

Editorial

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The edition invites us to view the multifaceted impacts of clinical legal education. In particular, the impact of clinic activities in developing commercial awareness and other vital skills and attributes for the legal profession is explored. We also delve into the value of clinic to the wider society and to charities working within communities.

We begin with S McConnell's important contribution into whether clinical legal education develops commercial awareness in law students. By examining the perspectives of both those teaching and learning in clinics, she explores the importance of this key employability skill and highlights the crucial role that clinic plays. In an interesting conclusion, she explains how there are differences between students and clinic supervisors in their understanding as to what commercial awareness means and what clinic activities develop this skill. Further, she provides valuable recommendations as to how clinicians can best support students.

In S Nason's article, she evaluates the first two years of the project North and Mid Wales Law Clinic (NMWLC), which involves a partnership between Bangor University and seven local Citizens Advice branches. She provides a valuable insight into this initiative, which aims to provide support and advice to Litigants in

Person. She focuses on the student experience and explores the challenges and opportunities of online working. She also considers how the project fits within other clinical legal education models. She argues that this initiative changes students' perceptions of access to justice and they gain a greater appreciation of "empowerment". She also argues that this model of clinical legal education allows students to become aware of the role of new technology.

Those pondering the question 'what difference does clinical legal education make?' would benefit from the insights from L Donnelly. He explores this critical question in the context of law graduates, using a questionnaire to elicit their views. He argues that although clinic participation equips graduates with the key skills required for a career in the law, it does not seem to go as far as creating lawyers who possess the mission for serving justice.

In J Marshall and N Antoniou's practice report, they provide a fascinating account of two outreach projects at Royal Holloway's Legal Advice Centre. They explain how both projects (the online Being Human Café and the Autism Legal Rights Café) enabled different community groups to come together to discuss human rights. The authors explore how these events provide an important platform to improve lives and enrich communities.

Continuing the impact theme, in the latest episode of the Clinical Legal Education Podcast, our host, Elaine Gregersen, interviews Molly Doyle, a Northumbria

University law student, who has just completed her year in the Student Law Office module ([The clinical legal education podcast \(wordpress.com\)](#)). Molly reflects on her year in clinic and what she has gained from her experience. She provides essential guidance for students embarking on their clinical legal education journey. If you wish to discuss the podcasts further, please do not hesitate to get in touch with Elaine or Molly via the twitter account @IJCLE.

Finally, we are very excited about the 2022 GAJE/IJCLE/SAULCA Worldwide Conference at the Faculty of Law of the Stellenbosch University this December. We look forward to seeing many of you there!

A STUDY OF SUPERVISOR AND STUDENT VIEWS ON THE ROLE OF CLINICAL LEGAL EDUCATION IN DEVELOPING COMMERCIAL AWARENESS

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Abstract

This article examines the role of clinical legal education in developing commercial awareness, a key employability skill. Using data collected from a mixed-methods research study involving a visual data collection tool (a diamond), this research contributes to understanding of whether, and how, clinical legal education develops law students' commercial awareness. This study provides the first detailed empirical evidence of the importance of commercial awareness to those teaching and learning in clinic, the teaching activities that supervisors use and that students identify as developing commercial awareness, and the impact of those activities in a graduate recruitment context. This data is important because commercial awareness is required across a range of graduate sectors, including the legal profession, and law students have a variety of available career options. The results indicate that whilst students and supervisors deem commercial awareness very important, there are differences between the two groups in terms of their understanding of what it means, and the type of clinic activities identified as developing commercial awareness. The results

¹ The author would like to thank all of the staff and students at Northumbria University who participated in this study and also the reviewers for their very helpful and insightful comments.

suggest that there is a genuine, but yet not fully realised, opportunity for students to develop commercial awareness in clinic. As well as providing a unique insight into the role of clinical legal education in developing commercial awareness, the author makes recommendations for clinicians on how best to support students in developing their commercial awareness.

Key words: Commercial Awareness, Clinical Legal Education, Graduate Employability; Diamond Ranking, Law Students

Introduction

Commercial awareness is an employability skill that is required by a range of graduate employers.² For many law firms, particularly larger commercial firms that recruit a high percentage of trainee solicitors,³ it is a desirable, important skill and this is reflected in law firms' recruitment literature⁴ and in the narrative that such firms employ.⁵ Law firms expect students to demonstrate commercial awareness during the

² Institute of Student Employers (ISE), 'Student development survey 2020 Supporting the learning and development of entry-level hires' 17.

³ Trends in the solicitors' profession, Annual Statistics Report 2019, The Law Society, October 2020 <www.lawsociety.org.uk/topics/research/annual-statistics-report-2019> accessed June 2022 46 showing almost 50% of training contract vacancies are at firms with 26 + partners (33.5% at firms with 81+ partners.)

⁴ Linden Thomas, "'It Puts the Law They've Learnt in Theory into Practice": Exploring Employer Understandings of Clinical Legal Education' in *Reimagining Clinical Legal Education* 139, 141; Tim Bellis, 'Simply the second best' (2013) 163 NLJ 19. See also <<https://careers.linklaters.com/en/early-careers/commercial-awareness>> and <<https://cms.law/en/media/local/cms-cmno/files/publications/other/cr-bbf-resources-commercial-awareness>> accessed June 2022.

