
Models of Clinic and Their Value to Students, Universities and the Community in the post-2012 Fees Era

*Lydia Bleasdale-Hill**

*Paul Wragg**

1. Introduction

The number of clinics in existence within higher education institutions has continued to proliferate in recent years. The 2011 LawWorks¹ report examining the pro bono work undertaken within Universities in the United Kingdom found that at least 61 per cent of all Law schools now offer pro bono activities to their students,² with 40 respondents offering clinic. This compares with 53 per cent of respondents offering pro bono activity and 11 respondents offering clinical activities in 2006.³ This evidence suggests that an increasing number of Law Schools recognise the benefits of clinic to students. However, the arrival of a new era in higher education funding arguably requires some reflection on (and perhaps greater articulation of) those benefits and the priorities of clinic activity overall, in order to ensure that the expectations of the key clinic stakeholders (the hosting institution, student volunteers and participating members of the public) are met. Concerns that the significant reduction in state funding for higher education will impact adversely on institutional resources is well-documented and at an institutional level there is likely to be

* Lecturer in Law, University of Leeds

1 Formerly the Solicitors Pro Bono Group, LawWorks assists those in need of free legal advice and supports practitioners, advice organisations and Universities wishing to provide such advice. See <http://www.lawworks.org.uk/> for further information

2 Richard Grimes and Martin Curtis (2011) 'LawWorks Student Pro Bono Report 2011' (LawWorks, London) p.4 http://lawworks.org.uk/tmp_downloads/o2v88f3f137p128g145t70j59f52x27r1z128n57l81z67/lawworks-student-pro-bono-report-2011.pdf (last accessed 16th August 2012)

3 LawWorks *LawWorks Students Project Pro Bono - The Next Generation* (2006, London) pp.3 and 8 http://lawworks.org.uk/tmp_downloads/q101o72i98q12k149j45a111o114o86k44u4e104j98c126r62/student-report-final.pdf (last accessed 16th August 2012)

increased scrutiny of the efficiency of devoting scarce resources to clinic activity in a climate of lower (or potentially lower) income streams and leaner budgets. Similarly, some students are likely to exhibit a heightened sense of wanting value for money in their expectations of clinical education and may well demand greater input in the design of clinic activity. Against this, there has been a general and significant reduction in funding for the provision of free legal advice and an associated increased demand amongst the general public for quality free legal advice and access to justice. Therefore, for new and established clinicians alike, the post-2012 era provides the opportunity for, if not necessitates, reflection on the expectations and ambitions of the three key clinic stakeholders (the host institution, the student volunteers and the general public) and, particularly, the question of whether they are sufficiently aligned with each other and the priorities of the clinic activity in place. Arguably, the possibility of conflicting priorities for clinic originating from these key stakeholders and methods of resolving them has featured little in the academic commentary. This paper seeks to contribute to such a debate by offering some insights into resolving these tensions. Taking the interests of each stakeholder in turn, this paper discusses methods of maximising the efficiency of administering the clinic and managing student expectations.

2. The Value and Organisation of Clinics

a) Introduction

Clinic offers a variety of benefits to higher education institutions: it allows them to provide a valuable service to the local community; it allows them to potentially work alongside local service providers, including businesses (some of which might be potential graduate employers, or sponsors of other School activities); and – perhaps most crucially – it allows them to demonstrate a concern with the future employment prospects of their students. The introduction of up to £9000 per year tuition fees in England from August 2012 onwards has been widely linked to an anticipated increase in students viewing themselves as ‘consumers’ of their higher educational experience. Such consumerism is evidenced by, for example, the increased focus on the employment record of University graduates; the expectation that students will become ever-more involved in determining how Universities are run and how courses are taught;⁴ and the expectation on the part of the Office of the Independent Adjudicator that the number of complaints about University courses will see a further rise in the coming years.⁵ This paper does not seek to advocate this consumerist approach to higher education, or to suggest that this approach should be the sole driver behind institutional decisions regarding how to improve the ‘student experience’. However, for those institutions seeking to enhance the employability skills of their Law school graduates (and thereby potentially enhance their post-graduation employment prospects), as well as to develop a competitive edge over institutions with which they are in competition for students, clinic represents an attractive way forward. Of course, in an uncertain era in higher education it may also be the case that clinics

4 See, for example, the QAA’s student engagement chapter within its Quality Code for Higher Education, available at <http://www.qaa.ac.uk/Publications/InformationAndGuidance/Documents/Quality%20Code%20-%20Chapter%20B5.pdf>, as well as the following article by the President of the National Union of Students: <http://www.guardian.co.uk/education/2012/jun/12/power-to-students-says-liam-burns?INTCMP=SRCH> (last accessed 16th August 2012)

