The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective

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**Introduction**

Few law schools within the United Kingdom (UK) university sector have integrated clinics

established as legal practices that offer live client work to the student body. Clinical legal education

is becoming increasingly popular within the sector as it provides numerous advantages to the

student cohort and establishes an opportunity for the students to gain important practical

experience, whilst enabling them to offer a valuable service to the local community.

This paper proposes that the expansion and subsequent unbridling of the provision of a law clinic

in the sector will provide the students with the skills necessary of graduates in the increasingly

corporate, commercially motivated, UK university sector. Secondly, it provides a basis for the

rationale of a movement in funding bands, a study which is being undertaken by the Higher

Education Funding Council for England over the proceeding three years, in consequence to the

increasing costs involved to the institutions. This increase in funding, coupled with a determination

from the institution and case study evidence as presented in this paper, will hopefully propel

clinical legal education to the forefront of undergraduate legal studies in the UK. Clinical legal

education is a method of improving the student experience and offers various advantages if

integrated fully into the university administrative set up. Such views have been given rigorous

academic coverage, however this paper further analyses the academic benefits passed on to the

student populace, in relation to the potential advantages to UK universities.

Clinical legal education (CLE) has been a concept long provided in institutions in the United States

(US) and is increasingly being focused upon in both the Western (Bradney 1992;[[4]](#footnote-4)Dickson 2000;[[5]](#footnote-5)

and Grimes 1995)[[6]](#footnote-6) and developing worlds (Iya 2000)[[7]](#footnote-7) as a fundamental aspect of the undergraduate

law students’ education. In the UK, whilst such skills have been addressed to varying degrees

through mock court and mooting sessions, and the research skills necessary to acquire information

through library exercises, the skills of communication with clients, ethical considerations in

practice and the ability to put legal education into practical situations have been ignored. This has

occurred (amongst other reasons) because of a lack of available expertise, funding, resources, time

and accessibility. Despite these limitations universities have begun a process of incorporating

clinics into their academic framework notwithstanding the higher costs involved, since they see

these costs as counter-balanced by a unique learning experience which offers a competitive

advantage against similarly placed institutions.

This paper begins by outlining the necessity for CLE in UK law schools and how this will become

commonplace and may even become a pre-requisite for full exemptions from professional bodies

including the Law Society. It then offers an insight into the working of a law clinic in a university

law school in the UK and the benefits and potential offered to students and the institution itself.

The paper further highlights how a movement towards CLE may assist in the contentious study

undertaken by the Higher Education Funding Council for England (Hefce) over the next three years

regarding the funding of undergraduate students and the possible movement in the banding of

funding – an initiative which is fundamental to the funding of law clinics and possibly the survival

of these university departments. The paper concludes by assessing the implications of CLE to the

student and institution with regard to the current structure of legal education and establishes the

significant benefits of live client work for law students and the institution.

**Necessity for a clinical approach to legal education**

Recent evidence has demonstrated the continuing need for CLE and how universities have to

continue to take a serious and proactive stance to this form of pedagogic instruction. Clinical legal

education has been seen as providing students with an understanding of the legal environment

which awaits them upon graduation and as a means to instil professional values and sensitivity to

the concept of justice.[[8]](#footnote-8) However, research has highlighted the limitations of clinical education and

in particular whether the skills and attributes learned under clinical models actually transfers

effectively to the professional world.[[9]](#footnote-9) Research therefore continues to be a necessary component

of the concept of CLE to ascertain whether it does offer the skills and insight into a practical vision

of legal practice which classroom based education fails. Clinic is however generally considered to

be of value to the student and institution if undertaken seriously and rationally, with a focus on

the adoption of a real (albeit not-for-profit) law firm, and with the academic ability to extract a

theoretical base from the practical experience. It is the very nature of this type of education –

propelling the students as actors in the legal process rather than mere observers, which enables the

full benefits of CLE to be extracted, reflected upon, and re-invested into the student cohort.

The benefits of CLE have been witnessed by the handful of university departments with a system

of such education in place.[[10]](#footnote-10) Historically, universities were established on an academic basis with a

focus on theory and critical discourse; however law students require exposure to a more practical

form of education and clinics fulfil these criteria. The role and weight of live-client clinical work

within the curriculum has been noted and discussed in previous literature (for an interesting

discussion, see Tarr 1993).[[11]](#footnote-11) Practical experience gained from work in ‘real life’ situations has been

demonstrated to motivate students and to invigorate their appetite for legal practice, particularly

as students have had to focus their attention on the needs of the commercial law sector which is

ever more competitive. This focus on the necessity for “commercially focused” [[12]](#footnote-12)graduates has been

highlighted by leading law firms which have observed “We firmly believe that the closer to real

practice and the more realistic training is the more effective it will be”.[[13]](#footnote-13)

This commercial focus has been reiterated at a governmental level through the Lord Chancellor’s

Advisory Committee on Legal Education and Conduct in its Consultation Paper, Review of Legal

Education – The Initial Stage. The report makes explicit reference to both the relevance of

intellectual and personal skills, and the importance of seeing law in its operational context.[[14]](#footnote-14) This

can be best gauged and assessed in the University setting where the students’ learning is

paramount. The students do often gain experience in the vacations through work experience at law

firms but this is often intermittent and unstructured. Whilst the larger firms do seek to educate

and lead the students in their learning, many students identify that they often feel ‘used’ and even

a source of ‘cheap labour’. The university can offer the structure that would satisfy the need for

education along with the ability for live client work that also provides an invaluable insight into

legal practice beyond academic debate.