⁵ James Marson and Adam Wilson and Mark Van Hoorebeek, 'The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective' (2005) 7 Int'l J Clinical Legal Educ 29, 31; Kerry Jarred, 'Making an impression' (2005) 155 NLJ 1541; Catherine Baksi, 'Training: Adding Value' (2009) 12 LS Gaz.

graduate recruitment process.⁶ The transition from law student to commercially aware candidate is tacit but relatively unexplored in a law school setting. Clinical legal education (CLE), the domain where students experience the realities of legal practice⁷ and develop a range of skills and knowledge,⁸ seems like an obvious setting for developing commercial awareness. Given the importance of commercial awareness to law firms, it is critical to understand whether CLE actually supports development. This article seeks to enhance our understanding of the role of CLE in developing commercial awareness by examining the perspectives of those teaching and learning in CLE.

The literature review section of this article will provide additional context for the need for this research. Although several studies, for example those by Alexander and Boothby⁹ and Thomas,¹⁰ have considered commercial awareness in the context of CLE, it has not been the main focus of any empirical research involving CLE. Commercial awareness is considered to be an important graduate employability skill by employers but there is very limited research on its importance to law students and supervisors

⁶ Hilary Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change' (2011) 18 *Int'l J Legal Prof* 73, 85-87; Monidipa Fouzder, 'How to...Get a training contract' (2014) *LS Gaz* 18.

⁷ Marson and others (n 5) 29, 30, 39; Lydia Bleasdale-Hill and Paul Wragg, 'Models of Clinic and Their Value to Students, Universities and the Community in the post-2012 Fees Era' (2013) 19 *Int'l J Clinical Legal Educ* 257.

⁸ Margaret Martin Barry, 'Practice Ready: Are We There Yet' (2012) 32 *BC J L & Soc Just* 247; Tony King, 'Clinical Legal Education: A View from Practice' in Thomas (ed), *Reimagining Clinical Legal Education* (n 4).

⁹ Jill Alexander and Carol Boothby, 'Stakeholder Perceptions of Clinical Legal Education within an Employability Context' (2018) 25 *Int'l J Clinical Legal Educ* 53.

¹⁰ Thomas (n 4).

working in CLE. More consideration is needed of the views of these key stakeholders and how their views compare to those of the legal profession. There has been some interesting work examining development from a student perspective, for example in studies by Cantatore and others¹¹ and Thanaraj,¹² but further evidence is needed on what commercial awareness means to students, how development takes place and what activities students identify as supporting development. There is no empirical data on what supervisors (or indeed anyone involved in teaching law) understand commercial awareness to mean and how, if at all, they seek to develop it, leaving a gap in the literature.

Overall, there is limited empirical evidence of whether and how CLE develops commercial awareness. To address the research gaps noted, this study considered the following research questions:

- (1) How important is commercial awareness as a skill to those teaching and learning in CLE?
- (2) Do students develop commercial awareness in clinic and, if so, what types of CLE teaching and learning activities promote development?

¹¹ Francina Cantatore, David McQuoid-Mason, Valeska Geldres-Wiess and Juan Carlos Guajardo-Puga, 'A comparative study into legal education and graduate employability skills in law students through pro bono law clinics' (2021) 55 *Law Tchr* 314.

¹² Ann Thanaraj, "'The Proficient Lawyer': Identifying Students' Perspectives on Learning Gained from Working in a Virtual Law Clinic' (2017) 14 *US-China L Rev* 137.

To answer the research questions, this study used a diamond, a visual data collection tool that provides both qualitative and quantitative data. Supervisors and students teaching and learning in the law clinic (LC) at Northumbria University participated in the data collection process between 2019 and 2021. Full details of the research method, and how the difficulties of undertaking a mixed-methods study during a pandemic were addressed, are provided in the Method section.

Given the gaps in the existing literature, this research makes an original contribution to knowledge by providing the first detailed empirical evidence of the perceived importance of commercial awareness to those teaching and learning in CLE, the teaching activities that supervisors use and that students identify as developing commercial awareness, and the impact of those activities in a graduate recruitment context. This research documents how students and, for the first time, supervisors define commercial awareness, exploring the differences in definition and considering if student understanding developed during their time in clinic.

This article begins with a brief overview of commercial awareness within the framework of law student employability before examining the existing literature on commercial awareness within the field of CLE. The study method is then explored before documenting the results. This research demonstrates that students and supervisors recognise the importance of commercial awareness, ranking it highly in comparison to other skills. The data indicates that some students do develop commercial awareness in clinic but its potential for development is not fully realised.

Whilst supervisors used a range of innovative and authentic activities to enhance commercial awareness, the activities were not always identified by students as developing their commercial awareness. There was little explicit signposting of commercial awareness by supervisors, linking their activities to commercial awareness development. This lack of signposting may negatively impact on student understanding of, and confidence in, their commercial awareness. It may also impact on their ability to articulate it during the recruitment process. This article concludes with suggestions on how clinicians can address these concerns and how, more generally, law schools might develop students' commercial awareness further.

What is Commercial Awareness?

There is no single definition of commercial awareness. Wilkinson and Aspinall observed it was 'an amorphous term with no clear definition in the research or practitioner-based literature.'¹³ In a legal setting, commercial awareness appears to encompass winning, understanding, advising and retaining clients whilst running a successful business.¹⁴ Lawyers must also understand the external factors (social, economic, political or technological) impacting on clients and how this impacts on the legal advice provided to clients.¹⁵ The Legal Education and Training Review (LETR)

¹³ David Wilkinson and Samantha Aspinall, 'An exploration of the term 'Commercial awareness': What it means to employers and students' (National Council for Graduate Entrepreneurship 2007) 5.

¹⁴ Siobhan McConnell, 'A systematic review of commercial awareness in the context of the employability of law students in England and Wales' (2022) 3 *Journal of European Legal Education* 127, 130.

