Standardised Clients (SCs), professionalism & assessment of interviewing

Professor Paul Maharg
Glasgow Graduate School of Law
Standardised Client Initiative

SCI:

- Karen Barton & Paul Maharg (GGSL)
- Clark Cunningham (Georgia State U. College of Law)
- Jean Ker (Clinical Skills Unit, Medical Faculty, University of Dundee)
- Scott Slorach (College of Law, England & Wales)
2000 Research Study Law Society of England & Wales

- Interviewed 44 clients of 21 different solicitors in the north of England.
- 50% said that they had previously used a solicitor whom they did not like.
- The most common complaint was lack of respect, followed by a lack of interest in the client, and then poor communication.

Hillary Sommerlad & David Wall: Legally Aided Clients and Their Solicitors: Qualitative Perspectives on Quality and Legal Aid
Study 1: Competence in client communication

- ‘I like my current solicitor because I can have a chat with her, I trust her ... ... The other solicitor — I was just a file for him, but for her I’m a real person and that comes across in court’.

- ‘I wanted the law to be explained. ... The way the solicitor views the client is important. He has to be interested in our views’.

- ‘They must be able to give you time. If solicitors haven’t got enough time, they can’t get enough out of you. You have to have time to be able to tell your story’.

- ‘I never liked him. ... we couldn’t have had a solicitor like him for this; I think he was perfectly competent, but there was no sympathy’.
Study 2 competence in client communication

- Study by Sherr (2003)
- 143 first interviews
  - 24% trainee solicitors
  - 76% experienced solicitors
    - 70% at least six years
    - 23% more than 11 years
- High percentages of ineffective interviews
- Experienced solicitors generally no better than trainee solicitors

Study 2

competence in client communication

- 51% **failed to get the client’s agreement** to advice or plan of action
- 76% **failed to confirm** with client the solicitor’s understanding of the facts
- 85% **failed to ask before ending whether there was anything else** the client wanted to discuss
'Being “client centred,” ... is about paying attention to the practical and emotional needs of the client, not necessarily agreeing with the client’s motives, policy or philosophy and not necessarily doing what the client says they want. The client centred lawyer will listen to the client in order to advise on all options, as well as showing what they think is best for the client'.

the experience from medical education...

- Large body of research literature criticised oral exams beginning in 1960s
- ‘A test that is not reliable cannot be valid’ e.g. NBME (USA) studies exams of 10,000 medical examiners over 3 years and found correlations between 2 examiners in one encounter <0.25
- Use of Standardised Patients since 1963
- Now used in high-stakes competency examination for licensure in USA and Canada
- Extensively used in final exam ‘OSCE’ stations in UK medical schools
SCI: our hypothesis

- With proper training and carefully designed assessment procedures, Standardised Clients (SCs) could assess important aspects of client interviewing with validity and reliability comparable to assessment by law teachers.
Develop a practical and cost-effective method to assess the effectiveness of lawyer-client communication which correlates assessment with the degree of client satisfaction.

*ie* answer the following questions...

- Is our current system of teaching and assessing interviewing skills sufficiently **reliable** and **valid**?
- Can the Standardised Patient method be translated successfully to the legal domain?
- Is the method of Standardised Client training and assessment cost-effective?
- Is the method of Standardised Client training and assessment more reliable, valid and cost-effective than the current system?
Phase one: Jan 2005 – existing regime

- Training and moderation of tutors in use of ELCC Form
- Trial use of ELCC form with students, ‘clients’ and tutors

RESULTS:
- Student experience highly dependent on client performance
- High internal correlations
- No correlations between ‘classes’ of subjects: tutors, clients, student lawyers
Phase 2: Sep-Dec 2005 – development

- SCs recruited and trained in role play
- SCs take part in Interviewing Skills element of PCC
- New assessment form developed
- Training and moderation of SCs in use of new assessment form
- Training and moderation of Tutors in use of new assessment form
“...once established by training and regular communication, a community of assessors is able to ensure sufficiently standard use of criteria”

