

Subject Outline- Supplementary Materials

LLB 150

Communication Skills

Autumn Session

2009

UOW

FACULTY OF LAW

University of Wollongong



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Seminar One (held in Week 1): Interview Preparation: Listening

Pre-reading – Subject materials, pp. 3 - 15

Activities

1. Introduction to the Subject
 - Subject outline, objectives, assessment, etc
 - Teaching style – support between class members; feedback and debriefing (see previous section)
 - Professional conduct – the need for confidentiality of client information (see previous section.)
2. The Importance of Interpersonal skills – divide into discussion groups to discuss:
 - a. What are ‘interpersonal skills’?
 - b. What is the role of the practising lawyer?
 - c. Identify the reasons why interpersonal skills are important for lawyers.
 - d. What are ‘communication skills’?
 - e. Are ‘communication skills’ a natural talent or skills which can be learned?
 - f. Identify communication skills which relate to gender.
 - g. Identify communication skills which relate to culture

3. Listening Skills

You should be able to:

- Identify barriers to communication – ‘inhibitors’
- Discuss the importance of good listening skills
- Discuss the elements of good listening
- Discuss problems which may arise in conducting interviews in the presence of police, teachers, co-accused, friends.

Inhibitors to good communications.

Exercise on inhibitors: Think of a problem to take to a lawyer for advice in a first interview. Choose a topic that involves a Contract or Criminal matter.

The problem should involve emotional or psychological factors which would act as barriers to communication. Think of at least 3 inhibitors. Further instructions on the exercise will be issued in class.

4. Listening is more than just hearing. It also involves the use of active listening skills. Distinguish between ‘active’ and ‘passive’ listening.

Timetabling of the Assessed Interviews and Oral Presentations

This seminar will conclude by beginning the timetabling for the assessed interviews and the oral presentations which will be held later in the course. Normal seminars will not be held in those weeks.

Assessed interviews: All students will be required to nominate two 30 minute timeslots:

- The first timeslot will be when you will definitely be interviewing a client as part of a 2-lawyer team. You can choose your own partner with whom to conduct your assessed interview. Otherwise you will be partnered with the person who has nominated themselves for the same timeslot.
- The second timeslot will be when you will be available to play the role of a client. **It is best not to play the role of client for a friend who will playing the role of the lawyer. It is easier to be a client for a stranger or someone you do not know well.** Only half the class will be required to play the role of a client and you will be informed in due course if you have been selected to learn a role in order to be a client.

In the week prior to the assessed interviews being held, you will be given your lawyer part (“Instructions for Lawyers”) which provides some minimal information about the client you are interviewing. Those students who have been chosen to play a client will also be given their role play. It is, of course, vital that you do not show your “lawyer” or “client” information to anyone else.

Oral presentation: All students will be asked to nominate a 30 minute period in the final week of the session during which you will give your 5 minute talk and will be part of the “audience” for three other students who will also give their presentation.

Seminar 2: (held in Week 2 for Monday and Wednesday groups; Held in Week 3 for Thursday groups): Preparation for Interviews: Questioning Techniques, Client Goals, and Advising

Pre-reading – subject Materials pp.16 - 39, Appendix.

Activities

1. Class Discussion:

- Preparation for an Interview – obtaining background information on client and problem; deciding where to hold the interview and preparing the room; deciding on the result you want from the interviews and how to get it. Does the client have a disability? What special arrangements need to be made?
- Establishing rapport – the need to look interested; the impact of body language and other verbal and non-verbal cues of the speaker.
- Questioning techniques (including ‘open’, ‘closed’ and ‘leading’ questions) and the different stages; understanding client needs; how to approach the reticent client, the ‘talker’, and how to handle situations in which there is reason to question the information being given.
- Evaluating what is being said - exercises in staying on target and testing understanding.

The stages of an interview

- a) Preliminary problem identification
- b) Chronological overview
- c) Theory development and verification.

2. Exercises on the use of Questions:

Form teams of 3, comprising speaker, listener and observer

Speakers should choose a topic that is of particular interest to them (e.g. environmental pollution, violence on television, abortion, Australia’s refugee policies). The speaker should not volunteer information beyond what is necessary to answer the questions posed by the listener.

The objective is for the **listener** to encourage the speaker to talk by the use of ‘open’ questions, and avoiding the use of ‘closed’ questions

The **observer’s** role is to limit the role play to about 5 minutes, but more particularly to count the number of times the listener has used closed questions rather than open questions, and in so doing, has restricted the flow of information coming from the speaker.

After the role play the team should have a brief discussion on whether or not the role play was successful and why

Repeat the exercise so that each of the team plays each of the three roles.

