUDENT SUPPORT IN THE FIRST YEAR OF LAW SCHOOL

KATE GALLOWAY, RACHEL BRADSHAW,
NEIL DUNBAR AND JAMIE FELLOWS*

I INTRODUCTION

Recent studies have shown that the culture of the law school may contribute to high rates of psychological distress¹ and depression among law students.² Transition pedagogies also recognise the diversity of first-year university students' experiences and demand an integrated approach to student pastoral care to assist students to navigate their degrees,³ including through promoting student social connectedness.

The first-year law program at James Cook University has been explicitly designed to incorporate a variety of student support strategies. This design has sought to scaffold student capacity for dealing with their academic and personal development. Strategies such as interactive teaching and learning settings, peer-assisted learning, regular email contact from first-year coordinators, an integrated approach to ancillary support services and an effective mentor program are all considered to be integral to the success of the first-year law program. Academics' own commitment to caring for students as individuals is also an essential ingredient in effective pastoral care.⁴ The question which remains, however, is whether

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¹ In this paper, 'psychological distress' reflects the use of the term in Norm Kelk et al, *Courting the Blues: Attitudes towards Depression in Australian Law Students and Lawyers* (Brain and Mind Institute, 2009) 10–14, in which measures such as the Kessler Psychological Distress Scale and the Somatic and Psychological Health Report (SPHERE) scale were used to determine levels of psychological distress.

² Ibid; Massimiliano Tani and Prue Vines, 'Law Students' Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?' (2009) 19 *Legal Education Review* 3; Martin Seligman, Paul Verkuil and Terry Kang, 'Why Lawyers are Unhappy' (2005) 10(1) *Deakin Law Review* 49.

³ Sally Kift, *Articulating a Transition Pedagogy to Scaffold and to Enhance the First Year Student Learning Experience in Australian Higher Education: Final Report for ALTC Senior Fellowship Program* (August 2009) Australian Learning and Teaching Council, 16 <http://www.altcexchange.edu.au/system/files/Kift%2C_Sally_ALTC_Senior_Fellowship_Report_Sep_09.pdf>.

⁴ Ibid 108.

engaging in pastoral care is an appropriate part of the practice of the law teacher. This article argues that it is.

In line with reflective practice methodology,⁵ this article uses a collaborative reflection on how each author approaches, and justifies, pastoral care in the law school. '[C]ollaboration in this journey affords merit to uniting our thoughts, feelings and insights to examine our learning and identify the key factors that have shifted the authors' pedagogical knowledge and informed their practices.'⁶ Through this process, the aim is to place the authors' own experiences within a wider professional context, 'utilising the theory of reflective learning to inform our vocational practices'.⁷

This paper first links effective embedded pastoral care in the law school and student wellbeing. It then explores the philosophy and practice of four academics working together in an integrated first year LLB program to explain the foundation of their approach to student support — the key elements of what they consider to be an integral part of their practice as a legal academic, but which falls outside their 'content' expertise. Finally, this practice is analysed to identify the basis on which embedded student support might be justified as an integral part of the law academic's role.

II PASTORAL CARE AND MENTAL HEALTH

While the psychological distress and depression of law students is well documented,⁸ what is of interest here is the role of academic staff in the law school in supporting good student mental health. It is obvious to say that legal academics are not mental health professionals, and counselling or other professional services are best left to those appropriately qualified in other university services. Apart from discrete mental health services, there are other successful strategies that have been adopted to improve students' mental health outcomes, such as embedded resilience-building units within a degree⁹ or providing resources to self-assess resilience.¹⁰ As a concomitant to these strategies, this paper focuses on strategies

⁵ See Keith Trigwell et al, 'Scholarship of Teaching: A Model' (2000) 19(2) *Higher Education Research & Development* 155; Patricia Easteal, 'Teaching about the Nexus between Law and Society: From Pedagogy to Andragogy' (2008) 18 *Legal Education Review* 163.

⁶ Bonnie Cord and Mike Clements, 'Reward through Collective Reflection: An Autoethnography' (2010) 4 (1) *e-Journal of Business Education & Scholarship of Teaching* 11, 12.

⁷ *Ibid* 13.

⁸ See Tani and Vines, above n 2; Seligman, Verkuil and Kang, above n 2; Kelk et al, above n 1.

⁹ Helen M Stallman, 'Embedding Resilience within the Tertiary Curriculum: A Feasibility Study' (2011) 30(2) *Higher Education Research and Development* 121.

