The subject involves students in delivering legal services at the West Heidelberg Community Legal Service to 'real clients' under the supervision of Liz Curran, lecturer/solicitor.

The objectives of the clinical program\(^5\) are to:

- provide students with the opportunity to experience the process of lawyering for disadvantaged clients;
- develop in students client-centred, non-judgemental interviewing and communication skills;
- foster lawyer/client relationships that are participatory, non-hierarchical and based on respect and autonomy;
- expose students to some of the legal, economic, social and systemic problems frequently encountered by people in poor and disadvantaged social groups;
- examine and evaluate the human rights law and the impacts of poverty and disadvantage in the practice of law in this context by legal aid agencies and community legal centres in Victoria;
- examine the way our legal institutions distribute power to promote or hinder access to justice in a critical way; and
- provide students with the opportunity to participate in and critically evaluate the practice of law and its impact upon clients and role in a just legal system by participating in a clinic by client representation and advice and law reform submission formulation at the West Heidelberg Community Legal Service.

II WHAT HAPPENS IN THE LA TROBE UNIVERSITY’S CLE PROGRAM

Students are encouraged to reflect on the practice of law, the values, dynamics and effectiveness of the legal system, the role of lawyers in society, issues around access to justice and human rights and the potential of law to achieve justice for economically and socially disadvantaged people. There is a strong focus on the development of communication skills and ethical practice. As White has stated:

In general what I envision is a much more dialogic and dialectic relationship between social movement actors and legal educators ... strikes me that clinical

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legal education (by which I mean educational processes in which learning is derived from engagement with potential or actual clients) is the most promising vehicle through which this dialogue can occur.\(^6\)

Students spend one day or more per week for 13 weeks during semester on placement at the West Heidelberg Community Legal Service. Students work in those areas of law in which the centre currently provides legal advice and assistance. These include crime, family law, motor vehicle accidents, debt, domestic violence, limited civil matters, asylum seeker matters and social security. Each day includes a set time for a group discussion/de-brief and supervisor instruction through a mini seminar about the day’s work from 3.45 pm until 4.30 pm and an early morning session with a ‘crash course’ for 20 minutes in an area of law they will be exposed to in a morning session. In addition, a course component occurs by way of a two hour per week seminar/lecture at the University during the semester’s teaching period. This allows an interplay between the theory and how it fits into practice. On placement students interview clients, give legal advice after consultation with their supervisor, research areas of law, manage files, negotiate with the other side, prepare court documents, brief barristers and attend court to instruct under supervision.

The students also undertake a major law reform project/report which one could argue is developing this ‘dialogic and dialectic relationship’ to which White refers. It is this project which this article seeks to discuss and share with others who teach in law but it has possible application more broadly for other disciplines where clinical placements are undertaken such as health sciences.

As well as students interviewing, advising, preparing cases for court and running client cases under supervision with a ‘client centred approach’\(^7\), since July 2002, a changed form of assessment, a law reform project has been introduced to the clinic. This involves the students in completing a law reform submission which emerges from case law at the clinic. The students, in conjunction with the legal service, identify emerging problematic patterns in their work and then having conducted research and written a report they suggest recommendations to improve the legal system and lessen negative impacts of the law’s operation on the community. The law reform report is submitted to government and statutory bodies. These topics are negotiated between the students, their supervisor and the legal service based on areas emerging from case work. Past reports have included: Police Cells, the Juvenile Justice System, Rights of Users of Public Transport, and Self-represented Litigants in the Magistrates Court.

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\(^6\) White, above n 5, 633.

III A FRAMEWORK FOR UNDERTAKING LAW REFORM AND THE EDUCATIONAL SOCIAL IMPERATIVE FOR STUDENT INVOLVEMENT

Marcia Neave the Victorian Law Reform Commissioner at a recent forum indicated that in her view law reform should only occur when:

1. careful consideration of alternatives has occurred and the reform has input from experts, discussion, debate and consultation without a false sense of urgency;
2. where there is a demonstrated need for change;
3. there is evidence that the law will achieve its intended purpose and where the benefits outweigh any adverse effects;
4. the reform is not merely a symbolic political gesture or a response to public pressure;
5. the reform respects human rights standards;
6. the reform should not breach the principles of the rule of law.

