

GROUP LEARNING IN LAW

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Working effectively in groups in higher education has important theoretical, practical and pragmatic justifications. Yet group work remains under-utilised in formal tertiary legal education. Individualism heavily dominates students' educational experiences and law school curricula. Recent research suggests that a far greater role for cooperative learning is warranted, and greatly improves student learning outcomes. Skills in group work are also highly sought after by the employers of law graduates. In this article, we outline the objectives and processes of collaborative learning, emphasising the benefits in terms of student outcomes. We also discuss the implications of the general research into group work by reference to our own practices in facilitating this kind of learning in legal education. We argue that, despite some practical difficulties which are commonly associated with group work, this kind of learning environment offers significant advantages over individual work which cannot otherwise be realised. It also offers significant benefits to teachers in terms of satisfaction and efficiency. Therefore we encourage other legal educators to use and evaluate group work as part of their formal course and curriculum design.

Introduction

In this article, we explain the theoretical basis of group learning, and examine why and how it should be used as an integral component of legal education. Group learning in legal education is important for theoretical, practical and pragmatic reasons. It is inevitable that students will work together, yet group work remains under-utilised in the formal curriculum.¹ Students' educational experiences are heavily influenced by formal expectations and informal perceptions that learning is and should be individual and competitive. Recent research has questioned the dominance of these formal expectations, and has called for more cooperative approaches to be adopted. This article outlines the purposes of group work and indicates some of its applications. This is discussed in the context of our own experiences using group work in formal learning exercises in the Griffith Law School.

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¹ Johnstone and Vignaendra (2003), p 372.

The second part of this article outlines the purposes of and reasons for using group work, and argues that group work ought to be included in the law curriculum. We then give some examples from our own practices in incorporating group work into course curriculum. The article concludes by summarising our experiences in facilitating group work, and suggests the implications for legal educators who are interested in incorporating group work into their curriculum and courses.

There is a lack of terminological clarity in the literature on group learning. The terms 'cooperative', 'collaborative', 'peer' and 'group' learning are used, but there is little agreement on what each term means, and some authors' definitions of these terms are inconsistent.² We do not find the distinctions used by different writers particularly helpful. We prefer the terms 'cooperative' and 'group learning' or 'group work', which we use interchangeably. These terms refer to learning situations in which students work together to undertake exercises which are designed by teachers and are part of a formal university law course, but in which teachers are not directly involved.

Justifications for and Purposes of Group Learning in Legal Education

Legal education has developed with little insight or reflection on learning theory or principles of good instructional design.³ The traditional model of legal education which still dominates legal education in the United States, the United Kingdom and Australia is a 'vicarious learning/self-teaching' model.⁴ In the Socratic method, which is still very common in the United States, the vicarious learning model of instruction relies predominantly on one-on-one dialogue between a teacher and individual students, witnessed by other students.⁵ In Australia and the United Kingdom, the vicarious learning model manifests in the lecture method, which often involves limited dialogue between teacher and students. This model assumes that knowledge will transmit 'vicariously' to students, as a result of witnessing the teacher speak, and as a result of witnessing brief and limited interactions between the teacher and individual students during the course of lectures.⁶ Students, in effect, are expected to teach themselves the law. This much-criticised traditional model is very reliant on individual learning from listening rather than engaging in tasks, or working with others. It is a sink or swim method of education and is

² In the literature on skills and attributes, it is more common to see the term 'teamwork' used, and this is the term often used in relation to employers' expectations. For example, Zimmerman contrasts cooperative and collaborative work: cooperative learning focuses on individual mastery of the subject via a group process, while collaborative learning focuses on group work toward a unified final product'). Zimmerman (1999), p 961. Randall's definition of 'cooperative' learning is inconsistent with Zimmerman's: Randall (1999), p 203.

³ Schwartz (2001), pp 349–50.

⁴ Schwartz (2001), p 350.

⁵ Schwartz (2001), p 351.

⁶ Schwartz (2001), p 351.

particularly poor at teaching generic and legal skills. The failure of legal education to adequately equip students with legal and generic skills has recently been criticised as one of its major shortcomings.⁷

The model of student learning on which we rely on this article is constructivism because we believe this model enhances student learning in law and improves upon the traditional model of legal education. Constructivism views learners as constructing their own knowledge from their experiences and 'interpretations of those experiences'.⁸ It rejects a model of learning which is reliant on transmission of knowledge as the primary mode of learning. Rather, a constructivist model focuses on exposure to 'real-world settings',⁹ an opportunity for learners to develop their own personal interpretations of learning experiences and, critically for the purposes of this article, collaboration with others.¹⁰ Collaboration with others is seen as valuable because it allows learners to construct their learning experiences with the benefit of insights from others which would not otherwise occur, and encourages students to think beyond their own perspectives and their own cultural view.¹¹ Interaction with others also allows learners to reflect on and check their own ideas.¹² The constructivist approach, such as group work, is particularly well suited to teaching legal skills. This model also explains why cooperative learning can enhance student learning of traditional content areas such as contract and tort.

Cooperative learning requires by definition that students take an active part in learning. Stimulating and facilitating students' active involvement in their learning processes should be the objective of every legal educator.¹³ Active learning is essential if students are to achieve high-order understandings and sophisticated abilities. In group learning, while teachers are involved in designing, facilitating, monitoring and assessing activities, the learning environment is characterised by its student focus, and by student participation in the learning experience, including the assumption of leadership roles which would otherwise be taken by the teacher. These include both substantive and procedural roles. Substantive leadership roles which students perform in group work include peer teaching and peer mentoring. Procedural leadership roles which students undertake in group work include setting and prioritising objectives, managing the group's time, chairing the group, seeking out opinions of other group members, managing the discussion, dealing with

⁷ Stuckey et al (2007); Sullivan et al (2007).

⁸ Schwartz (2001), p 380.

⁹ The obvious setting for these experiences is clinical legal education; however, we believe that this is not the only possible setting where a constructivist model is appropriate in legal education. We understand real-world settings to encompass simulated legal settings and activities where for pragmatic and other reasons clinic opportunities are not available to a student in a course.

¹⁰ Schwartz (2001), p 380.

¹¹ Schwartz (2001), p 381.

¹² Schwartz (2001), p 381.

¹³ Hess (1999), p 402.

dissent, providing feedback and delegating tasks. It is inevitable in small group work that more students will be more involved in learning, and therefore more engaged in learning.¹⁴

Group learning is more responsive to the learning needs of students who are marginalised in intensely individualistic and competitive learning environments, including women and students from backgrounds and cultures which emphasise collective and cooperative activity.¹⁵ Relatedly, cooperative learning is suitable for students with particular kinds of learning styles, who are disadvantaged in an environment which focuses on individualistic and competitive learning.¹⁶ Given that legal educators are increasingly expected to respond formally to diversity in student populations, the particular suitability of group work to students who are traditionally marginalised is a significant feature.

