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## Law Clinics: What, why and how?

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## Part 1

# Law clinics: What, why and how?

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## What is clinical legal education?

Defining ‘clinical legal education’ (CLE), or a ‘clinic’, is not straightforward, as it takes many forms. To borrow a metaphor,<sup>1</sup> one can conceive of CLE as a *cathedral* on the one hand, or a *bazaar* on the other.

Treating a clinic as a *cathedral* – defining very narrowly what its architecture must look like, what resources and materials it must have available, who may enter and what activities must be conducted therein – is to discourage the maverick creative spark which is so often the very hallmark of CLE.

A richer approach, better reflecting realities, is to imagine a clinic instead as a *bazaar* – open to all who wish to both enhance legal education and seek to improve access to justice for the wider public. Some ‘stalls’ may appear more frequently than others, and each will conduct their business in a unique way, but each stallholder’s underlying ethos is broadly similar.

Although it may not be easy to come up with a comprehensive definition of CLE, there are two common denominators for all clinics:

- the delivery of a legal service (actual or simulated)
- the participation of law students (and possibly others), acting under professional supervision where necessary.

For the purposes of this Handbook, by ‘clinical legal education’ we mean any clinic activity (as defined above), whether accredited or extra-curricular:

in which each student takes responsibility for legal or law-related work for a client (whether real or simulated) in collaboration with a supervisor. Structures enable each student to receive feedback on their contributions and to take the opportunity to learn from their experiences through reflecting on matters including their interactions with the client, their colleagues and their supervisor

<sup>1</sup> Eric S Raymond, *The cathedral and the bazaar: Musings on Linux and Open Source by an accidental revolutionary* (O’Reilly Media, 1999).

as well as the ethical dimensions of the issues raised and the impact of the law and legal processes.<sup>2</sup>

While many university law clinics will follow similar models, they will vary to differing degrees in terms of focus and method of delivery. In the remainder of Part 1, reference to a ‘clinic’ indicates a university clinic involving real clients unless otherwise stated. Such clinics involve the provision of some combination of legal information, advice, casework and/or representation to clients on an individual basis.

There are currently approximately 229 live client clinics operating in the UK, around two-fifths of which are university law clinics.<sup>3</sup> We provide examples of different models of clinic in further detail later on in Part 1.

Many clinics will also encompass other types of projects, which are aimed at delivering general public education and/or increasing legal empowerment in the wider local community or for a particular community group, rather than advising on and/or resolving clients’ individual legal problems through a live client clinic run by the university. Examples of such activity include:

- public legal education, such as ‘Streetlaw’ (also commonly referred to as ‘Street Law’)<sup>4</sup>
- research and reporting projects, often carried out for non-governmental or not-for-profit organisations
- externships, which see students volunteer with and under the supervision of third party advice agencies.

Further examples of each of the above are provided later in Part 1. However, the majority of Part 1 and indeed, this Handbook, focuses on university-led, live client clinics rather than public legal education-oriented programmes, or programmes run and supervised externally to universities. This in part reflects the relative complexity involved in establishing a university-led clinic and also the popularity of this model.

2 Jeff Giddings, *Promoting justice through clinical legal education* (Justice Press, 2013), p. 14.

3 LawWorks, *LawWorks Clinics Network Report April 2017–March 2018*, published December 2018 <<https://www.lawworks.org.uk/sites/default/files/files/LW-Clinics-Report-2017-18-web.pdf>> accessed 3 July 2019.

4 See, for example: Richard Grimes, David McQuoid-Mason, Ed O’Brien and Judy Zimmer, ‘Street Law and social justice education’ in Frank S Bloch (ed), *The global clinical movement: Educating lawyers for social justice* (Oxford University Press, 2011); and Seán Arthurs, Melinda Cooperman, Jessica Gallagher, Freda Grealy, John Lunney, Rob Marrs and Richard Roe, ‘From zero to 60: Building belief, capacity and community in Street Law instructors in one weekend’ (2017) *International Journal of Clinical Legal Education* 4(2), 118–241.

## Designing your live client clinic

There are many different models of live client clinic, with various combinations of supervision, management and insurance being possible across all of these models. All of these options are equally valid and will depend entirely on the administrative, strategic and financial considerations unique to the school where a clinic may be established. When considering how a new clinic should be managed, and where it ought to be located, you would be well advised to consider Donald Nicolson's matrix for plotting clinical models.<sup>5</sup>

Nicolson considers there to be two dimensions to the development of clinics:

- The 'organisational dimension', which is broadly concerned with how clinics are run, including whether student engagement within them is compulsory, whether the activities are assessed, and whether clinics are primarily focused upon social justice or upon student learning.<sup>6</sup>
- The 'activities dimension', which includes considerations such as the physical location of the clinic (in the community or on campus), whether the service offered includes generalist legal advice or more specialist legal advice, and whether the service includes an element of educating the public about their legal rights, as opposed to focusing only upon advising on existing problems.<sup>7</sup>

Where a particular law school chooses to sit within this matrix will be determined by a range of considerations, some of which are likely to be beyond the direct control of those establishing the clinic. For example, the decision may be influenced by the extent of available professional supervision, the extent of existing legal provision within the community, the location of the campus, its accessibility and its associated suitability for an on-campus service, and the basis on which funding is provided in support of such activities.

Nevertheless, many aspects of the clinical strategy will be within the control of those establishing the clinic itself, and it is important to consider the following issues.

### **Who do you want to work with, and why?**

If operating a clinic on campus, are you happy to receive client referrals from other organisations? If so, will these be from any organisation, and will this be on a formal or an 'as and when' basis? How would a more formal arrangement

5 Donald Nicolson, "Our roots began in South Africa": Modelling law clinics to maximise social justice ends' (2016) *International Journal of Clinical Legal Education* 23(3), 87–136.

6 Ibid at p. 87.

7 Ibid at p. 88.

work, and how would you avoid creating extra work for those agencies through the referral system?

If you are partnering with external agencies and running a clinic off campus, will you be selective about who you partner with? If so, on what basis? Will you only partner with established agencies (who potentially offer a larger pool of clients, due to being more embedded), or will you partner with those who are newer (who potentially offer fewer clients to start with, but who may offer the opportunity to work collaboratively on a new and exciting project)? Will you work with charities and third sector agencies only, or would you consider statutory bodies, such as local councils?

### **How will the insurance be arranged?**

Consider if arranging insurance might it be easier under one model than under another. For example, if students are to be trained and supervised by an external body, it is feasible to suggest that insurance ought to come from that body. Conversely, if the students are being trained and supervised by staff internal to the university, there is a strong case for saying the university's insurance ought to cover those activities (rather than, for example, additional insurance being bought in by the law school).

For further guidance on insurance, see **Part 2.3** of this Handbook.

### **Health and safety policies within the university**

These should not restrict you from engaging with a particular model of clinic, but you will need to be mindful of them and engage with the relevant unit of the university in order to ensure policies are complied with (whether the clinic is based within the law school, or operates off campus).

### **Will you offer appointments?**

Or would you prefer to run the clinic on a drop-in basis?

### **Will your clinic offer advice and/or form-filling only, or representation as well?**

In non-contentious matters, will the clinic draft and/or negotiate documentation on the client's behalf? The type of service you offer may be influenced by the regulatory position of those supervising the clinic work.

See **Part Two** for further guidance on the regulatory status of solicitors and barristers working in university law schools.

**How will you incorporate flexibility within the clinic, not only for clients and lawyers but also for students?**

Can you be flexible about when and where the clinics take place, to allow for different people to get involved at different times? For example, family clinics might best be held in the middle of the day, when those seeking advice about domestic violence matters may be more able to leave the house.

Can some clinics be held in the daytime in order to allow all parties with caring responsibilities to have their evenings free? Can part-time students participate in clinics or will appointment times clash with teaching times? Can client interviews be conducted via Skype or telephone?

Once these intended outcomes – perhaps best framed within the context of a clinic (or law school) strategy – are clear, the model can then follow.

However, the model will not solely depend upon the intended outcomes for the law school, but also upon factors which are, to a greater or lesser extent, outside of the control of those formulating the clinic. For example, it might be that in order to meet the intended objectives, a large-scale in-house clinic suite of office and client interviewing space would be preferable. However, this might be unreasonable to consider and/or suggest in light of available law school finances. In short, the intended outcomes must be pragmatically aligned with what is feasible within a particular law school's context.

**Business case for a clinic**

Clinics can be expensive to operate, with costs varying according to the model adopted, the insurance arrangements in place, the extent of the service offered, the scale of the activity and the staffing and supervisory arrangements.<sup>8</sup> However, there are numerous universal benefits to engaging in clinical activities, and these should be clearly articulated to those whose approval for investment in clinical work must be gained.

**Internal stakeholders**

Within the university, those who must approve the costs associated with the clinic potentially include a Head of School and/or Head of Faculty, university in-house legal team, university insurance officer, and senior management teams.

The need to make the case to some of these parties might be more obvious in some instances than in others: Heads of School and/or Faculty are likely to

<sup>8</sup> More detailed guidance on the costs involved in establishing and resourcing a clinic are addressed later in Part 1.

have the final say as to whether or not staff resources (e.g. workload time, new appointments), other financial resources (e.g. travel costs, postage costs), and/or physical resources (e.g. computers, office space) can be allocated to clinical activities. Equally, however, a university insurance department might wish to understand why clinic activities should and need to be covered.

The following points could be of assistance when making the business case within the university.

### **Development of student skills and awareness**

Depending upon the model of clinic adopted, skills that students can gain through involvement with a clinic include researching, drafting, interviewing, note-taking, form-filling, listening, team-working, time management, client care, and/or verbal presentations, alongside gaining broader educational benefits, such as the potential to enhance their substantive legal knowledge, emotional intelligence, ethical awareness and professional responsibility.<sup>9</sup>

Clinic work also affords students an opportunity to gain confidence through situations that might take them outside of their comfort zones. Students can gain a greater understanding of the law and of access to justice, potentially including areas of law that are not part of the core curriculum. They can also gain exposure to clients with whom they might ordinarily have little or no contact, thereby ensuring their legal education provides them with insight into the practical effects of the law on differing sections of society, and helping to prepare them for a variety of workplaces with diverse client groups/service users. All of these gains arguably illustrate why CLE ought to form part of a law school's offering.

### **Professional insight**

Students can gain greater 'hands-on' insight into the legal profession, including (depending upon the clinic supervision model) through working with members of that profession. This, coupled with the development of the skills outlined above, can feed into the university's employability strategy.

9 See, for example: Kevin Kerrigan and Victoria Murray (eds), *A student guide to clinical legal education and pro bono* (MacMillan Education, 2011); Jonny Hall and Kevin Kerrigan, 'Clinic and the wider law curriculum' (2011) *International Journal of Clinical Legal Education* 15, 25–37; Colin James and Felicity Wardhaugh, 'Enhancing emotional competencies with law students' (2016) *International Journal of Clinical Legal Education*, 23(4), 53–88; Ann Thanaraj, 'Understanding how a law clinic can contribute towards students' development of professional responsibility' (2016) *International Journal of Clinical Legal Education* 23(4), 89–135; Carol Boothby and Cath Sylvester, 'Getting the fish to see the water: An investigation into students' perceptions of learning writing skills in academic modules and in a final year real client legal clinic module' (2017) *The Law Teacher* 51:2, 123–37; Donald Nicholson, "'Education, education, education": Legal, moral and clinical' (2008) *The Law Teacher* 42(2), 145–72; and Colin James, 'Lawyers' wellbeing and professional legal education' (2008) *The Law Teacher* 42(1), 85–97.