Such a framework is useful and has been used as a benchmark for determining approaches to law reform projects in 2004.

The La Trobe Law/West Heidelberg Community Legal Service 'Law Reform Project' aims to be innovative and challenging for students. It deliberately emulates the new culture in many larger law firms which requires team project work and collaboration rather than individual endeavours. This new course component enhances the ability of students to play a role in ameliorating the harmful effects of policy or legislation they have observed in casework and the effective communication by students with persons who hold positions of power, with government departments, people engaged in direct service delivery in a number of different fields and with other lawyers. The most exciting aspect of the project is the responses the students' endeavours are receiving from government, the civil service, community organisations and professional associations.

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IV ASSESSMENT

Assessment is based on placement (45 per cent), an interview report (15 per cent), class participation and a presentation on ethics (10 per cent) and a major law reform project/report (30 per cent). Students also keep a journal which aims to encourage reflective practice.

In terms of assessment it is important that the criteria for assessment is valid, reliable, transparent, fair, formative, timely, incremental, demanding and efficient. Each student contributes 3,000 words. They are individually assessed. Some experimentation with a collective mark occurred in the first year of the projects however, in the interests of fairness to students an individual assessment is now preferred. Part of the assessment of the process does take into consideration how well the students work in their teams. Students are not just assessed on the product namely on the Law Reform Report but also how well they undertook the process. Some criteria includes relevance, quality of research, conciseness, team cooperation, ability to act under direction, synthesis of information, analysis and evaluation, depth and quality of arguments presented, balance, usefulness and practicality of recommendations made, expression, clarity and innovation. Students also work with the assistance of a Guide for Undertaking the Law Reform Project which the clinical supervisor has developed.

V HOW THE LAW REFORM COMPONENT EMERGED

Copeland and others have outlined the opportunities for law reform involvement that CLE programs can have. She states:

Apart from presenting frustrations for the student; whose hard work on a client’s case is rendered useless by an overnight amendment to regulations, this presents a


12 Copeland, above n 1, 4.
clear model in which lobbying and law reform can be a crucial element in success for the client.\textsuperscript{13}

Prior to running the clinical program at West Heidelberg Community Legal service the writer had spent many years working in law reform on both a state and national level around issues of access to justice, poverty, native title and human rights law through two previous jobs, one as a policy, law reform and media commentator for the Federation of Community Legal Centres (Victoria) and the other as Executive Director of a human rights organisation.

During the first year and a half in the writer's work as a clinical supervisor it became apparent that there were a range of client cases which were in need of law reform responses. Due to the minimal resources of the legal service it was unable to work on public policy dimensions as much as it felt was required. Coincidentally, at the time that this was being discussed at Committee of Management level at the legal service,\textsuperscript{14} the students raised in class, in Academic Development Unit evaluations and in their afternoon debrief sessions their desire to have more ability to respond not just to their case-work but to the opportunity to raise the broader issues that emerged from their cases. It is important to listen to student feedback through evaluation processes\textsuperscript{15} and to endeavour as far as practicable to implement the student's suggestions.

Three issues at the time made the students comment that they wished they had more capacity to raise law reform matters and work on them during the course. These were the bankruptcy laws which exposed clients who were compulsive gamblers to hefty criminal convictions, the treatment of asylum seekers where they had a case involving treatment of a Somali man in detention and finally a sentencing review they had read which raised a recommendation which in the students' view would be of detriment to young people. Although in the latter two cases the students drafted and sent a letter on the topics to government they lamented the lack of space in their course to undertake further work on issues of law reform. It was through the raising of these convergent concerns of the students and the Committee of Management that the law reform project was born.

At the same time in a seminar run on ethics in the legal profession one of the issues raised by a senior partner of a large law firm was the changing approach of law firms to the bigger cases where there is increasing project style work being undertaken by law firms. This he stated meant that firms were using solicitors to work in teams rather than the more traditional model of solicitors working in a solitary fashion. The firms commented on how difficult it had been to encourage

\textsuperscript{13} An illustration of this occurred at the legal service where a client won a case in the PERIN Court and the State government swiftly acted to amend the law so that clients could not take advantage of an argument about obscure documentation and signage if they were from a non English speaking background. Students in 2004 have taken on the issue of the simplification and fairness of the PERIN Court system in their current law reform project for semester one 2004.