Working collaboratively exposes students to diversity, not just in the experiences of others (which is likely to lead to empathy and the development of friendships which might not otherwise arise),¹⁷ but also in different ways of approaching and resolving both academic and other problems.¹⁸ Even if students do not explicitly teach each other skills and content, the approaches which they take to learning provide important modelling to other students.¹⁹

Working with others inevitably requires that one learn to give feedback to and receive feedback from one's peers.²⁰ Peer feedback is a valuable resource which is often under-utilised in formal legal education,²¹ and is a very important step in learning how to self-evaluate.

Group work should be clearly related to and integrated with other aspects of the course, including classes in which teachers are present²² and, most importantly, with assessment in the course.²³ While teachers are always involved in formal learning activities at some level, much learning occurs in

¹⁴ Reed (1984), p 695.

¹⁵ Bryant (1993), pp 476–84; Boud et al (1999), p 415.

¹⁶ Van Detta (2001).

¹⁷ Several writers assert that heterogeneous student groups should have a positive effect in correcting students' existing biases and prejudices — see, for example, Slavin (1995), pp 50–51; Chavkin (1994), p 211. This issue needs to be considered carefully. There may be quite negative effects for students from minority backgrounds having to deal with other students' prejudices. Johnson and Johnson noted that 'placing minority students in the same classroom or situation may be a necessary condition for promoting positive relationships, but it does not seem to be a sufficient condition': Johnson and Johnson (1989), p 108. See also Ridgeway and Berger (1986); in groups, status will be assigned by reference to prevailing social attitudes — for example, men will have a higher status than women, whites will have a higher status than blacks.

¹⁸ Bryant (1993), p 474; Reed (1984), p 681; Greig (2000), p 92.

¹⁹ Brown and Palincsar (1989), p 411.

²⁰ Reed (1984), pp 675, 676, 681–82.

²¹ Reed (1984), p 684.

²² Reilly (2000); Kift and Airo-Farulla (1995), p 73.

²³ Boud et al (1999).

the absence of teachers, whether in formal or informal settings. It is desirable in some circumstances for teachers to absent themselves from the learning environment, as long as group work activities are appropriately designed and appropriate support is provided to groups. The presence of teachers can often have a chilling effect on students' willingness to participate in class, particularly when it comes to taking risks, such as in making unorthodox suggestions, generating creative solutions and admitting a lack of knowledge or understanding.

It is desirable that legal educators take a coherent, curriculum-wide approach to group learning, for the reasons explained below.

The Advantages of Group Learning

Group learning has been demonstrated to have many advantages relative to individualistic and competitive learning.²⁴ These advantages are academic and social. In terms of academic advantages, there is a substantial body of data which shows that cooperative learning leads to higher achievement; the development and more frequent application of higher level reasoning strategies, such as evaluation and analysis, and critical thinking;²⁵ greater productivity; higher creativity; transfer of learning;²⁶ better retention; higher involvement, engagement and motivation;²⁷ more positive attitudes towards learning; and better abilities in peer- and self-reflection than individualistic or competitive learning.²⁸ All groups have the capacity to produce work superior to that of which most individuals are capable.²⁹ This is because group work is generated from the collective response to the exercise of all members of the group, which will inevitably be subject to peer evaluation of one kind or another. Groups generate a larger number and wider range of responses to learning tasks than most individuals are capable of generating. Groups also

²⁴ Deutsch classified individualistic, competitive and cooperative types of social interdependence in the mid-twentieth century: see Slavin (1995), p 16; and Johnson and Johnson (2000), pp 99–101. Most law schools foster individualistic or competitive learning. In individualistic learning, each individual works alone to achieve their educational goals. The success or failure of other students has no impact on the success or failure of the individual. Individualistic learning is consistent with most applications of criterion-referenced assessment, which use individual achievement as the most important criterion. Competitive learning refers to learning in which students are in direct competition with one another for limited resources — usually, high marks and grades. The achievement of other students directly relates to the achievement of the individual — one can only achieve one's goals if other students do not achieve them. This model is consistent with norm-referenced assessment.

²⁵ Johnson and Johnson (2000), p 107.

²⁶ Individuals are able to transfer what they have learned in a group situation to an individual learning situation: Johnson and Johnson (2000), p 108.

²⁷ Peterson and Miller (2004).

²⁸ Johnson and Johnson (1989), pp 41, 57 (summarising the literature on the advantages of cooperative learning over competitive and individualistic learning), pp 78 and 170. See also Stuckey et al (2007), pp 88–89.

²⁹ Bryant (1993), p 473.

almost invariably evaluate those responses, even if that evaluation occurs only informally. Most individuals will have a more limited response to learning tasks in terms of the number and type of response, and only the most able students can effectively evaluate their own work. Working together in a group usually involves synthesising the collective responses of group members, and this process of synthesis almost invariably results in qualitatively and quantitatively superior learning and outcomes. Johnson and Johnson note that process gain 'occurs when new ideas, solutions or efforts are generated through group interaction that are not generated when persons work individually'.³⁰

One of the most important developments in educational theory in the twentieth century was the formal recognition of the benefits of 'situated' learning, which emphasises the importance of context to learning.³¹ One strand of situated learning advocates the use of simulated 'real-world' activities to promote student learning. Cooperative learning is very often associated with clinical and simulated legal practice activities,³² including negotiation, client interviewing, and drafting documents including wills, contracts and pleadings.³³

Group learning also facilitates the acquisition and mastery of a large range of generic skills, including communication,³⁴ leadership, decision-making, conflict resolution and time-management skills.³⁵

In terms of social advantages, group learning fosters positive relationships among individuals, better psychological health,³⁶ greater maturity, better awareness of diversity and higher tolerance of difference,³⁷ better ability to empathise with others,³⁸ more social support³⁹ and higher self-esteem.⁴⁰ These consequences of group learning are markedly different from the consequences of individualistic and competitive work, which in the context of legal education has been demonstrated to cause high levels of stress, anxiety and depression among students in numerous US studies.⁴¹ Formal group work provides students with a type and degree of social support which is less likely to be achieved informally, particularly for students who are less able socially. This form of social support is particularly valuable in students' first year, before they have had the opportunity to informally develop relationships with

³⁰ Johnson and Johnson (2000), p 108.

³¹ See, for example, Brown et al (1989).

³² Dominguez (1999), pp 387 and 391–93.

³³ Kift and Airo-Farulla (1995).

³⁴ Zimmerman (1999), p 999.

³⁵ Johnson and Johnson (1989), p 74.

³⁶ Johnson and Johnson (1989), pp 5, 73, 122, 151.

³⁷ Bryant (1993), p 476; Randall (1999), p 222.

³⁸ Slavin (1995), pp 67–69; Reed (1984), p 695.

³⁹ Randall (1999), p 204.

⁴⁰ Johnson and Johnson (1989), pp 133, 157; Slavin (1995), pp 60–62.