**Live client work: An empirical insight**

CLE provides a learning experience that is difficult to replicate in any classroom setting. With the

benefit of academic guidance and structure, an ability to instil values into the students’ practice of

law, and exposure to real clients with problems which are beyond mere textbook exercises, the

students learn key skills and are encouraged to reflect on their experience and their role in the

advice process.

All students at the case study institution were provided with ‘lawyering’ skills through compulsory

mooting sessions. These involved mock courtroom situations, senior academics acting as judges and

arbiters, and a competitive and practical element being added through judging and prizes awarded

by local law firms. These skills are vital to increase experience, raise confidence, and offer the

students an insight into how the law is actually different in practice to that learned through

textbooks.

Beyond these skills is the awareness of real life advice and an ability for the students to gain

experience of dealing with people with problems – and the consequences of these problems.

Students advising clients are exposed to the emotion faced by clients, an awareness of their

obtaining the relevant facts from the client and focusing their advice on areas of law where the

client has a legal challenge; a sense of responsibility to be honest to the client – even where this

may involve informing clients of outcomes which may be unpopular; and an appreciation of the

pressure and dedication which is required of lawyers. All of these elements contribute to the

professionalism which students are expected to demonstrate when they train and begin to practice,

and as such they are required to be introduced as soon into the students’ education as possible.

Many of the above elements may be a consequence of other modules studied and identified by the

variety of learning outcomes as required by bodies such as the Quality Assurance Agency for

Higher Education (QAA), but only the exposure in a controlled environment provided by a law

clinic in a university setting can offer the rigorous legal practice experience so valuable to law

students. The QAA, a body established to maintain standards in university education and to offer

guidance to ensure universities achieve the best possible service to their student cohort, has

identified the necessity for experiential learning and the strengths of an education which is

complemented by legal practice.[[15]](#footnote-15) This approach to quality is underpinned by the important

lessons available in a live law clinic and is where the student can begin practicing the skills expected

of lawyers – professional codes of practice, expected behaviour whilst training or on vacation

placement, the relevant forms and deadlines for claims, and fundamentally, whether a career as a

lawyer is what they would like to pursue. Such skills are essential to future practitioners and to

have these instilled at as formative a stage as possible is likely to produce better equipped and more

successful law graduates. If left until the professional training is studied (Legal Practice Course or

Bar Vocational Course), or left largely unstructured in the plethora of courses available at

undergraduate level, the student may find that practice is alien to the academic nature of their

previous study and any poor habits formed may leave them disadvantaged in the highly

competitive market they may wish to enter.

**The case study law clinic**

CLE is vital in a university’s holistic approach to legal instruction as it offers the combination of

both practical and theoretical bases, along with the structure of protecting and nurturing the

students’ development. However, such a view must be assessed through an examination of how law

clinics work in a practical environment. The case study institution is a large, new university offering

a variety of law degrees and instruction at undergraduate and post-graduate level. It has established

CLE as a fundamental aim for the past ten years and the provision of a law clinic has grown since.

The study involved the cohort of students in the 2003/04 academic session, twenty of whom

successfully completed the module, and this section outlines the method of legal instruction

adopted by the institution, the key skills identified and emphasised within the unit, the variety of

legal cases undertaken by the law clinic team, and the students’ participation and self-evaluation in

this legal practice.

**Quality issues in advice at Law Centres**

From the 1st April 2000 the former civil legal aid board was replaced by the Community Legal

Service (CLS). The CLS was established to create networks between advice funders, such as local

authorities, and suppliers. The avowed aim was to view regional provision of advice holistically to

ensure the widest possible access to information and advice. By creating links and networks

between advice providers the potential client had the tools to identify the provision of legal advice in

the region, and choose the advisory service most appropriate to their needs. The system also

enabled the advisory service in the region to keep abreast of the advice available at other centres so

that a client could be referred or signposted to another service provider if this was more

appropriate. The overriding concern was that all the advice experience and expertise was made as

transparent and as available as possible, so as to be as inclusive to all involved in the process. The

best quality advice, to those who required free-to-access legal advice and representation, was the

CLS’s aim.

Access to advice is, however, only a fraction of the equation. Potential clients naturally

want assurance that the advice provider operates satisfactory procedures and proffers competent

advice. To provide such reassurance the CLS has developed a number of quality marks to assist in the

quality process, by providing evidence of the levels of advice offered at an advice centre. This is

further supplemented by quality standards being published of the areas of law which are offered

– such as housing, welfare, employment and the other main areas of advice required by potential

clients. There currently exist quality marks at the various levels of expertise. The hierarchy of

quality of advice are as follows: Information, General Help and Specialist Help.

The Quality Mark in Information essentially entails being able to supply referral material, such as

leaflets, and to provide access to CLS information or access to its web page. Such limited assistance

would not fulfil the educational purpose of a clinic and hence shall not be considered further.