¹⁰ Melinda Shirley, *Resilience for Law Students* (10 September 2011) QUT Faculty of Law <<http://www.law.qut.edu.au/study/resilience/self.jsp>>.

beyond discrete services, information and education. Of particular interest are the strategies of ‘support in normal work or training’ and ‘support for people under stress’¹¹ identified by Kelk et al.

In this respect, the authors distinguish between curricular and co-curricular aspects of pastoral care. *Co-curricular* pastoral care needs are those that arise outside the educational context, but which will inevitably impact on learning — such as grief or marriage breakdown. These may be picked up in student–teacher interaction, but should properly be referred to qualified counsellors. This can be contrasted with *curricular* aspects of pastoral care which focus on the affective dimension of student learning. Bromberger discusses the effect of emotions on learning and the need for teachers to consider the ‘emotional environment within the classroom’.¹² She highlights the effect of ‘lack of confidence, despondency and anxiety’ on effective student learning¹³ and it is these emotional aspects of student learning that are the focus of this paper. Likewise, Easteal advocates creating a ‘supportive learning environment’ that generates a ‘certain ethos ... at a social and emotional level in the physical space’.¹⁴ Such curricular support will extend to ‘engaging in pastoral work out of class’.¹⁵

Support in this context becomes part of ‘normal work or training’.¹⁶ It also forms the basis not just for individual support but also connectedness within the cohort. Part of creating a ‘safe’ environment for learning, according to Easteal, includes creating a ‘supportive social setting’.¹⁷ Tani and Vines identify social connectedness as an issue that is associated with depression in law students, but that the causal link is not yet clear.¹⁸ In spite of this, Kelk et al talk of approaching the stressors inherent in studying and practising law through emphasising ‘connectedness rather than isolation, autonomy rather than individualism and reducing social disintegration’.¹⁹ Either way, social connectedness is recognised as integral to student engagement²⁰ and, more specifically, to mental health.²¹ While this too can be approached from a variety of perspectives — for example, Kelk et al suggest support for more competitive aspects of LLB assessment, such as mootings²² — this

¹¹ Kelk et al, above n 1, 46.

¹² Nikki Bromberger, ‘Enhancing Law Student Learning — The Nurturing Teacher’ (2010) 20 *Legal Education Review* 45, 49.

¹³ *Ibid.*

¹⁴ Easteal, above n 5, 166.

¹⁵ *Ibid.* 167.

¹⁶ Kelk et al, above n 1, 46.

¹⁷ Easteal, above n 5, 166.

¹⁸ Tani and Vines, above n 2, 30.

¹⁹ Kelk et al, above n 1, 47.

²⁰ Colin Beard, Sue Clegg and Karen Smith, ‘Acknowledging the Affective in Higher Education’ (2007) 33 *British Educational Research Journal* 235, 236.

²¹ Kelk et al, above n 1, 38.

²² *Ibid.* 46.

paper will focus on social connectedness as an embedded approach to student pastoral care.

An embedded approach to student support is described in other contexts in the higher education literature. Jacklin and Le Riche, for example, advocate a more ‘proactive culture’ as an effective means of supporting students (being ‘supportive’), which they distinguish from student ‘support’.²³ Kift recommends that ‘top level institutional policies should explicitly acknowledge and be attuned to the transitional learning and support needs of diverse undergraduate first year student cohorts’,²⁴ where the curriculum includes support aspects of the student experience.²⁵ This embedded supportive practice might *a priori* be described as the ‘care factor’ of pastoral care,²⁶ and Bromberger refers to it as the ‘nurturing teacher’.²⁷

Not all academics adhere to a supportive approach to teaching, believing that students will learn best if left to their own devices. Lizzio and Wilson, for example, have examined the attitudes of first-year academic staff to assessment and to student engagement, and have identified some ‘tentative characteristic academic profiles’ that represent different approaches to teaching.²⁸ In contrast to Bromberger’s ‘nurturing teacher’, Lizzio and Wilson have also identified (among others) the ‘nostalgic enforcer’, who believes that ‘tough love builds resilience’ in students;²⁹ and the academic who is disengaged, detached and alienated from students.³⁰ From the various academic mindsets, they identify five cultures: ‘social Darwinistic’, ‘Disengaged’, ‘Supported Independence’, ‘Aspirational’ and ‘Academic Welfare’, and how each culture might impact on student learning. Based on student feedback on these approaches in terms of their experience of first-year assessment, Lizzio and Wilson have developed a process for ‘progressive enabling’³¹ that encompasses support and guidance, and scaffolding of student learning.³² This

²³ Angela Jacklin and Pat Le Riche, ‘Reconceptualising Student Support from “Support” to “Supportive”’ (2009) 34 *Studies in Higher Education* 735.