5 Office of the Independent Adjudicator *Annual Report 2011* p.4 http://www.oiahe.org.uk/media/57882/oia_annual_report_2011.pdf (last accessed 16th August 2012)

represent a significant financial risk to many institutions, particularly in light of increased funding pressures. The benefits offered by clinic do carry with them potentially significant resource implications (particularly if the clinic is to be sustainable in the long-term), to which discussion will now turn.⁶

b) Location and client systems

In the long term any clinic may need its own office and secure storage space. There are examples of clinics which have initially started operating from a member of staff's office for example, but this is not a viable long term alternative to having a dedicated, professional space into which clients and potentially external supervisors can come. Client documents will need to be stored in a secure area (in order to guarantee client confidentiality) which the students can readily access. The students will need to be provided with clear training about how to maintain client confidentiality, how to ensure paperwork is maintained properly, how to maintain a client file, how to update information both in hard form and electronically, how to record information and where to store it. A reliable system of recording client contact and appointments needs to be established (assuming the clinic operates an appointment system), including all client outcomes (appointment; reasons for rejections; referral etc).

c) Financial support

Costs of the clinic will vary with the supervision model adopted: if the University or School will insure the advice given then the costs will of course be higher than if the advice is insured by external supervisors.⁷ Kerrigan provides further details of the costs which clinics are likely to incur, including office equipment, stationary and access to relevant research materials.⁸

d) Staffing

The amount of time initially required to run the clinic very much depends on, for example, the number of staff within the School working on the clinic, the number of anticipated clients, the

6 The discussion within this section is primarily based on the authors' experience of establishing and managing an in-house, advice-only model of clinic, whereby all clients are interviewed face-to-face on an appointment-only basis, with the advice being given in writing. Alternative models include clinics focused on specific areas of law/connected with particular charities or other external partners; advice and advocacy service; email-only service; simulated clinics; telephone-only services; face-to-face advice service; and drop-in clinics. For information about such models, or about the factors to consider during the process of establishing or re-developing a clinic see, for example Lydia Bleasdale-Hill (2011) *The Experience of Establishing and Maintaining Pro Bono Projects Within an Educational Setting: A Narrative*, available at http://lawworks.org.uk/tmp_downloads/i63n13v72v110144x131t137b32g146t25183z115a47j85v135/law-school-pro-bono-case-studies--bleasdale-hill.pdf; Frank Dignan (2011) 'Bridging the Academic/Vocational Divide: The Creation of a Law Clinic in an Academic Law School' 16 *International Journal of Clinical Legal Education* 75; Stacy Caplow (2006) 'Clinical Legal Education in Hong Kong: A Time to Move Forward' 36 *Hong Kong Law Journal* 229; Richard Grimes and Hugh Brayne (2004) 'Mapping Best Practice in Clinical Legal Education' (UKCLE) available at <http://www.ukcle.ac.uk/projects/past-projects/clinic/> (last accessed 16th August 2012); Philip Schrag (1996-97) 'Constructing a Clinic' 3 *Clinical Law Review* 175; and W. Warren H. Binford (2008-09) 'Reconstructing a Clinic' 15 *Clinical Law Review* 283

7 See Richard Grimes and Martin Curtis (2011) 'LawWorks Student Pro Bono Report 2011' (LawWorks, London) pp.15-17 for information about the insurance position of Law Schools surveyed.

8 Kevin Kerrigan 'Setting up a clinical legal education or pro bono project' in Kevin Kerrigan and Victoria Murray (eds.) (2011) *A Student Guide to Clinical Legal Education and Pro Bono* (Palgrave MacMillan, Basingstoke) pp.31-37

number of student volunteers, whether the clinic will only run in term-time and the number of external organisations the clinic will work with. Once a clinic is established the potential for growth is highly likely to be linked to staffing. For example, more supervisors and/or additional administrative support might be necessary if an expanded clinic service is to be offered. The experience of the authors is that one member of academic staff with a nominal workload allowance allocated to the clinic can be sufficient to establish and initially run one,⁹ but that opportunities to evolve, develop and expand are most likely to be grasped only once significant staff time is invested in the clinic (either through an increased workload allowance, or through the appointment of staff to work specifically on the clinic). The costs inherent within that model might be easier for clinicians or the wider School to justify to those controlling the allocation of a School's financial resources if the clinic exists on an assessed (as opposed to co-curricular) basis, primarily because the clinic would thereby be very clearly linked to the educational development of the students.¹⁰

3. Supervision models

Broadly speaking, there are three supervision models which are the most popular within the United Kingdom context¹¹:

1. Member(s) of academic staff (non-practising) directing the clinic, with external practitioners supervising the advice: under this primarily external supervision model at least one member of academic staff oversees the administrative functioning of the clinic as part of a wider job role (perhaps with some clerical assistance), while the advice is supervised by external practitioners. There are several ways of satisfying the insurance requirements under this model, the most common of which is to extend the University's insurance policy to cover the advice supervised by external partners. A rarer approach is for advice to be supervised and insured by the external parties in question (this is the model used at the University of Leeds, where the letters of advice are supervised, insured, signed and dispatched by partner law firms). The former approach perhaps makes it easier to convince external partners to become involved with the clinic (because there are fewer liabilities and costs attached); the latter approach allows the University to distance itself from any potential liabilities.
2. A full-time or part-time clinic or Pro Bono director, either holding a current practising certificate or working alongside those with such certificates (with the associated insurance models described above). The attraction of such a post is that it allows for some continuity (there are countless examples of clinics disbanding as a result of one particularly enthusiastic member of staff who was the main driver behind it departing the institution), and that it allows the clinic to be the primary focus of that person's attention (something which is not always

9 Although it should be noted that the Leeds model involves advice being supervised by external practitioners; an internal practitioner model might require additional support

10 However, the decision has been taken at Leeds for the clinic to remain outside of the curriculum. For a discussion of the reasons why this decision was taken, see Lydia Bleasdale-Hill (2011) *The Experience of Establishing and Maintaining Pro Bono Projects Within an Educational Setting: A Narrative* pp.11-12. There is also ample literature on assessment methods and models; see for example chapter thirteen of Kevin Kerrigan and Victoria Murray (eds.) (2011) *A Student Guide to Clinical Legal Education and Pro Bono* (Palgrave MacMillan, Basingstoke), and Richard Grimes and Hugh Brayne (2004) 'Mapping Best Practice in Clinical Legal Education' (UKCLE) pp.78-81

11 Examples of different models and their operation are discussed in Lydia Bleasdale-Hill (2011) *The Experience of Establishing and Maintaining Pro Bono Projects Within an Educational Setting: A Narrative*

possible when clinic responsibilities are combined with teaching and research responsibilities). This supervision model does however come with a heavier financial burden to the University due to the associated salary and practising certificate costs, and the potential insurance costs.

3. Academic staff with practising certificates supervising the advice: under this internal supervision model academic members of staff in possession of current practising certificates are allocated time to supervise cases and the students working on them (perhaps in conjunction with a dedicated clinic director, or someone for whom that role forms a significant part of their workload allocation). This has the benefit of creating a more sustainable clinic (because the clinic is not reliant on external partners for case supervision), as well as allowing the School greater control over the areas of law to be advised upon and the advice given. It also ensures the students are supervised in a way which enhances their learning opportunities: solicitors might not be as willing to refrain from simply giving the students the answer to a particular problem as someone with a clearer focus on the students' development might be, recognising that doing so enhances the opportunity for students to actually learn for themselves. As Giddings notes:

'The practice-based context of clinical legal education has the potential to offer a very rich learning environment. However, the benefits of such an environment may be lost or diluted without close supervision or if the supervision is not focused on facilitating student learning as well as controlling casework. Developing an environment in which students feel both suitably supported and challenged is a key aspect of the work of the clinic supervisor.'¹²

However, this model does carry with it significant resource implications: staff time will need to be allocated to overseeing the cases, and such time cannot always be distributed in an equitable manner (the amount of time staff spend on cases being determined not only by the skills and abilities of the student volunteers, but also by the complexity of the case and the areas of law accepted cases fall into).¹³ There are also further potential insurance and practising certificate costs to take into consideration under this model.

Of course, each model has its own merits and each offers value to the key stakeholders associated with the clinic; this discussion is not intending to suggest otherwise.¹⁴ However, the experience of working within an external supervision model at Leeds has provided the authors with an insight into the particular difficulties which can arise from that (in spite of an ongoing, supportive and mutually beneficial relationship with several partner firms). While there are difficulties with an internal supervision model, based on the evidence available,¹⁵ the authors would not presently be deterred from recommending such a model to new clinicians (or to existing clinicians wishing to re-develop a clinic). In order to provide further context for the adoption of this position, attention will now turn to how the value of the clinic to the students' employability skills set might be enhanced (or otherwise) within any model of clinic.

12 Jeff Giddings (2008) 'Contemplating the Future of Clinical Legal Education' 17 *Griffith Law Review* 1, at 17. See also Angela Macfarlane and Paul McKeown, (2008) '10 Lessons for New Clinicians' 13 *International Journal of Clinical Legal Education* 65, at 68

13 Lydia Bleasdale-Hill (2011) *The Experience of Establishing and Maintaining Pro Bono Projects Within an Educational Setting: A Narrative* pp.29-30

14 Indeed, the success of the Leeds clinic demonstrates that an externally-supervised model can offer real benefit to all three key stakeholders.

15 Primarily gained through the experience of interviewing a number of colleagues running Clinics at several institutions – see Lydia Bleasdale-Hill (2011) *The Experience of Establishing and Maintaining Pro Bono Projects Within an Educational Setting: A Narrative*

4. Enhancing the value of Clinic to students

a) Introduction

It is well-documented in the academic literature that participation enhances the student's employability skills profile.¹⁶ However, perhaps less discussed is the extent to which the clinic director, when establishing the parameters of the clinic, should orchestrate the type and level of employability skills gained by participants or, instead, should this development occur organically with minimal input by the director? This process is important because it is not inconceivable (it may even be likely) that a post-2012 student will be more instrumentally focussed on engaging only with those co-curricular activities that enhance career prospects. If the director is to take an active role in designing the employability skills outcomes then some decisions will need to be taken about the student profile that will inform these outcomes. Designing the profile, however, is not straightforward since it raises a number of interrelated issues. For example, if there is a choice to be made, should the employability skills ambitions of the clinic be confined to enhancing skills peculiar to legal practice or should it cater to a broader market and therefore should there be an emphasis on developing generic, transferable skills? Likewise, what kind of legal issue and, therefore, potential client should the clinic focus on? The underlying social justice aspects of clinical legal education suggest that the clinic should focus on those clients least able to afford legal advice,¹⁷ for example, by providing a stopgap to the shortfall in legal aid funding and local authority funding for CAB.¹⁸ However, instrumentally-motivated students may be more interested in gaining exposure to the type of commercial disputes that mid- to large-sized law firms are involved in if their ambition is to obtain training contracts there. With these questions in mind, it becomes clear that there might be conflict between the community-minded ambitions of the clinic and the consumer-orientated interests of the student as well as conflict between the student who wants to pursue a career in legal practice and the student who wants to follow a non-traditional career path.

The following discussion examines these two distinct issues: first, to what extent can potentially conflicting community and individual ambitions for the type of clinic work (and therefore employability skills arising from it) be resolved? Secondly, to what extent should the formulation of employability skills be directed at specific legal practice skills or general transferable graduate employability skills? Before considering how these issues might be grappled with, it is worth considering the potential range of skills that a clinic might involve.

16 See, for example, the discussion in Ross Hyams (2008) 'On teaching students to "act like a lawyer": What sort of lawyer?' 13 *International Journal of Clinical Legal Education* 21-32; Stacy Caplow (2006) 'Clinical Legal Education in Hong Kong: A Time to Move Forward' 36 *Hong Kong Law Journal* 229; Frank Dignan (2011) 'Bridging the Academic/Vocational Divide: The Creation of a Law Clinic in an Academic Law School' 16 *International Journal of Clinical Legal Education* 75

17 See discussion in Stacy Caplow (2006) 'Clinical Legal Education in Hong Kong: A Time to Move Forward' 36 *Hong Kong Law Journal* 229 on the history and ambitions of Clinical Legal Education in the USA.

18 This concern animates Frank Dignan's narrative about the legal advice clinic at the University of Hull (Frank Dignan (2011) 'Bridging the Academic/Vocational Divide: The Creation of a Law Clinic in an Academic Law School' 16 *International Journal of Clinical Legal Education* 75)

b) Generic Skills and Specific Skills

Arguably, participation in clinic work enhances student employability skills in two distinct ways: through the exercise of those skills and, perhaps more importantly from an instrumentalist perspective, by evidencing the existence of those skills. This latter point is useful to emphasise to the consumer-orientated student because law firms (particularly the larger ones) appear to place greater emphasis on co-curricular activities to evidence the type of skills they value than similar activities on the degree programme.¹⁹ Indeed, it may be useful to bear this point in mind when considering whether to subsume clinical legal education within the curriculum. Although Hall and Kerrigan for example advocate such a strategy,²⁰ one consequence of this may be to devalue the currency of skills gained from the experience. Consequently, employers may not value communication and organisational skills gained on a typical LLB programme through active participation in a seminar programme, successful completion of a dissertation or participation in compulsory mootings or presentations to the same extent as communication and organisational skills gained through co-curricular participation in clinic. It may be that this reaction expresses the lack of distinctiveness in the claim that regular curricular activities enhance employability skills and that clinical education would not suffer in the same way because participation is more unusual and, usually, optional.

Participation provides obvious enhancements to the practice specific skill set through exposure to legal practitioners and the opportunity of interviewing clients, inputting into decisions on potential client suitability for the clinic, collating evidence and drafting legal letters. Likewise, by inputting into decisions on a client's suitability for the clinic and strategy for advice letters, participants have the opportunity to develop their ability to exercise personal judgement, independence or autonomy,²¹ skills that are characteristic of practising lawyers.²² As Foley et al report, new practitioners often feel vulnerable in this regard for want of an opportunity to exercise those skills and the clinic provides an ideal controlled environment in which to take the first tentative steps, particularly since the constant oversight of the director (on questions of clinic suitability) and a qualified solicitor (on questions of advice strategy) provide an obvious safety net. It also introduces students to professional obligations such as preserving confidentiality, treating others with respect and dignity, punctuality, politeness and ethics. However, in common with other skills, time must be devoted to recognising and explaining the value of clinics in providing students with the opportunity to develop an understanding of the ethical demands of being a lawyer (or, indeed, working within a professional context). Kerrigan argues that clinic can be one of the best – if not the best – formats in which to teach students about ethics; not simply the 'relevant professional lawyer codes but also a broader and deeper engagement with what it means to be a lawyer and the

19 See, e.g., 'What law firms are looking for from new recruits', *The Guardian*, 14 February 2012, <http://careers.guardian.co.uk/law-firm-careers-advice> last accessed 14 August 2012.

20 Jonny Hall and Kevin Kerrigan (2011) 'Clinic and the wider law curriculum' 16 *International Journal of Clinical Legal Education* 25-37.

21 Tony Foley, Margie Rowe, Vivien Holmes and Stephen Tang (2012) 'Teaching professionalism in legal clinic – what new practitioners say is important' 17 *International Journal of Clinical Legal Education* 5, 18-19; Stacy Caplow (2006) 'Clinical Legal Education in Hong Kong: A Time to Move Forward' 36 *Hong Kong Law Journal* 229, at 231.

22 Tony Foley, Margie Rowe, Vivien Holmes and Stephen Tang (2012) 'Teaching professionalism in legal clinic – what new practitioners say is important' 17 *International Journal of Clinical Legal Education* 5; Ross Hyams (2008) 'On teaching students to "act like a lawyer": What sort of lawyer?' 13 *Int'l J. Clinical Legal Educ.* 21-32

moral attitudes, decisions and outcomes implicit in legal practice.’²³ Similarly, Joy states that ‘only by taking primary responsibility for clients may any law student fully experience the ‘professional pulls and choices’ and the ‘balancing of loyalties and professional responsibilities’ of being a lawyer’²⁴ However, taking part in clinic cannot, in and of itself, be sufficient to ensure such an understanding does develop. Clinic directors should consider how their students will be trained to recognise and reflect upon opportunities to develop such an understanding within the clinic. Students should have the opportunity to explore ethical issues and dilemmas which might arise within a case with their supervisor, and with each other: by doing so, ethical obligations offer a learning experience which might not otherwise be grasped.²⁵

Through exposure to real life legal disputes, by conducting interviews with clients and drafting advice letters following discussion with practitioners, participants have the opportunity to gain a deeper insight into the nature of legal advice in practice and, therefore, overcome that particular conceptual hurdle which plagues students of law: recognising that identification of liability is not the end sought by a hypothetical client but rather a means to an end, i.e., advice on the range of options open to the client to resolve their complaint. Once this threshold point is reached, participation also allows for an enriched view of the importance of client expectations and desired outcomes in framing advice. It is an opportunity for any remaining idealism about the operation of law to be tempered and realism instilled. In particular, participants glimpse the real world of law: e.g., that establishing liability can depend on any number of imponderables, such as witness performance at trial, evidential weaknesses, the commercial viability of the defendant and the wealth and/or appetite of the claimant for litigation. Likewise, since outcomes are often negotiated prior to trial, solutions are often a product of compromise in which the litigation risks and associated legal fees are balanced against accepting a discounted settlement. Also, not every litigant is primarily motivated by financial compensation and may attach just as great a weight to an apology or promise to change their practice so as to avoid future repetition. These considerations are often overlooked by the student of law and achieving an appreciation of them is often not helped by the mysterious labelling of them by graduate recruitment managers as ‘commercial awareness’ or ‘business acumen’.

Finally, student participants on the Leeds clinic have reported an increase in their perceived level of specific transferrable skills, such as general communication and organisational skills (in identifying the nature of the potential client’s complaint through initial contact and subsequent interview as well as drafting the advice letter); team working skills; and leadership skills (in deciding strategy in both the interview and advice letter). It is likely that working in a team will also provide opportunities to exercise negotiation skills, in particular, achieving the delicate balance between compromise and resolve. Involvement in determining the suitability of a prospective claim for the clinic, requesting particular documents or evidence are brought to interview, researching

23 Kevin Kerrigan (2007) ‘How do you feel about this client? A Commentary on the Clinical Model as a Vehicle for Teaching Ethics to Law Students’ *International Journal of Clinical Legal Education* 7, at 7