The Quality Mark in General Help typically offers information and advice to a client to help them

resolve their problem. The advisor (in this situation the student) will diagnose the problem, explain

available options and identify further action which the client may take. In terms of a law clinic there

shall also be assistance via drafting letters and any court forms. The case study law clinic retains a

Quality Mark in General Help. Once the mark has been awarded it may be displayed at the clinic and

upon stationary. It is suggested that this is the most appropriate quality mark for most law clinics.

The final potential quality mark lay in Specialist Help. This requires particular expertise in a

specific field and may cover a particularly complex problem or a request for representation in

court. The Specialist Quality Mark is a prerequisite to an institution potentially being able to

secure public funding for a client. In theory there is no prohibition on clinics obtaining such a

Quality Mark.[[16]](#footnote-16) There are, however, numerous practical constraints. For example, a clinic may not

be able to secure sufficient quantities of cases, in a particular field, to develop or provide evidence

of specialised help. Equally, teaching staff may not have sufficient time to retain specialised

advocacy skills.

All quality marks require clinics to adhere to stringent procedures established by the CLS. The

CLS shall, at regular intervals, perform an audit to ensure that adequate standards are being

retained. The quality award is advantageous in showing that satisfactory quality processes have

been achieved and maintained. Clinical legal education may, potentially, cover extremely disparate

fields of law for example housing, employment, consumer, family, welfare, personal injury,

criminal injuries claims and commercial work.[[17]](#footnote-17) Criminal appeals may also be covered. In short,

the particular emphasis of the clinic is dependent upon the expertise and stance of the clinic staff.

**Typical advice at case study clinic**

Legal advice covers various jurisdictions of law and naturally derive from the clients’ needs.

Law clinics however have to be selective in offering the advisory service to clients, whilst also

recognising their key role as instructing and nurturing the student cohort. Law clinics in the US

have established links between CLE and the advice service and consequently can frequently offer

a more in-depth service with a greater range of legal services. The UK, whilst attempting to follow

this mode, also has been slower to fully adopt this method of practical integration into their law

schools and this can be reflected in the advice service that is offered. The case study law clinic offers

particular expertise in personal injury, criminal injuries compensation, housing and consumer

disputes. These it was considered offered the widest range of legal issues and would expose the

students to a variety of clients and scenarios. However, whilst the student’s education is vital in this

context, the advisory service must also be taken very seriously. The legal same obligations to the

client exist for the law students and law firms alike, and part of the CLS partnership scheme

requires that the client receives the best possible, and most appropriate, advice. As such, legal

advice providers are now part of a network and prior to assuming control of a file, it is essential

to ensure that the clinic is the most appropriate advice agency. Due consideration further must be

given to possible trade union funding, legal expenses insurance and public funding. If the client

could receive funding from an agency (for example a trade union) which would also provide

guidance, time and access to legal professionals that may potentially provide a better service for the

client, this must be the primary concern of the clinic. This aspect of ethics is also considered when

the practical issues of costs and access to private practice are undertaken. The students’ education

must include the realisation that the client has to be the priority in all advice work and

consequently referrals or signposting is in the best interests of the client.

In each scenario where the clinic takes legal instruction, the situation poses unique learning

opportunities for students. For example, one recent case concerned a criminal injuries claim for a

client who had suffered post-traumatic stress following a situation perceived as life threatening. The

law was relatively straightforward in this instance and enabled the students to research the issues

and create a formula for advice. The actual case, however, and the issues surrounding the treatment

of the client and the remedies available caused students to feel aggrieved for the inadequate levels

of compensation obtainable for such claims. The students in this situation began to realise the

distinction between legal rights and access to what they might perceive to be justice. The lessons

learned here were interesting in that 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.

The typical advice of this law clinic also highlighted a skill which can be difficult to fully develop

in a classroom situation. In law schools the typical education is separated into categories of law (for

example contract, tort, criminal law and so on) where the students learn how to advise clients in

their legal rights. In the real world, evidently, the advisors cannot expect the client to outline the

legal problem and hence the advisor has to extract the necessary information and identify the area

of law applicable. A recent personal injury file embodied the principle that legal cases cannot be

neatly divided into distinct areas of law. A client had, prior to instructing the law clinic, been

pursuing a personal injury claim for numerous years together with issues of land law and

limitation periods. This provided many useful issues for the students to reflect on, and the

requirement to identify the relevant facts quickly and professionally – emotionally distancing

themselves from the client. These skills enabled the law clinic to utilise client cases to guide the

students through their development as potential lawyers which further enabled law clinic staff to

focus the teaching and instruction of the students.

**Method of teaching and instruction**

Cases, as identified above, have enabled established law clinics to develop methods to instruct and

guide students as to the key skills which lawyers have to possess. This is vitally important as it

transcends the textbook world of academic instruction to enable students to identify the

distinction between legal research and paperwork, with the skills needed to advise clients. CLE has

created and re-formulated these methods of teaching, and whilst there are differences between law

clinics in regions of the world (as noted in the following sections), there exist approaches common

to many clinical programmes, certainly within England and Wales.

