

Clinical Practice Profile

It is intended that the journal will provide a channel for communication between those involved and interested in clinical legal education across the world. Given the huge diversity of clinical projects, the aim of this section is to provide a descriptive piece concentrating on the development and practice of law clinics in different countries, areas or institutions.

The first profile concentrates on Clinical Education in the UK. It is supplemented by extracts from reports prepared by students participating in the Clinical programme at the University of Northumbria.

We welcome descriptive pieces from other institutions for future editions.

Learning law by doing law in the UK

*Richard Grimes**

Using hands-on experience as a basis for learning has long been a feature of programmes in higher and further education in the UK. Medics, scientists, linguists, mechanics and beauty therapists, to name a few, are exposed to real life situations in which the opportunity exists for theory and practice to be studied and applied.

Would-be lawyers have traditionally undertaken a period of apprenticeship during which knowledge and skills are honed in the work place. As valuable as learning on the job may be in this context, the effectiveness of such a system may rely more on the attitude of the apprentice's principal than on the structure and design of the apprenticeship. The use of a clinical methodology, under which students apply the law to real or realistic situations and then analyse what has happened and why, sees the introduction of an overtly reflective component in the study process. This approach has been slow to feature at the so-called 'academic' stage.¹ Even on the post-graduate vocational courses, clinical legal education has yet to form an integrated part of the curriculum.

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1 There is still a clear divide in the UK between the study of law at undergraduate level and the more overtly vocational programmes and apprenticeships for would-be practitioners. (The only exception to this is the four-

year exempting degree at the University of Northumbria which integrates the vocational stage of the LPC or BVC with the 'academic' stage.) In England, graduates who do not have a first degree in law can take a conversion course leading to the Common Professional Examination (1 year full-time, 2 year part-time). Successful candidates can then join the vocational programmes for solicitors or barristers.

Past

In the early 1970's, following the pioneering work of some US law schools, clinics did spring up in universities in the UK. They were driven both by the recognition of the pedagogic value of this approach to study but also by the focus of the law schools concerned on the importance of studying law in its political, social and economic context.² Although these early domestic programmes were often welfare oriented in terms of the substance of their casework, providing a service to meet legal need was not the driving force.³ This stands in contrast to the origins of many of the US law school clinics.

In these early years, the clinical movement in the UK did not prosper, certainly not when compared with what happened in the USA. The Kent clinic had to close its doors in 1976. The Legal Practice Programme did develop at Warwick, but the University there remained very much the exception to the rule. It has taken other law schools in the UK over 20 years to push for and secure clinical programmes. Of course gauging progress against the US position is not necessarily comparing like with like. The fact that there is no apprenticeship stage in US makes the case for a hands-on input at law school compelling. The resource base in many American universities is more substantial. Given the value of experiential learning in other contexts however, it is perhaps surprising that clinical legal education in the UK has been so slow to emerge into the educational light of day.

In the early 1990's there was a flurry of activity on the clinical front. This was led by what is now the University of Northumbria at Newcastle (UNN) and followed by Sheffield Hallam University. Both of these 'in-house' clinical programmes are still flourishing. The UNN programme is undertaken by all students for two years on the four year Exempting Degree and at Sheffield Hallam the clinic is available as an option on the qualifying degree. Kent reopened its clinic and Queens University (Belfast). The Universities of Plymouth and Central England, also established real client clinics. The Inns of Court School of Law introduced a Free Representation Unit module on the Bar Vocational Course. The Clinical Legal Education Organisation (CLEO) was formed and two conferences were held (1994 and 1995).

Research published in 1996 revealed that in the academic year 1994-95, 23% of new universities (former polytechnics and colleges of higher education that were given university status since 1992) offered real client clinics with 5% of old universities doing the same. Eight institutions in all were involved. Two of these offered a full representation service to clients. Three limited their work to advice and assistance only and three focused on tribunal representation (principally small claims in the county court and employment tribunals).⁴ Performance by students in all but one of the clinics was assessed.

2 *The University of Kent at Canterbury ran a real-client clinic from 1974 - 6 but faced substantial opposition largely from outside the University. It was not until 1994 that the Kent Law Clinic re-emerged. The University of Warwick established a clinical programme in 1975. This operated with a real-client base until 1991. Warwick still uses a clinical approach but now on simulation basis.*

3 *For a description of the Kent and Warwick schemes see: Clinical legal education at Warwick and the skills*

movement : was clinic a creature of its time?, Avrom Sherr, in Frontiers of Legal Scholarship, Wilson G (ed), Wiley, 1995, Chapter 8 and Clinical Legal Education: an analysis of the University of Kent model, William Rees, The Law Teacher, 1975 (2), 125

4 *For details of the survey and its results see: Legal skills and clinical legal education - a survey of undergraduate law school practice, Richard Grimes. Joel Klaff and Colleen Smith, The Law Teacher, 1996 (1), 44*

The same survey revealed that a much larger percentage of institutions offered some form of work based placement to students (56% of new universities and 24% of old). The perceived academic value of the experience is underlined by the fact that 75% of the placements were assessed.