\textsuperscript{14} See for a discussion of the importance of community legal centre involvement in law reform, Copeland, above n 1, 4, 6.

collaboration and that solicitors initially had tended to work in a more adversarial, competitive manner which was not always in the client's best interests as it had led to fragmented advice. They commented that perhaps it was the mode of assessment, namely exams and individual base assessment such as essays at law schools that reinforced this approach in addition to the competitive nature of legal practice.

With these issues in mind the clinical assessment was changed. The more traditional essay assessment was now to be described as a 'law reform project' and a greater percentage loading was allocated. The project would involve academic research and critical analysis and so from a university point of view was still a very relevant scholarly endeavour and assessment tool. The law school at La Trobe University recognised the value of students critiquing the law in context as it is seen not only to hone the students' research skills as well as an opportunity for the university to contribute to the life of the community.16

The students at the clinic attend in groups of four on each day they are on placement. Normally, in the morning they interview clients and prepare cases and do follow up work in the afternoon. In order to emulate the trend of law firms in doing project work, rather than have the student work on individual law reform topics, teams of four (on each day of placement) determine and work on the topic together. The Committee of Management was prepared to reduce the students' case work by three clients a week on the basis that in exchange the university students would build up the legal service's law reform profile. Students have a client free day a semester to work on their projects. In addition, students often use the regular 45 minute afternoon debrief session of the placement to discuss their progress on the project and to examine points of contention and clarification with their team or supervisor.

Generally, students will determine whether their law reform project will take the form of a law reform submission to a specific statutory or government enquiry or a report on the topic. They generally divide their project into chapters (making assessment easier) selecting a student to write each chapter including introduction, conclusion, recommendations and in some cases an Executive Summary. Students with a particular skill will often choose to do a chapter which takes advantage of their skills. For instance, commerce students will often select to examine efficiencies and funding, another student who has an undergraduate qualification in psychology looked at this aspect of the legal issue, a sleep scientist was able to examine the effect on prisoner health of fluorescent light and the constant waking that occurred in police cells. The report is marked, edited and published by the CLE supervisor subject to its being of a high standard.17 Students have also

16 Professor G O’Brien, Dean’s Address, “25th Anniversary of Clinical Legal Education” (Speech delivered at the La Trobe University, 11 November 2003). See also Janet Mosher, ‘Legal Education: Nemesis or Ally of Social Movements?’ (1997) 35 Osgoode Hall Law Journal, 613 for a discussion of the role of law schools in enabling clinical education to facilitate responsiveness of the law. Also see White, above n 5, 633.

17 Occasionally a report is not of sufficiently high standard for publication. The decision that the report may not be published rests with the lecturer/supervisor and the Committee of
developed lists of whom the report can be sent to once it is published. For instance, public bodies, people who have assisted in their research, politicians, media outlets, community organisations and so on. This thought process about who needs to read their report encourages student awareness of the role of government, the legislature, influential groups in society, the application of pluralism and the role of the media as a tool for education and applying pressure for generating change and explaining people's stories.

The project has also meant that the experience and networks the writer had established in her work in the law reform arena are not lost and can be used by the students who then develop their own links in government, the profession and elsewhere. This aspect of the student assessment teaches students not only about legal practice, ethics and legal professionalism but also how to participate in and examine processes of law and in the acquisition of law reform skills. The new component of the course is designed to demonstrate to students techniques in ensuring that the law can be more responsive and it exposes students to the broader role they may wish to play in public life.

VI THE LAW REFORM PROJECT PROCESS

Students having selected their topics in consultation with their lecturer/supervisor and the legal service then determine their methodology. Students will first undertake a literature review to see if they are not duplicating work already done and to see what others have identified as gaps in research in the area of their topic. Students conduct questionnaires through the mail or 'person to person' and 'over the phone' interviews with people who have some expertise in the area. They do not interview or survey members of the public or clients in view of the difficulties involved in getting timely ethics approval. For any academics considering a law reform project ethics approval processes need to be examined first. The decision not to interview clients for the purposes of research (as distinct from in the course of their lawyering) or members of the public is a pragmatic one. The author was advised that this would hold up ethics approval and because undergraduate students were involved it would create problems in gaining ethics approval in a timely fashion. It is also important to note that the students are being assessed and so have a due date deadline which is short to in which to decide on a topic after exposure to some case work, determine their methodology, seek ethics approval if required, conduct the research and write up their findings. This is generally a period of 13 weeks in total. This pragmatic decision not to directly question clients as it hampers the grant of ethics approval is unfortunate and it is conceded that it