⁴¹ This research is referred to in detail in Stuckey et al (2007), pp 21–26.

their peers.⁴² Students now spend limited time at university, and consequently are less likely to informally and naturally develop social networks than in the past.⁴³

As well as the academic and social benefits of group learning, there are three persuasive pragmatic reasons for including group work in the law curriculum. First, employers expect that graduates should possess abilities in team work,⁴⁴ and are increasingly concerned that graduates should possess high-level interpersonal skills, including many of the attributes referred to above as social skills.⁴⁵ Employers commonly perceive that law schools do not focus sufficiently on teaching important practical skills. The skills which Australian employers have identified as being most important, and most lacking in formal legal education, are skills in team work and communication.⁴⁶ In the practice of law, as in other professional environments, the ability to work productively and effectively with others is essential.⁴⁷ The focus in formal tertiary education on individual and competitive achievement is an inadequate preparation for the requirements of the world of work.⁴⁸

The second pragmatic reason for including group work in the law curriculum is that it can lead to a more efficient and fulfilling use of teachers' time.⁴⁹ Time spent on designing group activities which require only minor direct input from teachers is likely to be less, over time, than the time spent in designing supervised learning exercises which teachers attend and into which they have major direct input.⁵⁰ Group work is also likely to lessen the time teachers spend in marking, as teachers mark a smaller number of items of assessment.⁵¹ The quality of work done by groups is on average higher than the quality of work done by individuals, so group work improves teachers' enjoyment in marking as well as students' learning outcomes. Group work which is used to improve individual understanding and achievement is also likely to improve the quality of later individual work, and hence improve later marking experiences. Teachers who have written about their experiences in

⁴² It may also be particularly important for students who are undertaking studies externally: Matthew (2003).

⁴³ Handsley et al (2005), p 121.

⁴⁴ This requirement is not just confined to law graduates, although it has repeatedly been identified in that context: Kift and Airo-Farulla (1995), p 55; Law Society of England and Wales (2005), p 13. See generally Department of Education, Science and Training et al (2002), pp 7, 8, 40 and 46 (identifying teamwork as one of eight employability skills).

⁴⁵ Department of Education, Training and Youth Affairs (2000), pp 7, 15, 17, 22.

⁴⁶ For evidence and discussion, see Johnstone and Vignaendra (2003), Ch 9, especially pp 238–46.

⁴⁷ Reed (1984), p 676.

⁴⁸ Taylor and Collier (1998), p 23.

⁴⁹ Handsley et al (2005), p 118; Boud et al (1999), p 415; Taylor and Collier (1998), p 23.

⁵⁰ Israel et al (2004), p 24.

⁵¹ Israel et al (2004), p 24; Handsley et al (2005), p 129; Berry (2007), p 20.

designing and implementing group work often report high levels of satisfaction with these experiences.⁵²

The third pragmatic reason for including group work in the formal curriculum is that students inevitably work together anyway. Johnson and Johnson observed that ‘the question is not whether we will cooperate. The question is “How well will we do it?”’⁵³ Legal educators can continue to foster and mandate an approach to learning which emphasises the achievement of the individual in competition with others, and ignore the essentially social nature of learning, or they can acknowledge that individual students inevitably cooperate, and incorporate group work into their courses.

Teachers’ Attitudes to Group Learning

In our experience, teachers are as likely as students to have negative perceptions about group work, and are often pessimistic about using group work.⁵⁴ This may be explained by institutional pressures to conform to traditional models of legal education,⁵⁵ such as pressures to increase research output at the expense of teaching innovation. It might also be explained by teachers’ comfort with traditional models of legal education, which they perceive served them well and which require little innovation or educational design to perpetuate.⁵⁶ University teachers, while experts in their own disciplines, are often unfamiliar with educational theory and methods. This potential teacher resistance should not be under-estimated. It strongly suggests the need for legal educators who are interested in incorporating group work into their courses to work closely with their teaching teams and colleagues to ensure that group work is not indirectly undermined by a lack of understanding or commitment by other teachers. Teaching colleagues as well as students may need to be convinced at the outset of the benefits of group work in legal education.⁵⁷

Students’ Attitudes to Group Learning

As we noted above, the dominant focus in legal education is the achievement of the individual. Law students are accustomed to traditional models of education which involve little actual engagement by students, either with teachers or with other students. In such a context, students are frequently openly hostile to working in groups, and may be inclined to downplay the

⁵² Handsley et al (2005); Israel et al (2004); Reilly (2000).

⁵³ Johnson and Johnson (1989), p 4.

⁵⁴ Johnstone and Vignaendra (2003), p 372.

⁵⁵ Schwartz (2001), pp 362–64.

⁵⁶ Schwartz (2001), pp 364–65.

⁵⁷ We presented two seminars to our law school about the advantages of group learning, and how it could be incorporated in course design. See also Berry (2007), p 26.

importance of group work.⁵⁸ The potential for student hostility is one reason that group work skills should be developed in the overall curriculum rather than being used in individual courses in isolation. This allows students to develop a coherent understanding of group work from the start of their legal education, rather than seeing group work activities in particular courses as aberrant. Teachers should be careful about the implicit messages that they give about group work — for example, requiring students to work cooperatively where there is no, or little, extrinsic reward for doing so (that is, every item of assessment is completed as an individual) is likely to create the perception that group work is relatively less valuable than individual work. Group activities and group processes should be assessed, given that law students are particularly tactical in focusing their learning on activities where there is direct extrinsic reward. Attaching marks to group activities, outcomes and processes signals to students the importance the teacher places on this kind of activity. Group learning should be used in a way that complements activities which emphasise individual or competitive learning.⁵⁹

To address potential resistance to group work, teachers should explain the reasons for the inclusion of group work activities in the curriculum. Few students possess all the skills necessary to work productively in groups,⁶⁰ and resistance to group work sometimes indicates a lack of confidence in undertaking cooperative activities. Therefore it is desirable that students are given explicit instruction in those skills.⁶¹

Design of Groups

There is much debate about the appropriate design of group work, including issues relating to the optimal size of groups, the selection of groups, and the types of activities that are suitable to cooperative work. Each of these issues should be answered in the context of the objectives of the overall degree program, and the particular course in which group work is being used. Like other skills, group work should be learned incrementally, so that basic skills are learned in the first year, and those skills are developed and built upon in later years.⁶² In first-year courses, teachers should take a high degree of responsibility for issues such as deciding how group members are selected, what activities groups should complete, and how they should complete them. In later-year courses, students may be given increasing autonomy as to the selection of group members and activities.

⁵⁸ See, for example, Johnstone and Vignaendra (2003), p 372 (in a survey of Australian law teachers conducted in 2001–02, ‘quite a few law teachers reported that many students are opposed to group assessment’).

⁵⁹ For example, Dominguez (1999), pp 387–88.

⁶⁰ Johnson and Johnson (1989), pp 30, 58; Bryant (1993), pp 494, 504–23; Boud et al (1999), pp 415–16, 420; Randall (1999), pp 203–04.

⁶¹ Bryant (1993), p 485.

⁶² Keyes and Johnstone (2004), p 547.

Most writers agree that the optimal number of members in a group is six or fewer.⁶³ Groups of two (dyads) and three (triads) are likely to be the most effective groups. There is no hard and fast rule about group size; it depends on the activities the group has to complete.⁶⁴ Johnson and Johnson's basic rule is 'the smaller the better'.⁶⁵ Smaller groups are easier to organise, permit members to participate more, require less sophisticated skills in interpersonal relationships because there are fewer relationships to negotiate, and lead to greater levels of social support and more friendships.⁶⁶ Individual accountability is greater in smaller groups.⁶⁷

In our experience of designing group work, three or four is the optimal group size. It is difficult to maintain groups of any particular size in first year if the groups are ongoing through the semester, because student attrition rates tend to be higher in first year than in later years, and this may cause instability in groups. Student attrition requires teachers to have strategies in place to cope with fluctuating group size. For example, teachers may need to meet with groups which have lost members to ensure those groups reallocate responsibilities among group members, or assessment requirements of the group's output may need to be renegotiated so that a smaller group can adequately achieve the assessment requirements.