“Such a community, however, must have assessment criteria that are limited in number and easy to use”

“Overemphasis on lengthy and highly specific lists of criteria at the expense of developing and maintaining individual assessors is counterproductive...lack of appropriate assessment criteria will tend to make inter-assessor consensus a social achievement rather than a valid judgement of a particular competence”

PART A: Global Ratings (process)

- Started with existing GGSL list – quickly discarded
- Attempted to use ELCC form – but unsuited to our needs
- Deep analysis of client-centred experience, *ie*:
  - What constituted good practice *re* client-centred interviewing
  - What were the *isolable* features of this that could be identified, remembered, analysed in *context*
  - What were the standards we wanted to apply to these features
  - How we were going to communicate these to our SCs (see pp.24-30 of *Clinical Legal Journal* article)
development of new assessment instrument

PART B: Checklist (content)
- yes/no response on crucial items of information that should have been obtained during course of interview

PART C: Note to File (advice giving)
- marked by tutor
- A = 80%; B+C = 20%
recruitment of SCs

- Special agendas – possible screening process needed
- Age/gender role-dependent
- Accessible (tel, email)
- Able to keep data confidential
- Able to accept feedback and to learn from it

- Currently, a group of around 12 SCs are on file
‘The best way to learn how to do standardized patients is to do it along side of someone who has already done it before. It’s [the] apprenticeship system.’

Held by Dr Jean Ker, University of Dundee Medical Faculty, for GGSL staff and SCs.

Aims: by the end of this introductory workshop the participants:

1. recognised how a script develops a character and what part they can play in that development
2. recognised the importance of non-verbal cues in maintaining realism
3. knew how to practise using a script
4. had discussed the importance of a checklist in assessing a student’s performance
formative & summative role-play

- Practice in *formative* settings:
  - Clients in ICCC
  - Clients in Professional Competence Course (PCC)

- Preparation for *summative* role – the stages included:
  - read script as group
  - discussed the role
  - discussed feelings, reactions
  - cleared up ambiguities re role of lawyer
  - used feedback to modify the scenario
  - practised the role (staff as lawyer), observed by other clients who provided feedback
training points – any issues?

There’s a need for the SCs to calibrate:
- Body language
- Tone of voice
- Attitudinal swings
- Dealing with the lawyer’s open questions...
- Improvising on closed questions...
- Performance analysis: ‘What prompted you to say...?’ ‘How did you feel...?’

And to:
- Be aware of orientation towards lawyer at first sight
- Respond congruently to the lawyer
- Consult the internal ‘invigilator’...
phase two

training to assess

- We explained marking system, discussed and formed common understanding
- SCs viewed and marked videos, comparing to ‘standard’
- Viewed each others’ ‘live’ performances and marked
- Process repeated until everyone has role-played once
- Comment on performance
- Marks were collated in the room (suspense factor...)

University of Kobe professional learning seminar series, August 2009
APPENDIX 4

Glasgow Graduate School of Law / Effective Lawyer-Client Communication Project: January 2006 Pilot: Client Interviewing Assessment for Diploma in Law Students

After the interview both the Standardized Client (SC) and the Tutor Assessor complete this global rating form (A1-A8) and case specific checklist (B1-7). The student also fills out a version of A1-A8.

Interviewing Assessment Marking Sheet (Scenario A)

Name of assessor (SC or Tutor):

Name of student lawyer:

Registration number:

PART A: Global Rating

1. The greeting and introduction by the student lawyer was appropriate 1 2 3 4 5
2. I felt the student lawyer listened to me 1 2 3 4 5
3. The student lawyer approach to questioning was helpful 1 2 3 4 5
4. The student lawyer accurately summarised my situation 1 2 3 4 5
5. I understood what the student lawyer was saying 1 2 3 4 5
6. I felt comfortable with the student lawyer 1 2 3 4 5
7. I would feel confident with the student lawyer dealing with my situation 1 2 3 4 5
8. If I had a new legal problem I would come back to this student lawyer 1 2 3 4 5