¹⁵ *ibid.*

found commercial awareness to be a 'composite concept'¹⁶ including a range of knowledge, skills and attributes, such as knowledge of a client's business and sector, knowledge of business issues, the ability to interpret financial data, marketing and networking.¹⁷ Much of the empirical and conceptual literature focuses on commercial awareness being an understanding that a law firm is a business¹⁸ – law firms do not exist simply as professional service providers, firms need to make money. Huxley-Binns argued that undergraduate students needed to know terms such as 'profit and loss...client relations, strategy, mission' to succeed in the legal profession.¹⁹ Strevens and others noted that commercial awareness was 'understanding that law firms function in much the same way as...businesses in general, and that there is a wider picture than the black letter law applied to a given set of facts.'²⁰ This viewpoint is reflected in law firm and practitioner literature that emphasises the importance of lawyers understanding business issues.²¹ A systematic literature review conducted by the author considered the existing literature on commercial awareness in the context of the employability of law students in England Wales. The review considered the various definitions of commercial awareness found in the literature. The review suggested that, in a legal context, commercial awareness could be defined as

¹⁶ Legal Education and Training Review, 'Setting Standards - The Future of Legal Services Education and Training Regulation in England and Wales' (2013) para 2.75.

¹⁷ *ibid.*

¹⁸ Caroline Strevens and Christine Welch and Roger Welch, 'On-Line Legal Services and the Changing Legal Market: Preparing Law Undergraduates for the Future' (2011) 45 *Law Tchr* 328, 340; Rebecca Huxley-Binns, 'What is the Q for?' (2011) 45 *Law Tchr* 294, 304.

¹⁹ Huxley-Binns (n 18) 304.

²⁰ Strevens and others (n 18) 341.

²¹ Fouzder (n 6); Jarred and Baksi (n 5).

understanding: (1) law firms, their clients and the sectors in which they operate; (2) how external influences (political, social, economic and technological) impact on law firms, clients and their respective sectors and the advice law firms provide; (3) that the legal rights and remedies of clients may not always best suit their objectives; and (4) that a law firm is a business - lawyers need to make money to stay in business.²² The Results and Discussion section of this article considers the aspects of this definition that are used by the supervisors and students who participated in this study.

Commercial Awareness – Employability and the Impact on Law Schools

Employer surveys have found that students lack commercial awareness²³ and there is a recognised skills gap.²⁴ Whilst the surveys indicate that most employers do provide on-the-job training on commercial awareness,²⁵ commercial awareness is required by many employers during the recruitment process.²⁶ A 2020 graduate employer survey ranked it 15th out of 25 employability skills required.²⁷ Its importance is increasing – in a recent COVID-19 impact survey assessing the skills that employers thought would become more important over the next five years, it ranked seventh, ahead of teamwork.²⁸ Wilkinson and Aspinall concluded that students may find understanding

²² McConnell (n 14).

²³ ISE (2020) (n 2) 18. ISE, 'Student development survey 2021, Managing development in a crisis' (ISE 2021) 23.

²⁴ ISE (n 2) 20.

²⁵ ISE 2021 (n 23) 30, 86% of employers provided training. ISE (2020) (n 2) 81% of employers.

²⁶ <<https://targetjobs.co.uk/careers-advice/skills-for-getting-a-job/what-commercial-awareness>> accessed June 2022.

²⁷ ISE (2020) (n 2) 17.

²⁸ ISE 'Student Recruitment Survey, Challenge and resilience in the year of COVID-19' (2020) 47 – 44% of respondents identified its future importance.

what commercial awareness means challenging, interpreting it differently to employers.²⁹ Students may fail to realise its importance and struggle to demonstrate it during the graduate recruitment process. Although many employer surveys considering the importance of commercial awareness include law firms,³⁰ none are specific to the legal profession. However, the increasing importance of commercial awareness to the profession over the last 40 years is well documented.³¹ Universities are, increasingly, charged with responsibility for skills development³² and there is growing recognition of the importance of commercial awareness to law schools.³³ The LETR acknowledged the importance of commercial awareness to the profession but did not suggest integration into the undergraduate law degree, instead recommending it be a more explicit aspect of the Legal Practice Course (LPC), especially for those seeking careers in commercial law.³⁴ However, many training contract vacancies, requiring an understanding of commercial awareness, are open to applicants in their second year of undergraduate study and, given the definition

²⁹ Wilkinson and Aspinall (n 13) 5.

³⁰ ISE (n 2).

³¹ Hanlon and Jackson, 'Last Orders at the Bar? Competition, Choice and Justice for All – The Impact of Solicitor-Advocacy' (1999) 19 *Oxford Journal of Legal Studies* 555; McConnell (n 14); Christopher R Brown and Tim McGirk, 'The Leading Euromarket Law Firm' (1982) 1 *Int'l Fin L Rev* 4; Blackhurst and Stokes, 'Clients Rank London's Law Firms (1985) 4 *Int'l Fin L Rev* 15; Clive H Zietman, 'The legal services revolution' (1995) 61 *Arbitration* 274.

³² Louise Morley, 'The X factor: employability, elitism and equity in graduate recruitment' (2007) 2 *Journal of the Academy of Social Science* 191, 192; Michael Tomlinson, 'Employers and Universities: Conceptual Dimensions, Research Evidence and Implications' (2021) 34 *Higher Education Policy* 132, 135.

³³ Richard Collier "'Love Law, Love Life": Neoliberalism, Wellbeing and Gender in the Legal Profession – The Case of Law School' (2014) 17 *Legal Ethics* 202, 213. See also Nicholas Saunders, 'From Cramming to Skills – The Development of Solicitors' Education and Training since Ormrod' (1996) 30 *Law Tchr* 168, 184-186.