²⁴ Kift, above n 3, 35.

²⁵ *Ibid* 9. See also Rob Smith, ‘An Overview of Research on Student Support: Helping Students to Achieve or Achieving Institutional Targets? Nurture or Denature?’ (2007) 12 *Teaching in Higher Education* 683; Bagillhole and Goode, ‘The Gender Dimension of Both the “Narrow” and “Broad” Curriculum in UK Higher Education: Do Women Lose Out in Both?’ (1998) 10 *Gender and Education* 445.

²⁶ Kate Galloway and Rachel Bradshaw, ‘Responding to Changed Parameters of the Law Student: A Reflection on Pastoral Care in the Law School’ (2010) 3 *Journal of the Australasian Law Teachers Association* 101.

²⁷ Bromberger, above n 12.

²⁸ Alf Lizzio and Keithia Wilson, ‘Assessment in First Year: Beliefs, Practices and Systems’ (Paper presented at ATN Assessment Conference, Sydney, 18–19 November 2010).

²⁹ *Ibid* 23.

³⁰ *Ibid* 37.

³¹ *Ibid* 93.

³² *Ibid* 88.

work evidences that students themselves report an enhanced learning experience through scaffolding and support from academic staff.

The culture of the law school, however, is well known for being competitive, adversarial and masculine,³³ and links have been made between this culture and the incidence of mental health problems among law students.³⁴ On this basis, the idea of pastoral care is itself in tension with the traditional culture of the law school. To begin to address the culture, it is suggested that academics need to be clear about their own place within the law and in replicating this traditional culture. Kelk et al suggest that institutional change requires ‘at least a sub-group of its members to [take on the goal of working constructively towards preserving mental health]’ of its students.³⁵ For a supportive approach to student welfare, embedded in teaching, to become a strategy for ‘improving institutional mental health outcomes’,³⁶ staff are required who are interested in this approach, and who work in an environment that supports it.

While the literature validates a supportive approach to teaching in higher education generally,³⁷ each of the authors has developed an approach to pastoral care independently of this material, based on our own experiences. This has led to pastoral support which is embedded in our roles as legal academics. That is, our approach to student support reflects a philosophy of practice.

III APPROACHING PASTORAL CARE THROUGH A PHILOSOPHY OF TEACHING

Rather than simply engage in what has been described as a ‘self-indulgent process’,³⁸ this paper seeks to highlight how the authors’ experiences shape their approaches to student support. Reflections of other law teachers on their initiation into academic law are revealing of the challenges in acculturation into the law school.³⁹ This collaborative reflection, ‘resulting in collective knowledge’⁴⁰

³³ Kelk et al, above n 1, 46; Margaret Thornton, ‘Discord in the Academy: The Case of the Feminist Scholar’ (1994) 3 *Australian Feminist Law Journal* 53; Richard Collier, ‘The Changing University and the (Legal) Academic Career: Rethinking the Relationship between Women, Men and the “Private Life” of the Law School’ (2002) 22(1) *Legal Studies* 1; C James and J Finlay-Jones, ‘I Will Survive: Strategies for Improving Lawyers’ Workplace Satisfaction’ (2007) 15(1) *Legal Education Digest* 32.

³⁴ See, eg, Seligman, Verkuil and Kang, above n 2.

³⁵ Kelk et al, above n 1, 44.

³⁶ *Ibid.*

³⁷ Bromberger, above n 12; Lizzio and Wilson, above n 28.

³⁸ *Ibid.*

³⁹ Lisa Cherkassky, Jessica Guth and Chris Gale, ‘Engaging New Law Lecturers and Reflections on the Engagement’ (2009) 43(2) *The Law Teacher* 179; Jessica Guth, ‘The Case for Time Turners — The Practicalities of Being a New Law Lecturer’ (2009) 43(2) *The Law Teacher* 185.

⁴⁰ Cord and Clements, above n 6, 11–12.

is designed to ‘produce knowledge of the mechanisms at work in contemporary higher education’⁴¹ — in the authors’ case, approaches to socialisation of students within higher education and the law school in particular, through embedded supportive attitudes to overall student wellbeing.