The issues of group composition and the selection of group members are complex. Groups should *in general* be heterogeneous, taking into account past educational achievement, academic ability, past experiences, age, gender, race, ethnicity and socio-economic background.⁶⁸ Heterogeneous groups are more likely to improve members' attitudes towards and understanding of the experience of students from different backgrounds,⁶⁹ as well as leading to better academic outcomes.⁷⁰ There are serious risks in placing students from minorities in groups in which all other group members are homogenous.

Most writers agree that, although there are benefits in allowing students to choose their fellow group members, on the whole groups should be selected by teachers.⁷¹ There are potential benefits and detriments in both methods of group

⁶³ Johnson and Johnson (2000), p 494; Taylor and Collier (1998), p 48; Reilly (2000), p 611. Cf Reed (1984), p 685 (reporting that 'psychologists feel that groups of five seem to differ in interaction to the point that the characteristics of small groups do not develop').

⁶⁴ Zimmerman (1999), pp 1010–11.

⁶⁵ Johnson and Johnson (2000), p 494 (emphasis in original).

⁶⁶ Johnson and Johnson (2000), pp 494–95.

⁶⁷ Johnson and Johnson (1989), p 63.

⁶⁸ Randall (1999), p 240.

⁶⁹ There are also some predictable problems which may arise in heterogeneous groups. For example, it is commonly asserted that students of high and low past educational achievement should be grouped together, on the assumption that high achievers can teach low achievers (as well as for other reasons). But Chafkin notes that the high achiever may not be inclined to teach, or any good at teaching, other students, and such a grouping can confirm the low academic self-esteem of low achievers: Chavkin (1994), p 241.

⁷⁰ Johnson and Johnson (2000), p 495.

⁷¹ Chavkin (1994), p 238; Randall (1999), p 241. Cf Greig (2000), pp 90–91.

selection. Where groups are self-selected, friendship can enhance students' enjoyment of the group meetings, but this may mean that the group spends too much time on social interaction,⁷² and groups based on friendship sometimes experience difficulties in addressing problems in the group's functioning. On the other hand, some students who have formed groups based on friendship have suggested to us that their friendship contributes to effective functioning, as they are aware of each other's working and learning styles. Where there is some choice in group activities,⁷³ self-selection allows students to join groups with others of similar interests. Self-selection may lead to groups of homogeneous composition⁷⁴ which, as noted above, is usually not optimal.

In our experience with first-year students, groups are more functional when they are randomly allocated,⁷⁵ rather than where students can select group membership. The usual exception to this rule is that mature-age students often work well in self-selected groups.⁷⁶ Later-year students often state a preference for choosing the membership of their groups.

Every type of learning activity lends itself to being practised and assessed in groups, depending on the learning objectives of the particular course. This includes conventional law school activities, such as legal problem-solving, writing, research, mooting, oral communication, negotiation, witness interviewing and examination, as well as generic activities such as task and time management, leadership and chairing meetings.⁷⁷ It is essential that activities are carefully designed, and that the purpose of the activities is clearly communicated to students. As for every other kind of learning activity, it is essential that clear instructions regarding content and process are provided. In early training, students will require instructions for most aspects of their group interactions, including instructions about fulfilling particular roles. They also require specific instruction in group functioning.⁷⁸

⁷² On reflection, many students identify this as a disadvantage of having the choice of team members: see, for example, Chavkin (1994), pp 237–38.

⁷³ For example, our group policy presentation in the subject Negligence and Accident Compensation, discussed further below, allows groups to make a presentation from the perspective of an interest group and on a topic of their choice.

⁷⁴ Johnson and Johnson (2000), p 498.

⁷⁵ We appreciate that there are substantial benefits associated with composing groups taking into account a range of student characteristics. However, the most common characteristic used to determine groups is students' previous academic achievements, and such information is not available in the first semester of first year. See, for example, Reilly (2000), p 611.

⁷⁶ Of course, there are always exceptions to exceptions. In one semester, in the first-year Contracts course discussed below, there was a self-selected group of mature-age students, who decided to form a group with the aims of minimising the work each of them had to complete, and maximising the marks they would get. This meant that each week, although the group always met socially at the required time, only one member of the group actually completed the task. The group ended up with one of the lowest of all the group marks.

⁷⁷ Taylor and Collier (1998), p 23.

⁷⁸ Zimmerman (1999), pp 107–08.

Students generally respond well to simulated realistic activities (for example, those they identify as relevant to legal practice)⁷⁹ and to activities which are assessed, or will assist them with other assessable activities. Group work is ideally suited to introducing students in first year to the kinds of assessable activities which are typical at law school, but which many students will never have encountered before. This can be particularly effective in addressing students' anxiety in undertaking unfamiliar tasks.⁸⁰

Assessing Group Work

The weighting of group work assessment raises some concerns among writers. Some authors think that group work should not be awarded too many marks because of other problems in assessing groups, such as the free-rider problem.⁸¹ But, as Ramsden emphasises, our assessment reveals to students our *real* objectives.⁸² If we expect students to take group work seriously, and if it is to be worth the substantial amount of time and effort it takes from the teachers' perspective to design, facilitate, assess and evaluate good group work activities, and from the students' perspective to acquire and develop not only skills in working together, but also the substantive subject matters and skills addressed in those activities, then group work should arguably be weighted at least as highly as individual achievement.⁸³

Some teachers express hesitation about awarding group marks, on the basis that this may not reflect each individual's participation in the work, and hence that it may be unfair. There have been numerous efforts to address this concern, by using methods which award individuals different marks. For example, members of the group can decide who should qualify for a group mark, and how the group mark should be divided. Johnson and Johnson conclude that, although students often express concern about sharing a mark initially, overall students regard sharing a mark as the fairest way of awarding group marks.⁸⁴ This has been our practice, which has been accepted by the vast majority of our students.

When Group Work Goes Wrong

A standard objection to group work is the problem of slacking or loafing. Without teacher supervision, for some students 'shared responsibility may mean reduced [personal] responsibility and may therefore lead to decreased motivation'.⁸⁵ This can be addressed in a number of ways. First, design of the

⁷⁹ Reed (1984), pp 685–86; Reilly (2000), p 612.

⁸⁰ Zimmerman (1999), p 970.

⁸¹ For example, Kift and Airo-Farulla (1995), p 78.

⁸² Ramsden (2003), pp 67–72, 182. See also Boud et al (1999), pp 413 and 416.

⁸³ Boud et al (1999) suggest that if 'the weighting of any given element of a course is less than 20%, it can give the message that this aspect is valued very little, and students might be prompted to ignore it or put little energy into it': Boud et al (1999), p 422.