³⁴ LETR (n 16) recommendation 12, xv and para 4.69 and 7.20.

suggested above, all law firms require commercially aware employees. Huxley-Binns argued convincingly for commercial awareness to be a more important feature of the law degree, noting how many students begin paralegal work without undertaking the LPC.³⁵ The introduction of the Solicitors Qualifying Examination (SQE) perhaps provides further need for a focus on commercial awareness in law degrees as new pathways to qualification open and the LPC closes. As there will be no LPC with a remit to teach commercial awareness, commercial awareness must be part of the undergraduate offering, not least because it is likely that firms will continue to recruit second year students. Also, the number of paralegals working in the profession increases each year.³⁶ The SQE means paralegal work will become a more important route to qualification as a solicitor because such work constitutes qualifying work experience. Law students who seek to become paralegals also need to be commercially aware. Further, it must be acknowledged that many law students go into non-law professions that require commercial awareness such as accountancy and finance, human resources and retail management.³⁷

³⁵ Huxley-Binns (n 18) 304.

³⁶ Many law graduates start work as paralegals or other legal associate professionals following graduation but the number doing so each year is unclear. Research suggests the number of legal associate professionals is increasing by 1% each year. It is predicted that the number of legal associate professionals will increase by 2% per year and that 2800 will be needed per year – see Matthew Williams and others, 'Research to inform workforce planning and career development in legal services, Employment trends, workforce projections and solicitor firm perspectives Final Report' (Institute for Employment Studies 2019) paras 7.1 and 7.3. <<https://www.employment-studies.co.uk/resource/research-inform-workforce-planning-and-career-development-legal-services>> accessed June 2022.

³⁷ *ibid* para 2.4 finding that between 2011 and 2016 around 35% of law graduates went into the legal profession either as trainees or paralegals each year. King (n 8) 125. ISE 2020 (n 2).

The need for more focus on commercial awareness in law schools is reflected in studies that have considered the skills required by law firms. Strevens and others asked nine law firms about the skills required of potential trainees. Commercial awareness was of high importance, a 'universal employability trait' required by both business and high street firms.³⁸ However, most employers thought it could only be learnt in work; this implied, the authors noted, that university could not teach it.³⁹ The authors disagreed, contending it could be developed through simulated activities where students connected legal knowledge and rules to real life contexts.⁴⁰ Sommerlad considered the ongoing commercialisation of law firms in a study of recruitment practices involving twelve large regional and multi-national law firms and law students.⁴¹ Sommerlad documented the importance of commercial ability to law firms and found commercial awareness to be a key part of the application process, tested on application forms, in interviews and at assessment centres.⁴² Etherington found that all but one of the six law firms he interviewed assessed for commercial awareness.⁴³ 89% of the 28 students whom he surveyed stated it had been assessed.⁴⁴ The findings of these studies reflect the narrative of many firms and observations noted in

³⁸ Strevens and others (n 18) 340-1.

³⁹ *ibid* 340.

⁴⁰ *ibid* 340, 343, 344. Ben Waters, 'The importance of teaching dispute resolution in a twenty-first century law school' (2017) 51 *Law Tchr* 227, 243 and "'A part to play": the value of role-play simulation in undergraduate legal education' (2016) 50 *Law Tchr* 172, 191. See also Wilkinson and Aspinall (n 13) for a more general discussion of how universities can develop commercial awareness.

⁴¹ Sommerlad (n 6), there were no law student comments on commercial awareness.

⁴² *ibid* 87.

⁴³ Laurence Etherington, 'Public professions and private practices: access to the solicitors' profession in the twenty-first century' (2016) 19 *Legal Ethics* 5, 20.

⁴⁴ *ibid* 18.

practitioner literature.⁴⁵ Law schools would be unwise to ignore these findings because law firms (and other graduate employers) demand commercially aware candidates – omitting commercial awareness from a law degree will negatively impact on the employability potential of law students. It must also be acknowledged that employability is one of the six main metrics used to rate universities for the Teaching Excellence and Student Outcomes Framework.

Literature on Commercial Awareness and CLE

Law firm views on CLE were examined by Thomas who interviewed professionals from 17 firms - the majority stated commercial awareness was highly desirable, second only to academic ability. His review of 50 top law firm websites found that 30 firms mentioned commercial awareness on their recruitment pages.⁴⁶ Interviewees expressed mixed views on whether CLE could develop commercial awareness. Some thought it would enhance commerciality whilst others thought it had limited impact.⁴⁷ One interviewee noted how CLE would not provide exposure to costing, billing and contextual advice, a viewpoint that this study will examine. Alexander and Boothby also considered CLE and its role in developing commercial awareness in a study involving nine law firms, six students, eight alumni and ten supervisors at the author's institution.⁴⁸ The employers in their study wanted commercial graduates, confirming

⁴⁵ Websites (n 4); Baksi and Jarred (n 5); Fouzder (n 6).

⁴⁶ Thomas (n 4) 141.

⁴⁷ *ibid* 142-3.

⁴⁸ Alexander and Boothby (n 9) 67.

Thomas' findings on the importance of commercial awareness to legal employers.⁴⁹ Alexander and Boothby's study also provides a valuable alumni perspective – the participants who were in practice who had experienced CLE as students felt commercial awareness was not developed in clinic.⁵⁰ The authors noted how clinic provided 'limited exposure to aspects of commerciality'⁵¹ and the clear challenge in providing experience of the commercial realities of practice,⁵² again echoing Thomas's findings. Alexander and Boothby also briefly examined supervisor perspectives, noting their awareness of commercial drivers. However, there was no consideration of how supervisors supported students in developing their commercial awareness, leaving a gap in the literature.