Law schools typically have modules structured to provide a series of lectures, supplemented by

seminars, to instruct students on the various points of law. The seminars range in sizes from groups

of up to 20, to discussions between the lecturer and small numbers of students. Law clinics are

slightly different to this method of teaching due to the presence of the practical base. Law clinics

are established as a law firm which has areas of expertise and outlines to clients in which areas

advice can be provided. These firms tend to be relatively small in structure[[18]](#footnote-18) and as with any

professional legal service offering advice, the law clinics have allocated at least one professionally

qualified supervisor. Due to the restraints of the legal service available, the time restraints and

restraints as to the level of competency available at the clinic, potential clients are interviewed to

ascertain their suitability to receiving advice, and of course to attempt to make the law service as

beneficial as possible to the students. To be as inclusive as possible the students are involved in the

interview process of prospective clients who have applied to the clinic for assistance. The students

decide, in consultation with their supervisor at the law clinic, which files the clinic can progress. If

the client’s case is not suitable the students assist in explaining why this to the client, and involve

themselves in the referral or signposting of the client. This assists in the identification of suitable

cases for the students and it further ensures the students are aware of the help and assistance

which is available locally. Following the acceptance of the client to the law clinic, the students

subsequently assume full responsibility for their files and collectively undertake all the required

advice work.

Typically, the student firms meet at weekly sessions to discuss how their files are progressing, and

to discuss any issues which may be relevant such as complex questions, ethical issues, or guidance

and support from their peers. These firm meetings are essentially student driven, though the exact

division of work between students and tutor varies from institution to institution and perhaps

even between supervisors.[[19]](#footnote-19) Each active file is reviewed in turn and the details, whilst

understanding the issue of confidentiality, can be explored so that important lessons, or a group

approach to a specific issue or problem, can be reviewed and used as a learning tool. The students

discuss the work that they have undertaken during the previous week, and agree a work plan for

the forthcoming week to ensure the students remain focused to their case and enable the firm to

be professional in ensuring a speedy resolution to the clients’ problems. The supervisor’s role at

these meetings is largely to guide the discussions to be relevant to the students’ learning; to ensure

student understanding; and further to guarantee the expeditious treatment of files.

The weekly meetings are vital to ensuring the students discuss important aspects of practical

lawyering skills and these meetings are further supplemented by students’ participation in a

concurrent programme of skills training. Lawyering skills are clearly of great importance. To offer

the advice to any client the student first has to have identified the legal problem and researched the

issues to ensure the correct and timely advice is provided. Skills’ training focuses predominantly

on the so called ‘DRAIN’ skills of Drafting, Research, Advocacy, Interviewing and Negotiation.

These skills are developed on a continuous basis through weekly classes which require

consideration of key texts on the particular skill being studied. These skills are then put into

practice in the file which the student has responsibility for, and are also discussed in the weekly

sessions that consider the development of the students’ case. Nevertheless, these teaching sessions

are never theoretical, or in the abstract as so much of other legal teaching is, but it assumes a

practical guise requiring, for example, a particular court form to be drafted or the application of

the skill to the students weekly workload in preparation of the clients file. Academic knowledge is

thus applied in a practical context.

A further method of instruction which offers a different perspective to the students method of

learning is provided through the series of guest lectures[[20]](#footnote-20)available throughout the year. Students

are encouraged to become involved in the series as the lecturers are drawn from local practitioners,

from diverse backgrounds, involved in different areas of law, both from public and private law

jurisdictions, and it enables the students to interact and gain insights into the world of legal

practitioners. The lectures centre on the experience of practicing law, but the lectures also move

away from simply an academic exercise on points of law, and increasingly highlight the commercial

pressures of legal practice, and the benefits / drawbacks from practice. Students are encouraged to

ask questions that have arisen from their own experience of clinic work, and to identify the need

for critical reflection of their role as advisor and the justice system as a whole. Academic study,

coupled and underpinned by a practical grounding, is the key to this form of teaching and

instruction.

**Legal skills developed**

It has been demonstrated that the law clinic’s education initiative emphasises the ‘DRAIN’ range

of legal skills. The emphasis of these skills is important because of the typical skills backgrounds

of the students studying at UK universities, and the tendency of many students entering clinical

education to initially conceive of legal skills in a very narrow compartmentalised fashion. For

example the skill of drafting legal documents may be viewed as limited solely to writing court and

client forms. Advocacy also may be perceived as limited to formal hearings in courts and tribunals

where the advisor addresses the court directly. Numerous students express their concern that they

have little experience of such skills and this is one of the key elements which CLE covers. CLE not

only attempts to instil DRAIN skills in the students, it fundamentally encourages the students to

draw upon existing experiences to identify that they do actually possess many of the skills. CLE

focuses the students’ attention on reflection and critical thought.

It is perhaps apparent that any university modules aspiring to teach such diverse qualities ab initio

would be destined to either fail or achieve extremely limited results. Other modules at the case

study university do introduce the skills of advocacy and research, but do so as part of other

teaching – being ancillary to the module rather than fundamental to it. The advantage of clinical

education is that it places these skills central to the entire philosophy of the module. By teaching

skills in relation to real, everyday cases, students quickly realise that they already have the basic

skills identified in the DRAIN training, and that clinical education seeks to fine tune these in a legal

setting.

**DRAIN skills identified**

Formal drafting of legal documents is vital to any lawyer and as such this aspect of the students’

training very quickly becomes a weekly event in a clinic setting. Students undergo something of a

baptism of fire once they realise that any document recorded on file may potentially be viewed by a

court, client or another legal advisor. Attendance notes become an exercise of formal drafting.

