

Clinical Legal Education in South Australia

University of Adelaide Director of the Clinical Legal Education Margaret Castles, University of South Australia Director of Professional and Clinical Programs Rachel Spencer and Flinders University Director of Professional Programs Deborah Ankor explain the role of clinical legal education and why it enhances education for law students.

What is Clinical Legal Education?

Clinical legal education (CLE) programs operate in most Australian Law Schools and are a common feature of legal education in the USA and the UK. From modest beginnings in the 1980s, CLE programs in Australia have grown to become a key feature in addressing unmet legal need in Australia. The premise of CLE is to provide future lawyers with an authentic learning environment in which they can put into practice the theory learned in the early years of law study. Providing legal services to the disadvantaged in the community provides a richly contextual environment within which students learn about their role as lawyers, and the operation of law in society. Students also develop a commitment to the idea of pro bono work, which they can carry forward into their future legal practices. Thus CLE programs provide a valuable service to the community and an unrivalled educational experience for future members of the legal profession.

Clinical programs permit students to be exposed to the "real life" environment of having to provide carefully considered and appropriate advice to "real clients" whilst also focusing on the needs of their learning. Students also provide a service to marginalised members of the community who would otherwise be unable to obtain access to legal advice.

Clinical legal education equips students with the knowledge and understanding necessary to promote access to justice through their professional lives. Clinical legal education should not be confused with Practical Legal Training, which has a completely different focus.

There is a huge unmet need for legal services in our community. There are many people who cannot afford a private lawyer and legal aid is only available in

operate, now run solely by students and supervisors from University of Adelaide Law School. In 2011 UniSA developed its own Clinic, which operates within the Law Building at UniSA, with an outreach service at Port Adelaide. In 2012 Flinders University took the much anticipated leap to set up a similar service in the Minor Civil Claims jurisdiction at Christies Beach Magistrates Court.

It is easy to focus on the value to the community that these services offer: thousands of hours of pro bono support each year. On a typical day at one of our clinics we would see up to 6 clients, draft two or three pleadings, write letters in half a dozen cases, provide written legal advice to clients, and help clients prepare for disclosure or trial. But it must be remembered that we are also educating our students about the function of law, their role as lawyers in society, and the future profession about the value of this work as part of their professional lives.

Our Collective Vision

Experience has taught us that the great value of clinical legal education is in the community of practice that exists. Clinical programs around Australia are at the forefront of innovative responsive programs that deal with particular areas of need. For example, programs have been developed to provide duty solicitor services in the Family Court in an outer Melbourne Suburb, video linked advice to child support claimants in rural Queensland, and specific services for the homeless, refugees, children, and wrongly convicted offenders.

These satellite initiatives build upon the foundational services that each University has developed. Law Schools like Monash, Griffith and the University of NSW have long-established legal advice services, often run in conjunction with legal aid authorities. Funding for the varied services comes from

a range of sources – most commonly the Commonwealth Government, various state and local agencies (for both initial seed funding and some recurrent costs) and from University budget lines.

In South Australia the three Law Schools have used the Minor Civil Claims services as the foundational model, and have each developed additional services that bear their own distinct character. Coming as we do from the same starting point, the Law Schools share a vision for ongoing influence in this area. We are all members of the South Australian Legal Assistance Forum and look to find ways for our programs to contribute towards legal service delivery according to our particular resources.

Recognising that what works in one court can be adaptable for another, but with a view to keeping administrative costs to a minimum, we acknowledge that focusing our efforts regionally makes sense. Thus, Adelaide Law School has taken over running MCLAS at Adelaide Magistrates Court, and also operates a separate service for homeless and disadvantaged people at Westcare Baptist Centre.

Flinders has developed and runs an advice service at Christies Beach, and recognising the relative lack of legal services in the South, has developed an in house legal advice service for students. UniSA, having an on-site Clinic that deals with most areas of law, has been able to develop an effective outreach program to Port Adelaide, and proposes an interdisciplinary outreach to Elizabeth. The proposed service at Elizabeth (hopefully to commence in 2014) will combine financial and legal advice in an outer suburban area where there is a desperate need for combined financial and legal services.

Independence of separate services

From time to time, there are suggestions from the profession that the three Law Schools should combine their services. However, there are a number of reasons why having independent legal advice clinics run by the three universities in South Australia is preferable to an amalgamated service.

The first reason is greater accessibility. The running of three independent legal advice clinics helps to lessen the problem of people with unmet legal need being conflicted out of accessing a free legal



Former student advisor Anna Mazzeochetti (left), Legal Advice Clinic managing solicitor Matthew Atkinson, former student advisor Adam Creighton and University of South Australia Director of Professional and Clinical Programs Rachel Spencer.

service. University-run clinics have strict conflict of interest protocols – they will not assist a person where there is a conflict of interest or a perception of a conflict. Having three independent legal advice clinics provides for a greater referral base for free legal services. The clinics have an active policy of referral, and are able to provide any person with whom there is a conflict with access to another university run clinic, a community legal service or the Legal Services Commission. With the increase in jurisdiction in the Minor Civil Claims jurisdiction, we have already started referring cases to each other to avoid conflict.

The problem of people being conflicted out of accessing free legal services is a particularly acute one. Similar to community legal centres and the Legal Services Commission, university-run clinics frequently assist with neighbourhood disputes, family disputes, and people involved in motor vehicle property damage disputes where neither party has an engaging a legal practitioner in private practice to assist in the resolution of a dispute is prohibitive, and this legal cost often will typically exceed the monetary value involved in these disputes. The areas covered by the University clinics generally fall outside the availability of legal aid at the Legal Services Commission or community legal centres.