Trigwell et al present a model of scholarship of teaching and learning that incorporates ‘reflection, inquiry, evaluation, documentation and communication’.⁴² In inquiring into whether engaging in pastoral care properly falls within the role of the legal academic, the authors reflect on what underpins their own practice as a ‘nurturing teacher’⁴³ and how this might inform the justification for embedding this approach into the practice of a legal academic.

In this part of the paper, the authors, four legal academics teaching in the first year of a regional law school’s LLB, reflect on the factors that inform their approach to student pastoral care. Brookfield points out that critical reflection ‘grounds our most difficult decisions in core beliefs, values and assumptions’,⁴⁴ thus helping develop a rationale for practice and for taking informed actions.⁴⁵ In discussing their practice and identifying their common underlying philosophy of practice, the authors seek to identify a ‘foundational reference point’ to guide practice as a legal academic.

The authors have practised together for three years in a community of practice built around the first-year experience in the James Cook University LLB. During this time, they have engaged in ongoing collaborative reflection about student learning and their role in student learning, which affords an insight into the elements of their philosophy of teaching that result in their approach to student support. Elements common to each author’s philosophy of teaching, and approach to teaching, are empowerment, open dialogue with students, setting boundaries and referral strategies. These elements, it is submitted, form the foundation for effective and integrated student support in the law academic’s role.

A Empowerment

Firstly, the authors share a philosophy of empowerment of students. This translates into student support through an understanding of the power dynamic that exists between teacher and student, and how that can ‘distort educational processes and interactions’.⁴⁶ The

⁴¹ Sue Clegg, ‘Knowing through Reflective Practice in Higher Education’ (2000) 8(3) *Educational Action Research* 451, 451.

⁴² Trigwell et al, above n 5, 156.

⁴³ Bromberger, above n 12.

⁴⁴ Stephen D Brookfield, *Becoming a Critically Reflective Teacher* (Jossey-Bass, 1995) 23.

⁴⁵ *Ibid* 22.

⁴⁶ *Ibid* 8.

experience of three of the authors in legal practice also supports this philosophy of empowerment; particularly due to their commitment to client service. Professional (lawyers’) ethics, obligations of confidence, trust and client autonomy, and empowerment within the legal system, were integral to these authors’ identity as legal practitioners.⁴⁷ This approach to practice clearly infuses their identity as legal academics. A philosophy of empowerment, as an extension of professional legal practice and identity, therefore seeks to engage the student in the learning experience on their own terms. Such an approach is validated within education. Freire, for example, suggests a fundamental shift in the relationship between the teacher and the student from master–pupil to partnership. He says:

From the outset, his efforts must coincide with those of the students to engage in critical thinking and the quest for mutual humanization. His efforts must be imbued with a profound trust in men and their creative power. To achieve this, he must be a partner of the students in his relations with them.⁴⁸

The vital ingredient in Freire’s partnership model is trust. Brookfield also refers to the importance of trust:

College classrooms provide the conditions in which people can learn to trust or mistrust each other. A teacher who takes students seriously and treats them as adults shows that she can be trusted. A teacher who emphasises peer learning shows that it’s important to trust other students. A teacher who encourages students to point out to her anything about her actions that is oppressive and who seeks to change what she does in response to their concerns is a model of critical reflection. Such a teacher is one who truly is trustworthy.⁴⁹

Trust in the classroom provides the necessary environment for deep learning, as it encourages openness, respect and ‘an engagement in critical conversation’.⁵⁰ Easteal too emphasises respect that is ‘modelled and demonstrated by the teacher ... [to] contribute to creating a supportive social setting’.⁵¹ She suggests that ‘treating students courteously and as collaborators in learning fosters this classroom culture’.⁵²

Empowering students will be to no avail, however, if it is not aligned with the learning outcomes — setting expectations is

⁴⁷ Christine Parker, ‘Regulation of the Ethics of Australian Legal Practice: Autonomy and Responsiveness’ (2002) 25(3) *University of New South Wales Law Journal* 676; Christine Parker, ‘A Critical Morality for Lawyers: Four Approaches to Lawyers’ Ethics’ (2004) 30(1) *Monash University Law Review* 49.

⁴⁸ Paulo Freire, *Pedagogy of the Oppressed* (Myra Bergman Ramos trans, Penguin, 1972) 49 [trans of: *Pedagogia do Oprimido* (first published 1968)].

⁴⁹ *Ibid* 26.

⁵⁰ *Ibid* 27.

⁵¹ Easteal, above n 5, 167.