Letters become vital examples of drafting. In addition, students shall almost certainly have to draft

Witness statements or, at the very least, proofs of evidence, and it is quite likely that formal court

Documents such as Claim Form (N1) and a Particulars of Claim may also require drafting of the

students.

Research is an inherent element of any academic study of law with the emphasis on continual

research into statutes and case law being necessary of academics and practitioners alike. Academic

modules require the identification, acquisition and comprehension of numerous primary and

secondary sources of law. Students should enter clinical education with, at the very least, a

competent grasp of research. Clinical education introduces a substantial array of new texts and

pushes the student into the unique area of practitioner encyclopaedias and texts. Sources such as

Halsbury’s Laws of England assume relevance for perhaps the first time and whilst these may not

in essence be new skills, they are skills which are applied in new contexts.

One area of the legal training which concerns students more than most is that of advocacy which

can result in trepidation and fear. Many students assume it is a skill completely divorced from

them because of the prospect of formal presentations and public speaking. In a clinical setting,

however, it quickly becomes apparent that advocacy is solely about communicating in a persuasive

fashion. In this sense it is a skill nurtured every time the student seeks to persuade someone of

their point of view. Advocacy, through CLE, may now be perceived as a daily activity. Speaking to

a client or writing a letter is advocacy; persuading firm members to pursue a particular line of

research is advocacy. It is this emphasis which aids in the students’ development. Having

established that they already possess excellent advocacy skills, together with years of practical

experience, fear is, at least partially, reduced. Students may then reflect on how they have

previously set about being persuasive. Such Socratic reflection, drawing on common experience,

accelerates learning of advocacy skills. The relatively mundane setting of a file assists in

‘grounding’ advocacy and continued practice makes this skill ‘second nature’ to the student who

begin to view advocacy as part of their work at the clinic. Guides are then introduced which

develop these skills directly as to how the students’ experience can be applied in a courtroom. This

seems preferable to the more formal setting of a moot where the preoccupation with an abstract or

technical academic point seems only to make advocacy more distant and frightening.

All students participate in at least one interview of a client or prospective client. Initially, this

feature of clinical education is viewed with a degree of consternation. The students are assisted in

this task by furnishing them with a suggested, though flexible, interview plan which helps to

alleviate excess anxiety. Role-plays also assist in this regard. Students almost universally express

fulfilment at having participated in an interview and the experience is usually enjoyed despite those

feelings of anxiety. The ability to listen, under stress, is an essential skill developed during an

interview session. Students further learn that engaging in an activity, despite initial anxiety,

produces invaluable rewards.

Negotiation is the last of the DRAIN skills and may assume many forms in clinical education.

It may involve formal negotiations, for example with a representative of organisations such as the

Advisory, Conciliation and Arbitration Service. Negotiation may assume an informal guise such as

negotiating a workload for a particular week. Negotiation may be either in verbal or written form

and students are taught to be astute to the many different forms that negotiation may assume.

Having engaged in any form of negotiation, reflection allows participants to assess how they

approached the negotiation. The merits, or otherwise, of their approach may be evaluated with the

students encouraged to compare their approach towards negotiation with hypothetical models such

as the aggressive, passive and principled negotiation models. Fundamentally, practical experience

informs development. Hypothetical models are not taught in an academic abstract manner, which

may fail to engage students, but are contrasted to and used to inform personal experience.

**Student benefits**

The first, and perhaps salient, benefit of clinical education is that the overwhelming majority of

students enjoy the experience and have found it to provide different benefits from classroom study.

There are, perhaps, a variety of reasons for this. First, students can see their work directly

benefiting a real person and obtain personal satisfaction from impacting positively on someone’s

life. Second, they can see the vocational, and academic, significance of the skills they are

developing. Third, they have been given responsibility and empowerment, which is often alien to

students (this is something generally reserved for practicing solicitors), and they feel a duty towards

their client. Enjoyment is naturally a desirable end in itself but it also serves the function of

ensuring students actively engage with the process of learning. The energy of firm meetings

frequently compares favourably to the apathy-induced somnambulism pervasive to more

traditional seminars. Active engagement creates an atmosphere conducive to learning which is

almost infectious amongst the students. A team spirit is achieved where students assist each other

rather than viewing others in the class as competition for grades or jobs.

A further benefit is that many students grow in confidence because of the ‘close-knit’ community of

the clinic. By working in small firms a supportive, secure atmosphere is, usually, forged. Students

quickly feel at ease with other firm members through sheer exposure and feelings of shared

experience. Equally, there is no hiding place in clinical education. Students are required to

participate in firm meetings and to develop assertiveness skills required to chair meetings. Students

in seminars frequently do not participate in discussions and fail to achieve their potential, but clinics

require full participation. It is also evident that academic ability is not necessarily predictive of

clinical ability. Many students who are less able academically than their peers thrive in the clinic

setting and their confidence blossoms, which turn reflects positively in their other module

assessment.

A related, but distinct, feature is that interpersonal skills are nurtured. Students must be able to

empathise with a client’s perspective and this ‘human’ aspect is also coupled with the ‘commercial’

element of the case. This feature assumes salient importance and as such cannot be

underestimated. Such facets are typically ignored in an academic exposition of the law. A further

benefit of CLE is that it shows the practical relevance of the law studied on other modules. This

renews interest in the law programme holistically. Furthermore, by applying the law to an actual

case students frequently understand concepts previously less clear to them.