3. Interviewing Exercise

- Form teams of 2, preferably 2 people who have not worked together before. Each person should think of a problem to take to a lawyer for advice in the first interview. Think of a problem involving a criminal or contract matter.
- Take it in turns to play the part of the lawyer and client at the client’s first interview. The client may be:
 - Reluctant or embarrassed to talk about personal information
 - Prepared to lie
 - Emotional
 - Someone who is a ‘talker; and inclined to be irrelevant

The lawyer must overcome these problems [through use of listening skills (active, passive), remembering inhibitors and facilitators, what types of questions should be used].

After finishing the role-plays, the class should discuss whether the interviews proved successful, and what strategies were used or might have been used to overcome problems.

4. Preparation for next week’s simulated interviews

NB - Make sure you pick up your role-play briefs for the next seminar’s simulated interviews AND LEARN YOUR PARTS BEFORE NEXT WEEK!!!!

Seminar 3: Simulated Interviews (held in Week 3 for Monday and Wednesday groups; Held in Week 4 for Thursday groups):

Preparation - Refer to previous materials on Interviewing. (pp. 16 – 39)

Introduction -

1. Warm-up discussion in teams of 4 on how best to handle the simulated interviews
2. Exercise:

Each team should conduct 2 simulated interviews, so that everyone gets a turn at practising the lawyer role (in pairs) and acts as client or critiquer.

In the exercises, particular emphasis will be placed on the stages of interviewing, - preliminary problem identification, chronological overview, and theory development and verification.

Please note that you are not being judged on your legal knowledge. In the interview, it is quite appropriate to use formulations such as: "We will need to investigate the law and legal precedents after this interview to examine what your legal situation is. However, at this stage it is important for us to find out the exact circumstances so that we can give you some preliminary ideas before we do the legal research later."

Also please note that the most useful way of dealing with "**fees**" (which MUST be discussed – see *Legal Profession Act*, Part 11, Divisions 1 and 2) is to say something like: "As you have probably already been told, this first interview is free and that before we proceed to act for you in any way, we will be giving you an estimate of the costs that any option we suggest may cost you."

ROLE PLAY 1

Person A Lawyer 1

Person B Lawyer 2

Person C Client SLADE

Person D Critiquer

ROLE PLAY 2

Person C Lawyer 1

Person D Lawyer 2

Person A Client MARTIN

Person B Critiquer

After each simulated interview, the critiquer should discuss his/her assessment of the lawyers' performance with the lawyers and the client. The criteria for assessment are those of the Client Interviewing Competition, which follow. Further copies of these criteria will be available.

JUDGING CRITERIA FOR ASSESSED INTERVIEWS

Date:	Time:	Room:
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Judge:	Client:
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Critiquer/Assessors:

Please assess the teams against the judging criteria on the basis of following range of marks and add your comments where appropriate:

5 = excellent, 4 = good, 3 = satisfactory, 2 = less than satisfactory, 1 = poor

1. *Working Atmosphere*: Established the beginning of an effective professional relationship and working atmosphere and, if and when appropriate, oriented the client to the special nature of the relationship, including confidentiality, fees, mutual obligations and rights, after-hours availability, duration and plan of the interview, etc. in a courteous, sensitive and professional manner. It is essential that the client be appraised of the situation with regard to fees!

5 4 3 2 1

Comments:

2. *Description of the Problem*: Learned how the client viewed his or her situation, using a combination of listening and questioning, drawing out both information and feelings, as appropriate, to develop a reasonably complete and reliable description of the problem.

5 4 3 2 1

Comments:

3. *Client's Goals and Expectations*: Learned the client's goals and initial expectations; modified or developed these as necessary.

5 4 3 2 1

Comments:

4. *Problem Analysis*: Analysed the client's problem with creativity and from both legal and non-legal perspectives, resulting in a clear and useful formulation of the problem.

5 4 3 2 1

Comments:

5. *Moral and Ethical Issues*: Recognised, clarified and responded to any moral or ethical issues which may have arisen, without being prejudicial in judgments.

5 4 3 2 1

Comments:

6. *Alternative Courses of Action*: Consistent with the analysis of the client's problem, developed a set of potentially effective and feasible alternatives, both legal and non-legal.

5 4 3 2 1

Comments:

7. *Client's Informed Choice*: As appropriate, assisted the client in his or her understanding of problems and solutions and in making an informed choice, taking potential legal, economic, social and psychological consequences into account.

5 4 3 2 1

Comments:

8. *Effective Conclusion*: Concluded the interview skilfully and left the client with a feeling of reasonable confidence and understanding, with appropriate reassurance, and with a clear sense of specific expectations and mutual obligations to follow.

5 4 3 2 1

Comments:

9. *Teamwork*: As collaborating interviewers, worked together as a team. With flexibility and an appropriate balance of participation.