The student perspective was examined in Thanaraj's study involving a virtual law clinic.⁵³ Thanaraj found students thought that they developed business acumen in their clinic and they identified some developmental activities. However, it was unclear whether students linked the activities specifically to the development of commercial awareness and/or other skills, what they understood commercial awareness to mean and the sample size (10) was relatively small. Dunn's study provides further insight into the student viewpoint of whether CLE develops

⁴⁹ *ibid* 67.

⁵⁰ *ibid* 66.

⁵¹ *ibid* 70.

⁵² *ibid* 83.

⁵³ Thanaraj (n 12).

commercial awareness.⁵⁴ Dunn argued that CLE made students aware of the importance of commercial awareness but, because clinic could not reflect the realities of practice, it was 'highly unlikely that this perception has been embedded from their experience.'⁵⁵ This finding reflects the experiences of the alumni in Alexander and Boothby's study.

In a pro bono setting, Blandy found that even though commercial law firms required commercial awareness, none of the 52 students and alumni surveyed mentioned it as being developed through pro bono work.⁵⁶ Blandy stated this was because no commercial law clinic students participated, implying that commercial awareness would only be acquired by students with commercial work experience. In contrast, Cantatore's study in Australia, involving 33 students in four pro bono clinics (including a commercial law clinic) and a control group of 34 non-clinic students, found that pro bono work developed industry awareness.⁵⁷ The pro bono students thought that their graduate skills developed by 13% but it was unclear how much industry awareness increased. The qualitative results indicated some students felt that they had developed industry awareness but it was unclear how many thought so, the

⁵⁴ Rachel Dunn, 'The knowledge, skills and attributes considered necessary to start day one training competently and whether live client clinics develop them' (2017) PhD thesis 229 <https://nrl.northumbria.ac.uk/id/eprint/36261/1/dunn.rachel_phd.pdf> accessed January 2022. This research uses Dunn's methodology but with differing skills.

⁵⁵ *ibid.*

⁵⁶ Sarah Blandy, 'Enhancing Employability through Student Engagement in Pro Bono Projects' (2019) 26 *Int'l J Clinical Legal Educ* 7, 32.

⁵⁷ Francina Cantatore, 'The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students' (2018) 25 *Int'l J Clinical Legal Educ* 147. The literature uses industry awareness interchangeably with commercial and business awareness.

type of clinic that they experienced and what type of activities aided development. Cantatore and others later examined how industry awareness was enhanced across three pro bono clinics in differing jurisdictions.⁵⁸ There was a 44% perceived increase in competency for 10 students in Australia, who gained more understanding of how law firms worked and what practice would be like.⁵⁹ Industry awareness was enhanced in clinics in South Africa (by 48%) and Chile (increase unclear).⁶⁰ This study provides more qualitative evidence of the student experience but lacks consideration of what students understood industry awareness to mean, its importance to them and why their perceptions changed during their clinic experience. Although this article focuses on how CLE enhances commercial awareness in a clinic situated in England, Cantatore and others' study provides a useful international perspective on this area whilst also highlighting the importance of commercial awareness to law students studying in other jurisdictions.

Students may struggle to define commercial awareness.⁶¹ However, there is very little research on how law students define it. Turner and others provided data on how one law student defined it as an understanding of the changing legal market and areas of law.⁶² In Dunn's study involving CLE, students in a criminal firm expressed mixed views on what commercial awareness meant, linking it to experience gained in

⁵⁸ Cantatore and others (n 11).

⁵⁹ *ibid* 329.

⁶⁰ *ibid* 330-332.

⁶¹ Wilkinson and Aspinall (n 13).

⁶² Juliet Turner and Alison Bone and Jeanette Ashton, 'Reasons why law students should have access to learning law through a skills-based approach' (2018) 52 *Law Tchr* 1, 13.

practice.⁶³ The lack of research on law student definitions means that there is very little insight into whether their understanding of commercial awareness reflects that of the legal profession or any other graduate profession they seek to enter.

Overall, there is limited empirical research that focuses on the role of CLE in developing commercial awareness. This study attempted to address the research gaps noted by engaging directly with students and supervisors in a clinic setting.

Method

This study invited groups of third year (level 6) students and supervisors in the author institution's LC to rank the importance of the skills that they perceived law students to need to access graduate employment using diamond ranking. The ranking exercise was followed by a semi-structured interview with each group of participants. The LC has eight main areas of practice and students are divided into 'firms' of between 8 and 10 students who advise clients on particular areas of law dependent on supervisor expertise. Six firms in the LC participated in the study, representing 24% of all the firms in the LC in the academic year 2019/20 and five (62.5%) of the eight areas of LC practice, providing a cross-section of student experience. Thirteen supervisors participated in the study, representing 72% of supervisors working in the LC in the academic year 2020/21 and 7 (87.5%) of the main areas of practice. All supervisors had worked in the LC in the academic year 2019/20 and two supervisors (of business and

⁶³ Dunn (n 54) 230.

civil/employment firms) had tutored the business and civil/employment firms participating in the student data collection. Ethics approval was obtained from the author's institution prior to starting the data collection process and each participant provided informed consent to the study.

What is diamond ranking and why use it?

Diamond ranking is a visual data collection tool that has been used in research into education.⁶⁴ Participants, usually working in groups, use cards containing words, statements or pictures, ranking them according to the descriptor being tested, for example, importance, where the most important cards are placed at the top, the least important at the bottom and cards on the same line are equally important. Diamond ranking was selected for this research study, rather than questionnaires or focus groups, because it provides a simple and quick data collection tool that provides quantitative data, in terms of card placement, and qualitative data through the participant discussions around card placement.⁶⁵ Further, it was chosen because it enables participants 'to play an active part in the research' allowing participants to work together as a group, encouraging and stimulating discussion.⁶⁶ Completed diamonds can be compared to analyse the similarities and differences in views from the perspective of card placement. The discussions that accompany card placement

⁶⁴ Jill Clark, 'Using diamond ranking as visual cues to engage young people in the research process' (2012) 12 *Qualitative Research Journal* 222.