## Community engagement

Clinics afford an opportunity to embed university activities within the community, a matter of increasing strategic importance.<sup>10</sup> Although university strategies commonly reference the importance of internationalisation, many will also have a civic mission and will therefore recognise the importance of contributing positively to the local community. Clinics can assist with this, particularly where advice is given to clients beyond the university community of staff and students.

## Student wellbeing

Some commentators draw a link between wellbeing and altruism,<sup>11</sup> which (again depending upon the model of clinic adopted, specifically whether it is assessed or co-curricular) might support pro bono activities within law schools. Given the importance of student wellbeing and the national focus on this matter,<sup>12</sup> this is another positive aspect of clinical work that might be emphasised at university level.

## Student recruitment

With the majority of law schools now offering some form of pro bono work<sup>13</sup> there is arguably a legitimate expectation on the part of students that these opportunities will exist at law school. It may therefore be a deciding factor in a student's choice of one institution over another, thereby adding a commercial justification.

## Routes to qualification as a solicitor

The current proposals for the Solicitors Qualifying Examination (SQE) expressly

10 See, for example, <<https://www.universitiesuk.ac.uk/blog/Pages/Acting-locally-universities-reconnecting-with-communities.aspx>> accessed 15 August 2019.

11 See, for example, DLA Piper's former head of pro bono, Amy Heading <[https://www.youtube.com/watch?v=\\_FQqlvmXSJI](https://www.youtube.com/watch?v=_FQqlvmXSJI)> accessed 15 August 2019.

12 See, for example, Universities UK, *Student mental wellbeing in higher education: Good practice guide* <<https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2015/student-mental-wellbeing-in-he.pdf>> accessed 16 August 2019; Times Higher Education, *Student experience survey 2017: Investigating well-being at university* (26 March 2017) <<https://www.timeshighereducation.com/student/blogs/student-experience-survey-2017-investigating-well-being-university>> accessed 16 August 2019.

13 A 2014 study found that at least 70 per cent of law schools in the UK had pro bono/clinical initiatives: see Damian Carney, Frank Dignan, Richard Grimes, Grace Kelly and Rebecca Parker, *The LawWorks Law School Pro Bono and Clinic Report 2014* <<https://www.lawworks.org.uk/sites/default/files/LawWorks-student-pro-bono-report%202014.pdf>> accessed 3 July 2019. The most recent LawWorks report (**note 3**) reports a net gain in the number of clinics in their network in the year 2017–18. It is not specified whether these are based in universities or not, and not all university law clinics join the LawWorks network. However, it is likely that the percentage of law schools that offer pro bono work will have increased since 2014 and constitutes the majority.



state that experience in a law clinic might be counted as part of the requisite two-year qualifying work experience needed to qualify as a solicitor under the new regime.<sup>14</sup>

Furthermore, Stage 2 of the SQE will assess students on Client Interviewing, Advocacy/Persuasive Oral Communication, Case and Matter Analysis, Legal Research and Written Advice and Legal Drafting – most of which, if not all, can be experienced in clinic.

Again, in order to ensure consistent and competitive admission rates, universities have a commercial interest in providing adequate resourcing for clinics in order to maximise opportunities for those students who wish to qualify as a solicitor upon graduation.

For further guidance on clinics and qualifying work experience under the SQE, see **Part 2.9**.

### **Research and CLE**

Clinics offer rich research opportunities for staff involved in areas such as social justice and pedagogy. Such research projects can often be pursued in collaboration with students, other schools and departments internally, and universities and third sector partners externally. Clinics can therefore align with and enhance the research agendas of many law schools.

Further detail on CLE and research is contained in **Part 4** of this Handbook.

### **External stakeholders**

The business case for clinics might also need to be made outside of the university, particularly where the clinics will rely (wholly, or in part) upon supervision from external lawyers or other partners. Although lawyers will often have some understanding of the benefits of undertaking pro bono work, it can be helpful to illustrate two particular benefits to them (personally and collectively) when attempting to secure their involvement:

#### **1. Working with students**

- Undertaking clinic work with students is of dual benefit to lawyers:
  - There exists the opportunity to familiarise oneself with students who, in the near future, may wish to apply for employment in the legal

<sup>14</sup> See 'A new route to qualification: The Solicitors Qualifying Examination (SQE)', April 2017, p. 10 <<https://www.sra.org.uk/globalassets/documents/sra/consultations/sqe-summary-document.pdf?version=4a1ad1>> accessed 19 February 2020. The SQE will be a centralised examination, to be launched in 2021, which those wishing to be admitted as a solicitor will need to pass.

sector. Working with them in clinics gives lawyers the opportunity to engage with potential applicants, which could be useful to both the lawyer and the applicant during later recruitment stages.

- Whether the clinic students wish to become lawyers or not, clinics offer an opportunity for lawyers to support and influence the next generation of the workforce. Lawyers at Leeds University's clinic, for example, often report gaining enjoyment from doing so, and from being able to work with a different set of people to those they usually encounter. They report the optimism, excitement and genuine interest in the law on the part of students as something that they take pleasure in seeing and helping to develop.

## 2. Working with clients

- Allied to the previous point about working with students, lawyers will often particularly enjoy working with clinic clients, especially if the clients they usually encounter in their day job are of a different background and have different types of queries to the clients they deal with in the clinic. Working in clinics, even if they are advising within their usual area(s) of practice, provides for some diversity in their working lives and can even enhance the skill sets of more junior lawyers, in particular. For example, lawyers working for firms that tend to act for corporate and commercial clients may get the opportunity to act for individual clients through the clinic, thereby developing their own practice experience.

Finally, where the clinic takes place within an existing advice agency, or where students work solely off site and are supervised and trained by external partners, the business case must also be made to the host agency or organisation. When seeking to place volunteers within any type of agency, these placements come with associated costs. As far as external partners are concerned, the following factors can be persuasive:

- Provided you are not competing with existing services, but rather are complementing those in existence and perhaps filling a need that the host agency cannot meet (and is not going to be able to meet in the foreseeable future),<sup>15</sup> the service offered can alleviate pressures on them.
- For some partners, working with students is an opportunity to showcase the areas of law in which they work, with a view to encouraging students to consider potential future employment in these areas of law. For example, one project, working with a council's welfare rights

<sup>15</sup> For example, if an organisation cannot provide advice in the area of family law – and does not foresee employing advisers to do so – then a clinic service operating within that area would potentially be welcomed as 'filling a gap'.

unit, found that the unit's director was particularly keen to highlight the availability of paid roles in the welfare rights field: it is seemingly very difficult to recruit suitable people into welfare rights law, and this pro bono collaboration provided a way of showcasing the area to potential future employees.

- The provision by an external partner of premises from which to operate a clinic can be a crucial benefit for the university, particularly where rent would otherwise cause costs to rocket and potentially render a clinic inoperable. However, creating and building upon long-term partnerships can achieve benefits for both parties, such as increasing the footfall in a shopping centre by holding the clinic in a designated unit, and developing other ways in which partners can work together that are mutually beneficial. This may not be related to the clinic at all, but the aim is to forge a working relationship between the university and external partner to ensure that smaller individual agreements (the lease of premises at a reduced rent) remain in place.

When seeking to form relationships with external parties – whether lawyers or agencies – there are some things you can do to both generate these initial conversations, and increase the possibility of them bearing fruit:

- **Use your students:** they will be your best ambassadors! Consider involving them in pitches, if possible, and encourage them to suggest firms with whom they undertake work experience to get involved with the clinics. Students will also have their own networks, which can be beneficial to the clinic, so encourage them to look out for pro bono opportunities. For example, the University of Birmingham recently launched a clinic in conjunction with a charity following an introduction from a student who had volunteered with the organisation.
- **Keep in touch with graduates of the law school:** they could one day become your clinic volunteers. Similarly, make use of your university's alumni network, if it has one, as well as sites such as LinkedIn, Twitter and Facebook (both to contact known graduates and to advertise volunteering opportunities).
- **Nominate, nominate, nominate:** once you have a project, consider nominating it for any local, national and/or university awards for collaborative working, student volunteering, etc. These awards are a welcome boost to any team, and even being shortlisted is excellent publicity for both the law school and any external partners. New potential partners will be keen on such positive publicity.
- **Try to avoid requiring huge amounts of time from legal practitioners:** particularly as the end of the financial year approaches. Advance scheduling can mitigate the risk of over-reliance on a busy

external practitioner or of supervisors having to decline to attend due to pressure of work. For example, the clinic at Liverpool John Moores University agrees the schedule for appointments and drop-in clinics with its external supervising solicitors in the summer prior to the start of the next academic year, rather than trying to source supervisors on an ad hoc basis as and when client enquiries are received once term is underway.

- **Set up a clinic advisory board representing all stakeholders** both within and outside the university: this can provide invaluable guidance and advice to clinicians, as well as helping to inform annual clinic strategies.
- **Undertake annual reviews with partners:** this can help to ensure that expectations are being met on each side, and to jointly devise plans for the forthcoming year.

## How to set up a clinic

Once an appropriate model has been identified, to ensure the smooth running of your project you need to put in place regulation and compliance, financial issues and staffing resources, student training, office processes and appropriate signposting or referral practices.

### Regulation and compliance

There are a number of practical regulatory and compliance issues to consider when setting up a clinic. For example:

- Who will supervise the work done in the clinic and what type of work are they authorised to do?
- Are there any legislative or regulatory restrictions or limitations on the type of service you intend to offer?
- What insurance arrangements do you need to put into place?
- What client care processes do you need to introduce?
- How will you ensure that client and student data is kept safe and secure?

All of the above regulatory and compliance issues and more are dealt with in detail in **Part 2**.

### Financial issues and staffing resources

As outlined above, when establishing – or for that matter expanding – a university law clinic, except in the most unusual cases there will be cost and

resource implications for the institution hosting the project. Law schools are typically perceived as cost-efficient departments, offering a popular subject at low cost and ultimately making a significant contribution to the financial health of the institutions of which they are a part. For those seeking to establish or develop a clinic, the cost of the project will be uppermost in the minds of those who will either approve or reject the proposal.

Many law schools in other jurisdictions, especially the USA, have relied on substantial charitable donations to establish and run law clinics. The fact that clinics can meet both educational and social justice objectives make them a prime focus for donations. Most UK universities now have substantial teams of staff devoted to seeking donations, often from wealthy alumni who are keen to give something back to their former university or college. Other sources of funding, such as (at the time of writing) EU funding, or support from charitable trusts, such as the Legal Education Foundation, can also make a substantial contribution to the work of a clinic.

While such external support is welcome, it is important to note that even the most substantial donation is only likely to support a project in the short term or provide a specific resource. Further, gifts or grants may come with strings attached, and the process of accounting for how such money has been spent can itself be time-consuming and costly. Ultimately, most sustainable clinic projects have direct financial support from their institutions.

For law school heads and those they report to within the university structure, clinics are often seen as a substantial drain on resources.<sup>16</sup> Most university law schools work on a financial model that considers them as making an income from students, research grants, etc. and then making a specific contribution to the institution to support central services such as estate, administration, library and so on. For law schools, given their comparatively low cost base, such contributions are often substantially higher than from others, such as science and technology departments. Therefore, arguing for even relatively small sums to establish clinics locally within schools must be set against the background of local management's need to meet a school's contribution.