PART B: Case Specific Checklist
(Specify ‘Yes’ or ‘No’ to each item on the list)

1. Asked for your full name and address
2. Asked for [deleted]
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overview of training issues

- General paucity of SC-specific training data available
- Little literature is available on reproducible methodologies of training SCs.
- Need for continuity or standardisation network-wide.
- How will we ensure a consistently standardised experience to our learners year after year?
- How do we know what standards should be in place network-wide?
- Creation of network-wide standards or criterion in place regarding selection of trainers? How might this ultimately affect the learner?
Phase three: Jan 2006 – main SC trial
- 270+ interviews with SCs
- Use new assessment form with students, SCs and tutors
- Carry out statistical analysis

RESULTS:
- Student experience highly dependant on own performance (*CLJ*, p.52)
- Correlations between SCs/tutors highly statistically significant across all items
- Correlations between students/SCs and students/tutors poor
conclusions

- Use of SCs as described here **is as reliable and valid** as tutor assessments
- We make what the client thinks important in the most salient way for the student: a marked exercise where most of the grade is given by the client
- *We do not* conclude that all aspects of client interviewing can be assessed by SCs
  - focused the assessment instrument on aspects we believe could be accurately evaluated by non-lawyers
  - Focused the assessment on initial interview
- This has changed the way we enable students to learn interviewing...
overview of interviewing learning in GGSL

- Foundation Course in Professional Legal Skills:
  - One lecture
  - Multimedia units
  - Two two-hour workshops

- Voluntary practice
  - ...with another student (using bank of unseen scenarios)
  - ...with a standardised client

- Compulsory Assessment
  - With standardised client
  - Assessed f2f by SC (comms & client handling skills via interview) and tutor (legal substance, next steps, etc, via interview record form)
Practice: student-on-student; student-on-SC

- Students practise with each other on unseen scenarios
- Performance is videotaped
- Tapes sent to tutors who give feedback on performance

- Students practise with a SC
- Make an appointment
- SC gives feedback on a feedback sheet
shifting roles

- Relationship of SC trainer re:
  - Other tutors
  - Administrators
  - Other, possibly local clinical centres (eg medical)
  - Students & other learners (eg undergraduates, law firm fee-earners, etc)
use of technology

- Digitised video of client interactions, to be used within an online portfolio environment that would enable users to create video files
- upload files to a central server
- view client assessment of their performance in the file
- provide their own reflective comment upon that performance
- liaise with tutors and others on the performance
- link the environment to video assets that give examples of good and poor performances, benchmark performances, etc.
Consumer DV camcorder

Touchscreen 15” TFT monitor.
Large ‘Viewfinder’
Playback monitor
Video transport controls

Bluetooth remote keyboard & mouse
Use SCs in other institutions. Currently:
  - Franklin Pierce Law School, New Hampshire
  - College of Law in England & Wales (York)

Form a network of legal educators interested in using SCs
  - Cascade training methods
  - Embed methods in local learning cultures
November 17, 2006

Useful research review

Excellent research resource on the ASPE site (funded by ASPE) detailing recent research (1996-2006) on the training of standardized clients --

Hatchett, P., Haun, C., Goldenhar, L. (2006) Training standardized patients to give feedback to medical trainees: the state of the art, (University of Cincinnati College of Medicine, Department of Education Center for Clinical Development and Assessment)

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October 23, 2006

The Pedagogy of Interviewing & Counseling Conference, UCLA

Day one

Session one

Larry Farmer and David Binder welcomed us to the conference. David Binder started us off with an interesting overview of his teaching techniques which included the use of T-funnelling to direct client attention, using transcript analysis. Videotaping was used, of client interviews and analysis of student notes. He also used a credibility checklist - a list that helped students to analyse what clients say, too often, according
contact details

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