⁵² *Ibid*.

therefore an integral part of student empowerment and support. Importantly, this practice adopts the principle of scaffolding, which ‘helps learners develop independence, fluency and range of performance as they move along the development continuum from novice to expert’,⁵³ but which does not do the job for the student. Part of this approach lies in facilitating student autonomy and self-management. Indeed, the discipline standards for law (particularly threshold learning outcome 6, ‘self-management’) are based on an appreciation of the need for emotional intelligence and ‘resilience through personal awareness’.⁵⁴ It is therefore critical that the student accept responsibility for their part in the learning process.⁵⁵ As academics, we play a significant role in this process — particularly in the transition year — and we must be more than a parental or authority figure to inspire students.⁵⁶

Inspiring students to engage with their learning, including in the affective domain, can be achieved by establishing trust at both the collective and individual levels.⁵⁷ To establish trust with students, the spectre of humiliation must be banished from the inventory of possible pedagogies. In contrast, once students trust, they are far more likely to reach a desire to learn and to seek assistance actively when required. One of the strategies common to the authors in establishing trust is open communication and dialogue with students.

B *Communication and Open Dialogue*

In the same way that empowerment and trust can be common to legal practice and education, so too can a commitment to communication and open dialogue.⁵⁸ While caring about relationships finds a place within an ‘ethic of care’ for the legal practitioner,⁵⁹ so too would it be of little surprise that a substantial body of pedagogic research is dedicated to issues relating to effective communication between students and teachers.⁶⁰ It is safe to assert that effective communication is integral to the learning process.

⁵³ Stuart Levy and Holly Campbell, ‘Promoting Motivation and Engagement among Academically at Risk Students’ (2007) 9(3) *Widening Participation and Lifelong Learning* 17, 22.

⁵⁴ Sally Kift, Mark Israel and Rachael Field, *Bachelor of Laws Learning and Teaching Academic Standards Statement* (Australian Learning and Teaching Council, 2010) 22–3.

⁵⁵ Michael J Sandel, *Justice: What’s the Right Thing to Do?* (Farrar, Straus and Giroux, 2009) 149–50. Sandel adopts the Rawlsian notion regarding the moral force of social contracts and, in doing so, describes two very important aspects of facilitating relationships between individuals; that is, autonomy and reciprocity.

⁵⁶ ABC Radio National, ‘E-Education’, *Australia Talks*, 29 March 2011 (Paul Barclay) <<http://www.abc.net.au/rn/australiatalks/stories/2011/3169303.htm>>.

⁵⁷ Easta, above n 5.

⁵⁸ Parker, ‘A Critical Morality for Lawyers’, above n 47.

⁵⁹ *Ibid* 68–74.

⁶⁰ See, eg, Ann Bainbridge Frymeir, ‘Students’ Classroom Communication Effectiveness’ (2005) 53(2) *Communication Quarterly* 197.

Frymier argues that the results of the research show, however, that communication between academic staff and students takes place mostly through formal instruction. This kind of teaching is itself predicated on the existing hegemony of 'instructional communication', described as the 'process-product' modality of instruction.⁶¹ This rests on the premise that communication is 'one-way', requiring students to process content provided to them by the teacher and produce a product, such as a demonstrated competency in the learning outcomes.⁶²

If we are to view communication between the teacher and student in the transactional sense,⁶³ Frymier asserts that effective communication leading to enhanced educative outcomes is a 'two-way' process. A two-way model of communication accepts that 'not only do teachers impact the outcome (learning), but students also influence teachers and the outcome'.⁶⁴ In the authors' experience, a key determinant of effective communication does consist of two-way dialogue between students and us as legal academics. The question then becomes how best to facilitate a process of open dialogue that allows the two-way discourse to occur within the rigid and formalised structures of the contemporary university classroom — and, in particular, the content-based approach of the traditional law curriculum.⁶⁵ For the most part, this is determined by the way the academic promotes communication with his or her students.

One key observation with which we agree is that students are most engaged and on-topic in an environment where they are not stressed or in fear of humiliation.⁶⁶ This is substantiated by Bromberger, who argues that 'there is no evidence to suggest that teachers who instill fear, anxiety and boredom in their students make them better lawyers'.⁶⁷ Likewise in a study by Moore and Kuol, it was found that 'positive learning environments'⁶⁸ are created when students are relaxed and there is an absence of pressure, stress and despair.⁶⁹

⁶¹ Ibid 198–9.