Against this background it is important for those seeking finance to stress the business case for clinics, as outlined above. Given that clinics can be significant factors in student recruitment and, as suggested above, can have a substantial impact on raising the profile of a law school, being able to offer prospective students the opportunity to gain experience in a clinic will appeal to most law school management teams, particularly in the light of greater competition among universities for students at all levels.

16 Mutaz Qafisheh, 'The role of legal clinics in leading legal education: A model from the Middle East' (2012) *Legal Education Review* 22(1), 177–98; John B Mitchell, 'And then suddenly Seattle University was on its way to a parallel, interactive curriculum' (1995) *Clinical Law Review* 2(1), 1–36, 5 (see also **Part 4**).

It should also be noted that although law school finances can vary substantially, depending on student recruitment from year to year, there is an element of stability in that most students in the public university sector continue for three years. As it can take several years to establish and develop a clinic, it is recommended that any bid for funding should look for at least three years' initial funding, which can be justified on the basis that this reflects a natural financial cycle.

When discussing financial requirements, much focus is often on the obvious costs that a clinic gives rise to, such as office equipment, physical space, the cost of practising certificates and matters such as phone calls, copying or stationery costs. Further, depending on the area of practice and the status of the clinic, there may be additional costs in professional indemnity insurance, IT and case management systems or know-how databases where user licences do not cover clinical activity. Of course, these cannot be ignored. Undoubtedly, though, the most significant resource for which money is needed is staff time. When considering financial issues, and seeking to establish or develop a service, it is vital that you clearly and realistically cost the amount of staff time needed to ensure the service is properly set up.

While clinics have often been established by academics simply using their own time to set up and run a project, this model is unlikely to be sustainable. Unless an institution is willing to invest the cost of staff time into establishing a clinic, either employing an individual specifically for that purpose or allocating a fixed level of staff time to run a clinic – or both – it is unlikely that such projects will endure. Even where external volunteer lawyers are relied upon to supervise work done in the clinic there will need to be some allocation of university staff time to manage those relationships and oversee the operation of the clinic. Staff who develop clinics without some form of significant timetable relief or time allocation will often find themselves having to discontinue a project to meet teaching or research commitments or otherwise risk career progression by continuing.<sup>17</sup>

Assuming there is a recognition that staff time needs to be made available, there is likely to be significant discussion as to the grade and status of such staff. Most clinics require a high level of administrative support, both during and often outside of term-time depending on the nature of the service provided. To ensure compliance with professional requirements, that client data remains protected and that confidentiality is preserved, it is likely the administrative function will need to be separated from the main school/department administrative team, whether or not it is undertaken by separate people.

17 Margaret M Barry, 'Clinical legal education in the law university: Goals and challenges' (2007) *International Journal of Clinical Legal Education* 7, 27–50.

There will therefore be a clear need for staff to provide this support and, in many cases, law schools will look to place this responsibility on professional clinic supervisors, perhaps providing some additional administrative support from within the faculty. The arguments as to the employment status of those working in clinics is well-rehearsed elsewhere.<sup>18</sup> It is worth bearing in mind that merging the role of administrator and case supervisor and employing staff on non-academic contracts may have a significant impact on the nature of the service provided. Employing someone without an educational background on a non-academic contract may mean that educational objectives are seen as secondary to service provision. What are clearly financial decisions – i.e. to employ a supervisor on a non-academic contract – can have a significant impact on the nature of project that emerges. You should also consider what career progression opportunities will be available to those engaged to run clinics on non-academic contracts.

Further, if new staff are recruited, job descriptions will be required. In costing a role, institutions will have job evaluation processes. When employing staff on professional support grades rather than academic contracts, such evaluations may result in staff being on lower pay grades and less favourable terms and conditions, as there may not be a recognition of the important teaching role a supervisor plays even in ‘not for academic credit’ clinics. Ideally, it is suggested, staff recruited should be on academic contracts, ensuring that clinic staff feel fairly treated as well as ensuring a link between clinic and non-clinic academic staff in a department, which may be difficult to sustain if clinic and traditional academic staff are employed on different terms.

If clinic staff are academics, you will need to consider how annual leave works among those engaged in the clinic. If the service offered is all year round and all staff are employed on academic contracts, which may have provision for staff to take leave over the summer, some variation to these provisions may be needed.

Further, it is worth giving consideration to time allocation for clinic time, especially where students are working for credit in a clinic. Time for more traditional forms of delivery, such as lectures and seminars, will probably be allocated to academic staff on the basis of a staffing formula allocating staff time for preparation, face-to-face teaching, assessment, etc. It is important to identify at an early stage the necessary resource commitment and funding for a clinic, particularly one that is for credit, and for a clear decision on the way in which staff time is to be credited.

18 David A Santacroce et al, ‘The status of clinical faculty in the legal academy: Report of the Task Force on the status of clinicians and the legal academy’ (2012) *Journal of the Legal Profession* 36 (2), 353.

To this end, there may be something to be gained, when considering how to allocate staff time, from looking at the way in which supervisory time in other disciplines is credited in staff work plans. Supervisor time in laboratories (science subjects) or studios (say, in fashion, art and design) will be allocated to academic and professional staff in a way that may mirror the type of supervision undertaken in a clinic. Law school managers may not be familiar with these ways of deploying staff time and it may be worth researching this within an institution to see what precedents there are. Of course, the level and nature of the supervision will vary depending on the subject; law students may well require closer and more intense supervision than art and design students. However, other departments may provide a useful starting point in considering this issue.

Finally, some thought may be given to how other income could be obtained for clinics. For some, which are set up as alternative business structures (see **Part 2.2**), there is a clear opportunity to charge fees, although this would need to fit with any charitable objectives. In addition, clients may wish to make small donations; again, few large clinics are likely to be able to rely on such income to replace core institutional funding.

## Student training

There is no definitive guide that you must follow to ensure that student volunteers have the correct level of training to hit the ground running and begin their journey within clinical legal education. It will very much depend on a number of factors:

- **Clinic model that is in operation:** The more responsibility the student volunteers are given, for example conducting interviews and providing face-to-face advice (albeit under supervision), the more demanding the level of training that may be required.
- **Level of study of the volunteer:** Most undergraduate law degrees tend towards the theoretical and academic, with no emphasis on practical legal skills. Therefore students may begin volunteering with little or no legal work experience. Such a student would need more training and guidance, for example, than a post-graduate student working towards the Legal Practice Course diploma or equivalent, where practical legal skills are integrated into the course and their assessments.
- **Role of the student within the clinic:** As there is not a single model of clinic, the roles and responsibilities of student volunteers can differ within each model framework. Models that encourage students to take a more active role within the running of a clinic will of course need training on how to conduct themselves in fulfilling such a role, rather than just being given information about how the clinic operates.



- **Individual student needs and confidence levels:** When they first begin to volunteer, many students lack confidence and experience not just within the legal profession, but also within the work environment. Training will need to reflect this, by catering for all students and promoting inclusive learning. In order to achieve such an aim, it is useful for students to 'learn by doing' through engaging in practical activities such as role plays and mock interviews. Such training methods provide a good opportunity for students to get to know their fellow volunteers, and less confident students can then be identified and provided with additional support as necessary.

Students will benefit from training in the following areas:

- knowledge and understanding of the university's clinic, the services it provides and how it operates
- professional ethics and conduct<sup>19</sup>
- interviewing and advising
- communication skills.

### Knowledge and understanding of the clinic

In order for students to be able to effectively carry out their role, whether as part of an assessed or extra-curricular activity, the service provided by the clinic – and how it operates – are fundamental pieces of information of which the student must be aware.

Training sessions can be an opportunity for new volunteers to access materials and precedents that they will come into contact with and use in the clinic, and to learn about their role within the clinic environment and what they will be expected to do. Many clinics operate in accordance with a handbook or manual. LawWorks provides a template of a handbook to members, which can be tailored to suit each clinic.<sup>20</sup> London South Bank University also developed a handbook specifically for drop-in clinics, and has made it available for others to adopt.<sup>21</sup> It provides an overview of the service they offer, information concerning the role and responsibilities of student volunteers, and resources they utilise. **Part 5.1** of this Handbook also contains a selection of precedent documents that a clinic can adopt and which can be used for training purposes.

19 This is obviously a wide area, and at a minimum student volunteers should understand the importance of client care and confidentiality, as well as the Principles contained in the Solicitors Regulation Authority Standards and Regulations and the Code of Conduct for Individuals.

20 LawWorks provides members with a wealth of information and materials to use at the clinic, including a template for a handbook, which includes a framework of how the clinic operates, rules and procedures and the student process.

21 <[https://www.lsbu.ac.uk/\\_data/assets/pdf\\_file/0020/17291/lbsu-drop-in-clinic-manual.pdf](https://www.lsbu.ac.uk/_data/assets/pdf_file/0020/17291/lbsu-drop-in-clinic-manual.pdf)> accessed 16 August 2019.

Students may be obliged to read and sign an agreement of cooperation in accordance with the clinic handbook, as this can demonstrate the importance and legitimacy of the volunteering role that they are undertaking; again, **Part 5.1** contains specimen draft agreements.

Setting boundaries for students to operate within the clinic environment is a way of managing expectations they may have in performing their role, and meeting the service users' expectations as to the service they provide. Enquiries can be dealt with accordingly, and if the student has been given proper training on, for example, the types of legal issue the clinic can deal with, they will know whether they need to take initial details from the client, or should try to signpost the client to other services if the clinic cannot assist.

If students are expected to signpost service users to other agencies or services that may be able to assist them when the clinic cannot, they should also be provided with an overview of local services that are available, and what issues each service can assist with. At the University of Wolverhampton, students are informed about such services with reference to the Wolverhampton Information and Advice Directory.<sup>22</sup> As part of their training, students are also provided with information about how to find a solicitor to assist with their issue, and whether legal aid may be available.

Further guidance on signposting and referrals is contained in **Part 2.6**.

### **Professional ethics and conduct**

There has been much debate as to whether the subject of professional ethics in law should be incorporated into the undergraduate curriculum.<sup>23</sup> This is not presently compulsory until students undertake postgraduate-level vocational courses.<sup>24</sup> With the implementation of the SQE<sup>25</sup> those wishing to qualify as a solicitor will be required to address principles of professional conduct at Stage 1. Therefore, those law schools that wish to map their law degree on to the SQE requirements may well choose to incorporate professional ethics into undergraduate-level teaching.

22 Produced by the City of Wolverhampton Council to provide advisers with information about services and organisations in the Wolverhampton area that can give support and assistance to people in respect of welfare benefits, debt, housing and employment issues <<https://www.wolverhampton.gov.uk/benefits/benefits-universal-credit-welfare-reform/wolverhampton-information-and-advice-directory>> accessed 16 August 2019

23 H Brayne, N Duncan and R Grimes, *Clinical legal education: Active learning in your law school* (Blackstone Press, 1998).

24 The Legal Practice Course for aspiring solicitors and the Bar Professional Training Course for aspiring barristers.

25 <<https://www.sra.org.uk/home/hot-topics/solicitors-qualifying-examination/>> accessed 19 February 2020.

For student volunteers within a clinic dealing with real clients, an understanding of professional ethics – in particular client care and confidentiality – is crucial in order for them to actively apply such principles in the cases that they are engaged with. In order to ensure that students see the link between the ethical principles and the situations they may find themselves in within the clinic, it is recommended that the training includes some form of discussion or activity where students can apply such principles to fictional examples. This will help students to embed their learning and provide them with an opportunity to recognise, question and explore ethical dilemmas they may encounter when dealing with a client's matter.

