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# Multi-disciplinary practice in a community law environment: new models for clinical legal education

*Richard Foster*

## Introduction

The Monash-Oakleigh Legal Service (MOLS) is a community legal service auspiced by Monash University, Melbourne Australia, and partly funded by Victoria Legal Aid. MOLS was principally established to provide practical legal education to Monash law students over 30 years ago, but has since evolved to focus also on serving community legal needs. Incorporated within MOLS is the Family Law Assistance Program (FLAP) which, as the name suggests, deals exclusively with family law matters. FLAP students attend the Family Court each week with lawyers who provide assistance to clients in a duty lawyer capacity, as well as operating four clinical sessions each week within MOLS.

Like many community legal services, most MOLS clients experience a form of disadvantage and resultant financial difficulty. Consequently, MOLS deals with a range of legal matters including: criminal law, family law, tenancy and neighbourhood disputes, and a number of credit, debt, and bankruptcy issues.

In July 2010, the Multi-Disciplinary Clinic (MDC) was established at MOLS to provide a holistic service to clients by involving students from three academic disciplines to deal with client issues. Later, in December 2010 (the commencement of the university's summer semester), students from one other discipline were included in FLAP and a third discipline was also adopted in the following semester.

## The MDC

Within the MDC the law practicum is combined with finance students and social work students who, as a team, provide assistance to clients of MOLS. The three students simultaneously take instructions from clients and refer the cases to supervisors together (one supervisor from each

discipline) who then provide advice to the client. The students then return to their client to issue the advice and take any further questions or instructions. The three supervisors sit together with the three students at the same time so that it is a collaborative exercise.

There are currently eight teams of three students operating over two clinical sessions each week.

Law students tend to lead client interviews and legal matters will usually be prioritised over financial or social issues in the first instance, although often non-legal issues come to share a priority and sometimes take precedence.

Students from each discipline are required to isolate aspects of the client's situation that they can assist with in the context of their own discipline. For example, a client presenting with a request for assistance with a criminal theft matter may also be experiencing financial difficulties that the finance student may assist with, this may also be relevant to the Court at the time of sentencing. Similarly, a family law client may also need assistance with social issues from the social work student (as well as financial assistance).

## **FLAP**

The nature of supervision in FLAP varies somewhat to the rather structured system developed for the MDC. This is mostly due to the different resources available to FLAP which have resulted in a more fluid yet equally as effective supervisory model.

With the benefit of two administrators (one of which is a lawyer) students are able to receive immediate guidance on the progression of matters. FLAP also has a comprehensive database of precedents, which has developed extensively over several years, accessible by students to assist with their cases. Furthermore, client files are maintained on an electronic system which is accessible by the principal lawyer so that students' work can be reviewed at any time. Supervision with FLAP's principal lawyer is regular but on a needs basis with immediate support being provided by administrators.

Of note is the increasing complexity of family law cases which, if dealt with only in regularly scheduled reviews with the principal lawyer, would require such a lengthy meeting that it would be impractical when compared with the provision of more regular and ad hoc assistance.

Contrary to the more profoundly team-focussed model applied in the MDC, non-law students in FLAP are called upon to assist law students and clients on a consultative basis rather than as a permanent member of any one team. In this way, non-law students may work with several different law students over the course of the semester and provide advice on a range of matters.

## **Assessment**

In addition to supervised casework, law students are required to attend weekly seminars, write and submit reflective journals every two weeks, participate in community engagement, and participate in weekly file reviews. Their assessment is based 60% on casework, 20% on their reflective journals, and 20% on community engagement activities.

Finance students are required to prepare a 3000 word report of their experience in the MDC or FLAP for submission at the end of the semester, as well as prepare and present a 20 minute presentation based on their report. This report is mostly reflective in nature. They are also

required to participate in weekly file reviews in the MDC, or regular meetings in FLAP. Their assessment is slightly different to that of law students as it is based 50% on their clinical work (supervisory observations of the quality of casework, client and team interaction) and 50% on their report and presentation.

## **Supervision**

Two different models of supervision operate between the MDC and FLAP. In the MDC, weekly meetings involving each team of students and the supervisor from each discipline are conducted. In these meetings each student is required to provide both a verbal and written update on the progress and activity of each case that they are working on from the perspective of their academic discipline. In turn, supervisors provide feedback and advice on each case whilst at the same time paying due regard to the progress of each matter and the well-being of clients.