⁶⁵ Rachel Dunn, 'Diamonds are a girl's best friend...and a great data collection tool!' (2020) 27 *Int'l J Clinical Legal Educ* 33.

⁶⁶ Clark (n 64) 224.

provide qualitative data that records how the group reached agreement on the ranking, perhaps uncovering issues that the researcher would not have considered in a focus group. When combined with other research tools, here a semi-structured group interview that followed each diamond, diamond ranking provides a rich source of data that can be analysed in a number of ways.

Nine card diamonds have been used in education research.⁶⁷ More recently, Dunn used a 16 card diamond (the Diamond16) in clinics inviting participants to rank the importance of the skills and attributes required for legal practice.⁶⁸ She used 11 pre-selected cards and provided five blank cards for participants to suggest their own skills, adding more depth to the data collection.⁶⁹ This study adopted Dunn's approach, asking students and supervisors in the LC to complete Diamond16s, but using different skills.⁷⁰

The Diamond16 & the Data Collection Process

Diagram 1 shows the layout of the Diamond16 used in this study and the 11 pre-selected skills cards. These skills were chosen because they were representative of skills used in other graduate employment surveys and the LETR.⁷¹

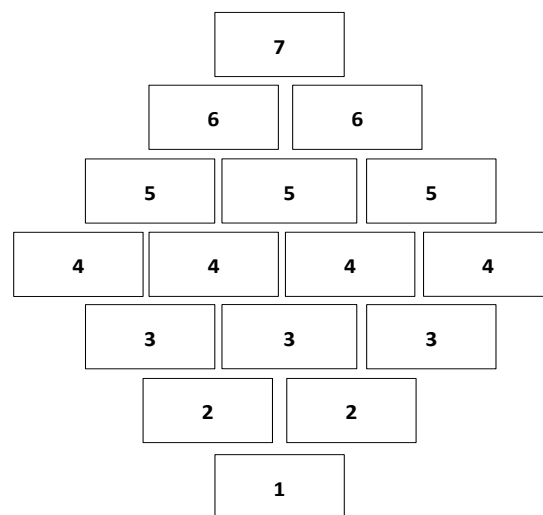
⁶⁷ Clark (n 64).

⁶⁸ Dunn (n 65) used 16 cards because of the large number of skills required for legal practice.

⁶⁹ *ibid* 38-9.

⁷⁰ *ibid* 44 for skills used. Apart from written and oral communication, Dunn used different skills to those used in this study. Commercial awareness was not a pre-selected card and from the groups that completed her Diamond16 it was chosen as an extra skill by two out of 17 student groups, one out of six supervisors and both law firms, (n 54) 175.

⁷¹ Surveys (n 2) and (n 23).



Written and oral communication	Commercial awareness
Teamwork	Application of information technology
Self-management	Subject knowledge
Initiative	Numeracy
Enthusiasm	Problem solving
Negotiation	

Diagram 1 – Diamond Layout and Pre-selected Cards

Participants were invited to use the Diamond16 to rank the importance of the skills that they perceived law students to need to access graduate employment.⁷² Participants completed five other blank cards, ranking these alongside the pre-selected cards. Participants were free to interpret the skills on the cards as they wished. The researcher did not get involved in the discussions other than if asked to clarify the

⁷² Participants were free to interpret this as they wanted – all groups focused on employment in law firms but the discussions considered other careers too.

instructions. The numbers on each line of Diagram 1 were added after data collection to aid analysis of the results by quantifying the relative importance of each card.⁷³

Dunn asked her student participants to complete the Diamond16 at three separate data collection points – before, during and after their time in clinic. This study invited student participants to complete the Diamond16 at two points, namely, before and after their clinic experience. This approach was taken because it was determined that taking a ‘before and after’ view would provide a sufficiently robust insight into student perceptions of the importance of the various skills and the role of CLE in developing commercial awareness. This approach also minimised the time that student participants were asked to give to the study and avoided the risk of student participants becoming fatigued by the data collection process. The supervisor participants were invited to do one Diamond16 – here a ‘before and after’ overview was not required. In line with the research questions, the researcher wanted to ascertain supervisor perceptions on the importance of commercial awareness to them as teachers and identify the teaching and learning activities that they used to support development.

⁷³ See Carl Towler, Pam Woolner and Kate Wall, ‘Exploring teachers’ and students’ conceptions of learning in two further education colleges’ (2011) 35 *Journal of Further and Higher Education* 501, where a similar approach was taken with a 9 card diamond. There are other options - Dunn (n 54) 158 grouped parts of her Diamond16 together before quantifying each group.

Participant Information

Table 1 details the firms and the number of student participants that completed each Diamond16. As Table 1 demonstrates, a variety of types of firm were asked to participate, for example, firms with students advising on more commercial matters and firms with students advising individuals on family and criminal law. This ensured that the views of students working in a broad range of different practice areas were obtained. The policy firm (PF) operates within the LC and carries out research for clients on law reform projects rather than providing legal advice. It should be noted that the author was the supervisor of this firm - whilst students knew the author conducted research into employability, they were unaware that the research focused on commercial awareness.

Firm & Key ⁷⁴	Number of Students – First Diamond16 (Total = 40)	Number of Students – Second Diamond16 (Total = 13)
Business (BF)	7	2
Civil/employment (CEF)	7	6
Family – undergraduate (FF)	8	3
Policy ⁷⁵ (PF)	6	2
Criminal	8	-
Family - postgraduate (Bar Course)	4	-

⁷⁴ The key is used to attribute student comments. In the LC, students are grouped into firms by practice area.