⁸⁴ Johnson and Johnson (1989), p 52.

⁸⁵ Chavkin (1994), p 215.

group is important. Accountability is usually much higher in smaller groups. Second, design of exercises is important. If exercises are designed in a way that permits loafing (for example, if the exercise would be done much more easily by one person working alone), it is likely that this problem will be encountered at some stage. Third, students should be assisted and encouraged to address controversy, which is a very important stimulus to change and achievement, and an important generic skill in itself.

The literature gives examples of group work not working out as well as the teacher hoped, but students managing the problem without teacher intervention.⁸⁶ There certainly seems to be good evidence that students are 'more adaptable and accommodating' than one might expect.⁸⁷ It is preferable to give students training in identifying and resolving conflict, rather than simply to assume that they will be able to deal with it constructively.

Group Work with Law Students

It may be that the best solutions to some problems may only be arrived at through effective group work and the sharing of ideas.⁸⁸

Our experience with group work is based on our involvement in the Griffith Law School, which uses group work as a compulsory, assessable part of the curriculum. Here, we describe some of our experiences in incorporating group work into courses in the law program. We refer in particular to group work activities which we designed, coordinated and assessed in a first-year Contract course from 2001–03, and to group work activities which we designed, coordinated and assessed in a third-year Negligence course from 2005–07. Our experience in the former influenced the design of the latter, as described below. Consistently with the focus of this article, the discussion in this part focuses on students' experiences of group work, rather than the specific activities which students completed in groups.

Formal Group Work in the Griffith Law School Curriculum

Group work has formed an integral part of the formal curriculum at Griffith Law School since its establishment. Group work was originally learned and assessed principally through the 'Offices' program. This program was a central component of the original curriculum design of the undergraduate law degree at Griffith,⁸⁹ and was conceived and first developed by Marlene Le Brun.⁹⁰

⁸⁶ Kift and Airo-Farulla (1995), p 77.

⁸⁷ Chavkin (1994), p 216.

⁸⁸ First-year group reflection, Semester 1, 2003.

⁸⁹ The early experience of Offices at Griffith Law School has been documented in a number of publications: Le Brun (1992), pp 25–28; Dick et al (1993); Kift and Airo-Farulla (1995).

⁹⁰ She acknowledged the influence of the Houses program at the City University of New York, and the use of syndicates in the University of Adelaide Law School, in developing Offices: Le Brun (1992), pp 25–26. For later-year courses, Offices were developed by a number of

Offices refer to small groups in which students meet regularly, usually weekly, during the course of a semester, without a teacher present, to complete set tasks. Offices were intended to develop skills required in legal practice, and to develop students' abilities in self- and peer-evaluation and in working with others.⁹¹ In 2004 and 2005, the Griffith Law School undertook a substantial curriculum review. That review reaffirmed the importance of learning and assessing group work skills, which continue to be learnt and assessed through Offices, as well as in learning and assessment activities outside Offices.

Group Work in First Year, 2001–03

In this section, we describe our involvement in the design, implementation and evaluation of group work activities in the first-year compulsory course, Contract and Civil Obligations, from 2001–03. This course was first offered in 2001. We were both involved in the teaching teams of this course from 2001–04, including as coordinators of Offices in this course. Students met in their Offices groups weekly throughout both semesters. In semester 1, students signed on for Offices principally on the basis of timetabling considerations, and most students did not know the members of their Offices. In semester 2, some students selected the composition of their groups by signing on for Offices together.

The literature emphasises the importance of group members negotiating and determining collective goals and setting rules to govern the conduct of the group. In CCO, in the first meeting of Offices groups in each semester, students negotiated and agreed collective objectives, and set rules to govern the conduct of their groups. To encourage the development of group work skills, it is desirable to incorporate activities which require students to reflect on their experiences in group learning.⁹² Groups were required in most weeks to complete a written reflection, referring both to the activity undertaken that week and to the effectiveness of the group's collaborative work. Each group also submitted an assessable overall reflection on their activities and interactions, and in particular on the effectiveness of their work as a group, over the semester.

The Offices activities we designed were formative assessment exercises intended to introduce students to assessment tasks which are commonly used in legal education, but which are novel to first-year students. These exercises were designed to prepare students for later summative assessment in the course. We found that small groups were an excellent forum in which to introduce students to these assessable activities. As novices to the discipline, first-year students require assistance in interpreting and applying assessment criteria generally, and specifically in the context of assessment items commonly used in law. In groups without a teacher present, students are more likely to express uncertainties and difficulties. Working in groups, students are

other past staff at Griffith University: see Kift and Airo-Farulla (1995) (describing the development of Offices in the second and third years of the degree).

⁹¹ Dick et al (1993), p 278.

⁹² Johnson and Johnson (1989), p 30; Taylor and Collier (1998), p 43.

exposed to the range of interpretations which other students make of the task and of assessment criteria, and to a range of different learning styles. We hoped that by aligning the group work with other assessment items in the course, students who might otherwise be resistant to participating in group work would see the benefit to them individually of the activities, and hence be more likely to participate.

The assessment activities which we introduced in the formative group work exercises were hypothetical problem-solving (which was later tested in a hypothetical problem-solving assignment in semester 1, and in end of semester exams in both semesters, as well as in other law courses), mooting (later tested in a summative moot in semester 1, and in other law courses) and research methodology, in preparation for a research assignment (later tested in a summative research assignment in semester 2, and in other law courses). Most of these summative activities were assessed individually.

Evaluation

We evaluated students' experiences of group work in 2001, 2002 and 2003.⁹³ We used several measures, including formal surveys, written group reflections and qualitative interviews.⁹⁴ All groups completed a written survey in the last week of the second semester in each year. The survey sought responses to a wide range of issues concerning the groups' experience in collaborative work. The written reflections which were submitted by all groups were a detailed source of information. We also conducted qualitative interviews with a small number of students in 2002 to explore in detail some issues which emerged in the reflections. Our analysis draws on these three sources of data, and comments on the themes that emerged.⁹⁵

Our evaluation showed that many first-year students had a sophisticated and detailed understanding and appreciation of the value of group work. For example, one group articulated the benefits of group work as an 'increased resource base, varied specialisation and different areas of expertise, multiple perspectives (on problem solving, etc), active learning through doing, support network and study group, accountability'.⁹⁶ The benefits students identified included process gain; providing feedback and responding to feedback from

⁹³ Our sample was comprehensive in terms of the written survey (all groups completed these in all years) and the written group reflections (all groups completed these, both in weekly exercises and in an overall reflection in each semester). There were 18 groups in 2001 and 22 groups in each of 2002 and 2003. We interviewed five students in transcribed qualitative interviews in 2002, which explored in further detail issues identified in our analysis of the surveys and reflections from 2001 and 2002.

⁹⁴ Multiple methods were utilised to enable triangulation of data: Silverman (2005), p 121.

⁹⁵ The methodology employed was qualitative and identified themes that emerged from our three sources of data. The student and group comments included in the text are intended as examples of student experience and as representative of themes that emerged in our data. See further Kritzer (1996) on the importance of interpretation of textual data and the construction of higher order themes or understandings to make sense of textual data sets in socio-legal studies.