There is a continuing demand for free legal services; the waiting period for an appointment at a community legal centre or a Legal Services Commission office is two to four weeks. More free legal services means that more people in the community are able to resolve their legal problems in an effective and timely manner.

Another advantage of having three separate services is that the current system can more readily target unmet legal need. Whilst university run clinics have a common vision and engage in ongoing collaboration, their independence provides for a greater organisational flexibility to adapt the services provided to meet the needs of the local community, and to develop focused initiatives in areas of particular need.

Why not combine the services?

We are often asked why the three law schools don't just run a combined program. Insurance is one significant issue here – like law firms, universities are separately insured. Our policies only cover the work done by our own staff and students, not staff or students at other universities. In addition, each university also has different course and degree structures, different assessment goals and models, and in some cases, different semester dates. CLE programs are part of the academic degree program, and must fit into the teaching and learning objectives and degree structure of the Law School in which they operate. Academic staff work closely with clinical supervisors to provide a seamless and integrated experience for students which is specific to each particular course. Coordinating academic teaching staff course work, assessment, up to 100 students per semester across 20 different placements and six different University clinics would be an extremely expensive and time consuming process! Nowhere in the world do Universities combine in the administration of clinical programs, although as in Adelaide, there is a great deal of inter-university collaboration and support. CLE programs depend very much on the energy and interest of the staff who run

them. There will be considerable variation in the nature of programs depending upon the legal interests of the academic staff in the different Law Schools. This ensures that staff with expertise in particular areas can focus on developing services in particular areas. However just as the law schools have distinct programs and goals, so do our clinical programs. CLE is an educational opportunity just as much as it is a service particular curriculum – in terms of days of placement, year level of degree, subject pre-requisites, assessment, and content. The development of unique programs with a common goal has been particularly useful in expanding our service capacity—we are able to focus on particular areas of need that align with the interests and practice areas of staff at different schools, and develop innovative programs that explore and provide precedents for the expansion of legal services in the community.

The Flinders Clinic at Christies Beach has provided advice and assistance to over 100 clients in the minor civil claims area. Flinders estimates advising approximately 150 clients per year at Christies Beach. Since opening on 13 May 2011, the University of South Australia Legal Advice Clinic has assisted over 900 South Australians to resolve legal issues. The UniSA Clinic has already performed over \$600,000 worth of pro bono legal work for people who might otherwise have been unable to access legal advice. University of Adelaide would have performed hundreds of thousands of dollars' worth of legal work in the years since it has been operating its services. MCLAS has opened an average of 120 new files each year. ALOS is

estimated to have provided legal service to approximately 100 homeless and otherwise disadvantaged members of the community each year. Broad file costings suggest the average cost per file is about \$1800 (at applicable para-legal costs rates) equalling \$396,000 per annum in pro bono services.

In addition to immersing law students into a culture of volunteering and providing pro bono support to disadvantaged South Australians, university clinics are able to obtain and coordinate pro bono support from legal practitioners in private practice and other professionals.

University legal clinics are accessible and are used as referral points by other agencies. Many clients of university clinics are in a difficult situation and have been rejected for

CLE Programs at the Three Law Schools

Adelaide					
Adelaide Magistrates Court Legal Advice Service	Adelaide Magistrates Court	2 days per week	Advice service in minor civil claims		
Adelaide Legal Outreach Service	Based at Westcare Day Centre at Wright Street, Adelaide	1 day per week	advice service for homeless and disadvantaged in Western Adelaide CBD		
Externship program for a number of students.	Various Community Legal Centres in the Adelaide CBD.	various	various		
UniSA					
Legal Advice Clinic	On campus in Law Building.	4 days per week	Advice service in most areas of law.		
Port Adelaide Outreach Service	Port Adelaide Magistrates Court	1 day per week	Advice service for unrepresented litigants: civil and criminal.		
Externship program for a number of students.	Various statutory authorities, selected law firms, barristers' chambers and other legal offices.	various	various		
Flinders					
Legal Advice Service	Plaza, Flinders Bedford Park Campus.	2 days per week	General advice service for students of the University - run for & funded by FUSA		
Christies Beach Outreach Service	Christies Beach Magistrates Court	1 day per week	Advice Service in Minor Civil Claims – funded by Flinders Law School		
Externship program for a number of students	Various legal or community services in Adelaide and overseas	Minimum of 12 days	Various		

service by private, government and other service providers.

Additionally, university clinics make it easier for people to access information directly and develop their own knowledge, resources and skills to help themselves as much as possible. Awareness of legal rights and where to go to get assistance is vital. It means that people are able to use and understand the legal system. This knowledge ultimately alleviates the huge burden placed on the criminal and civil justice systems in South Australia. Adelaide University students must complete a major project as part of their placement. A project is also part of the UniSA clinical assessment tasks. Examples include law reform submissions about representation of

young people and access to FOJ documents; community education forums promoting mediation or legal rights awareness; website development and community education about court processes and self managed claims, and involvement in CPD initiatives. The clinics thus contribute to community education and development, as well as provide legal advice.

University clinics in SA have developed from a very modest beginning over a decade into a raft of related but independent services that together provide hundreds of hours of pro bono service to the community in SA each year. We have become a feature of the legal services community, and are now an established part of the legal services landscape in SA. **B**