The supervision model in FLAP differs markedly insofar as there is not a regular cross-disciplinary meeting between students and supervisors. Instead, the non-law disciplines convene a meeting of their respective students on either a weekly or fortnightly basis in which general issues and unique cases are discussed. In this way, students not involved in a particular case can also share in the experience and learning of other students. To compensate for this lack of intensive and specific advice on individual cases during meetings, supervision during non-clinical periods in FLAP is more intense with administrators and non-law supervisors being available to students during every aspect of follow-up work. By comparison, the MDC favours a model whereby students use their own initiative to progress cases based on in-principle advice by supervisors, which is then confirmed and added to during weekly meetings.

In both the MDC and FLAP, any action taken on a file and advice given to clients is provided and confirmed by the relevant clinical supervisor.

## **Learning and pedagogical outcomes**

Orientation programs occur prior to the commencement of student placements and are conducted separately in each discipline. Law students attend a comprehensive seminar program running over several days which covers information on specific areas of law likely to be encountered during their placements, as well as interview skills, social justice, communication skills, and procedural/administrative information.

Social work students and finance students undergo a more general orientation that introduces them to the role of MOLS and the MDC, and canvasses the types of matters they are likely to encounter. It is intended that, over time, more advanced and specific sessions will be developed for non-legal students. To date, they have also been encouraged to attend legal seminars on a voluntary basis.

In addition to the casework of the MDC, non-law students also have the opportunity to assist with Court appearances.

Of course, the vast majority of learning for all disciplines occurs in the conduct of casework in the live clinical environment. Priority is given, at least initially, to legal issues although this often quickly expands to financial and social issues. Students are required to prioritise the client's needs irrespective of which discipline's expertise may be required, and then prepare a strategy in order

to address all issues that have been presented. In some circumstances, clients may disagree with the prioritisation of issues that students (under supervision) determine, and at times clients disengage with the process for a variety of reasons, but in the majority of cases students are able to work with a client through the various legal, financial, and social issues they are confronting.

This enables students to quickly and actively assimilate a working knowledge of the other disciplines that are contributing to the outcomes the client will benefit from. Whilst it is not intended that students become versed in all three areas to the extent that they can provide advice in another field, it is certainly a positive outcome that students almost unavoidably develop a level of knowledge of the capacity of the other disciplines. Consequently, students quickly develop an appreciation of longer term issues arising from a presenting legal problem. Equally so, over the course of the semester students become increasingly adept at recognising longer term needs of their client even though these needs may be outside the realm of their own disciplinary practice.

As the combining of students into multi-disciplinary teams at the commencement of the semester is largely a random exercise, the resultant experience of team based practical experience is amplified. Students don't just learn to "work together", the experience extends from initially learning about the expertise of other students to establishing professional relationships with each other, and recognising and respecting the knowledge and function of the other students. Perhaps obviously, the effect of demonstrating this in a live clinical setting provides for a rather acute form of learning. Students also are encouraged to design their own work plans with minimal intervention from supervisors thus providing additional opportunities for students to develop their teamwork abilities. With responsibility for the dissemination of duties mostly left up to the students (subject to the relevance and contribution of each discipline), they develop mechanisms by which each student undertakes specific tasks, liaises with the client and/or other parties in relation to particular aspects of a client's case, and maintains an active dialogue with the other students and supervisors in relation to the client's issues.

Of course, each discipline has different expertise associated with it that would not previously have received particular attention from the other disciplines yet would certainly be beneficial to them. For example, in a practical sense, strong focuses on letter writing and, in a less practical way, special attention to the avoidance of ethical conflicts are both a matter of priority for law students. Whilst these issues haven't usually received the attention they deserve by the other disciplines, they are undoubtedly matters deserving of similar consideration by them. One of the primary considerations for social workers is the identification of possible mental illness; for both lawyers and consumer advocates (finance/accounting students) this often goes a long way towards understanding the reasons for a client's predicament and should be given close attention before considering a course of action. Similarly, social work students are given the opportunity to understand the legal process that their clients will be subject to as well as the financial options and protections that are available to them. Finance/accounting students are able to develop a more intimate understanding of legal procedure and also a far more identifiable appreciation of the reasons that many clients find themselves in financial difficulty; these often are matters outside their immediate control such as behaviours of addiction, unemployment/retrenchment, illness or accident, family/marriage breakdown, mental illness, and variety of other influences not usually canvassed in the course of undergraduate education in accounting and finance.