⁹⁶ Group 2A, 2003, Semester 1 Portfolio.

others; appreciation of others' diverse abilities and contributions; acquisition of group work skills; appreciation of the professional importance of group work; academic support from other students; and social support. Some of the challenges students identified were working effectively in groups, including rule-setting and enforcement; dispute resolution; and the composition of groups. These benefits and challenges are addressed in turn below.

Benefits

Students frequently stated that, working in groups, they become aware of a wide range of potential approaches and solutions to a problem. Some students observed that the recognition of multiple perspectives and solutions led to discussion, and that discussion deepened and improved students' understanding.⁹⁷ One student said: 'You see a problem one way and someone sees it in a different way that you wouldn't have thought of.'⁹⁸ Another student described the process gain that occurs in groups: 'You might have an idea about how to do something, but someone else has an idea. So you get all the ideas put in together and come out with a better idea, at the end, of what you're heading for.'⁹⁹ One group reported that: 'Each individual brought differing thoughts and information to the group, so that in the end, the task could be completed in full as a collaboration of the collective strengths of each individual.'¹⁰⁰ Another group said that, in a legal problem-solving exercise: 'Each member of our group made a contribution ... that would have been overlooked if they were not present.'¹⁰¹

Many students commented positively that group work allowed students to 'bounce' their ideas off each other.¹⁰² This was useful in identifying the strengths and weaknesses in one's own approach, as well as in learning from the approaches of others. One student wrote: 'Seeing the weaknesses in my own reasoning as a result of listening to the input and responses of my peers has helped me greatly. Challenging each other's responses has been a useful and productive experience.'¹⁰³ Questioning others' responses was regarded as highly beneficial in developing understanding. One group stated that: 'Posing questions to each other when we are unsure of a meaning or a way of handling a problem often results in surprising solutions which would not have eventuated if working alone.'¹⁰⁴

⁹⁷ Surveys of CCO Offices, semester 2, 2001, semester 2, 2002, semester 2, 2003.

⁹⁸ Student B, semester 2, 2002, p 5.

⁹⁹ Student A, semester 2, 2002, p 1. Groups made similar comments — for example, Group 15B, 2002, Semester 2 Portfolio.

¹⁰⁰ Group 6A, 2003, Semester 1 Portfolio.

¹⁰¹ Group 13A, 2003, Semester 1 Portfolio. Other groups made similar comments: Group 6B, 2002, Semester 2 Portfolio; Group 16B, 2002, Semester 2 Portfolio.

¹⁰² Survey of CCO Offices, semester 2, 2003; Student A, semester 2, 2002, p 6; Student C, semester 2, 2002, p 3; Student D, semester 2, 2002, p 2.

¹⁰³ Group 2A, 2003, Semester 1 Portfolio.

¹⁰⁴ Group 17A, 2003, Semester 1 Portfolio.

Working together also emphasised to students the value of the different skills and abilities which the members of the group brought to the tasks, and the contribution of each member. One student stated that: 'We found in our group that each one is really good at something.'¹⁰⁵ Another student observed that exposure to different ways of learning had led them to reflect on their own approach to learning, and how it could be improved.¹⁰⁶

Students identified the acquisition of group work skills as valuable. One student said that, although some people dominated groups and were difficult to get along with, it was valuable 'to learn how to work well with other people' and to learn how to deal with dominant people. Another student said: 'You have to deal with personalities that you may not [like] and that's the whole purpose of group work.'¹⁰⁷

Students perceived that group work was an important skill in legal practice.¹⁰⁸ One said: 'A teacher is there to keep you on track and to make sure you get through the work whereas, in practice, you're not going to have someone there. ... it is like a work scenario ... It kind of simulates that.'¹⁰⁹

Students commented that groups allowed individuals to access academic help from other students.¹¹⁰ Students were more willing to seek help from fellow students than from teachers.¹¹¹ One group stated: 'Group work ... provides students with the opportunity to ask questions, which in other surroundings they would be intimidated to ask.'¹¹² Although some students felt that being in a group with students less knowledgeable than others was sometimes frustrating, many students were willing to assist others, and saw the benefits of doing so.¹¹³

A prominent theme which emerged in our evaluations was that many students keenly appreciated the social benefits of groups, both in getting to know other students, and in the social support that groups gave. Many groups reported that Offices were the main place that they met other students.¹¹⁴ Students frequently commented that the groups in first year were particularly helpful in making friends. Some groups commented that working in groups was more enjoyable than working alone.¹¹⁵ One student said that the support

¹⁰⁵ Student B, semester 2, 2002, p 3.

¹⁰⁶ Student E, semester 2, 2002, p 3.

¹⁰⁷ Student B, semester 2, 2002, p 1.

¹⁰⁸ Group 16A, 2002, Semester 2 Portfolio; Student B, semester 2, 2002, p 1.

¹⁰⁹ Student A, semester 2, 2002, p 1.

¹¹⁰ Group 3A, 2002, Semester 2 Portfolio; Student A, semester 2, 2002, p 6; Student D, semester 2, 2002, p 3.

¹¹¹ Student D, semester 2, 2002, p 3.

¹¹² Group 2A, 2003, Semester 1 Portfolio.

¹¹³ Group 10A, 2002, Semester 2 Portfolio; Group 2A, 2003, Semester 1 Portfolio; Student D, semester 2, 2002, p 5.

¹¹⁴ Survey of CCO Offices, semester 2, 2001, semester 2, 2002, semester 2, 2003; Student C, semester 2, 2002, p 1.

¹¹⁵ Survey of CCO Offices, semester 2, 2002; Group 10B, 2003, Semester 1 Portfolio; Student C, semester 2, 2002, p 8.

gained from belonging to a group made studying law 'easier — you don't feel alone. You have a group to work with — a support network. In [the law] degree, which is pretty heavy, you need that.'¹¹⁶

Challenges

In relation to group functioning, our evaluation confirmed the observation in the literature that it is essential to specifically include activities to facilitate group functioning. Some groups reported that the rule-setting exercise undertaken at the beginning of each semester contributed to the effectiveness of their group work throughout the semester.¹¹⁷ But our experience also showed that we needed to provide more support and instruction addressing group functioning. A few groups stated that they had experienced difficulties in addressing and resolving problems within their groups. The most common cause of problems was when members failed to carry out their responsibilities as agreed.¹¹⁸ Some students attributed this to a lack of understanding of effective group work, and a lack of empathy for the impact on other members of the group. Groups also commented on the importance of members sharing the same commitment to their group working well, and in particular a commitment to academic goals.¹¹⁹

Some groups reported problems in enforcing the group's rules, and in particular in dealing with slackers.¹²⁰ One student observed that, although their group had set rules, 'people don't want to have a confrontation'.¹²¹ Usually, this meant that problems were not confronted or addressed; this commonly resulted in some students doing more than their share of work. While some students found this extremely annoying, some groups were sanguine about this outcome,¹²² and one student said it had been a valuable learning experience for the other group members.¹²³ Another student remarked that it had made her more tolerant of others,¹²⁴ and another observed that problems in groups were inevitable, and it was desirable for students to be exposed to this, and to learn to resolve problems themselves.¹²⁵ Several suggested that they would appreciate being able to access some form of dispute resolution, mediated by

¹¹⁶ Student B, semester 2, 2002, p 3.