CLE may fundamentally offer tangible benefits for the students as it has the capacity to achieve

deep learning – for numerous reasons. First, students must engage in fact analysis. In academic

modules students are furnished with a question which requires the law to be applied to a series of

distinct facts. In clinical education students are deprived even of a set of coherently presented facts.

They must understand the law in sufficient depth to determine for themselves which elements of

the client’s story are important to the case, and which should be disregarded. In addition, practical

problems, as found in clinics, rarely adhere to neat, distinct compartments. A case may require

consideration of perhaps company law, land law, tort, civil procedure, professional ethics,

evidence, negotiation, drafting and remedies. The ability to forge coherent links between such

distinct and diverse elements, and view the cases as often a mixture of different legal jurisdictions,

requires clarity of mind.

Of fundamental significance is the fact that students also acquire an understanding of law in

context. Legal rights are juxtaposed to practical considerations. Questions of cost and commercial

relationships acquire a status at least comparable, if not prevailing, over formal legal rights.

Increasingly, law firms are insisting students have an understanding of the commercial aspect of

legal practice (beyond impressive grades) and CLE provides this insight. Issues such as access to

justice and legal procedures acquire a significance not otherwise encountered or emphasised.

Finally, the complex, but fundamental, issue of ethics in legal work is provided. Students are

required to have recourse to relevant parts of the Guide to the Professional Conduct of Solicitors

1999 and are presented with the opportunity to consider whether personal ethics require standards

which are even more stringent than those imposed by professional bodies. This requires a reflective,

critical and analytical approach to their studies which requires a great deal from the students

involved in clinics. This in turn provides an education experience which establishes skills that are

transferable, and gives an awareness of legal practice which classroom studies (or arguably vacation

voluntary work) cannot provide.

**UK and international approach**

As emphasised in the introductory paragraphs to this paper, it was recognised that the UK has only

recently, on a relative basis, began seriously considering the value of CLE and practicing this in

their law schools. The US, by comparison, has for many years established and refined this form of

education which can be witnessed by the breadth and depth of CLE offered. In the case study

institution to which this paper has based the majority of its study, predominately the cases heard

involve consumer problems and basic, entry-level, contractual disputes.[[21]](#footnote-21) CLE has grown

throughout the educational legal community (as indeed reflected by journals such as this) and can

be evidenced in countries as diverse as Abkhazia,[[22]](#footnote-22) Armenia,[[23]](#footnote-23) Cambodia,[[24]](#footnote-24) Mexico,[[25]](#footnote-25)

Mozambique,[[26]](#footnote-26) Poland,[[27]](#footnote-27) South Africa[[28]](#footnote-28) and Turkey[[29]](#footnote-29) (to name but a few). This international

dimension is encouraging and in part demonstrates the seriousness with which educators and

practitioners are viewing the necessity for CLE at the undergraduate level. Much research has been

conducted on CLE in the US but relatively little elsewhere. It is also the case that the US has taken

CLE seriously for a number of years and is therefore a model which other countries are looking

towards for guidance and comparison (using it as a benchmarking tool to a certain extent).

The US approach has been significantly more proactive, inclusive and holistic in the provision of

CLE which can be witnessed through the details of subject areas as listed in the various US-based

directories.[[30]](#footnote-30) It is also noticeable of the way in which UK institutions trail behind their US

counterparts when viewing the provision of CLE by institutions such as Roger Williams

University which offers three types of law clinic for student participation, including community

justice, criminal defence and disability law jurisdictions. The Community Justice Clinic involves

direct client contact, handling a case from beginning to end which includes the interviewing,

counselling, investigation, drafting of documents, advocacy and negotiation elements. This ensures

all facets of the process of justice are included and gives the student a unique insight into the

justice system to which they may wish to enter. The Criminal Defence Clinic enables the student

to directly represent clients on matters as diverse as traffic offences, drug possession, domestic

violence and disorderly conduct. The Disability Law Clinic focuses on protecting rights in areas of

social security, but this further focuses on low-income clients and legal advice in areas including

divorce, supervision orders, custody matters and paternity issues. This level of contact with clients,

coupled with regular seminars, classes considering legal techniques, and tutor supervision

demonstrates an exposure to the legal profession which institutions based in the UK are at present

unlikely to be in a position to match. This is, however, a model which progressive institutions in

the UK are looking towards, and expansion is the next step following the successful incorporation

of CLE law clinics. As a consequence law clinics are being established on a wider basis amongst the

UK university sector than previously undertaken, and they are also being expanded on an

intra-university basis. Whilst the entire student cohort is unable to participate in the legal practice

of their department, it is increasingly being made available to second and third year students to be

more inclusive; there is a competitive element to gain entry to the system to ensure the participants

benefit from the experience; and the success of the project at the case study institution has led to

greater resources being made available from the departmental funds.