Clinical education was emerging as a significant, if yet relatively underdeveloped, feature of legal education in the UK.

What of the present?

Present

According to recently conducted research, students at 30 (out of 80) law schools in England and Wales are involved in *pro bono* schemes with a further 13 other institutions planning similar projects in the course of the coming academic year. The *pro bono* focus does not necessarily equate to clinical provision (experience without structured reflection may be valuable but does not meet the definition of clinical legal education that is in current use⁵) but of these schemes 12 in-house clinics now exist and a further 9 are planned. Sixteen law schools work in partnership with other advice and representation organisations. Students are assessed in 9 of the clinics, as part of their programme of study.⁶

Interestingly the research asked lecturing staff what, in their views, were the principal obstacles to establishing clinical legal education programmes. Those who did not run clinics thought that set up and running costs would be the principal difficulty. Those that did have clinics operating saw the amount of staff time as the major cause for concern. Neither group appeared to doubt the value of clinical legal education at the academic or vocational stage. This may represent a significant shift in attitude. The hard fought battles over the pedagogic relevance of clinical education may now be largely a thing of the past. The debate seems to have moved on to resources and funding issues and to ensuring that the maximum benefit is extracted from clinical activity for all relevant stakeholders.

Current clinical activity in the UK appears to feature a variety of models ranging from advice-only schemes to full representation before courts and tribunals. Clinics are to be found in-house and through co-operation with other, community-based, organisations. *Street Law* (legal literacy) clinics are also an increasingly popular method of linking clinical work with *pro bono* activity. The College of Law has been designing and piloting advice-only clinics and has plans, which are at an advanced stage, for full representation and *Street Law* clinics as an integral feature at all of its branches.⁷ The Inns of Court School of Law intends to run a comprehensive advice clinic from September 2000. The University of Manchester launches its advice clinic in November 2000. Clinics are either up and running or planned at Liverpool John Moores, Wolverhampton, Birmingham, Oxford, Westminster, West of England, Greenwich, Hull, Sheffield and Guildhall.

5 see Hugh Brayne, Nigel Duncan and Richard Grimes (eds) *Clinical legal Education - Active learning in your law school*, Blackstone Press, 1998, in particular Chapters 1 and 2

6 The research was conducted by Sara Broune, who is associated with the Hampshire law firm Daltons. The research was carried out on behalf of the Solicitors' Pro Bono Group (SPBG) and as part of a postgraduate

programme of study. A report based on the research - A survey of *pro bono* activity by students in law schools in England and Wales, SPBG, July 2000, is now available from SPBG (1 Pudding Lane, London, EC3R 8AB).

7 The College currently has 4 branches at Chester, Guildford, London and York, with a 5th branch opening in Birmingham in 2001.

Future

The most recent research not only suggests that more universities and colleges are engaging in clinical legal education but that many others are considering moving in this direction. By September 2001 60% of the institutions surveyed intend to have *pro bono* activity operating within the law school. A substantial proportion of these are likely to have a clinical component. If the argument is accepted that students stand to benefit in terms of the advancement of their knowledge and skills, then this is good news from the educational perspective. It may also have implications for clients. Even though the rationale of UK clinicians remains firmly rooted in improving the quality of teaching and learning, the value for those in need of free legal advice and assistance is potentially considerable. The future, in terms of access to legal services, may well be affected in part, by law school driven and student supported clinical programmes. The profession, the judiciary and government are also now lending their support to the development of *pro bono* and clinical services.⁸ Partnerships across the demand and supply sectors will be necessary if clinical legal education is to expand and prosper.

Many issues remain to be addressed in particular the integration of clinical activity across the wider curriculum and the award of academic credit for student performances in clinics. A conference, organised by CLEO, is set to take place on 4th January 2001 at the University of Warwick at which many of these issues will be discussed. Conference details can be obtained from UK Centre for Legal Education, University of Warwick, Coventry, England.

8 See the quotations from the (then) Lord Chief Justice, a senior partner of a city law firm, the Chair of the Law Centres' Federation and the Permanent Secretary at the Lord Chancellor's Department as cited in Peta Sweet

and Richard Grimes, *Educating Lawyers in the 21st Century - Pro bono activity and pro active learning*, The College of Law, 2000