¹¹⁷ Group 3A, 2002, Semester 2 Portfolio. This was also identified in response to an open-ended question about the effectiveness of group work in the survey of CCO Offices, semester 2, 2002 and in semester 2, 2003.

¹¹⁸ Student E, semester 2, 2002, pp 4, 6.

¹¹⁹ Group 3A 2002, Semester 2 Portfolio. Survey of CCO Offices, semester 2, 2001, Survey of CCO Offices, semester 2, 2003. Student A, semester 2, 2002, p 4.

¹²⁰ Student C, semester 2, 2002, p 7.

¹²¹ Student D, semester 2, 2002, p 5.

¹²² Survey of CCO Offices, semester 2, 2003.

¹²³ Student A, semester 2, 2002, pp 7–8.

¹²⁴ Student B, semester 2, 2002, p 6.

¹²⁵ Student E, semester 2, 2002, p 5.

teachers.¹²⁶ As we discuss further below, we developed this suggestion in our design of group work in Negligence and Accident Compensation.

Most first-year students we interviewed thought groups which were randomly selected or allocated by teachers were superior to self-selected groups.¹²⁷ The main problem these students perceived with self-selected groups was that it was more difficult to speak candidly to or to criticise their friends. One student stated: 'With friends, you don't want to tread on anyone's toes, which isn't a very effective way to run a group.'¹²⁸ The converse problem was related by other students: in a group composed of friends, everyone felt able fully to express themselves and no one was willing to compromise.¹²⁹ Some students reported that where groups were self-selected, too much time was spent socialising. However, some groups thought that it was desirable to form groups with friends because 'group dynamics were already established at a high level.'¹³⁰

Summary and Implications

Incorporating group work in the first year of the law curriculum offers significant benefits which cannot be achieved otherwise. In particular, groups provide students with much-needed and highly valued social and academic support. On reflection, we could have improved the group work program by providing more specific instruction in the skills which are required for effective group work, including how to identify and resolve disputes. We should also have given some consideration to providing a formal dispute-resolution mechanism which groups could access for addressing problems within groups. Some groups evidently managed problems by informal mediation, with varying degrees of success. But other groups reported that they did not address problems at all, and this contributed to a negative experience of group work for some students.

Group Work in Negligence and Accident Compensation 2005–07

Negligence and Accident Compensation (NAC) is a third-year, second-semester core subject, although is also undertaken by a small group of first- and second-year graduate-entry students each year. The subject has an enrolment of approximately 250 students over two campuses. Most students enrolling in NAC will previously have been introduced to group work in Offices programs in first- and second-year courses. In NAC, students are

¹²⁶ Survey of CCO Offices, semester 2 2002, Survey of CCO Offices, semester 2, 2003.

¹²⁷ Student B, semester 2, 2002, pp 1, 4; Student C, semester 2, 2002, pp 1–2, 4; Student D, semester 2, 2002, p 3.

¹²⁸ Student D, semester 2, 2002, p 3.

¹²⁹ Group 2A, 2002, Semester 2 Portfolio; Student B, semester 2, 2002, p 2.

¹³⁰ Survey of CCO Offices, semester 2, 2003.

required to complete a group policy presentation¹³¹ in a group of three students.¹³²

The group policy presentation asks groups to take the perspective of an interest group of their choice. From that perspective, the group must assess the efficacy of personal injury negligence law in their particular area of interest and make presentation to a government taskforce. For example, a group could choose to represent a surf lifesaving body and discuss negligence actions against surf lifesavers. The presentation has three main sections to be addressed.¹³³ Most groups initially allocate a section of the presentation to each group member to work on, although some groups work on all sections together from the outset. If groups complete the presentation by simply dividing the work and working individually without collaboration, they will be penalised for adopting a parallel rather than collaborative model of group work.¹³⁴ This is because the published criteria require a shared central thesis in the presentation, a shared group introduction and conclusion summarising the overall arguments made by the group, an overall coherence of group submissions, and connections between group member submissions. These criteria can only be satisfied if the group works together collaboratively.

Groups are purposefully capped at three students. A small number of groups end up as groups of two due to student attrition or because the total class enrolment is not divisible by three. For the most part, students select their own groups, and we only allocate students who do not self-select to groups. This is primarily for pragmatic reasons. As noted above, the literature on group work suggests that teacher group selection is usually preferable.¹³⁵ By the third year of their course, many of our students carry very significant outside paid workloads. In addition, many students have family or carer responsibilities. Allowing students to self-select has the pragmatic advantage of allowing students to form groups with others who are available to meet at similar times to themselves. Our later-year students also report that they often choose to work with students with whom they have had previous successful group experiences. Nevertheless, student feedback suggests that students in friendship groups acknowledge that they can be distracted by socialising. Even where groups do self-select, members can continue to experience difficulties in scheduling face-to-face meeting times.¹³⁶ The changing working and private

¹³¹ This assessment item was developed by Kylie Burns and Lillian Corbin, our colleague at the Gold Coast campus. We acknowledge with thanks Lillian's input and expertise in the development of the group policy presentation.

¹³² This was an optional assessment in 2005 but has been compulsory since that time.

¹³³ These include an analysis of the relevant area of negligence before and after recent tort reforms, an analysis of relevant policy issues utilising interdisciplinary evidence and finally a discussion of suggested reforms.

¹³⁴ For an excellent discussion of the different models of group work, see Bryant (1993), pp 491–98.

¹³⁵ See above discussion of this issue at text accompanying nn 71–73.

¹³⁶ This results in students increasingly relying on other more virtual methods of 'meeting', including web discussion forums, email, MSN live chat groups and web cam.

lives of our students, and the new ways that students are virtually communicating with each other, has as yet unexplored consequences for scholarship on how we form groups. This requires teachers to continually reassess their approach to group formation.

As we discuss above, group work skills should be explicitly taught to students and explicitly connected to significant assessable activities in a course. Group work processes are discussed in lectures in NAC in the early weeks of the course to prepare students to form groups and also to assist them to start work in their groups. After groups form in week 3, groups are required to submit a short group contract by week 5. We discuss in lectures, prior to the submission of group contracts, what groups should include in their group contracts. We suggest groups include their topic choice, contact details, timetables and arrangements for group meetings, allocation of responsibilities of each group member in relation to the production of the presentation, other group rules and methods for conflict resolution. We use the group contract for a number of purposes. The first is to ensure that all group members agree their explicit responsibilities in the group, and that this is documented in advance. This is to limit the opportunity for group members to loaf or free ride, and also to aid good communication among group members from the outset of the project. The second purpose is to ensure that groups have an agreed method to try and resolve conflict should it arise. The group contract forms part of a number of matters we consider in allocating the ten marks for group process. We provide feedback on group contracts via a general feedback sheet posted on our web site.¹³⁷ This allows groups to reconsider their group contract based on our feedback, if necessary.