### **Interviewing and advising**

At most clinics, interviewing and advising will be an essential part of the service, and thus is a fundamental skill that students will practise through their experiential learning process as a volunteer.

When formulating a training session on interviewing and advising, consideration should be given to, but not limited to, the following:

- communication skills (including listening skills)
- preparation for the interview
- structure of the interview
- questioning techniques and the types of questions that should be asked (for example, when to use open questions and when to use closed questions)
- what kind of information needs to be elicited
- note-taking
- closing the interview.

Given that an underlying notion of clinical legal education is for students to learn 'on the job' and learn about the law by seeing it in action,<sup>26</sup> you should encourage experiential learning and practical activities within the training programme. Following the theory of andragogy, coined by Knowles (1985), 'adult learners' in higher education are usually learning for a purpose and will benefit from working in groups.<sup>27</sup> This can begin at the training stage, by involving students in their own training through use of role play, discussion and peer assessment. This also provides a valuable platform from which student volunteers can practise their interviewing skills, gaining confidence prior to interviewing real clients.

26 R Burrige, K Hinett, A Paliwala and T Varnava, *Effective learning and teaching in law* (Kogan Page, 2002).

27 W Kidd and G Czerniawski, *Successful Teaching 14-19: Theory, Practice and Reflection* (1st edn, Sage, 2010), p. 122.

This is best served as one of the final activities or sessions of training, when the students are familiar with the set-up of the clinic, expectations of them as a volunteer and the structure of the interview. It also provides the coordinator or manager with an opportunity to get to know the students, and to pair/group students accordingly, depending upon experience, level of study or confidence – or a combination of all of the above.

With regards to interviewing skills, some university clinics adopt a ‘scaffolding’ approach to the teaching and training of students. Students are first encouraged to consider through group discussion what makes for a good interview in terms of preparing both the environment and the interviewer, before building upon this discussion and – with the use of short videos of a ‘good’ interview and a ‘poor’ interview – prompting further discussion.<sup>28</sup> Role play, peer assessment and feedback would follow, allowing the student volunteers opportunity to practise their interviewing skills using a set pro forma (see **Part 5.3.4** for an interview aide memoire), prior to interviewing clients at the clinic.

### **Communication skills**

As part of their role as clinic volunteers, it is essential for students to demonstrate and develop excellent communication skills. Such skills go beyond oral skills and conversing with clients, supervisors and fellow students. Many clinics operate their advice service by providing written advice, and thus it is often the students who will draft such letters. Students will therefore require some training on the principles of good written advice.

In such cases, as well as role play and other oral-based activities, it is good practice to incorporate written tasks into training sessions, and to provide students with hints and feedback as to good practice in letter drafting. For example, an activity could consist of students being given a set of simple client instructions and a summary of the law – perhaps from various sources<sup>29</sup> – that they would then use to draft a letter using lay terminology. A model answer could then be distributed, which students could use for self-assessment or peer assessment prior to being given generic feedback.

### **Supervision**

Whatever your model of clinic is, students working on live client cases need to be closely supervised. It is this element of supervision that makes the work of the clinic labour-intensive and therefore expensive to deliver compared to traditional teaching methods such as lectures and seminars.

<sup>28</sup> For example, see the interview techniques video produced by the University of Wolverhampton's Legal Advice Centre: <<https://www.youtube.com/watch?v=yKkn3tolQJs&feature=youtu.be>> accessed 16 August 2019.

<sup>29</sup> For example, a summary of the law and the relevant statutory provisions.

When planning a clinic you need to think about how student work will be supervised and who will do this. Some clinics will have a dedicated member of staff whose role is solely to supervise the students and manage the day-to-day running of the clinic, while some clinics rely on practitioners who volunteer their time in order to ensure that students are providing the correct advice to their clients. Often, clinics will operate using a hybrid of both methods.

There are differing views on the level of supervision that students should be given when conducting clinical legal activities. It has been argued that a greater emphasis on students taking responsibility for their own learning is the best preparation they can undertake for the learning that they will eventually do in practice.<sup>30</sup> Some clinicians will not advocate this approach, for the reason that a balance needs to be struck between the benefit to the student in engaging in practical legal education, and the need for members of the community to be provided with sound and accurate legal advice which will not put them (or any potential case that they may have) at a detriment. Those supervising will also need to bear in mind their professional obligations, which are dealt with in **Part 2**.

The more experience the students have of working in the clinic the lighter touch the supervision can potentially be, and it is possible to make good use of peer learning by putting students into pairs or groups with mixed levels of experience. Some universities (such as the University of York) have developed a practice where postgraduate students of the clinical LLM are used for this purpose, and to assist in supervision.

When planning supervision, think about whether this will be done in small groups or in pairs, whether supervisors meet students face-to-face or give written feedback on their work. For example, how many drafts of a letter are you able to look at before it goes out to the client? If you only allow one draft, will the supervising lawyer then spend an inordinate amount of time rewriting letters? If you allow up to four or five drafts then will the client have to wait too long for their letter? There may be instances where supervisors have to intervene and assume ultimate responsibility for delivering timely advice to the client, and this should be considered when determining how many client matters a clinic can take on at any one time, to be commensurate with the time that a supervisor has to provide such a service.

When starting out with a new clinic, be realistic about how many students and client matters one member of staff can supervise, and be realistic with external volunteers about the amount of time needed to give feedback on student work.

30 Steven T Maher, 'The praise of folly: A defense of practice supervision in clinical legal education' (1990) 69 *Nebraska Law Review* 537.

## Office processes and practical arrangements

Premises need not be large but they must be lockable and secure to protect client confidentiality and data protection obligations, while at the same time allowing students to be safely supervised. Hardcopy client records and/or sensitive data relating to students or clients will need to be stored in a locked cabinet in a locked room in order to comply with the requirements of the General Data Protection Regulation (for more on this, see **Part 2.14**). Means by which students are permitted access to the premises and to client data should be strictly controlled and form part of student training and/or your clinic handbook. IT systems will also need to be secure.

It is advisable to liaise with your data protection officers and security team to let them know when and where your clinic runs, and you should also be aware of your university's public liability insurance and out of hours working policies, or any other policies that may govern staff and students conducting activities with members of the public on or off university premises. Risk assessments of premises used for the clinic should be undertaken in accordance with the policies of your university's health and safety department.

Furthermore, clinics should be prepared for clients – and student volunteers – notifying the clinic prior to their appointment or participation in the clinic that they have a disability, which means they would have difficulty evacuating the premises in the event of a fire. Again, you should consult your university's policies to ensure that your practices comply with the requirements of the Equality Act 2010 and any associated/additional policies your institution may have. This is addressed in further detail below.

## Disability

As clinics operate within universities and other higher education providers, they are subject to the same duties under the Equality Act 2010 (EA) as the institutions of which they are a part. In summary, these duties include:

- Eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the EA.
- Advancing equality of opportunity between people from different groups. This involves considering the need to:
  - remove or minimise disadvantages suffered by people due to their protected characteristics
  - meeting the needs of people with protected characteristics
  - encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

- Fostering good relations between people from different groups.<sup>31</sup>

Further, universities are bound by specific provisions of the EA that require, among other things, for a provider not to discriminate in the way it provides education or access to any of the services it provides. As disability is a protected characteristic under the EA, you should take into account the need to make reasonable adjustments.<sup>32</sup>

In terms of the provision of services, it is also incumbent on clinics to consider their EA duties in terms of providing services to members of the public. This requires clinics to ensure that their service provision does not discriminate against those with disabilities or other protected characteristics, and that reasonable adjustments are made in terms of service provision.

Clinics that are part of a university must also consider the issue of disability for staff, supervisors (if external) and students. For the former, this is clearly part of the employment relationship and will need to be addressed within the wider context of their relationship with their employer. For external supervisors and students, the issue may be different.

### **Disability and service provision**

Some clients of a university law clinic will have some form of disability. To ensure that those with a disability can be properly accommodated, it is useful to build into your procedures provision for clients to be able to identify themselves as having a disability and to provide an indication of what sort of adjustment they may need. In addition to the duties outlined above, university clinics are service providers for the purposes of the EA and therefore must ensure they do not discriminate by failing to make reasonable adjustments in the provision of a service.<sup>33</sup>

Issues such as physical access to facilities will clearly need to be considered, ensuring that alternative space can be used if clients have difficulty accessing buildings. This may present problems for small clinics operating out of makeshift accommodation.

Other examples of adjustments might include:

- making written material available in different forms for those clients who are sight-impaired
- providing an induction loop or similar for those with hearing problems
- ensuring that physical surroundings are appropriate for those with conditions such as autistic spectrum disorder or a physical impairment.

31 EA 2010, s 149.

32 Ibid, s 91(2)(a).

33 Ibid, s 29. Note these provisions also apply to other protected characteristics.

Universities will have equality and diversity teams that should be able to offer some form of support to clinics in terms of advice and guidance. For a clear idea of what is required by law, the Equality and Human Rights Commission publishes statutory guidance to those providing services, which should be considered by any clinic providing a service to the public.<sup>34</sup>

### **Disability and students**

Most staff supervising in clinics, especially academic staff, will be familiar with the need to ensure that students with disabilities are accommodated in terms of the provision of education, e.g. through physical adjustments, provision of materials in different forms and provision made for assessments. As well as ensuring that recruitment processes do not discriminate where a clinic selects its students, it is vital to ensure that students with disabilities are able to participate to the same extent as those without.

Equality and Human Rights Commission guidance in this area is relatively limited<sup>35</sup> and provides little direction. It is likely, though, that students with disabilities will have some agreed adjustments already in place with the university, and you should think about obtaining details of these. As with clients, issues such as access to facilities, providing documents in written form and assisting with a hearing disability are clear areas to be mindful of. The same can be said of external supervisors who work with a clinic.

Further, it is important to consider student training when dealing with interaction with disabled clients. Issues can, of course, be dealt with on a case-by-case basis; however, good practice in this area is to ensure that disability, discrimination and the issue of equality in general is dealt with at students' initial training/induction, at least insofar as indicating what steps can be taken to ensure that the EA duties are observed.

### **Safeguarding and vulnerability**

Vulnerability as a legal concept is outlined in the Safeguarding Vulnerable Groups Act 2006. In general terms, someone is vulnerable either if they are a minor or if for physical or mental health reasons they are unable to look after themselves.

While universities, unlike schools and further education colleges, do not have specific statutory requirements imposed on them in relation to vulnerable

34 <<https://www.equalityhumanrights.com/sites/default/files/what-equality-law-means-for-your-business-2018.pdf>> accessed 2 August 2019.

35 <<https://www.equalityhumanrights.com/en/advice-and-guidance/higher-education-providers-guidance>> accessed 2 August 2019.



adults, a common law duty of care requires them to ensure that when dealing with minors and vulnerable adults, sufficient attention is paid to the issue of vulnerability.

A general consideration of universities' obligations is beyond the scope of this section; however, universities are likely to have policies in place dealing with vulnerability, particularly as many will work with those who are under 18 in such things as access schemes or summer schools. Further, many students will undertake placements with organisations working with children or adults and with those working in partnership where students are undertaking work with vulnerable groups. Those supervising law students on placement with outside organisations should check their own institution's policies and processes to ensure that students are properly trained to deal with vulnerability, and issues such as reporting concerns.