24 Peter Joy (2003-04) ‘The Ethics of Law School Clinic Students as Student-Lawyers’ 45 *South Texas Law Review* 815, at 837

25 See further Peter Joy (2003-04) ‘The Ethics of Law School Clinic Students as Student-Lawyers’ 45 *South Texas Law Review* 815, at 840; chapter three of Kevin Kerrigan and Victoria Murray (eds.) (2011) *A Student Guide to Clinical Legal Education and Pro Bono* (Palgrave MacMillan, Basingstoke); Jeff Giddings (2008) ‘Contemplating the Future of Clinical Legal Education’ 17 *Griffith Law Review* 1, at 13.

the law to identify potential claims to suggest to the qualified solicitor and following up missing documents or evidence in order to draft the advice may also allow participants to demonstrate initiative and creative thinking.

c) Respecting Specific and Non-Specific Career Ambitions

In determining the parameters of the clinic experience for the participant, the director may draw inspiration from the US model(s). However, in doing so, some caution is advisable in light of one significant difference, in particular, between US and UK legal education. Law, in the US, is a post-graduate degree and it has been said that ‘most law students expect to practice law upon [graduation]’.²⁶ The same cannot be said for UK students. In a recent survey commissioned by UK Centre for Legal Education 47 per cent of respondents on a law degree course expressed a desire to enter the legal profession.²⁷ In a similar survey conducted at the School of Law, University of Leeds, we found that 63.65 per cent of respondent students on the LLB wanted to become a solicitor on qualification. The dilemma, therefore, for the director establishing a new clinic (or revising an existing one) is the extent to which this should be accounted for in the clinic design and recruiting method. Should clinic participation be available only to those interested in becoming a lawyer? Even then, there is a question about whether participation is confined to those who will practice in the areas of law that the clinic caters for, or whether it is reasonable to expect that there will be a natural process of self-selection whereby only those students interested in such a career path will apply.

Perhaps the most pressing reason why the clinic might be confined to those with a strong preference for a career as a lawyer is the expectation that such students are more likely to commit to the programme both in terms of time but also energy. Conversely, those who are indifferent (or, even, hostile), to such a career may find the project unfulfilling or dull and there is, thus, a risk that this negativity may be transmitted to any partner law firm(s) and/or clients, damaging the reputation of the clinic over the longer term. Of course, there is a certain degree of speculation in this assessment and these are not absolute reasons why those who do not wish to become lawyers should be barred from applying. To some extent, commitment to the clinic might be ensured where the participant is dependent on a positive reference from the clinic director afterwards. Even so, it is understandable that sensitivities about the longer term success of the clinic (particularly where it is newly established) may influence directors to take a more restrictive approach to recruitment (and this is another reason why subsuming the clinic within the curriculum might be unattractive). By doing so, however, the clinic is less inclusive and the opportunity to gain broader employability skills is lost by a higher number of students (in the case of Leeds, this would mean up to 40 per cent of LLB students excluded from consideration). The consumer-orientated student may object to exclusion on this basis. There is also the possibility that students may become interested in a career as a lawyer having participated in the clinic, which should be weighed against the possibility that participants may lose interest in such a career having gained insights into the practical realities.

26 Stacy Caplow (2006) ‘Clinical Legal Education in Hong Kong: A Time to Move Forward’ 36 *Hong Kong Law Journal* 229, at 231.

27 <http://www.heacademy.ac.uk/assets/documents/disciplines/law/Hardee-Report-2012.pdf> last accessed 21 June 2012.

A further issue for clinic directors to address is whether to restrict clinic involvement to undergraduates, or to also allow postgraduate students the opportunity to be involved. If both cohorts are allowed onto the clinic then consideration should be given to whether the clinic experience will offer the same value to each group. An undergraduate in their second year will potentially have fewer relevant skills than a second year postgraduate student, particularly one who has returned to education from the workplace. The same is true of mature entrants to an undergraduate programme of study. Consideration should therefore be given to whether 'one size fits all' within the clinic context, or whether specific steps need to be taken to ensure each participant gains new employability skills from their involvement. At Leeds both undergraduates and postgraduates are eligible for entry onto the clinic and care is taken to ensure the role each student is assigned is most likely to enhance their skill set. For example, students applying to be part of the 2012-13 clinic at Leeds could apply to be either interviewers or managers. Briefly, interviewers conduct interviews and research and draft advice letters whereas managers liaise with the clinic director about potential clients, organise interviews and obtain pre- and post-interview evidence from clients. Clearly, different skill sets are being exercised in each of the two roles. The director might therefore take the decision to allocate a student with extensive administrative experience the advising (as opposed to office manager) role, in order to add value to their skills set. It is worth noting, however, that most students will gain some new skills from their clinic involvement, if only in the form of new legal knowledge. The areas of law covered by the clinic at Leeds are such that many students have not studied them (family law and employment law being two prime examples).