## Consumer advocacy

The placement experience and work carried out by finance/accounting students is referred to as consumer advocacy as this essentially denotes the delineation between law students undertaking civil case work and a consumer advocate seeking to avoid litigation. Whilst there is a “financial counselling” movement in Australia there is a separation between this and the work of consumer advocates (students) at MOLS as the financial counselling sector has no formal qualification universally attached to it and has little documented ethical or practical standards. However, the subject matter considered by consumer advocates in the MDC is mostly the same.

Consumer advocates deal with a variety of cases including:

- Credit and debt matters (including negotiations, debt write offs, and payment plans)
- Bankruptcy
- Disputes with banks, utilities and insurers
- Tenancy
- CentreLink (social security)
- Fines and infringements

Where lawyers are often at a loss to achieve a positive outcome because the costs of litigation in a consumer dispute are prohibitive, and social workers often find it difficult to refer paralegal matters to a cost effective practitioner (such as a Community Legal Service), consumer advocates are able to exercise a client’s rights under industry codes of practices as well as legislation, and are able to advocate for clients in jurisdictions such as Ombudsman services and tribunals. Furthermore, consumer advocates learn to assess the validity of a claim against a client prior to considering how to negotiate with the other party. For instance, there have been many instances where Australian banks and finance companies have engaged in predatory lending and other practices resulting in large debts that many disadvantaged consumers are unable to pay. Consumer advocates learn to seek redress for this type of conduct which often results in the waiver or substantial reduction of the debt through either negotiation with the creditor, a complaint to an Ombudsman, or a tribunal decision.

Similarly, positive outcomes for clients have been achieved in tenancy matters by considering the claim against the client in light of the regulatory framework and the views of the tribunal (VCAT). In addition to matters relating to regulation and legislation, consumer advocates are also able to ensure that clients are receiving all the government entitlements, concessions, and grants to which they are entitled. Students also learn how to dispute the decisions of government bodies such as CentreLink, the Child Support Agency (which assesses child support payments), and the Australian Tax Office, which often involves the drafting of lengthy applications and tribunal appearances.

## Case studies

### Mr N

One of the MDC's youngest clients, Mr N was 13 years old and presented with his father who he had come to live with after having been involved in the assault of his mother's new partner. At the time that he initially presented, an Intervention Order had been made against him as a result of allegations (later proved) that he conspired with his older cousin to have his mother's partner assaulted by a number of youths in his mother's home. He had been residing with his mother and his younger sister until the time of the assault, his mother and father had divorced some years earlier and the subsequent relationship with his father had not been close. The Intervention Order prevented him from going to his mother's home and from contacting both his mother and his sister. Shortly after his initial presentation to the MDC, he was charged with Conspiracy to Assault, his cousin had also been charged with related offences.

The law student acted for Mr N by taking instructions and briefing counsel in relation to the criminal charges he was facing in the Children's Court. The social work student worked with Mr N to try to rebuild the relationship with his mother and his sister, and to deal with issues relating to his mother's new relationship. There was also some attention by the social work student given to his current living arrangements as his father seemed to become gradually more disengaged. Living with Mr N and his father were his elderly grandparents which seemed to be increasingly reliant on Mr N after his father started to spend more time travelling back to his home country.

The finance student was made aware of some financial difficulties that Mr N's father was experiencing. He had accumulated approximately \$60,000 in credit card debt and his only income was unemployment benefits. School fees owing to Mr N's private school were also unpaid and it was considered important by all students and supervisors to maintain stability by keeping Mr N in the same school, particularly as it had been especially supportive. Mr N's father did not own any material assets, accordingly it was considered that his best option would be bankruptcy although an arrangement was reached in relation to the outstanding school fees. This would extinguish his liability for the debts he couldn't pay. Mr N's father, however, had applied and had been granted a partial early release of his superannuation over one year earlier and had asked if he could do the same again. He was advised that he could, although as he had not previously considered bankruptcy he instructed that he now wanted both to seek another early release of his superannuation as well as declare bankruptcy. In essence, this would mean that he would be advising the superannuation regulator that he was seeking funds from his superannuation in order to pay his debts, when in actual fact he would be declaring bankruptcy and not paying his debts at all. This would result in him gaining the money from his superannuation under false pretences and not using it to pay his debts. Quite obviously, this raised serious ethical issues such that we could not act on these instructions and he was advised accordingly. Mr N's father then instructed that he would seek the early release of his superannuation himself (having done so before). We understand that he returned to his home country and remained there for quite some time.