Management of the West Heidelberg Community Legal Service. Students are advised of this prior to embarking on the project. Students receive feedback on the reasons for non publication eg defamation, inaccuracy, significant structural problems and commentary on how their work could be improved upon to help them in any future endeavours.
limits the power of actual involvement and participation of clients in both the process and input given their first hand experience of the system in operation and its effect on them. The author also realises that it reduces opportunity for client involvement in the law reform process. For clinical educators the ethics approval process may presents one of the greater obstacles in the law reform project process. Each project involving field research with human subjects requires ethical approval. At La Trobe University a more streamlined process is being sought which whilst still protecting the researchers and participants is less onerous on student and supervisor alike.

In addition, there is concern that the mere volume of written information that accompanies the questionnaire for professionals working in the field, for instance lawyers and counsellors, is also likely to deter busy professional service providers from participating in the research thereby frustrating the research project.Whilst recognising the importance of protecting human participants in the research project and the students themselves, academics considering introducing a law reform project are forewarned that the ethics approval process can be unduly bureaucratic and problematic for the students.

VII CASE STUDIES

A The Topic Determination And Process For The Research Report

1 Self-Represented Litigants

A report entitled, Unrepresented Litigants: At What Cost: A Report Into the Implications of Unrepresented Litigants in the Magistrates Court of Victoria was published in November 2002. It was forwarded to a large range of government, parliamentary members, media and community agencies as suggested by the students.

The students had undertaken a number of cases in their first few weeks where legal aid had either run out or where the clients were not eligible for legal aid and the solicitor at the legal service was unavailable to represent the client. The students found themselves having to provide advice to these clients on how to represent themselves in court. In one civil case the student was convinced that no amount of help would equip the person to represent themselves and wanted to attend an initial conciliation with the client as a support person. The students settled on this topic as a result of their experiences.

The first task the students undertook was to conduct a literature review and analysis of the current research and gaps in studies undertaken. They then wrote to
the Magistrates Court and the new Federal Court Magistracy of Australia (which does family law and civil matters) advising the court of their intention to do a project and enclosing a set of eight questions they had devised on self represented litigants. The Chief Magistrate of the Victorian Court encouraged them in their work and offered to facilitate interviews with the various regional courts on their behalf. In addition, the students sent the same questions to the Managing Director of Victoria Legal Aid (‘VLA’) seeking permission to interview duty lawyers at VLA. Then once approved they made times to fill out the questionnaire over the phone or in person with the duty lawyers, magistrates and registrars at various regional courts. The students sat in on court proceedings and observed unrepresented litigants in action using these as case studies in their report without identifying the individuals in any way. Finally, students also attended ‘do it yourself classes’ run by legal aid offices. Having gathered all of this material the students spent some time synthesising the material, analysing and evaluating it and developing suggestions for improvement by way of recommendations. Once they had completed this task they provided a list of persons at the back of their report whom they wished to receive copies of the report. These included those who completed questionnaires, the judiciary, public servants, parliamentarians the various law reform bodies and members of the media. The students included acknowledgments thanking the people who had assisted them throughout the project. The students also drafted a press release to be sent when their report had been assessed, finalised, edited and approved by the legal service’s Committee of Management. Covering letters were written by the CLE supervisor and sent out to the students’ addresses with the report.

2 To Breach or Not to Breach: Confidentiality and the Care and Protection of Children

The legal service is co-located with the Banyule Community Health Service which employs doctors, financial counsellors, drug, alcohol and family counsellors, youth workers and students have involvement with these other professionals in the course of the case work. The students became aware that counsellors of children were confused about the parameters of confidentiality in the context of Victoria’s mandatory reporting legislative regime. Students came to believe that there was confusion as counsellors believed that they were obliged by law to breach confidentiality with their clients by revealing information to the Department of Community Services. This exposed counsellors to concerns about their duty to the young children in their care and therefore great stress. The students examined the law and prepared a report to help counsellors know their rights and requirements for disclosure. The students wrote a report, To Breach or not to Breach: Confidentiality and the Care and Protection of Children with a view to clarifying the position. Students examined the legislation and the departmental protocols. In the course of their work they found that other problems were revealed in the small number of questionnaires returned and so also raised these issues. These included concerns by counsellors that the mandatory reporting mechanism created distrust among families making it harder for counsellors to work with families as they did.
not trust them and the issues of the lack of resources which led to a lack of 'responsiveness' when children were really 'at risk'.