Regardless of whether participation is or becomes more inclusive to allow for participants who are not interested in the profession as a career, or whether it is restricted to particular year groups, the director may wish to consider whether the participant might specify or else nominate which employability skills they would like to develop on the course. By organising the clinic in such a way as to allow students to specify their preferred role (office manager/advisor), specific and non-specific employability skills may be met. As a possible further enhancement of this, it may be possible for students to nominate the type of claims they wish to gain experience of. For example, those students who want to qualify into a large commercial law firm (at Leeds, this accounts for 25 per cent of those interested in a career as a solicitor), may wish to avoid housing claims, for example, and concentrate on tax or employment on the basis they are unlikely to encounter such disputes in practice. Of course, the feasibility of this approach is entirely dependent on the prospective disputes that clients bring to the clinic. It may be that a director can do no more than promise to give consideration to this preference in allocating files to participant teams.

5. Meeting Community, Client and Individual Ambitions for the Clinic

The prospect of allowing students to decide which types of claims to be involved with raises a separate point. If students are keen to participate in the clinic principally to gain practical experience in those areas of law they wish to practice in, a conflict may emerge between the student's individual ambitions and the larger social aims of the clinic. To what extent is it, therefore, important to resist student-led design of the clinic programme?

To give the discussion context, Frank Dignan, director of the law clinic at the University of Hull, in a thoughtful paper on the social aims of clinics, recently commented that in Hull the creation of

the clinic had especial significance given the loss of £700,000 of funding for the local CAB.²⁸ The loss of financing for CABs as well as diminishing legal aid budgets is a significant contemporary problem and has obvious impact on access to justice. As Dignan notes, clinics allow Universities to connect with local communities, provide help and support to a broad range of individuals who could not otherwise afford it and provide students with the opportunity to gain deeper insights into the social and personal issues affecting those local communities.²⁹ Indeed, the benefits of law clinics to the local community (and to clients drawn from a wider geographical area) are well-established in the pedagogical literature³⁰ and the dangers of specialisation to achieving this social justice goal have been outlined by Lopez, who argues that the priorities of the community (and, it might also be said, client) should be foremost in clinic design.³¹ Regardless of the type of law that the participant wishes to specialise in, an appreciation of these social issues can only be of benefit. In providing members of the public with free legal advice, many of whom (or even all of whom, depending upon a clinic's target client base) could not otherwise access legal advice, clinic offers an opportunity for students to:

‘...begin to realise the distinction between legal rights and access to what they might perceive to be justice...injustice in CLE has a real face, the students develop the skills to inform clients of the limits of the redress which they have, and a key skill was highlighted to the student lawyers in the necessity to learn to manage their own emotional reactions.’³²

So, not only can participation provide personal satisfaction through helping others³³ but it also provides valuable insights of benefit in practice of dealing with clients and managing client expectations. Often, in larger firms, trainee solicitors may have limited opportunities to interact with clients to the same degree. Similarly, since clinic clients are likely to be claimants rather than defendants, participation benefits the student by humanising the claimant's needs and develops sensitivity to the claimant's position, which can be valuable to enhancing negotiation techniques in practice. Moreover, participation in a clinic focused on meeting social goals can be beneficial to a student's employability prospects since it allows them to speak to the corporate responsibility agenda that many law firms have adopted (often in response to the corporate responsibility policies of large multi-national corporations who insist that panel law firms have similar policies in place).

28 Frank Dignan (2011) ‘Bridging the Academic/Vocational Divide: The Creation of a Law Clinic in an Academic Law School’ 16 *International Journal of Clinical Legal Education* 75, at 76.

29 Frank Dignan (2011) ‘Bridging the Academic/Vocational Divide: The Creation of a Law Clinic in an Academic Law School’ 16 *International Journal of Clinical Legal Education* 75, at 77.

30 See, e.g., Stephen Wizner (2001) ‘Beyond Skills Training’ 7 *Clinical Law Review* 327-340; Antoinette Sedillo Lopez (2001) ‘Learning through Service in a Clinical Setting: the Effect of Specialization on Social Justice and Skills Training’ 7 *Clinical Law Review* 307-326; James Marson, Adam Wilson and Mark Van Hoorebeek (2005) ‘The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective’ 7 *International Journal of Clinical Legal Education* 29-42; Jeff Giddings (2008) ‘Contemplating the Future of Clinical Legal Education’ 17 *Griffith Law Review* 1; W. Warren H. Binford (2008-09) ‘Reconstructing a Clinic’ 15 *Clinical Law Review* 283

31 Antoinette Sedillo Lopez (2001) ‘Learning through Service in a Clinical Setting: the Effect of Specialization on Social Justice and Skills Training’ 7 *Clinical Law Review* 307-326

32 James Marson, Adam Wilson and Mark Van Hoorebeek (2005) ‘The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective’ 7 *International Journal of Clinical Legal Education* 29-42, at 34.