For in-house clinics, it is possible that the issue of vulnerability will be raised if:

- a student adviser is considered vulnerable – where this is because the student has a disability, you need to consider issues associated with disability (see above)
- the clinic works with vulnerable clients or clients associated with vulnerable people
- the clinic works with children, for example at a school and/or college.

It is important to ensure that, in circumstances where student advisers may be dealing with a vulnerable client, sufficient regard is paid to any adjustments to deal with the identified vulnerability.

Undoubtedly, services exist that cater for the needs of vulnerable clients and provide students with excellent experience in dealing with such issues (see Manchester University's clinic<sup>36</sup>). The Law Society provides an excellent practice note<sup>37</sup> giving guidance on dealing with vulnerable clients, which will guide supervisors in appropriate cases. When identifying a potentially vulnerable client, you may also need to consider the level of experience of the students working with that client.

Further, if working regularly with vulnerable groups it may be necessary to provide guidance on how to deal with concerns relating to abuse, and reporting such concerns. This clearly raises issues associated with client confidentiality and will involve very careful consideration of whether it is necessary to report or not.

36 <<https://www.socialsciences.manchester.ac.uk/legal-advice-centre/services/practice-areas/mental-incapacity/>> accessed 2 August 2019.

37 <<https://www.lawsociety.org.uk/support-services/advice/practice-notes/meeting-the-needs-of-vulnerable-clients-july-2015/>> accessed 2 August 2019.

### **Student safeguarding**

Most students will not meet the criteria for being 'vulnerable' in terms of the above definition. However, consideration needs to be given to ensuring student safety when students are working in a clinic.

The responsibility for students' welfare when engaged in clinic work remains with the clinic itself, and regular risk assessments should be undertaken and recorded to see if working practices provide enough security for students. Risks will often be specific to particular clinics depending on their physical surroundings and their client group. For example, some clinics provide students with panic alarms, but not all will consider this necessary.

Further, it is probably wise for a clinic to have a clear social media policy and ensure students are aware of the importance of protecting themselves online and maintaining personal (as well as client) privacy.

Clinics should ensure that proper safeguards are put in place when working with external partners. Again, many universities will have clear policies on steps to be taken when working with external agents and it may be that a university volunteering office/department can provide some support in ensuring formalities are complied with. At the very least, it is suggested that where students are working for an external provider as their volunteer under an arrangement agreed through the clinic, the relevant supervisor ensures that liability insurance is in place to cover the students and any third parties when volunteering. Any concerns as to student wellbeing on such externships should be recorded and followed up.

Further, any students working with minors or vulnerable people will probably be required to have a Disclosure and Barring Service check. Whether a check is required, or the level of check required, may depend on factors such as the requirements of a partner organisation and the extent of contact and supervision.

Most universities will have a safeguarding officer who should be able to provide guidance and support on the steps you should take in any situation.

To summarise, ensuring that the clinic follows its own university's policy and brings in the expertise available in the institution should ensure student safety and avoid difficulties for clinic supervisors.

### **Signposting and referrals**

Demand for clinic services is increasing year on year, and once up and running, most clinics can expect to receive more enquiries than they are able to accommodate. Your clinic may already be full, may not be running at the time of the enquiry, may deal only with enquiries from the local area or might not deal

with the area of law needed by the enquirer. Clinics should not be surprised to receive enquiries from beyond their city or even county, and which do not relate to any issue of law advertised by the clinic. Some people who are desperate for advice and unable to pay for a solicitor will contact any free resource in a ‘scattergun’ approach, in the hope that if the organisation they contact cannot help them, they may at least be able to suggest someone who can.

Guidance on effective signposting and referrals is contained in **Part 2.6**.

## Live client clinic case studies

**Table 1** below describes and contrasts five different live client clinics run at four different universities. The descriptions are intended to briefly summarise the work done and the different structures and systems in place at each, illustrating the variety of different ways in which clinics can operate and the different considerations to be taken into account when setting up a new clinic. Once again, it is not an exhaustive list.

Each of the clinics contained within the table forms part of a wider programme of clinical activity. A summary of those programmes is set out below for context.

### University of Leeds School of Law

The University of Leeds has a number of pro bono opportunities, some of which are research projects,<sup>38</sup> collaborative StreetLaw projects<sup>39</sup> and projects working with litigants in person.<sup>40</sup> Two other projects are more typical clinics falling within the definition ascribed earlier, run by two members of staff at the law school:<sup>41</sup> pop-up clinics<sup>42</sup> and a welfare rights clinic. These are addressed in the table below.

38 <<https://www.law.leeds.ac.uk/about/extra/cerebra-pro-bono-research-programme>> accessed September 2017.

39 <<https://essl.leeds.ac.uk/law/news/article/450/streetlaw-becomes-streetleeds-as-new-collaborative-community-project-is-launched-in-leeds>> accessed February 2020.

40 <<https://www.supportthroughcourt.org/volunteer/court-volunteering/>> accessed February 2020.

41 A full-time clinics coordinator and an academic member of staff with workload allocation whose primary responsibilities are to provide strategic oversight and development.

42 <<https://essl.leeds.ac.uk/law/news/article/179/legal-advice-clinics-launched>> accessed February 2020.

## Liverpool John Moores University

Liverpool John Moores University set up its extra-curricular Legal Advice Centre (LAC) in 2014, after Rachel Stalker joined the School of Law and was tasked with coordinating the school's pro bono work. The LAC was shortlisted in 2015 for the LawWorks and Attorney General Student Pro Bono Awards (Best Contribution by a Law School and Best New Student Pro Bono Activity).

The LAC offers clients a typical advice-only model: a fact-finding interview run by a pair of students, supervised by a solicitor, with written advice following two weeks later. Advice is offered for family law, employment law, civil litigation, wills and administration and property law. Liverpool John Moores University is also part of the CLOCK scheme run from Keele University, and engages in research activity with local law firms and its local law society.

The school found that it could not cater for family law clients – family law being the biggest area of demand. Those approaching the school for advice in this area often had urgent issues or court dates and so could not await an appointment and/or written advice provided at a later date. The family law drop-in clinic was therefore set up in 2015<sup>43</sup> and is discussed in the table below.<sup>44</sup>

## University of Liverpool

Liverpool Law Clinic<sup>45</sup> is a well-established clinic and is a good example of how a service can grow over time. The Law Department has been offering undergraduate students clinic opportunities since 2007 and Liverpool Law Clinic is a fully functioning pro bono legal practice embedded in the Liverpool Law School. It offers final-year law students direct experience of representing real clients under the supervision of the clinic's in-house legal team of qualified lawyers.

Nearly all of the students who participate in the clinic do so on taught modules as part of the final year of the undergraduate LLB. The clinic has a particular specialism in immigration and asylum law, and has a statelessness project supported by a charitable funder. It has different models of working, offering opportunities to assist with full representation, as well as advice-only work. Solicitors in the clinic run weekly outreach advice services in the Alder Hey Children's Hospital and in the Liverpool Family Court. Students assist solicitors

43 <<https://www.ljmu.ac.uk/about-us/faculties/faculty-of-business-and-law/school-of-law/legal-advice-centre/clinics>> accessed February 2020.

44 As outlined earlier in **Part 1**, those interested in setting up drop-in clinics should also refer to the excellent manual created by London South Bank University: <<https://www1.lsbu.ac.uk/ahs/downloads/law/lbsu-drop-in-clinic-manual-v1>> accessed 16 August 2019.

45 <<https://www.liverpool.ac.uk/law/liverpool-law-clinic/>> accessed 16 August 2019.

to interview clients and provide verbal advice, which is followed up by an advice letter, researched and drafted by the students.

In addition:

- The Liverpool Law Clinic works with external solicitors from a large number of firms in the Merseyside area, and also runs a summer placement scheme in June every year: in 2016–17 nearly 200 final-year students took clinic modules.
- The clinic also offers opportunities for students to volunteer on projects working with solicitors in Liverpool – for example, groups of Liverpool Law Clinic students assisted with the Hillsborough Enquiry, the Orgreave Campaign and the campaign for fresh inquests into the Birmingham Pub Bombings (the latter alongside the Liverpool John Moores University LAC).
- The Law Department runs a welfare rights project in partnership with Law Centres and Citizens Advice, and in 2017–18 delivered a new module, Access to Justice, where students are trained to assist with disability benefits applications and are placed with Citizens Advice.

The clinic has dedicated space in the university, including interview rooms, an admin office, student PC suites and a seminar room. Students are required to do all casework in clinic rooms to protect confidentiality, and the university has invested in an online case management system called Advice Pro.

## University of Wolverhampton

The University of Wolverhampton has operated its Legal Advice Centre (LAC) since 2011 when Mumtaz Hussain, Head of Professional and Postgraduate Studies at the university, set up the initiative within the Law School. The model used by the university is a general advice-only service, and the LAC takes enquiries from members of the public who call in person, or contact the clinic via the enquiry form on the university's Legal Advice Centre webpage.<sup>46</sup>

Students work in pairs during a fact-finding interview, supervised by the LAC manager or other academic at the university, later providing either written advice or a follow-up appointment (at the client's preference), generally seven to 21 days after the initial interview. The advice is aimed to inform the client of the law that is relevant to their legal issue, and identify possible courses of action, while also signposting the client to other services where they may be able to seek further help, or solve their legal problem.

46 <<https://www.wlv.ac.uk/legaladvice>> accessed 16 August 2019.

The LAC utilises Intralinks<sup>47</sup> to manage client files, where the students can access case information securely, and share research and draft client letters of advice with each other and the case file supervisor. The students are encouraged to take on as much responsibility as they feel able to, including answering telephone enquiries, dealing with email enquiries, signposting without supervision (for matters that the clinic cannot deal with) and handling drop-in enquiries (taking initial contact details and explaining how the LAC works).

The LAC is currently working on new ideas and models to provide greater access to justice, and ensure students at the university are exposed to a range of legal areas and issues. A pilot family law session took place in March 2019, which involved students shadowing an external practitioner at a pro bono family law clinic where members of the public attended the LAC for free, 20-minute consultations. Family law clinics were held previously on an ad hoc basis, and proved to be successful.

Since the pilot in March, a family law clinic has been held every month to date (July 2019) and over the course of the five two-hour long sessions, 34 people have been provided with assistance with their legal issues, ranging from separation and divorce to child custody arrangements. While this number might seem small, all but one of the sessions was completely full, with the attending solicitor being fully engaged for the whole two-hour slot.

<sup>47</sup> A cloud-based management system that is kindly made available free of charge through LawWorks membership, and allows a legal clinic to manage client files effectively. More detail on Intralinks is contained in **Part 2.12**.