⁶² Ibid. See also J Gorham, 'The Relationship between Verbal Teacher Immediacy Behaviours and Student Learning' (1988) 37 *Communication Education* 40.

⁶³ W Wilmot, *Dyadic Communication* (Random House, 3rd ed, 1987), cited in Frymeir, above n 60, 197.

⁶⁴ Frymeir, above n 60.

⁶⁵ Gary Owen, *Report to Council of Australian Law Deans on International Conference on the Future of Legal Education* (April 2008) Council of Australian Law Deans <<http://www.cald.asn.au/docs/FutureOfLegEdConfRptSummy.doc>>.

⁶⁶ Bromberger, above n 12.

⁶⁷ Ibid.

⁶⁸ Sarah Moore and Nyiel Kuol, 'Matters of the Heart: Exploring the Emotional Dimensions of Educational Experience in Recollected Accounts of Excellent Teaching' (2007) 12(2) *International Journal for Academic Development* 87, 92.

⁶⁹ Ibid.

For this, the benefits of communication outside the classroom cannot be overstated. Nadler and Nadler assert that out-of-class communication consists of

interactions outside the formal classroom that may be initiated by students or [teachers] ... and includes advising, students seeking ... questions about class content, faculty involvement in student organizations, and/or student–faculty discussions about non-class related issues.⁷⁰

In the authors' collective experience, interactions with students outside the formal classroom setting, such as in the academic's office, are extremely useful and engaging opportunities for both the teacher and student to take part in open dialogue. This allows students an opportunity to relay their questions, thoughts and concerns. While, practically, it may not be possible to consult with each individual student in one teaching period, one of the authors uses public spaces, such as the learning centre, as a physical venue for individual or group consultations. This alleviates the time pressure of individual consultations with each student, as well as alleviating the potentially intimidating environment of the academic's office. This approach recognises the changing nature of learning spaces, and that learning occurs through a variety of social interactions, including informal ones in less formal spaces.⁷¹ Consultation is ultimately underpinned by a belief in the importance of two-way communication, and acknowledges that the demands of large tutorial groups and lectures do not allow for effective pastoral care.

In addition to consultation, weekly emails and the 'Student Mentor Program' are integral parts of the pastoral care plan, to provide support for first-year students. Weekly emails encourage a broad engagement in university life and provide information that empowers students to implement solutions to any issues that may be hindering their development. The Student Mentor Program presents an opportunity for academics to connect new students with appropriately trained later-year students to provide peer-based support. This form of social connectedness is designed to provide students with a sense of belonging and new-found confidence that comes with seeing others similar to them succeed.

While student empowerment and communication represent key elements underpinning our approach to student support within our teaching, each of us recognises the limitations implicit in a supportive approach. One aspect of communication is its capacity for reinforcing boundaries and referring students in need of specialist support, to the relevant services.

⁷⁰ Marjorie Keeshan Nadler and Lawrence B Nadler, 'The Roles of Sex, Empathy, and Credibility in Out-of-Class Communication between Faculty and Students' (2001) 24(2) *Women's Studies in Communication* 241, 242.

⁷¹ Diana Oblinger, 'Space as a Change Agent' in Diana Oblinger (ed), *Learning Spaces* (Educause, 2006) 1.1, 1.3.

C Boundaries and Referral Strategies

While a variety of strategies to support students are incorporated in our practice, not all students benefit from the initial support mechanisms which aim to build confidence and inspire them to achieve their individual best. As Bromberger has identified, students with lack of self-belief are likely to avoid risk, which often leads to ‘lack of engagement with the class and learning activities and also results in absenteeism and ultimately, failure’.⁷² The authors are well-acquainted with this experience, so coordinate or contribute to strategies such as the ‘On Track Program’ to combat this problem. The On Track Program is an embedded mechanism within the School of Law to encourage at-risk students to actively participate in their studies. Teaching staff liaise with each other to produce a comprehensive list of first-year law students who have not been attending classes. A specially trained peer supporter contacts the students to offer appropriate support. Feedback suggests that approximately half of the students contacted by a peer supporter found that contact ‘helpful’, and the main reason given for this was that it raised their awareness of support services available to them.