5 4 3 2 1

Comments:

10. *Post-Interview Reflection*: During the follow-up phase, gave evidence of having recognised their own and the client's feelings, the strengths and limitations of their interviewing and counselling skills, their handling of the substantive aspects of the client's problems (legal and non-legal), and provided for an effective follow-up.

5 4 3 2 1

Comments:

11. *Overall Score (out of 50)*:

General Comments:

ASSESSED INTERVIEW (WEEKS 4 (except for Thursday groups), 5, 6, 7 AND 8): – TO BE HELD AT A TIME AGREED TO AND IN A ROOM TO BE ADVISED

Assessment:

1. The Interview

All students will be required to conduct a simulated interview with a client. About half the class will also be asked to play the part of clients and will be briefed accordingly. Students will be assigned to teams of 2 to prepare and conduct the interview. The criteria for assessment will be those of the Client Interviewing Competition (see below). The team's conduct of the interview and the memorandum will be assessed as a team effort ie both members will receive the same mark.

2. Memorandum

After the interview, both students will **jointly** prepare a joint short written memorandum or "file note" of the interview

- (a) summarising the information elicited during the interview, any preliminary advice provided, and the action proposed following the interview; and
- (b) identifying any particular deficiencies of the interview that need to be noted at this stage.

The memorandum should not exceed 750 words, and must be handed in by 5pm on the **Wednesday of the week after your interview**. The joint **SINGLE** memorandum is to be submitted by the two students who conducted the interview. Ensure that the memorandum covers both (a) and (b) above.

Seminar 4 (held in Week 9): Cross-cultural communication issues – working with indigenous Australians:

Pre-reading – Subject Materials, pp. 40 - 50

Objectives

At the conclusion of this session, you should be aware of social and cultural issues arising in the context of the provision of legal services to or affecting Aboriginal and Torres Strait Islander people, and will be able to :

- (a) recognise situations when those issues might or do arise; and
- (b) respond sensitively and appropriately to them; and
- (c) demonstrate your understanding of those issues when communicating and negotiating with, or act on behalf of, Aboriginal and Torres Strait Islander people.

Activities

1. Class Discussion

- What value is it to you, as a future lawyer, to learn to appreciate and understand other cultural behaviours and values?
- Who is an Aboriginal person?
- What social and cultural factors may affect the process of communicating with indigenous people in Australia?

2. Video; - *Cross-Cultural Communication – Lawyers, Aborigines & The Law*

Note – This video is based on aspects of criminal law. However, discussion in this part of the session will focus on an awareness of and sensitivity to cultural matters affecting Aboriginal people.

This awareness may be necessary whether the lawyer acts for or assists indigenous people in legal situations, or is engaged on behalf of a government department, a private corporation, a policy maker, or any other person who is dealing with indigenous people. It could be in the context of a criminal charge, a commercial transaction, a land rights claim, a family situation, an environment or natural resource issue, sport, the Arts, or the protection of indigenous heritage.

While Aboriginal and Torres Strait Islander people are potential clients in all legal practices and situations, the specific Aboriginal and Torres Strait Is. Legal Services are also significant employers of lawyers in Australia and also serve as locations for law student placements.

Make your own notes on the following aspects of the video to help you in the following discussion:

- Client/ lawyer relationship – how is it expressed? What factors or perceptions by either the client or the lawyer contribute to the relationship?
- What verbal or non-verbal cues, language nuances, values and other characteristics of indigenous culture did you notice in the videotape? How do these characteristics affect the way in which communication is shared?
- How do these perceptions and characteristics affect the relationship and the outcome for the client?
- How do you establish a working relationship with an indigenous person? What strategies would you, as a lawyer, adopt if acting for an indigenous client?

Seminar 5 (Held in week 10): Cross-cultural communication issues - Working with Interpreters; and Oral Presentation Preparation **- held in Week 10 (for Groups that meet on Thursday and Friday) and in Week 11 (for groups that meet on Wednesdays)**

This week's seminar deals with 2 matters:

- A. Cross-cultural communication issues - Working with Interpreters
Pre-reading – Subject materials, pp. 51 – 63
- B. Making oral presentations.
Pre-reading – Subject materials, pp. 64 - 68

A. Cross-cultural communication issues - Working with Interpreters

Objectives

1. To introduce students to the use of interpreters.
2. To identify communication difficulties which may arise in the process of interpreting.

Activities

1. Class discussion – the general problem of 'legalese' and the importance of speaking to the client in plain English.
2. Exercise: Divide into discussion groups and consider the following questions:
 - What is the role of the interpreter?
 - What problems can you foresee for the process of interpretation?
 - How should cultural problems be handled?
3. Watch the video *I Didn't Understand* (Cross-cultural Communication for the Law Curriculum - Video II)

Issues to consider

- What did Phong want from a solicitor?
- What were the main differences between the interview with the first solicitor, and the interview with the second solicitor?
- Did you identify anything the client said or did in either interview which might have indicated that the client's cultural background was causing difficulty in communication between him and the lawyer? What indicated this? How might these barriers have been overcome?
- Did you identify anything else that the lawyer said or did in either interview that might have been an inhibitor or a facilitator of communication between him and the client? What indicated this?