33 See discussion in James Marson, Adam Wilson and Mark Van Hoorebeek (2005) ‘The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective’ 7 *International Journal of Clinical Legal Education* 29-42, at 38-39.

6. Conclusion

Clinics hold a number of benefits to participating students, including the opportunity to establish preferred career paths and to develop transferrable employability skills within a controlled, supervised environment. However, this paper has sought to demonstrate that such benefits to students cannot be viewed in isolation, either from the clinical supervision model or from the agendas of the other two key stakeholders within a clinic (the institution within which the clinic is housed, and the clinic client base). Potential clinicians, new clinicians and existing clinicians must be alive to these competing agendas throughout the establishment and management processes and must be conscious of the fact such agendas will not necessarily be resolved once the clinic is well-established. The process of establishing a clinic is fraught with practical concerns regarding supervision, insurance, office protocols and practices, client confidentiality, client selection and recruitment and so on - concerns which can easily override the bigger strategic question of *why* the clinic is being undertaken and who it is intended to benefit. This question applies not only to the students involved (what is it the clinic should give them?), but also to clients: what is their position relative to the students? Are they equally important, or will the potential educational benefits of a case trump the client's needs for support?

Equally, once a clinic is well-established sight should not to be lost of why it is being run. All clinics are likely to evolve over time in response to internal and external factors (not all of which will be within the immediate control of those responsible for the strategic direction of the clinic). This paper has sought to highlight areas in which such competing agendas might emerge and to demonstrate how an internal supervision model might provide clinics with the optimum opportunity of overcoming the associated challenges. Each model offers specific benefits to the three key stakeholders and each carries with it particular drawbacks, but the internal supervision model appears to offer the most flexibility to respond to competing (and potentially changing) agendas. The model adopted will of course depend upon an institution's priorities and financial circumstances; the size of clinic; the extent to which it is feasible to work with external partners; and so on. However, the authors' observations are that an internal supervision model (where the advice is supervised and approved by School staff) offers the most long-term benefits and value to key stakeholders. From an institutional perspective, an internal supervisor, although bearing extra costs, provides the clinic with more long-term stability than a model whereby the advice is approved and insured by external partners. Under the latter model, the decision of a partner agency to remove itself from the clinic would have potentially disastrous consequences for the students, clients and institution, particularly if the clinic forms part of an assessed module. The internal supervision model also provides institutions with greater control over the strategic direction and growth of the clinic, allowing as it does the institution to respond to changes in the student and/or client needs and adapt the clinical model and areas of advice accordingly. Partnerships with external practitioners supervising the advice can potentially hinder such change, particularly if those external partners have different strategic aims to those of the institution.

From a student perspective an internal supervision model provides for more contact with the supervising practitioner than an external model (where contact might be limited to a short meeting and a few emails), which can in turn enhance the skills gained from clinic involvement. Working alongside an internal practitioner provides students with an opportunity to gain more frequent and regular feedback on their clinic performances, with such feedback potentially more likely to be delivered in a pedagogically sound manner. Should the feedback not be delivered in such a manner an institution is better able to provide suitable direction to ensure it is in future: doing so in the context of an external supervision model is much more politically sensitive, carrying with it a risk of alienation of partners upon which the operation of the clinic might be entirely dependent. The value of the clinic to the students is also potentially enhanced through an internal supervision model because such a model opens up the opportunity to adapt the manner in which the advice is given and the areas of law in which it is given. At Leeds, for example, the clinic has generally been restricted to an appointment only, written advice model. Alternative approaches are much more difficult to adopt, even if these would offer enhanced value to the clients. To take the example of a drop-in service, such as the excellent one provided by London South Bank University:³⁴ this would, under the Leeds model, be difficult to manage because externally-based supervisors are allocated to particular pre-arranged clients on the basis of their areas of expertise - something which would be almost impossible to arrange on a drop-in service.

Finally, the client can benefit from the internal supervision model, primarily because of the long-term sustainability offered by that model, but also because of the flexibility to respond to changing client needs such a model can offer.

Clinicians ought therefore to not be discouraged from developing, or re-developing, a clinic on the assumption that the competing agendas of the three key clinic stakeholders are likely to ultimately be insurmountable: rather, care must be taken to ensure that the supervision model adopted allows for as much flexibility as possible (within the financial parameters determined by the host institution), in order to respond to those competing (and potentially changing) demands.

³⁴ <http://www.lsbu.ac.uk/ahs/departments/law/legaladviceclinic.shtml>, last accessed 16th August 2012