B How It Has Been Received

1 Self Represented Litigants
Once the law reform project had been received by the various recipients, letters were sent from the Attorney-General of Victoria, the Leader of the Opposition, the Law Reform Commissioner of Victoria and other bodies commenting on the report. Various media including radio and the press asked to report on the student's findings and sat with students in a radio interview. As the students had been exposed to guidance about dealing with media in the class at La Trobe University, they were aware of the limitations of what they should comment upon and sought guidance on the more substantive issues. The media were quite receptive to the idea that it was students who were actively involved and clearly impressed by their energy and commitment in working for the public interest.

The Law Council of Australia sought permission to use the report in its materials and for lobbying purposes. In addition, the Law Institute of Victoria requested permission to reproduce the students work and recommendations in its criminal law newsletter. The final coup was a notification from the Department of Justice to say that it had met with the court and that the recommendations from the students were to be implemented as part of the Magistrates Court's ten-year strategic plan. The Senate Inquiry into Legal Services also requested a copy of the student's report.

2 To Breach or not to Breach
The report since its publication in 2003 has been circulated to counselling organisations, the Department of Human Services and requests for the report were received by interstate agencies. Students were approached by the Australian peak body for counsellors, The Australian Society of Counsellors seeking assistance with their development of protocols for counsellors. They also sought permission to reproduce parts of the students report in their journal. Again letters from government and ministers were received making direct reference to some of the recommendations.

3 Other Reports and Projects
The students report on Police Prisons: Conditions, overcrowding and length of stay in police cells was used in an Ombudsman's recommendation and the report: Public Transport and Citizens Rights was the point of discussion on radio current affairs programs. In addition, at the time of writing the ABC Four Corners program is being produced around the students recent Report into Youth Debt. The
students were interviewed on their findings for the program. There was a media frenzy after the report's release when within 24 hours the report was discussed on most radio networks around Australia. In addition, follow-up meetings occurred with the Shadow Attorney-General and Consumer Affairs Victoria to discuss the implementation of the student's ideas.

C Getting Into The Public Consciousness
The importance of educating the public as to the issues that need action in the legal system or in improving understanding of the operation of the legal system is considered as a very important aim in the student's work. This is why they involve themselves in using the media as a tool for broader publication and in providing community legal education. Where feasible students have used the law reform project to inform and educate the community of their rights. In one project the students were concerned about the practices of a lending/finance company and developed an information kit to be used by health centre staff and financial counsellors in educational classes and focus groups with clients in highlighting questionable practices and legal rights.

Community legal centres do not generally have significant resources to undertake law reform work and so the students' contribution in this regard provides an opportunity for both the university and the legal centre to work in partnership to inform public policy from the point of view of those experiencing disadvantage and give a voice to the experiences of the clients whose rarely have a mechanism to bring about understanding of how issues affect them.

To date the students have not been as directly involved in lobbying as the writer would like as often requests for meetings with Ministers occur after students have completed the subject and are on holiday or have completed their course. There have however been instances where students have come along to ministerial meetings and discussed their project with politicians and media. This means they observe first-hand the political process and its overlap with law-making and the reaction of bodies to their work. One student commented:

I can't believe the reaction to the report. Its four months since we released it and we are still getting responses and media interest. I never had any idea that it would have such an impact nor that we could be so involved in the development of a preferable regulatory framework and public discussion.18

D Moving Forward Into The Future (Succession Plan)
As a result of the Law Reform Project on self-represented litigants two students were hired as paid researchers for a Commonwealth Government Report which examined self-represented litigants in the Family Court of Australia. In addition, students who have interviewed members of the legal profession were invited to

apply for articles at these firms. Students have secured employment after completion of their course as a result of contact made during their project. One student now works for a national law reform body. Students can list their law reform project and media coverage they have received in their portfolio for job applications. Students gain exposure to barristers, magistrates, judges in their research, making links for their future careers but also feedback from these professionals reveals that they found the student contact energising because of the students' keenness, freshness and genuine desire to 'make the world a better place'. As clinical legal education teachers you would be aware yourselves of how much students can contribute with fresh ideas often challenging the cynicism that years of experience can bring.

From a student's point of view the law reform project enlarges their professional networks for their futures in law or other fields and makes them have more choices about the areas of law they may wish to practice in and if they decide not to practice they realise there is a whole realm of activities that a law degree will give them opportunities in politics, the public service, working in public policy and advocacy.

From the point of view of the profession it may assist in reducing the negative perceptions of lawyers in the community as 'money grabbing lawyers' as they see professionals dedicated not just to client work but to the advancement of the community in general. It also means that as one generation moves on there are custodians who will have experienced the benefits of working towards equality before the law and enhancing the rights of citizens.19

VIII CONCLUSION

In 1992 in the United States there was a review of legal education.20 According to this report known as the 'MacCrate Report' the values of the profession were as follows:

1 the provision of competent representation;
2 striving to promote justice, fairness and morality;
3 striving to improve the profession; and
4 professional self development.

19 For a varied and interesting discussion of the role of lawyers in public policy see the now three decade old book, David Hambly and Jack Goldring, Australian Lawyers and Social Change (1976) especially on the role of law schools in social change in the Opening Remarks by Herbert Coombs, 1–40.

The law reform project challenges students in items 2, 3 and 4 in the above MacCrate list.

In Australia, the Australian Law Reform Commission ('ALRC') in its report 'Managing Justice — a review of the federal civil justice system' released in 1999 states that 'education, training and accountability play a critical role in shaping the legal culture and thus in determining how well the system operates in practice'. They state that it is evident that, 'while it is of the utmost importance to get structures right, achieving systemic reform and maintaining high standards of performance rely on the development of a healthy professional culture.'

The law reform project sends students out into the community to explore the impacts and effects of the law, it hones their skills at dealing with difficult bureaucracies and civil servants, seeing the players who administer and legislate for changes in the law, but it also reminds these sectors of the important role they have in being involved with students, by mentoring them and understanding that they are keen to learn and engage. The students' clinical experiences can be garnered to work for positive change in the community through law reform and creates the 'healthy professional culture'.

Philip Lewis has argued that the value of people working and researching in legal services is that 'the proposals they make for reform lie in encouraging the further attainment of equality before the law.' Similarly, Mary Anne Noone and Judith Dickson examine the importance of law school in encouraging public service and the examination of ethical issues in student lawyering. They state 'We also accept that as teachers we are role models and we continue to reflect on and communicate with our students what we consider constitutes professional responsibility.' They observe that the legal profession uses the public service ideal as a justification for the privileges of monopoly and self regulation but note that the challenge is to retain this clear commitment to public service in the midst of pressures on lawyers to do the client's bidding, corporatisation and competition.

Mary Anne Noone and Judith Dickson comment that the realities of legal practice, in the community based model of a clinical program, ensure that issues of public policy, law reform, social and moral questions and the provision of legal services in the public interest will arise, confront students and demand reasoned solutions.

Legal educators, they observe in the United States in the 1970s, embraced the clinical method for this purpose. It was seen as offering hope in instilling in law students a conception of professional responsibility that went beyond mere

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23 Ibid.
24 Philip Lewis 'Unmet Legal Needs' in Pauline Morris, Richard White and Philip Lewis (eds), Social Needs and Legal Action (1973) 73.
25 Above n 3.
26 Ibid, 134.
knowledge and the application of rules and which involved obligations of service and commitment to justice including law reform.27

The program of law at La Trobe University has over the past 25 years had a strong commitment to access to justice and a commitment to the study of law in context. The professional culture of involvement of students at law school in critiquing the law and suggesting improvements, in my view, should be encouraged, fostered and nurtured at law school equipping students to understand the role of the law and the players in the law in the broader operation of the legal system. The law reform component enables students to realise that as legal professionals they can work for the public good and have a positive impact on ensuring ongoing professional involvement as more students graduate with a greater sense of what they can achieve.

Some of the published projects students have worked on have included:


5 To Breach or not to Breach: Confidentiality and the Care and Protection of Children, 2003.


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