Groups make a 30-minute oral presentation which may be presented live or submitted on DVD, and this is submitted with a written summary, a bibliography and individual student reflections on the group work process. The assessment item brings together numerous course objectives including group work skills, content objectives, critical analysis and theoretical objectives, and the ability to utilise interdisciplinary perspectives on law. By 2007 it was worth 50 per cent of the total marks for the subject, including 10 marks specifically allocated to group work processes and reflection.¹³⁸ All members in a group receive the same mark. The 10 marks for group work are based on a number of published holistic criteria including the adequacy of the group contract (discussed below), the internal coherency of the group member presentations, the fairness of the workload allocation among group members, the use of conflict resolution procedures, and the reflections made by group members on their individual contributions and the strengths and weaknesses of their group work.

¹³⁷ If major issues of concern are indicated in a group contract, such as the choice of an inappropriate topic, we also contact individual groups to give targeted individual feedback.

¹³⁸ A 50 per cent allocation for the group presentation was chosen to signal to students the clear importance of group work. See the discussion of this point above under the heading *Assessing Group Work*, and see generally Boud et al (1999), p 422.

In NAC, all group members receive the same mark unless the course convenor has dissolved the group. Our experience has been that the average group work mark students receive is significantly higher than the average individual mark students obtain for other individual assessment in the course, and higher than the marks students obtained for individually based assessment in previous offerings of the subject. This suggests that group work, at least for many students, offers the potential for higher marks than they would achieve individually. This accords with the findings of other writers discussed above.

As we have also discussed above, there are differing views about how marks for group work assessment should be allocated. Much of the discussion in this area centres on the potential for unfairness when an individual student's mark or workload is affected by other members of the group slacking. The Griffith Law School Curriculum Review expressly rejected the use of peer assessment by group members resulting in differing marks among the group.¹³⁹ The committee recommended that the issues raised by slacking in group work should be addressed by other methods. In NAC, this is dealt with by ensuring all students have clear understandings of their responsibilities via the group contract. However, convenors also maintain a discretion to dissolve groups and assess students as individuals on their own contributions in certain circumstances. This could occur when, for example, the course convenor considered a student's potential mark was being adversely affected by the actions of others in the group, such as failure to complete agreed tasks. A group member who is dissatisfied with their group, or who has issues relating to completion of work by other group members, must contact convenors by the end of one week prior to the due date for the assessment. Convenors consider the views of all group members, the group contract and also whether groups have attempted to resolve their own conflicts in making decisions about group dissolution. Alternatively, convenors may assist the group to keep functioning by acting as a mediator. Our experience has been that this procedure is only utilised by students rarely; for the most part, students will resolve their own conflicts.

Evaluation and Implications

Group work in Negligence and Accident Compensation was evaluated in 2005–07 via standard course evaluation questionnaires and also via reflections on group work processes submitted by students as part of the Group Policy Presentation.¹⁴⁰ Student responses suggest that most groups perceive the value of group work and also perceive that they achieved more as a group than they would have as an individual. Students commented on the academic benefits of working in groups, as well as on the social benefits. One student noted that working in a group suited some students' working styles better than working

¹³⁹ Griffith Law School, Report of the Curriculum Review Committee, June 2005, p 39. This was based on concerns raised by Indigenous students.

¹⁴⁰ The methodology employed was qualitative and identified themes that emerged from these sources of data. The student and group comments included in the text are intended as examples of student experience and as representative of themes that emerged in our data.

alone.¹⁴¹ Several students commented that working in a group improved motivation.¹⁴² One student reported that working as a group had led to better understanding.¹⁴³ One student wrote that they engaged with the content of the assessment more than they would have with individual assessment.¹⁴⁴

In relation to the social benefits of working in groups, several students remarked that it was more interesting to work on a presentation with a group than to complete an individual essay,¹⁴⁵ and one student commented that the group assignment was enjoyable.¹⁴⁶

Student evaluations raised suggestions for further improvement of this item of assessment. Some groups have suggested that they would appreciate the opportunity of consulting with teachers further during the preparation of their presentations. Some students also requested further explicit explanation of the assessment criteria.¹⁴⁷

Conclusion

Our experiences with group work have been largely positive. Law teachers are often understandably uncertain about using group work, often because of their own lack of experience with effective group work. Teachers also perceive group work to be relatively time-consuming in terms of designing, supervising and assessing group activities. Group work has its problems and pitfalls, but these are not insurmountable. Individual assessment is not problem free and does not always achieve the kinds of learning outcomes that are possible with successful group work. Even when group work fails, which is far less frequently than many law teachers think, this can provide students with valuable experiences about how to improve their group work skills. It can also provide lessons to teachers about the need to redesign their group work exercises more carefully.

We advise colleagues who are interested to do the following:

- Consider the potential for using group work in law courses. As explained above, graduates' lack of ability in teamwork is a common complaint of the legal profession. This alone is not a sufficient reason for including group work, but together with the advantages group work offers over individual work, it should be seen as a compelling stimulus to legal educators to consider using group work in the design of courses. For maximum advantage, group work should be integrated throughout the

¹⁴¹ Student Evaluation of Course 2006, comment on open-ended question.

¹⁴² Student Evaluations of Course 2006, comments on open-ended question.

¹⁴³ Student Evaluations of Course 2006, comment on open-ended question.

¹⁴⁴ Student Evaluations of Course 2006, comment on open-ended question.

¹⁴⁵ Student Evaluations of Course 2006, comments on open-ended question.

¹⁴⁶ Student Evaluations of Course 2007, comment on open-ended question.

¹⁴⁷ While explicit instruction on the assessment criteria, and feedback on the group contract, are both already provided, we intend to review these aspects further in 2008. We also intend to consider making available exemplars, drawn from presentations given by students in previous years.

LLB curriculum, rather than left to enthusiastic teachers to implement without the support of their colleagues. As for other kinds of skills, group work skills should be developed incrementally. This requires careful curriculum planning.

- Fully integrate group work into the courses in which it is used.¹⁴⁸ If it is not integrated, taken together with students' predominantly negative perceptions of group work, students are likely to take the view the group work as marginal. As part of this integration, it is essential to think about how the assessment in the course is arranged. Group work should be given a relatively high weighting in assessment, in order to send a clear message to students that it is important, as well as to justify the considerable amount of effort that students must put in to group work.

Finally, achieving familiarity with the literature on group work, and developing the confidence to employ group work in individual courses, takes time and resources, which law schools should supply to those teachers who are keen to develop these skills.

There is a high level of resistance in certain quarters in most law schools to adopting group work as part of the formal curriculum.¹⁴⁹ Zimmerman observes that 'the root of institutional concern [about the use of group work] lies in four notions embedded in traditional legal education: competitiveness, teacher control, authorship/individualism, and individualized grading'.¹⁵⁰ Each of these is profoundly ingrained in many law teachers' own experience of learning law, and this experience is very likely to exercise a profound impact on their views about the use of group work. From our own experience, we can report that it is rewarding and fulfilling to challenge those experiences by learning more about the value of group work, and incorporating it into our own practices.

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¹⁴⁸ Kift and Airo-Farulla (1995), p 73.

¹⁴⁹ This is particularly so if the group work is assessable: see Johnstone and Vignaendra (2003), p 372.

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