One area where there are similarities is on the necessity for student independence, and a

student-focused approach to self directed learning and reflection. The students are encouraged to

participate actively in their own educational growth – both personally and professionally – and this

is continually assessed to ensure the student understands how to measure their success. This is

clearly based on their skills, preparation and presentation of advice to clients rather than whether

the client received the advice they were expecting, or whether the client ‘won’ their case. Reflection,

in both the US and UK models, is a key feature of CLE and provides this invaluable learning

experience.

**Live client work and Hefce assessment of funding**

The second element to the necessity of CLE in UK universities is how it may assist in gaining

additional funding for the sector. It may be argued that law schools have often suffered from

underfunding compared with other subject areas. The study being undertaken by Hefce is an

opportunity to demonstrate how teaching in law schools is different from the other ‘arts’ subjects

– and CLE may be the effective vehicle for the eventual change in funding bands. Hefce is the body

that is charged with assessing and distributing the public funds which universities receive for the

education they provide. The funding is based on the numbers of students expected at the

institution and each student has a monetary value, which when multiplied by the student cohort,

is the level of funding received by each university department. The current method of assessing

funding levels is based on expenditure as reported by the institution and is further sub-divided on

the basis of the nature of the teaching. There are four bands which identifies the level of funding

provided to the institution multiplied per student – band A[[31]](#footnote-31) is the highest and involves mainly

clinical subjects such as medicine and dentistry; band B[[32]](#footnote-32) covers laboratory based teaching such as

engineering and technology subjects; band C[[33]](#footnote-33) involves less expensive laboratory work, fieldwork

dependent subjects and drama; and band D,[[34]](#footnote-34) the lowest band, includes all other subjects and,

importantly for this paper, law. It applies to law due to the assumption of the subject being taught

wholly in lecture theatres and seminars / tutorials which is increasingly unrealistic. This funding has

led to concerns over the feasibility of providing free education in the sector and may also be

unrealistic due to the changing nature of university education. Due to these concerns it was

decided at its meeting in December 2003[[35]](#footnote-35)that Hefce would review its methods of funding and as

a consequence would adopt a cost-based approach – the Transparent Approach to Costing model.

This study is estimated to take three years to complete and as such it is proposed that the use of

law clinics and exposure to live client situations would not only assist the students in their learning

but also aid in the movement of the subject into a more realistic band which would ease the

financial burdens experienced by law departments in the sector.

This debate has already begun and has led to discussions by groups (see Burridge 2003)[[36]](#footnote-36) which

argue the nature of law teaching necessitates higher funding and additional resources which are

peculiar to legal training and should not be banded with other social sciences. The requirement of

law reports, statutes, subscription to various paper and electronic databases and journals

(especially Lexis-Nexis and Westlaw), and of course teaching practical lawyer skills involves higher

costs than traditional band D subjects, and the law clinics are essential to ensure the holistic and

rounded approach to the students’ educational experience. These resources are not simply referred

to but have to be ‘used’ and applied which is more akin to a workshop or laboratory situation than

simply a tutor / student dialogue in a seminar room.

**Institutional benefits**

If these clinics are established, or are amongst the strategic planning of university law departments,

the benefits for the institution are transparent and tangible. The funding assessment being

conducted is likely to recognise the unrealistic nature of band D funding and the distinct and

unique teaching and the variety of learning methods required at law schools. The use of case law;

law reports; the necessity for access to up-to-date materials in dynamic areas such as European

Union and employment law; the necessity for research skills, advocacy and effective written and

oral communication, and the interactive nature of legal education, which will be underpinned by

the expansion of live client education in law clinics, will result in a strong case for movement into

band C with its criteria of fieldwork and laboratory-type education. CLE, and the practical nature

of law, is absolutely essential to the students’ development and as such is a compulsory component

in the teaching of law undergraduates. The increase in funding will generate a greater opportunity

for legally-qualified staff to be retained by the institutions which can then be employed in law

clinics which will also enable the expansion of the service to the student body and local

community.

Links between the university, local community and local law firms will benefit from the law clinics

due to the increased interaction between the not-for-profit legal service being provided (often, as

with the case study law clinic, regulated to provide quality generalist advice through the CLS

Commission) and the individuals who utilise the advice agency. Law firms also witness the benefit

of this type of legal training and the important skills instilled in the graduates which makes

students with this experience more employable and successful in the sector. As employability is

increasingly being contained in higher education statistics, league tables and university

prospectuses, law clinics offer only positive effects for the institutions with the capacity and desire

to establish them.

**Conclusion**

This paper has sought to demonstrate the necessity of a clinical approach to legal education, and

reasons why such an approach must be taken by institutions to ensure future law graduates are

being given the required training and skills in a structured environment. The case study has

outlined the provision of live client work in a university institution and how it benefits all the

actors involved through skills, training, experience and an appreciation of working as a lawyer. No

simulation or class-room based session can offer the student a true insight into the pressures and,

at times, exhilaration of legal practice, and this experience can only assist in producing better

prepared trainee lawyers. Institutions cannot offer the service without a complete appreciation of

the time and costs involved, but this paper has aimed to establish how it works in a modern UK

university, the wider implications for all publicly funded university law departments, and the

complementary benefits for the students and institution. CLE is becoming an option that students

will be looking towards when choosing their education provider, and with the advent of top-up fees

and students contributing financially to their own education, institutions without this option may

become increasingly disadvantaged.