⁷⁵ For a discussion of policy clinics see Lyndsey Bengtsson, Rachel Dunn and Siobhan McConnell, 'The Policy Clinic at Northumbria University: Influencing Policy/Law Reform as an Effective Educational Tool for Students' (2020) 27 *Int'l J Clinical Legal Educ* 68.

Table 1 – Student Participants

Table 2 details the supervisor participants.

Supervisor Practice Areas & Key⁷⁶	Number of Supervisors Completing Diamond16 (Total = 13)
Business Firm Employment Firm (EF)	2
Civil Firm (CF) x 2 Civil/Employment (CEF) x 1 Employment x 1	4
Family Firm (FF) x 3 Crime Firm x 1	4
Housing Firm (HF) x 1 Welfare Firm (WF) x 2	3

Table 2 – Supervisor Participants

As Table 2 demonstrates, supervisors were placed into four different groups to complete the Diamond16. Supervisors were grouped into similar practice areas, allowing for comparison between those areas. For example, supervisors working in more commercial focused practice areas were grouped together as were those practising in more ‘high street’ practice areas such as family, welfare and criminal law.

An example of a completed Diamond16 is provided at Figure 1 below.

⁷⁶ The key is used to attribute supervisor comments.

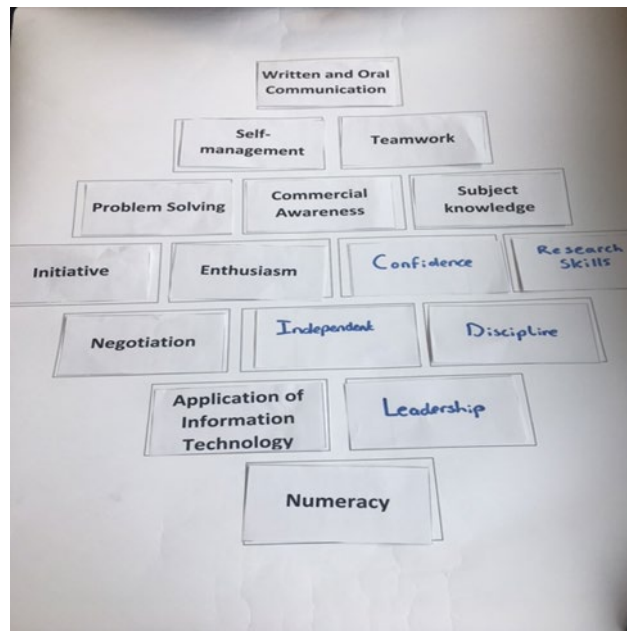


Figure 1 – In-person Diamond16 Completed by Student Participants in a Civil/Employment Firm

Each Diamond16 was followed by a semi-structured group interview. Prompt questions were used to promote consistency across the groups.⁷⁷ Each session lasted 15-60 minutes, was video-recorded and then transcribed. The shorter sessions tended to be those involving the student participants although some sessions involving student participants, particularly when completing the second Diamond16, did take longer with more discussion of the various issues.

⁷⁷ See appendix.

The Data Collection Process – Disruption and Limitations

As noted, the intention was for each group of student participants to complete Diamond16s at the start and end of their LC year. The first five Diamond16s took place in person using a physical Diamond16 in November/December 2019 with a one semester family firm, comprising predominantly international postgraduate students, completing one in early 2020. The second in person Diamond16, scheduled for the end of the academic year (summer 2020), was thwarted by COVID-19. Given the challenges that students faced and the uncertainty created by the pandemic, the researcher felt unable to ask students to participate in the second Diamond16 in summer 2020, even in an online setting. When the academic year 2020/21 began, and with it the move to online teaching, the author adapted the study, working with colleagues in the university technology support team to create an online Diamond16 for use in Blackboard Collaborate. An example of a completed electronic Diamond16 is provided at Figure 2 below.

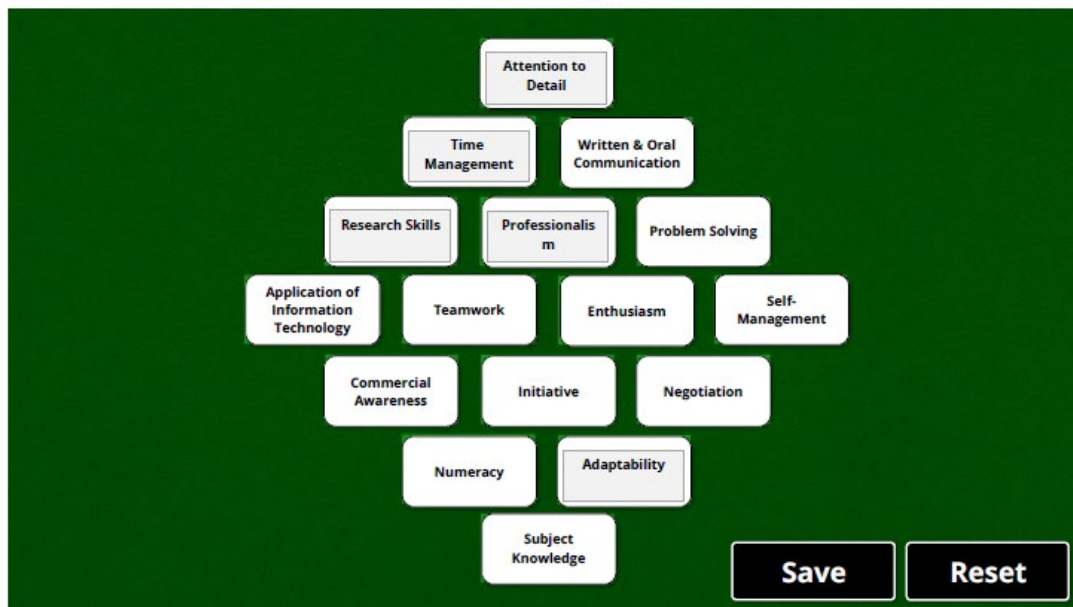


Figure 2 – On-line Diamond16 Completed by Supervisor Participants in the Family and Crime Firms