**Table 1: Practical examples of five live client clinics**

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>On or off campus?</b>	Off campus, in locations already known and trusted by clients, including a Citizens Advice, a charity and a grassroots community development trust.	Off campus, at Leeds City Council's Welfare Rights Unit, in an area just outside the city centre.	On campus.	Both: <ul style="list-style-type: none"> <li>• The law clinic offers advice and representation from bespoke premises in the Law Department</li> <li>• Law clinic staff also offer advice services in the Alder Hey Children's Hospital and Liverpool Family Court.</li> </ul>	Off campus.  The Legal Advice Centre (LAC) has its own unit in the City's Mander Shopping Centre, which is leased by the university.
<b>Supervision?</b>	Provided by solicitors external to the law school, with insurance being provided either by their firms or by LawWorks. Each solicitor is allocated to a clinic that provides advice in their specialism.	Training and the day-to-day supervision of students taking part in the project is provided by Leeds City Council's Welfare Rights Unit staff. The law school's full-time clinical legal education co-ordinator also provides administrative support to the project, e.g. by arranging the rota of student volunteers.	External solicitors with expertise in family law supervise the advice given.  University staff coordinate students and triage cases.	Internal lawyers have conduct of cases, coordinate services, train and supervise students.  External volunteer lawyers also assist with advice services and supervise student work.	The LAC is coordinated by the LAC manager, who is a qualified solicitor and oversees all cases, and supervises some, along with four other academics at the university. On occasion, assistance is provided by external solicitors from two local law firms, who provide solicitors on a pro bono basis to supervise students during the advice session, and provide them with feedback on their research and the advice session itself.

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>Area of law covered?</b>	Family, housing, employment and small business law.	Personal Independent Payment (PIP) applications and Employment and Support Allowance (ESA) applications.	Family law.	Immigration, family, community care, education, disability benefits.	Employment law matters, probate issues, property (usually neighbour disputes or ownership issues), consumer rights and civil litigation (such as personal injury).  Business law-related matters, for example partnership law.
<b>Assessed or co-curricular?</b>	Voluntary, no academic credit.		Voluntary, no academic credit.	Both: the majority of students in the law clinic are on credit-bearing modules, but we also have a growing number of projects for which students can volunteer.	Both: generally, students are not assessed, and volunteer in addition to their studies. Since October 2017, however, some third-year undergraduates are assessed as part of a new compulsory Practical Legal Skills module. The assessment takes the form of a reflective oral assessment about their experience at the LAC, and a written assessment providing detailed research and analysis of an area of law that they encountered at the LAC.



	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>Selection of students?</b>	Students apply via a written application form, with shortlisted students being interviewed for approximately 10 minutes each.		Lottery open to students of all levels who are interested in volunteering. More places made available for Level 4 students.	Places are limited: first come, first served on a module selection exercise. Voluntary projects vary but normally a combination of first come, first served and interviewing.	Students apply via covering letter and CV, although opportunities are afforded to all Level 5, 6 and postgraduate students. They are all interviewed by the LAC manager prior to completing training.
<b>How many students involved?</b>	Approximately 20 per academic year.	15 undergraduate students.	We train a rota of 16 undergraduate and postgraduate students with four students attending each clinic.	Approximately 300 students a year.	For the academic year 2018/19, there were a total of 46 students, of which 16 were volunteers and 30 undertaking placements as part of assessed modules. Students were mostly undergraduates, with around only 15% of students taking the GDL/CPE, LPC or CILEx courses.
<b>Time commitment required from students?</b>	Depending upon their timetables and other commitments, a student volunteer would be expected to cover at least four clinics in an academic year.	Volunteers typically cover around four clinics per academic year: within that clinic they would see two clients on a one-to-one basis within a three-hour period.	All students attend at least two clinics a year: each clinic session runs for 90 minutes.	Normal requirements of a 15-credit taught module. Students have some workshops and some formal supervision meetings, and are expected to spend a substantial amount of time on independent study.	Students are asked to volunteer for a minimum of two hours per week (excluding research on cases, which is completed in their own time). Students therefore generally volunteer 32 hours over the course of 16 weeks across semester one and semester two.

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>How are students trained?</b>	<p>Covers taking notes; completing an advice session pro forma (which includes sections on the nature of the client's problem and the advice that was given by the advising solicitor); and general client care. The training is provided by the two staff who run the law school's clinics.</p> <p>The client care aspect of the training includes information about the socio-economic background of clients; how clients' concerns might be resolvable through means other than legal remedies; how to read and interpret the behaviour of clients; and professional approaches to all parties present at clinics.</p>	<p>Successful applicants receive a full day of training in welfare rights law and PIP documentation from Leeds City Council.</p>	<p>Five compulsory sessions at the start of the academic year covering clinic processes, confidentiality, data protection, professional ethics, wellbeing and IT.</p>	<p>Training covers: ethics and conduct; client interviewing; practical legal research; drafting; group work; and file management.</p>	<p>Students are provided with six hours of training, split into three parts:</p> <ul style="list-style-type: none"> <li>• 'Interviewing and advising' (delivered on campus by two external solicitors from the Birmingham branch of a national firm)</li> <li>• 'Professional conduct and ethics', delivered by the LAC manager</li> <li>• 'Working at the LAC', including an overview of how the LAC works, the Student Volunteer Handbook, an overview of LawWorks and Intralinks (the cloud-based management system) and role play (interview practice).</li> </ul>

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>How is advice provided?</b>	Face-to-face by the practitioner, to clients who have been given an appointment. The students do not provide advice.	In person, on a one-to-one basis between the client and the student volunteer.	Face-to-face by the practitioner, to clients who turn up to the clinic on the day.	Either face-to-face or in writing depending on the module and service.	Advice is provided either face-to-face or written, both delivered by students and checked/amended or overseen by a supervisor.
<b>What do students do?</b>	Students work in pairs with one practitioner and one client, and take notes of the advice given. They have 48 hours to provide a concise set of notes to the law school: these are checked before being forwarded to the practitioner.	One-to-one support to applicants for PIP and ESA applications. Volunteers work with clients on a one-to-one basis, completing the applications with them. Supervisors are not present during those meetings, but are available if the volunteer requires support, and check all applications drafted by students.	Students work in pairs and take turns to sit in on a 20–30 minute advice session with a client, delivered by the solicitor. Students take notes.	Students research the law, manage files, draft letters of advice, interview clients, draft other documents and attend court hearings as McKenzie Friends.	Students work in pairs, and take initial enquiries from members of the public who visit the LAC. They also conduct fact-finding interviews, prepare research and deliver advice verbally under supervision, and also draft letters of advice, which are checked by a supervisor before being sent to the client.

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>How do clients know about the service?</b>	Clients are referred to the clinic by the community organisation where the clinic is being hosted.	Clients are booked into the student-led appointments by Leeds City Council.	The clinic advertises in the local press and takes referrals from local third sector agencies.	There are a variety of ways. <ul style="list-style-type: none"> <li>• Statelessness cases tend to be referred from immigration lawyers.</li> <li>• Family law advice clients are made aware of the service when they attend court.</li> <li>• The Alder Hey Children's Hospital assists with publicity for the service.</li> <li>• There is information on the website.</li> <li>• The clinic sends out flyers and leaflets to advice agencies such as CABx and law centres.</li> </ul>	The LAC is in a prominent position in the City's Mander Shopping Centre, and the website provides a good overview of the service, along with an online enquiry form for members of the public to complete. No advertising is done routinely, but the clinic has occasional press coverage (for example, local radio). Referrals are also taken from Citizens Advice, Wolverhampton, Legal Companions (part of the CLOCK project) and other local agencies.
<b>What records are retained?</b>	A copy of the notes is retained by the practitioner, the law school and the community organisation (in the event the client returns and they need to know what the client has been advised previously).	All documentation is retained by Leeds City Council. Leeds City Council tracks the applications for all clients, including those supported by students during the application process, and the law school is notified of all outcomes.	Solicitors retain their own notes. The university retains the students' notes on file.	All clients have a case file and all handwritten and electronic notes are kept in the file. Students are taught to keep attendance notes and time-record their work. Files are kept and archived in accordance with regulatory obligations. There is an electronic case management system called Advice Pro.	All records are retained by the LAC manager, including student notes. Files are opened and closed as they would be in practice. External solicitors retain their own notes.

	<b>University of Leeds: Pop-up clinics</b>	<b>University of Leeds: Welfare rights project</b>	<b>Liverpool John Moore's University: Drop-in clinics</b>	<b>University of Liverpool</b>	<b>University of Wolverhampton</b>
<b>How is the clinic insured?</b>	Insurance is either provided by the practitioner themselves (i.e. they come under their firm's usual indemnity insurance) or by LawWorks, with whom the law school has an arrangement.	No legal advice is given during this project.	Existing university insurance.	The law clinic has an independent insurance policy providing professional indemnity, which covers work undertaken by in-house lawyers and advice given by external lawyers who volunteer in the law clinic.	Insurance for the LAC is covered under the university policy.
<b>For what period of the year does the clinic run?</b>	All year round, with a reduced service over the summer period.	Term-time only.	October to May: term-time only.	October to May/June, term-time only.	The LAC is generally open from October to May, with a skeleton service until June.
<b>Resourcing requirements?</b>	These pro bono opportunities within the law school are supported by two members of staff within the School of Law: 1 full-time equivalent (FTE) Clinics Co-ordinator, and one member of staff whose Director of Community Engagement responsibilities equate to approximately 0.2FTE.		0.5FTE salary of in-house clinic coordinator. Approx £1,500 marketing budget. All other costs (stationery, travel) funded ad hoc by the School of Law.	The Liverpool Law Clinic represents a significant investment by the School of Law and Social Justice in terms of staffing, dedicated space and associated costs of IT and stationery. The clinic is staffed by six in-house lawyers (five full time, one 0.5) and two administrators employed by the university. First- and second-year students volunteer in the office to help with administration, such as answering phones and helping with the post.	0.5FTE salary of the LAC manager. Other costs are funded by the Law School, and the unit within the shopping mall is also covered by the Law School at a reduced rent.

## Other models of clinical and public legal education

Further examples of broader clinical projects are discussed below to offer insights into other models of clinical services that can be developed.

### Law Student Representation Project

The Law Student Representation Project, established in 2014, is a joint initiative between the City of Wolverhampton Council (Welfare Rights Service) and the University of Wolverhampton Law School.

The project provides much-needed First-tier Tribunal and Upper Tribunal appeals representation to vulnerable and disadvantaged people living in Wolverhampton who are in dispute with the Department for Work and Pensions over entitlements to disability benefits. It also undertakes appeals pertaining to benefit sanctions and the benefit rights of EEA nationals.

Students are trained and mentored by welfare rights officers within the Council's Welfare Rights Service. The training includes tribunal practice and procedure and observing at live appeal hearings. Students meet with appellants to gain instructions, study the appeal paperwork and draft written submissions. Students then attend and represent appellants at oral appeal hearings.

Wolverhampton is within the top 20 most deprived areas in the UK and in 2015 was ranked eighth for income deprivation and sixth for employment deprivation. The city's unemployment rate is 4.17 per cent (March 2016), which is higher than the average for the Black Country (2.9 per cent: January 2016) and significantly higher than the average for England (1.5 per cent: January 2016). There are high numbers of residents who are long-term unemployed and/or have health-related barriers to work.

The Law Student Representation Project benefits the community as a whole, both in terms of benefits to the students, and of course to the vulnerable people the service assists.

For those students who have gone on to undertake appeals, the project has provided experience in a 'real world' legal setting (where matters of evidence, facts and law are decisive) where there is a dispute between two parties. The project provides students with important experience and references for their CVs, helps them to develop their self-confidence and enables them to assist disadvantaged groups.

### CLOCK

CLOCK (Community Legal Outreach Community Keele) was developed by Dr Jane Krishnadas at Keele University to assist unrepresented litigants by:

- identifying litigants who may qualify for legal aid and signposting them to a local law firm
- signposting litigants to a suitable pro bono/third sector service such as Citizens Advice or a university law clinic to obtain legal advice
- training students as 'Community Legal Companions' to assist litigants in person with form filling, or at court in line with the McKenzie Friend principles and on a non-fee charging basis.