B. Making Oral Presentations

You will have been asked to nominate a 30 minute period in the remaining weeks of the session during which you will give your 5 minute talk and will be part of the “audience” for four other students who will also give their presentation.

Objectives

1. To consider the structuring and organisation of a formal presentation
2. To identify the preparation necessary to ensure an effective presentation
3. To prepare for the assessed oral presentations

Activities

Discuss:

- How to overcome nervousness and the reluctance to speak in public
- How to maximise the possibility of making a good presentation (including bad habits to avoid).

NOTE: A good source of recent High Court decisions is available from The Law Report, ABC Radio Nationals' weekly radio program (Tuesdays at 8.30 am, repeated at 8.05 pm) regularly features interviews on topical law items. It often discusses recent cases from the High Court. Past programs and transcripts are available from its webpage:

<http://www.abc.net.au/rn/lawreport/>

Assessed Oral Presentation – held in Weeks 11,12 and 13

- four students per 30 minute session– TO BE HELD AT A TIME NOMINATED AND IN A ROOM AS ADVISED

All students will be required to make an oral presentation as part of their assessment in this subject. This will involve an individual presentation of approximately 5 minutes' duration, on a recent High Court decision of some significance to the audience nominated. Preferably, this should be a decision on an issue which was controversial or definitive in some way, with the aim that the subject matter would be one of interest to lay people. You will be asked to describe the type of audience you would be speaking to.

NOTE: This is not a speech read from a script. It is an exercise of *speaking* to an audience. You may use notes and/or overheads, but facilities for powerpoint will not be available

You will be allocated a 30 minute time slot during which you and the four others in that group will each make their 5 minute presentation. You are expected to be present at the commencement of that time slot, and to remain while the others make their presentations, so as to provide them with an audience.

The presentation should address the significance of the chosen case in relation to the particular area of law. Assume that your audience is a group of non-lawyers interested in this field of law. For example, if the High Court decision you have chosen is one that is of relevance to "duty of care" at child care centres, you might wish to state before your talk begins something like: "I am assuming that the audience is a group of child care administrators."

As preparation, it would be helpful to read the relevant section in the LLB150 Subject Materials volume. To get an idea of how legal decisions can be explained to a non-legal audience, it would be useful to listen to, or read the transcripts of, *The Law Report*, ABC Radio Nationals' weekly radio program (Tuesdays at 8.30 am, repeated at 8.05 pm; see <http://www.abc.net.au/rn/lawreport/>) which is mentioned above in the **Recommended listening** section of this outline. For example, the program of Tuesday 18 December 2007 featured recent High Court decisions dealing with surfing - do **not** use the particular decisions mentioned in this program as the basis of your talk!

Your presentation will be evaluated according to the criteria which are set out on the next pages. A satisfactory standard must be achieved.

CRITERIA FOR ASSESSING ORAL PRESENTATIONS

Name of Student:

Topic:

Judge:

Date and time:

Performance will be judged on the basis of the following range of marks, with further comments added where appropriate:

5 = excellent 4 = good 3 = satisfactory 2 = less than satisfactory 1 = poor

1. Content

- Information accurate and complete
- No irrelevant or surplus information
- Content appropriate to purpose and time available
- Concrete examples given
- Maintained interest of audience

5 4 3 2 1

Comments:

2. Organisation

- Preparedness – prepared well, well rehearsed, knows materials
- Good opening
- Clear statement of objectives
- Good structure, information well organised and logically developed
- Smooth transition between topics
- Visual or other aids used well where appropriate to enhance presentation
- Good distribution of time
- Emphasizes most important points at outset and conclusion
- Good conclusion

5 4 3 2 1

Comments:

3. Language

- Language appropriate to audience and purpose of speech
- Legal or technical terms avoided
- Explains legal or technical terms where used
- Modifies language if audience has apparent difficulty in understanding it
- Avoids 'fillers' (eg, 'um', 'er', etc)
- Uses specific visual language where appropriate

5 4 3 2 1

Comments:

4. Presentation

(a) Voice

- Appropriate volume
- Pleasant pitch
- Clear enunciation
- Correct pronunciation
- Appropriate pace (varied, not too fast or too slow)

5 4 3 2 1

Comments:

(b) Body movement

- Maintains and varies eye contact
- Not too dependent on notes
- Good posture
- Comfortable, relaxed manner
- Gestures and body language convey interest in topic

5 4 3 2 1

Comments:

Overall score:

General comments: