The simulated client initiative: A portrait of the outsider as teacher

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1. What is the Simulated Client Initiative (SCI), and what are SCs?
2. Current uses
3. Why would we want to do this?
4. Methodological implications

Slides available at: http://paulmaharg.com/slides
Simulated Client Initiative (SCI): our hypothesis

With proper training and carefully designed assessment procedures, Standardised or Simulated Clients (SCs) can 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 & confidence.

• *ie* answer the following questions...
  1. Is our current system of teaching and assessing interviewing skills sufficiently **reliable** and **valid**?
  2. Can the Simulated *Patient* method be translated successfully to the legal domain?
  3. Is the method of Simulated Client training and assessment more reliable, valid and cost-effective than the current system?
results from Strathclyde University pilot

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<tr>
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<th>Questions</th>
<th>Results</th>
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<tbody>
<tr>
<td>1</td>
<td>Is our current system of teaching and assessing interviewing skills sufficiently 1. reliable? 2. valid?</td>
<td>1. No 2. No</td>
</tr>
<tr>
<td>2</td>
<td>Can the Simulated Patient method be translated successfully to the legal domain?</td>
<td>Yes</td>
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<tr>
<td>3</td>
<td>Is the method of Simulated Client training and assessment more 1.reliable, 2.valid 3.cost-effective than the current system?</td>
<td>1. Yes 2. Yes 3. Yes</td>
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discussion...

• We make what the client thinks important in the most salient way for the student: an assessment 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
  – We focus the assessment on aspects we believe can be accurately evaluated by non-lawyers
  – We focus the assessment on initial interview (which has been extended at Northumbria U to an advice-giving interview)

• This has changed the way we enable students, trainees and lawyers to learn interviewing & client-facing ethical behaviour
## Current SC initiatives in:

| University of Strathclyde Law School | WS (Writers to the Signet) Society, Edinburgh |
| University of New Hampshire Law School | The Australian National University College of Law |
| Northumbria University Law School | Kwansei Gakuin University Law School (Osaka) |
| SRA – Qualifying Lawyer Transfer Scheme | Law Society of Ireland |
| Hong Kong University Faculty of Law | Adelaide University Law School |
| The Chinese University of Hong Kong Faculty of Law | National Centre for Skills in Social Care, London |
| Nottingham Trent University Law School | Next...? |
training of SCs

‘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.’

SC training 1: script conference

- read script as group
- discuss their roles
- discuss their feelings, reactions
- clear up ambiguities re role of lawyer
- facilitator uses SC feedback to modify the scenario
SC training 2: practising the role

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 the lawyer’s closed questions...
- Performance analysis on video review: ‘What prompted you to say...?’ ‘How did you feel...?’

And to:

- Be aware of their orientation towards lawyer at first sight
- Respond congruently to the lawyer
- Consult their internal ‘invigilator’...
SC training 3: assessing lawyers

- We discuss the marking system, and form a common understanding of it
- SCs view and mark videos, comparing to ‘standard’
- SCs view each other’s ‘live’ performances and mark them
- Process repeated until everyone has role-played at least once
- Comment on performance
- Marks are collated in the room (suspense factor...
after initial training?

- SCs role-play clients with students, real lawyers and other professionals
- SCs are given refresher training on the scenario
- If they are trained on a new scenario they will have the same pattern of training
- They should form a *community of practice* with two core members of staff
  - ideally, admin + academic to:
    - improve practice
    - suggest ways they may be used inside or outside the law school
summary: what do clients seem to want?

- For many clients, their engagement with the law was not simply about achieving a result.
- Their responses indicated that the process itself was important.
- Empathy and respect were not luxury items: they were fundamental to the service.
summary: what do clients dislike?

• Inaccessibility
• Lack of communication
• Lack of empathy and understanding
• Lack of respect
competence in client communication

- Study by Sherr:
  - 143 actual 1st interviews
    - 24% trainee solicitors
    - 76% experienced solicitors
      - 70% at least 6 years
      - 23% more than 11 years
  - High percentages of ineffective interviews
  - Experienced solicitors generally no better than trainee solicitors

competence in client communication

- 51% failed to get client 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
Study 2

competence in client communication

- Experienced solicitors:
  - Used less legalese
  - Better at “filling in the gaps”
  - Rated their own interview performance higher than did trainee solicitors

- But the clients saw no difference in performance between trainees and experienced solicitors
‘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’.


SCs: people as co-producers, co-designers

The SC approach challenges:

1. Curriculum methods
2. Ethics of the client encounter
3. The cognitive poverty of conventional law school assessment
4. Law school as a self-regarding, monolithic construct
5. Law school categories of employment
6. The curricular isolation of clinic within law schools
7. Hollowed-out skills rhetoric
8. Conventional forms of regulation by regulatory bodies
9. The role of regulator, as encourager of innovation & radical reform...?
10. Disciplinary boundaries – what about a SC Unit that’s interdisciplinary?
11. Local jurisdictional practices: how might such a project work globally?
Results
Although programs shared challenges in SP methodology they also experienced differences. Key challenges common to programs included systematic quality assurance and the opportunity for research. There were differences in the terminology used to describe SPs, in their recruitment and training. Other differences reflected local conditions and demands in organisational structure, funding relationships with the host institution and national trends, especially in assessments.
Methodological categories of analysis: Level 2: comparators of culture within and around the heuristic


http://transculturalcare.net/standardized-patients-simulation-and-cultural-competence/
Methodological categories of analysis: Level 2: comparators of culture within and around the heuristic


Our analysis confirms the reliability and validity of using standardized clients as assessors of interviewing skills. It also reveals the necessity of modification of the original design of standardized client program, particularly in relation to the assessment aspect of it, according to specific cultural and commercial needs in an Asian business city like Hong Kong.
Methodological categories of analysis: Level 3: comparators of values, cultures and identity within and around the heuristic


1. Websites: these slides @ http://paulmaharg.com