Mr N was required by the Children's Court to continue counselling. The Court gave due regard to a report by the social work student, and the efforts of the finance student were exceptional despite the somewhat questionable motives of Mr N's father. Regardless, the finance student (as well as the other students) gained an invaluable insight into both a new set of options for clients in these circumstances as well as the ethical considerations that must be given to client instructions.

## Mr A

Mr A's presenting legal issue was a criminal charge of Obtaining Property by Deception (fraud) from CentreLink, the organisation responsible for social security in Australia. The charge arose from Mr A having under-declared his earnings and thus having received a larger unemployment benefit than he would ordinarily have been entitled to over several years. He had been working as a taxi driver and had been declaring some but not all of his earnings.

The MDC's law student took instructions and briefed counsel in relation to his criminal matter on which he pleaded guilty.

Emerging from his instructions in relation to his criminal matter was the issue of some \$30,000 owing in traffic infringements. For the most part, these related to the regular use of a toll road without the requisite vehicle tag and account.

It was apparent to the students that Mr A did not appear to completely understand why he had been accused of fraud against CentreLink, nor did he have an adequate comprehension of his obligation to report all of his earnings. This gave rise to some concern about his neurological capacity and, despite all attempts, Victoria Legal Aid would not agree to fund a neuropsychiatric assessment. The social work student, however, was able to prepare a psycho-social assessment which was presented to the Court and given some weight.

The finance student was able to scrutinise the Brief of Evidence which exposed inaccuracies in the quantum of the alleged fraud. The prosecution had relied upon information from CentreLink which essentially considered only Mr A's gross taxi takings in respect of the earnings that he ought to have declared. This was inaccurate because it did not take into consideration the costs of insurance, the toll road (although the fees were unpaid), and fuel for the taxi. The amount was consequently re-calculated by the finance student and the Brief was amended by the prosecution accordingly. The finance students continue to assist Mr A in connection with his traffic infringements with a view to these being dealt with by a Magistrate in Court.

Mr A's criminal matter was dealt with by the Magistrates' Court and, due in no small part to the contribution of the social work student's report, escaped without a conviction for the offence. Despite efforts to require substantial repayments of the amount owed to CentreLink, with the assistance of the finance student these were minimised.

In short, a summary of pedagogical outcomes can be seen as follows:

- Lateral analysis of problem solving with exposure to other disciplines
- Team work across disciplines, negotiation and collaboration
- Broad understanding of non-legal aspects of legal casework
- Appreciation of social disadvantage and the causes and effects of poverty
- Greater awareness of social justice issues and how the various disciplines can play a corrective role

## **Conclusion**

The benefits of multi-disciplinary practice are somewhat obvious for students, but the benefits to clients should not be understated. Where there are benefits to students, there are usually benefits to clients too.

Whilst there will always be challenges in relation to finding the right supervisors (that is, those with appropriate and relevant practical experience and knowledge combined with the ability to teach and mentor), once this is overcome the other challenges that inevitably arise are far more easily dispensed with. For example, it is clear that the very nature of multi-disciplinary practice almost invites opportunities for disagreement and conflicts with the priorities of the different disciplines. However, dealing with these constructively and respectfully creates even greater learning opportunities for students and better outcomes for clients.

Perhaps demonstrable by this paper alone, which should be considered as a summary document of the MDC program, is the substantial research opportunities that programs such as this also invite.

## **Contact information:**

Richard Foster  
Fellow, Faculty of Business and Economics  
Monash University, Clayton Campus, Australia  
Clinical Supervisor  
Monash-Oakleigh Legal Service  
60 Beddoe Street  
CLAYTON VIC 3168  
Ph: 61 3 9905 4333  
Fax: 61 3 9905 1113  
Email: rfoster06@gmail.com