1. \* Senior lecturer in Commercial Law, Sheffield Hallam University, Department of Law. [↑](#footnote-ref-1)
2. \*\* Senior lecturer, Sheffield Hallam University, Department of Law. [↑](#footnote-ref-2)
3. \*\*\* Lecturer, University of Derby, Department of Law. [↑](#footnote-ref-3)
4. Bradney, A. (1992) “Ivory towers or satanic mills: choices for university law schools” 17 Studies in Higher Education 5. [↑](#footnote-ref-4)
5. Dickson, J. (2000) “Clinical legal education in the 21st century: Still educating for service?” International Journal of Clinical Legal Education, November 33. [↑](#footnote-ref-5)
6. Grimes, R. (1995) “Legal Skills and Clinical Legal Education” Web Journal of Current Legal Issues 3. [↑](#footnote-ref-6)
7. Iya, P. F. (2000) “Fighting Africa’s poverty and ignorance through clinical legal education: Shared experiences with new initiatives for the 21st Century” International Journal of Clinical Legal Education, November 13. [↑](#footnote-ref-7)
8. MacCrate, R. (2004) “Yesterday, Today and Tomorrow: Building the Continuum of Legal Education and Professional Development” Clinical Law Review, Vol. 10, Spring. [↑](#footnote-ref-8)
9. Binder, D. A. and Bergman, P. B. (2003) “Taking Lawyering Skills Training Seriously” Clinical Law Review, Vol. 10, Fall 301. [↑](#footnote-ref-9)
10. Recent survey figures demonstrate that 43% of UK universities (90% of all universities responded) provide students with some form of Law Clinic education, and a further 17% expressed an intention to provide the service in the future (Browne, S (2000) “A Survey of Pro Bono Activity by Students in Law Schools in England and Wales” Solicitors Pro Bono Group, London). [↑](#footnote-ref-10)
11. Tarr, N (1993) “Current issues in clinical legal education” 37 Howard Law Journal 31. [↑](#footnote-ref-11)
12. Legal Week Spring 2004. [↑](#footnote-ref-12)
13. Firth, S. (2004) Linklaters trainee partner Legal Week Spring 2004. [↑](#footnote-ref-13)
14. ACLEC (1994) Review of Legal Education – The Initial Stage, ACLEC, p.11. [↑](#footnote-ref-14)
15. See [www.qaa.ac.uk/public/Cop/COPplacementFinal/contents.htm](http://www.qaa.ac.uk/public/Cop/COPplacementFinal/contents.htm). [↑](#footnote-ref-15)
16. Northumbria law clinic, for example, retains Quality Marks in Housing, Welfare Benefits and Employment. Such Quality Marks are only appropriate for substantial, developed clinics but demonstrate the route which law clinics may take. [↑](#footnote-ref-16)
17. The case study Law Clinic has, in recent years, successfully advised in relation to each of these fields. [↑](#footnote-ref-17)
18. The law clinic at Sheffield Hallam University, for example, adopts firms of 6. The University of Northumbria’s law clinic similarly has firms with between 4–6 students. [↑](#footnote-ref-18)
19. The case study model advocates extremely active student participation. Students are responsible for chairing firm meetings. Students also act as secretary and are responsible for taking minutes. Students are expected to suggest work plans for the forthcoming week, though guidance from the supervisor may be necessary in this regard. [↑](#footnote-ref-19)
20. Guest lectures are an integral part of the case study Law Clinic programme. [↑](#footnote-ref-20)
21. Over the years that the law clinic has been established, various cases have been addressed, but the cases most frequently undertaken are those involving consumer disputes. This is due to the time limits involved in UK university law clinics, the availability of supervisors to assist the students, and the CLS partnership which may require the complex cases to be referred to a more appropriate advisory agency. [↑](#footnote-ref-21)
22. Sokhumi State University. [↑](#footnote-ref-22)
23. Yerevan State University. [↑](#footnote-ref-23)
24. Pannasastra University. [↑](#footnote-ref-24)
25. CIDE Law School. [↑](#footnote-ref-25)
26. Eduardo Mondlane University. [↑](#footnote-ref-26)
27. Warsaw University. [↑](#footnote-ref-27)
28. University of Natal, Durban. [↑](#footnote-ref-28)
29. Bilgi University, Istanbul. [↑](#footnote-ref-29)
30. Such as the Clinical Legal Education Association, the Directory of Clinical Legal Educators and Association of American Law Schools, Section on Clinical Legal Education. [↑](#footnote-ref-30)
31. This band has a weighting of 4. [↑](#footnote-ref-31)
32. This band has a weighting of 1.7. [↑](#footnote-ref-32)
33. This band has a weighting of 1.3. [↑](#footnote-ref-33)
34. This band has a weighting of 1 – in the 2004/5 session this is estimated to be at a level of £3,400 per full-time student. [↑](#footnote-ref-34)
35. As published on Tuesday 23rd December 2003 – [www.hefce.ac.uk/news/hefce/2003/funding.asp](http://www.hefce.ac.uk/news/hefce/2003/funding.asp) . [↑](#footnote-ref-35)
36. Burridge, R (2003) ‘Reassessing Band Funding for Law: A Discussion Paper’ [www.ukcle.ac.uk/resources/banding.html](http://www.ukcle.ac.uk/resources/banding.html) [↑](#footnote-ref-36)