Alongside the university, third sector agencies, court services and law firms collaborate to train students at the outset of their involvement in the scheme. CLOCK has won support from the Ministry of Justice and in April 2016 was Highly Commended for an Outstanding Contribution to Access to Justice by the Access to Justice Foundation at its annual awards ceremony.

The Support Through Court (STC) already operates in Liverpool Family & Civil Court, and with its kind support – and that of HHJ Margaret De Haas QC – a pilot ran during 2016–18 that involved Liverpool John Moores University (LJMU) students training and working alongside and under the supervision of the STC in court as an additional, complementary resource, with clinic students assisting in the signposting of clinic clients and other enquirers.

Being part of the scheme allows LJMU's Legal Advice Centre to provide a broader and more coordinated service for people in the Merseyside area, by signposting clients from the clinic to specific law firms or third sector agencies using a dedicated IT system and/or giving them assistance at court, while at the same time expanding the educational benefit for students by giving them court experience.

The scheme also helps dispel the myth that legal aid has been abolished completely, since the triaging system identifies 'red flags' that indicate the client may be eligible for legal aid and, via the online hub, links the enquirer with a law firm which can conduct the assessment. The publicity around the scheme also emphasises that legal aid is still available in some circumstances. The scheme's provision of an alternative to fee-charging McKenzie Friends is also aimed at assisting the most vulnerable litigants in person.<sup>48</sup>

## Family Court Helpdesks

Both Liverpool Law Clinic and Greenwich Legal Advice Centre<sup>49</sup> run family law helpdesks aimed at supporting litigants in the Liverpool Family Court and

48 Further details of the scheme can be found at <<https://www.keele.ac.uk/law/legaloutreachcollaboration/>> accessed 16 August 2019 and <<https://clock.uk.net/>> accessed 16 August 2019.

49 Greenwich University Legal Advice Centre <<https://www.gre.ac.uk/ach/study/law/legal-advice-centre>> accessed September 2017.

the East London Family Court. The helpdesks aim to provide support at first hearings (FHDR – first hearing and dispute resolution appointment) in child arrangement cases. Family courts tend to list these hearings on one or two days of the week as they need the presence of a CAFCASS (Children and Family Court Advisory and Support Service) officer at court.

The students in both courts work closely with the ushers on FHDR days and speak to all litigants in person to see if they would like support. Students check that litigants understand the procedure involved in the hearing, and that all the correct forms have been filed. They attend the hearing with litigants as a McKenzie Friend, taking notes and helping the litigant remain calm and focused. Following the hearing, students make sure that litigants have a clear note of what needs to happen next (such as dates for filing statements) before they leave the court.<sup>50</sup> At Liverpool, the helpdesk offers a 20-minute appointment with a solicitor for legal advice before the hearing, while at Greenwich clients are referred to the Legal Advice Centre for advice following the hearing.

Both projects support between six and 10 clients a week due to the high number of litigants in person in child arrangement cases. Approximately 24 students a term are trained and take part. The majority of litigants have not had any legal advice before arriving at court for the first hearing and both helpdesks aim to reach some of the most vulnerable people in the court system by proactively working with the ushers and speaking to litigants at court.<sup>51</sup>

Setting up a court helpdesk is not difficult, but can take some perseverance and conviction. Some of the administrative burden of running a clinic that is hosted on campus is lifted as you do not need to advertise, look for clients or book appointments. However, you do need to take care that you are clear about the limits of the service offered and consider the practicalities of conflict checks and client care letters if you are regulated by the SRA<sup>52</sup> (for further details on this, see **Part 2.4**).

Some points to think about are set out below:

50 Sheffield Hallam University run a similar project for litigants in person in the small claims track of the County Court. Manchester University has an advice service based in the Civil and Family Court. This is an advice-only service; students do not go into court with litigants <<https://www.law.manchester.ac.uk/legal-advice-centre/services/mflh/>> accessed 16 August 2019. There are numerous other court schemes being run by university law clinics around the country.

51 The students from Greenwich can be seen talking about the project on two short films on YouTube <<https://www.youtube.com/watch?v=G6Is29-o03E>> and <<https://www.youtube.com/watch?v=SsLthh2zA6s>> both accessed 16 August 2019.

52 The Law Society has issued a practice note: Court duty schemes in private law family cases <<https://www.lawsociety.org.uk/support-services/advice/practice-notes/court-duty-scheme-for-private-law-family-clients/>> accessed 16 August 2019.



- If you want to set up a court helpdesk, first of all you need to find out what services are already available in your local court.
- If the court already has a Support Through Court<sup>53</sup> find out if your students can volunteer with them, or if you can work in partnership with them in some way. Several law clinics have strong working partnerships with their local STC. If students volunteer through the STC this removes the burden and responsibility of supervision and training from the clinic staff.
- If there is no STC in your local court, consider whether your university will invest in a CLOCK scheme (see above).
- If you want to offer a more specialist service, find out who the manager of your local court is and approach them with a proposal to run a scheme. As with all pro bono services, make sure that you know what services are already running so that you are not competing with an established voluntary service, but are able to complement that service and provide something extra.
- Allow plenty of time to set up the scheme. Ask to go into the court and observe the way it works, as each court does things slightly differently.
- Pilot the scheme with a small number of students.

Have clear publicity and make sure the local legal profession know what you are doing and what the limits of your service are. Some advocates find McKenzie Friends controversial, often with good reason, so it is important that people know who you are and what you are trying to achieve.

A well-run court scheme is helpful to litigants as it removes some of the stress and anxiety of going to court, is helpful to the court as litigants in person are often more organised and better prepared with a student supporter, and the students can gain a huge amount in terms of personal confidence as well as learning about law and procedure.

### **Online/virtual clinics: Open Justice Law Clinic case study<sup>54</sup>**

Technology is transforming the delivery of legal services and the administration of justice. Clinical legal education programmes can provide the opportunity to engage with these changes and develop pedagogical responses that can equip students to navigate a transformed legal landscape and provide new platforms to increase public access to legal advice and guidance. Original and

53 Personal Support Unit <<https://www.theapsu.org/>> accessed 16 August 2019.

54 This section was written by Francine Ryan and Hugh McFaul of the Open University and takes the form of a case study of the Open University's online clinic. For a more general consideration of virtual law clinics and associated issues see 'Lawyering in a digital age: reflections on starting up a virtual law clinic' by Ann Thanaraj and Michael Sales in Part 2 of this Handbook.

experimental models of clinical legal education are developing innovative ways in which to provide students with practical activities that teach the skills and competencies required to enable law students to respond creatively to the challenges and opportunities that technology can bring. The integration of technology into clinical programmes can provide students with a deeper understanding of the potential of technology to transform the legal process.

The Open University is the UK's largest provider of undergraduate legal education, teaching students from across the United Kingdom. Facilitating the participation of part time distance learning students in a meaningful clinical programme presented a range of logistical challenges. The solution chosen was to transfer the traditional face to face law clinic into a virtual setting. The Open Justice Law Clinic (<http://law-school.open.ac.uk/open-justice/get-legal-advice>) was opened in 2017. This virtual law clinic provides an industry-standard online platform which delivers legal services through a secure web portal in which communication with members of the public is encrypted and protected using a leading legal case management system.<sup>55</sup> This enables students to work virtually with clients to support them with their legal issues and provide the same professional standard of advice and guidance that is available in other face-to-face law clinics.

There are a number of reasons why other universities might consider developing a virtual law clinic:

### **Benefits for clients**

- Anyone with an internet connection can access the clinic
- It is accessible for clients who cannot attend a face to face clinic because, for example, they have a disability, or live in a rural location
- It is preferable for clients who are familiar with online platforms and technology
- It is flexible; it allows clients to communicate with the clinic when it is most suitable and convenient to them.

### **Benefits for universities and students**

- Cases can be accepted regardless of geographical distance
- It gives students the opportunity to collaborate on cases wherever they are located
- It facilitates the development of partnerships with external law firms irrespective of where they are based

<sup>55</sup> The Open Justice Law Clinic uses Clio, a practice-based case management system, under the academic access programme: <https://www.clio.com/uk/academic-access/> (accessed 22 Aug. 2019).

- It offers greater flexibility for supervising solicitors because they can participate remotely
- The absence of physical premises allows for lower running costs
- It opens up partnering opportunities with charities and organisations outside of the immediate locality
- It exposes students to emerging forms of legal practice
- Students have the opportunity to engage with technology and develop core competencies including online collaboration skills, gaining important employability and transferable skills.

Although there are many benefits to a virtual law clinic, it also has its limitations and it should not be seen as a replacement for all forms of face to face clinic. There are areas of law, and particular client groups, where a virtual law clinic would not be appropriate. Careful consideration should be given to the target client group and the areas of law likely to be most suitable for this type of clinic.

## How to set up a virtual law clinic

### *Technology*

**Case management system** – the clinic needs to procure a case management system to facilitate the case work and the interaction between the clients, students and supervisors. The software allows the clinic to manage the cases, contacts, calendars, documents, tasks, time recording and client communications via one platform. Storing all the case and contact information within the case management system enables the creation of documents prepared from templates. All documents are uploaded into the case management system; the clinic is paperless which makes information sharing easier and ensures that personal information is secure.

**Text messaging** – may be a useful method of sending reminders to clients about interviews, or outstanding information; there are a number of inexpensive providers including TextBurst, or FastSms.

**Online meeting rooms** – interviews are conducted virtually. The Open Justice Law Clinic uses Adobe Connect, but other clinics use different conferencing platforms such as Skype. If the interviews are recorded, they must be stored securely to ensure the clinic meets its obligations on confidentiality and data protection. Online meeting rooms are also used for supervision and firm meetings.

**Computers/laptops/mobile devices** – this will depend on the model the clinic adopts; students either use their own devices or they are provided by the clinic. If students are using their own laptops, strict rules are required to prohibit the storage of any clinic information or documents on a personal device.

**Website** – consideration needs to be given on how to attract clients into the clinic. The Open Justice Law Clinic generates enquiries via its website: clients complete an online form which is received and triaged via our clinic mailbox. Twitter and Facebook are effective ways of generating new enquiries, but often the internet is the last resort for some people looking for help so the cases can be complex.

**Communication** – casework discussion takes places via secure messaging within the case management system but general discussions about non-confidential clinic activities may occur in other ways, via university online forums, WhatsApp, Trello or Slack. Trello is a free way to manage projects and Slack is collaboration software; both have the potential to support online group work. Careful consideration should be given on how many tools are used by a clinic as there is a risk students will be overwhelmed by technology.

### *Customising the case management system*

Template letters and documents can be created and uploaded into the system. Some case management systems work in conjunction with document storage systems and therefore a decision has to be made on where those documents are stored. The Open Justice Law Clinic customised its use of Clio so that all documents are created via templates and stored within the case management system to avoid the need for a separate document storage system. Students can be allocated into firms within the case management system and this enables the administrator to only allow the firm allocated to a case to access it. Students need very clear rules and guidance about confidentiality and data protection. As with other forms of clinic, it is advisable to ask students to sign an agreement, which specifies the requirements of the clinic.

### *Documents*

A number of manuals are required to explain how the clinic operates. The Open Justice Law Clinic has student guides to Clio setting out how the clinic works, explaining how to log into Clio, navigating through the dashboard, matter screens and setting notifications. We advise students to work through the guide whilst having the Clio training site open so they can navigate the different screens and practise the tasks set out. Once they have worked through the general introduction to Clio, there is a second part of the Guide which explains the precise steps they need to go through for each case and how to carry out specific tasks. It is advisable to encourage students to use the guides in conjunction with the simulated case discussed below.

### *Training*

Students require training on how to use a case management system, interviewing a client virtually and collaborating online with other students and supervisors. The Open Justice Law Clinic has two versions of Clio, a training and a live site. Students conduct a simulated case in the training site before moving into the live clinic. Students are provided with training sessions via Adobe Connect to cover all aspects of clinic work; confidentiality and data protection connected to the risks associated with technology are a significant feature.

### **Running a virtual law clinic**

#### *Clients*

Clients access the case management system via a client portal. Clients benefit from having direct access to the case management system so they can send secure messages, upload documents and view correspondence from the clinic at any time. Clients are interviewed in an online meeting room so it is helpful to ask them to check prior to the meeting they can access the room or have a test call the day before to check everything is working. This also provides an opportunity to check the strength of the internet connection which may cause an issue if the client is in an area where the connection is poor. A wired connection is better than wireless. It is a good idea to suggest to clients that the interview should take somewhere private and quiet. The flexibility of being able to access an online meeting from a mobile device may encourage some clients to think that whilst they are driving or in a café are good places to conduct the meeting, so it is worth making it clear to clients in advance that they will need to be somewhere quiet, where they can give their full attention to the meeting. Providing clients with an information sheet is a good idea: it can offer guidance on how to access the case management system and the online meeting room.

#### *Students*

Online collaboration poses challenges for students and clients. Conducting an online meeting can be testing for students as they have to work harder to form a rapport, and it is important for them to slow down to allow time for the client to think and reflect. If the students are interviewing the client from different locations, it is essential that they have agreed each of their roles and the questions beforehand. Students require specific training and opportunities to practise interviewing before they enter a live clinic. A virtual law clinic is dependent on technology; it is important to build in sufficient time for students to become confident in using the various applications as well as learning the other skills required in clinic. It is essential that students receive training and that the clinic has robust procedures on confidentiality and data protection.

### *Supervisors*

Supervisors need to be confident using the case management system and working collaboratively online to support students. A virtual environment can lead to task-related disputes escalating more quickly: it is important that supervisors know how to manage virtual teams. Supervisors need to encourage students to communicate regularly so any issues can be resolved quickly. Supervisors require training and guidance documents to support them in their role in the clinic.

### **Conclusion**

Setting up and running a virtual law clinic is not without its challenges,<sup>56</sup> but virtual law clinics share many similarities with face-to-face clinics. Developing a virtual law clinic may not be appropriate for all law schools, but it may still be possible to incorporate technology into an existing clinic. A virtual law clinic can take many forms. One option a law school may want to explore is the possibility of developing one in partnership with a charity or free advice organisation.

### **Externships**

Many law schools make arrangements with external organisations, such as third sector advice agencies, for their students to volunteer under the supervision of the external organisation's staff. Examples of the types of organisations that may be interested in hosting students on this basis include:

- Support Through Court
- local Citizens Advice
- local law centres
- the Free Representation Unit
- other small/local/independent advice services.

The role that students undertake in an externship arrangement and the amount of time that they commit to it will vary from project to project. For example, students might assist with a specific service being provided by the partner agency, such as a drop-in clinic or a telephone advice line. Or it might be agreed that students will commit a specified amount of time each week or month to help the agency with delivery of its day-to-day service.

As with the university-hosted clinics discussed earlier, the students' role might

56 F. Ryan 'A virtual law clinic: A realist evaluation of what works for whom, why, how and in what circumstances' (2019) *The Law Teacher*, <<https://doi.org/10.1080/03069400.2019.1651550>>.

involve provision of advice and/or undertaking casework and representation under supervision from a qualified professional. Alternatively, they might provide assistance to the qualified lawyer who is giving the advice by fielding initial enquiries, note-taking and so on.

Some universities may pay or make a donation to the external agencies for the supervision they provide to students. Other arrangements will have no direct cost implications for the university, particularly where student support provides a valuable resource and adds capacity for the agency.

The University of Birmingham has a number of externship arrangements in place, each of which adopts a slightly different model, depending upon the requirements of the partner organisation.

### **Support Through Court (STC)**

Students are selected by STC following a written application and interview process. STC then trains the student volunteers, who agree to commit to a minimum of ten full days of volunteering over the course of the academic year. STC is responsible for supervising the students, who provide support and guidance to litigants in person, assist them with tasks such as filling in court forms and note-taking. The volunteer schedule is agreed directly between STC and the students.

### **Law Centre**

Eight students per year are selected by the law school to assist the Law Centre with its weekly drop-in clinic during term-time. Students take initial details from clients that drop in to the clinic and take attendance notes of the advice given by the Law Centre staff. Training on professional conduct and client interviewing is provided by staff at the law school. The law school coordinates the rota of student volunteers, and the students are supervised by the Law Centre staff.

### **Birmingham People's Centre**

Two students a year volunteer half a day each week during term-time (and more during holiday periods if they wish). Initial training on professional conduct, client interviewing and the basics of employment law is provided by staff at the law school. Ongoing training and supervision is provided by a solicitor employed by the People's Centre. Students field initial enquiries, provide advice under supervision and assist the supervising solicitor with casework.

Many of the considerations for setting up an externship arrangement will be the same as for a university-hosted clinic. It is important to follow your institution's own practices in relation to risk assessments. Training and

supervision arrangements should be agreed with the partner organisation in advance and insurance arrangements should be checked to ensure students are covered. In some circumstances, a written agreement such as a memorandum of understanding, between the university and the external agency will be sensible in order to ensure all parties understand their respective roles and responsibilities.

## Public legal education/Streetlaw

There are many different forms of public legal education (PLE). According to the Law Society, PLE can include:

- sessions or workshops in schools, youth groups, prisons and other venues
- information or resources about law-related issues
- awareness-raising campaigns
- mock trials and role-play exercises
- activities at community events.<sup>57</sup>

PLE is not legal advice. It is about enhancing people's general knowledge and understanding of the law, rather than answering specific individual legal queries. The emphasis in the UK on the important role that PLE can play has grown in recent years and, in 2018, 'A Ten Year Vision for Public Legal Education' was launched by the Solicitor General's Committee on Public Legal Education.<sup>58</sup>

Streetlaw (or Street Law) is the term commonly used to describe university PLE initiatives, in which law students go out into the community – usually via charities, community groups, schools and other organisations – and speak to people about what their legal rights and legal responsibilities are.

Typically, Streetlaw adopts an interactive methodology, which means that Streetlaw sessions are delivered in a way that actively engages the attendees in the topics covered.<sup>59</sup> By its very nature, Streetlaw is a versatile model and sessions can be designed to address the particular needs of the intended audience in terms of content, length, place, mode and style of delivery.

In order to give a sense of the diverse range of possibilities for Streetlaw

57 <<https://www.lawsociety.org.uk/support-services/public-legal-education/>> accessed 16 August 2019.

58 <<https://www.lawworks.org.uk/sites/default/files/files/10YearVisionForPLE-web.pdf>> accessed 16 August 2019.

59 See the resources at **note 4** for further details on the interactive approach to delivering Streetlaw sessions. **Part 6** also contains details of the annual UK and Ireland Streetlaw Best Practices Conference, which provides a forum for sharing Streetlaw methods and materials.



projects, below are three examples of projects which are, or have been, run by the University of Birmingham Law School:

- **Employment Tribunal Litigants in Person project:** Two fortnightly sessions delivered at the Employment Tribunal during term-time, which are aimed at litigants in person. The first session, 'An overview of the tribunal process', takes litigants step by step through the stages of a tribunal claim (such as a preliminary hearing, disclosure and so on). The second, 'What to expect at a final hearing' discusses issues such as the order in which a final hearing is likely to happen, the layout of the tribunal room, how to address the judge, etc.
- **Entrepreneurship and the Law:** A series of eight one-hour sessions delivered to year 12 pupils at a local secondary school on commercial law and entrepreneurship. Pupils are tasked with coming up with a business idea and then developing their business plan. Each week they are introduced to new legal issues they will need to consider and factor into their business plan, such as intellectual property law, finance and funding, employment law, etc. In the final session, pupils 'pitch' their idea to the law students and their business plan is put to the test in a *Dragons' Den*-style set up.
- **Homelessness project:** Law students delivered 20-minute sessions on areas of law that are of particular relevance to service users of a local homeless charity. Topics covered included domestic violence and housing rights, police stop-and-search powers and squatters' rights.

Streetlaw sessions are most effective when those designing and delivering them have an understanding of the interests, needs, prior knowledge and abilities of the people who will be attending the sessions. Therefore, university staff responsible for coordinating Streetlaw projects are advised to meet with representatives from the host organisations or community groups in advance of developing the sessions. In nearly all cases, it is possible for students to be involved in the design, as well as the delivery, of sessions.

Streetlaw requires students to practise a broad array of different legal and soft skills, including legal research, communication (speaking and listening), teamwork and adaptability. Thought should be given as to how best to train students who will be delivering Streetlaw sessions. As is recommended in the section on training above, it is important to give students practical opportunities to practise the relevant skills and receive feedback.<sup>60</sup>

60 For helpful guidance on delivering Streetlaw training, see Seán Arthurs, Melinda Cooperman, Jessica Gallagher, Freda Grealy, John Lunney, Rob Marrs and Richard Roe (2017) 'From zero to 60: Building belief, capacity and community in Street Law instructors in one weekend' *International Journal of Clinical Legal Education* 4(2), 118–241.

Training may also need to address the limitations of Streetlaw, in order to ensure that students understand the distinction between information and advice, and do not inadvertently stray beyond the scope of the Streetlaw session into offering attendees advice on their individual situations.

Law schools will also need to have a system in place to check that the legal content of any sessions developed by students is accurate before they are delivered to members of the public. This may be done by a member of university staff or by an external lawyer acting in a voluntary capacity. Recommendations above in this **Part 1** regarding risk assessments, insurance, etc. should also be considered.

## Research projects

Many university law clinics also engage in research projects on a pro bono basis. Often, these projects are carried out for non-governmental or not-for-profit organisations. The type of projects that might be carried out are many and varied. They might, for example, include researching the law on a specific issue in a number of jurisdictions and compiling a report; or researching and summarising the law in a particular area in order to inform the contents of a guidance note or webpage for service users of a charity. Universities are well placed to carry out such projects due to the research expertise and resources they have available.

## Conclusion

There is no one right way to run a clinic. While the array of options on offer and factors to consider may be daunting to anyone new to CLE, it is a unique opportunity to combine the innovative education of students, essential free assistance to the public and the strategic aims of your institution. Once the regulatory and insurance positions have been clearly established, there is an enormous amount of creative space to craft a voluntary or credit-bearing offering that suits the needs of your students and civic community which will have a real impact on all stakeholders.

Any new clinician should also be encouraged to reach out to other clinics in their area or in the wider UK network via LawWorks and the Clinical Legal Education Organisation.<sup>61</sup> The clinic community in the UK is very active and vibrant and we regularly mentor each other either in establishing new clinics from scratch or expanding or improving existing services. Details of national and international networks are contained in **Part 6** of this Handbook.

61 <<https://www.cleo-uk.org/>> accessed 16 August 2019.