Students who are not receptive, or have personal issues that stretch beyond the reach of the embedded curricular pastoral care strategies, are of particular concern because ‘they have the propensity to become despondent, depressed or anxious at their perceived inability to reach a desired goal’.⁷³ The authors’ practice of pastoral care does not include specialist services, such as counseling — nor should it. For these students, our role is simply to provide a confidential conduit to the professional services, provided by the university, that are equipped to assist students with significant personal issues which can inhibit academic ability. Counselling services are able to offer more specific mental health services to effectively manage stress and conflict resolution assistance. Individual counselling sessions are offered to students, and students are able to ‘drop in’ without a prearranged appointment. Referrals to other services include chaplaincy, AccessAbility (disability service) and Welfare Support, which can provide financial assistance. Importantly, however, without embedded two-way communication strategies, opportunities for referral of students may not arise and many students would simply drop out.

Whether it is through direct engagement with students’ concerns or providing appropriate referrals to other specialist services, pastoral care is entrenched in the teaching philosophy and practice of the authors. Providing an integrated approach to student support sends an explicit message to students that ‘who they are, and what

⁷² Bromberger, above n 12, 50.

⁷³ *Ibid.*

they are experiencing in law school matters to us'.⁷⁴ Accordingly, pastoral care is intertwined with more 'traditional' teaching methods to ensure students have the best opportunity to succeed.

IV JUSTIFICATION FOR EMBEDDED PASTORAL CARE OF STUDENTS

While the above reflection indicates the authors' support for teaching practice that embeds student support, it has only touched on the issue of the effectiveness of this approach — and this raises the question of how effectiveness might be measured. In fact, the success of these approaches to student support is measured in a number of ways. Student feedback, the institution's own metric, is overwhelmingly positive for each author. While the quantitative data indicates effective learning, student comments on the support they receive is unequivocal in their acknowledgement of the impact of the relationship developed and sustained with each of the authors. Informal class feedback likewise links these approaches to student success, in terms of feelings of connectedness, resilience and motivation. Student journal entries and anecdotal evidence also support this.

For these reasons, the authors consider that their approach of including pastoral care in teaching is valuable and, indeed, integral to the success of our students. We argue that success lies in the improved social-connectedness of students within the institutional context. How then does the foundation for practice of the four authors justify embedding student support, or pastoral care, within the role of the law academic?

In reflecting upon their teaching practice and philosophy, key themes of empowerment, trust, respect and communication seem to result in intuitively embedded pastoral care. While each author's experience differs in their emphasis or expression, it is considered that the net effect of each approach is a desire for connectedness between teacher and learner, learner and learner, and learner and institution. This desire for connectedness does, however, run contrary to the perceived culture of the law school.

The law school is 'part of the legal profession ... and it is part of a university',⁷⁵ and the interconnection between the cultures of the two institutions is recognised in the literature.⁷⁶ Recommendations for an increased focus on students' personal autonomy — 'increasing

⁷⁴ Kath Hall, 'Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools' (2009) 9(1) *Queensland University of Technology Law and Justice Journal* 1, 11.

⁷⁵ Collier, above n 33, 5.

⁷⁶ Kelk et al, above n 1, 46; Thornton, above n 33; Collier, above n 33; James and Finlay-Jones, above n 33.

their intrinsic motivation and reducing external motivation⁷⁷ — and their social connectedness⁷⁸ therefore challenge the existing cultural dominance of competition, individualism and isolation. In terms of the culture of the law school, the authors' acknowledgement of the desirability of connectedness may have a number of implications.

In one sense, this approach to teaching exists as a challenge to formalist notions of the law as an objective, detached and rational reasoning process — a thinking process that arguably infuses the wider law school culture.⁷⁹ Formalism provides a mask for moral and political choices that are made 'routinely' by legal actors — including legal academics. In doing so, this thinking process provides little, if any, space to challenge the inevitable moral and political construction of the 'institutions of social and political life'.⁸⁰ As a way of thinking, it opposes Brookfield's critical reflexivity that seeks instead to question the 'values, norms and practices defined for us by others'.⁸¹

Instead, modelling a more 'relational' approach to teaching,⁸² the authors' approach acknowledges the context of our students' lives and responds to this. This represents a shift towards a more socially-connected environment, in contrast with the recognised isolation of the legal profession and the law school.

Another issue lies in the importance of continuity of this more connected or supportive approach throughout the LLB. While student engagement and connectedness is important in the transition year,⁸³ effecting systemic change to attitudes to mental health and self-awareness within the legal profession, including the academy, requires a consistent and vertically embedded message. This has a dual implication. First is that a supportive approach in first year is valuable and is not 'spoon feeding' students; and, secondly, that this requires all legal academics to practise in a way that continues to promote social-connectedness. Again, a scaffolded approach to developing students' emotional intelligence assists students to develop their capacity to deal effectively with the affective aspects of their learning, and of their future in the legal profession, through students themselves 'build[ing] on prior knowledge and internalis[ing] new information'.⁸⁴ Such an approach obviates any

⁷⁷ Tani and Vines, above n 2, 31; Kelk et al, above n 1, 47.

⁷⁸ Tani and Vines, above n 2, 31; Kelk et al, above n 1, 47.

⁷⁹ Thornton, above n 33, 54.

⁸⁰ Karl E Klare, 'Critical Theory and Labor Relations Law' in David Kairys (ed), *The Politics of Law: A Progressive Critique* (1990) 61, 65.

⁸¹ Brookfield, above n 44, 9.

⁸² Doris Shillingsworth, Karen Martin and Tyson Yunkaporta, *Relationally Responsive Pedagogy* (2011) 8ways <<http://8ways.wikispaces.com/Relationally+Responsive+Pedagogy>>.

⁸³ Kift, above n 3, 16.

⁸⁴ Rachel Van Der Stuyf, *Scaffolding as a Teaching Strategy* (17 November 2002) Scaffolding Website <<http://condor.admin.ccnycunyu.edu/~group4/Van%20Der%20Stuyf/Van%20Der%20Stuyf%20Paper.doc>>.

objection to student support as failing to prepare students for the ‘real world’ of the law. This ‘real world’, as well as the law school, needs to embed an appropriate culture towards mental health. As Kelk et al point out, ‘it is important that mental health problems be seen as legitimate health problems for which students and employees may seek special consideration or support’.⁸⁵

The Kelk Report was a first step towards cultural change, in naming the problem and pointing out strategies to address it. It is also suggested that the discipline standards for law are a further step towards addressing students’ and practitioners’ mental health.⁸⁶ In identifying self-management (threshold learning outcome 6) as an essential indicator of what it means to be a law graduate, law schools are put on notice that curricula must develop such skills in students. While this can be done through a number of means, introducing connectedness through embedded student support or pastoral care is a first step towards a culture that promotes and values connectedness.

V CONCLUSION

This paper has aimed to highlight the need for the broadest view of the curriculum, including teaching practice, to understand the possibilities for and effectiveness of supporting students’ affective learning. This is an integral part of developing student resilience and autonomy and it is suggested that an embedded approach to pastoral care will also support student social connectedness. This, in turn, will support other aspects of curriculum design that develop self-management skills.

As is the case in many other disciplines and institutions, our students come with a broad range of life experiences and frequently a misalignment of expectations and skill-sets. Students often require guidance if their potential is to be fully realised. Many students find it challenging to develop a positive student identity with a clear sense of purpose and genuine self-belief.⁸⁷ Numerous studies have indicated that ‘significant numbers of law students become depressed or anxious in the first year of their study, and remain so throughout their degree’.⁸⁸ However, our own experience reflects the well-documented idea that teachers who incorporate pastoral care as a part of their teaching philosophy produce ‘more positive learning outcomes than students whose teachers use only cognitive teaching methods’.⁸⁹ Attention to student wellbeing ensures that students feel supported and respected, allowing them to feel optimistic

⁸⁵ Kelk et al, above n 1, 44.

⁸⁶ Kift, Israel and Field above n 54.

⁸⁷ Kift, above n 3.

⁸⁸ Hall, above n 74, 2.

⁸⁹ Bromberger, above n 12, 52.

about realising their potential. By employing effective pastoral care strategies, academics can inspire belief in students that they can achieve.⁹⁰ Therefore, the authors foster student–staff interaction to clarify expectations of higher education and encourage students to become ‘active participants in their learning’.⁹¹

The approach described in this paper may not accord with the culture of the legal profession nor of the law school. However, it is this individualist culture that is identified as a primary source of the psychological distress of students and practitioners. The value of the authors in reflecting on their own approach to student support is to name what motivates their own embedded approach to pastoral care. By examining common themes in their philosophy of teaching, and their experience in practice, a foundation for a more empathetic and connected praxis is identified in terms that would be familiar to the profession. These are ideals of empowerment, service, trust and communication, which surely resonate within the discourse of professional legal practice. We suggest that it should not be difficult to engage in a relational approach to teaching as a legitimate expression of a professional approach to teaching law. Student mental health is therefore brought squarely within the purview of legal academic practice.

⁹⁰ Ibid 49.

⁹¹ Ibid.