As indicated in Table 1, not all of the student firms completed both Diamond16s. Even where firms completed the second Diamond16, not all of the student participants returned - some had left university or were too busy. Overall, as Table 1 demonstrates, 40 student participants completed the first Diamond16 and 13 completed both. This could be seen to impact on the reliability of the findings, particularly in relation to the quantitative data. In an attempt to ameliorate this potential difficulty, the results section considers the quantitative data in two ways, firstly by analysing the results by including all of the participating groups and secondly by excluding the groups that did not complete the second Diamond16, (see Graphs 2 and 3 in the Results and Discussion section below). Also, a range of types of firm returned for the second Diamond16, facilitating an analysis of a cross-section of experience. The rich

qualitative data provided by the student participants offers useful insight into their perceptions of the role of commercial awareness during their time in clinic. At the end of the second Diamond16, student participants were shown photographs of both diamonds and encouraged to consider both and discuss to what extent their views had changed. For some key questions, participants were reminded of statements made during the first Diamond16, for example, when being asked to define commercial awareness. Both of these approaches allowed for some participant validation of the data, allowing student participants to consider their previous comments and provide further views after their LC experience.⁷⁸

The intention had been to collect the supervisor data in 2020. Again, COVID-19 made this impractical and data was collected online between April and July 2021. The supervisor Diamond16s allowed for data triangulation by providing another perspective for comparison with student views. This allowed for a 'fuller and more informative picture of what is going on'⁷⁹ in the context of the research questions.

Dunn acknowledged the limited drawbacks of using the diamond method, particularly the issue of individual dominance during group discussions, but also noted the rich data that such dialogue can produce.⁸⁰ In this study, there was little evidence of individuals dominating discussions. Whilst some student participants

⁷⁸ Dunn (n 65) 65. Harry Torrance, 'Triangulation, Respondent Validation, and Democratic Participation in Mixed Methods Research' (2012) 6 *Journal of Mixed Methods Research* 111,113.

⁷⁹ Torrance (n 78) 113.

⁸⁰ Dunn (n 65) 66.

could be quiet, the other group members tended to take a collegiate approach. The researcher did not interfere in the process of completing the Diamond16, other than to confirm instructions, as she wanted to be an observer of, rather than a guide to, the discussions. However, the researcher did confirm with the group members that they were satisfied with the completed Diamond16 before asking questions.

Following completion of the data collection, the transcripts were thematically analysed using NVivo software. The transcripts were coded and organised into themes. An inductive approach was taken and only data relevant to commercial awareness in the context of the research questions is considered here. The themes explored in the following section are: (1) importance, (2) changing perceptions, (3) understanding, (4) development activities and (5) impact. The qualitative data is also considered in the context of the quantitative data, providing understanding of 'what is happening behind the numbers.'⁸¹

Results and Discussion

Theme 1 - Importance

For the purpose of comparing the perceived importance of the skills, each row of the Diamond16 was numbered so that each skill could be quantified – see Diagram 1. The

⁸¹ Dunn (n 65) 58.

scores for each skill for each group were added together, indicating the perceived importance of commercial awareness to both supervisors and students.

Supervisors: Important to All but Professional Background is Influential

As Graph 1 demonstrates, commercial awareness was perceived as the fourth most important skill for supervisors.



Graph 1 – Total Scores for Diamond16 Skills – Supervisors

There was a distinction in importance linked to supervisor practice area. The civil/employment and business/employment groups scored commercial awareness at 5 whilst the welfare/housing and crime/family groups scored it at 3. Supervisors working in a more business-orientated context considered commercial awareness to

be more important than supervisors working with individuals on more personal legal matters, for example, family or welfare benefits issues.

The card placement discussions suggested perceptions on the importance of commercial awareness related to professional background and experience. A business firm supervisor with a commercial law background stated:

I think commercial awareness is, for me, towards a higher ranking one, so you know what business you're entering and how it works. (BF Supervisor)

A supervisor with a family law background observed:

Because we're not really in commercial areas I don't know whether we see it as being as important as, say, a corporate lawyer would. (FF Supervisor)

Many recognised how importance was linked to the narrative employed by law firms. Some were unconvinced about this in reality given their personal experience, for example:

I'm always a bit funny about commercial awareness 'cos I know it's really important but...I rank commercial awareness quite low because I don't think I've ever really understood it but then I've got this far in my career without it. (FF Supervisor)

Although at group level there were differences in ranking, most supervisors thought that commercial awareness was needed by all types of firm, not just commercial practices. One stated:

I don't just associate it with business type work, I mean corporate/commercial.

I think it's also to do with who your clients are and linking that in to your business so I suppose that is then across the board a bit isn't it. (EF Supervisor)

In fact, some supervisors thought that lawyers working in smaller practices needed more commercial awareness. One stated:

I think there may be this misunderstanding that you need to be commercially aware if you go into a commercial law firm but actually you need to...be even more commercially aware if you go into a high street firm because you're operating within a small business and your role is actually more enhanced...more hands on responsibility for the management...and the income stream of that business. You actually might have less of an impact or control over it if you are in a large commercial firm so I think it's important across all types of firms. (CEF Supervisor)

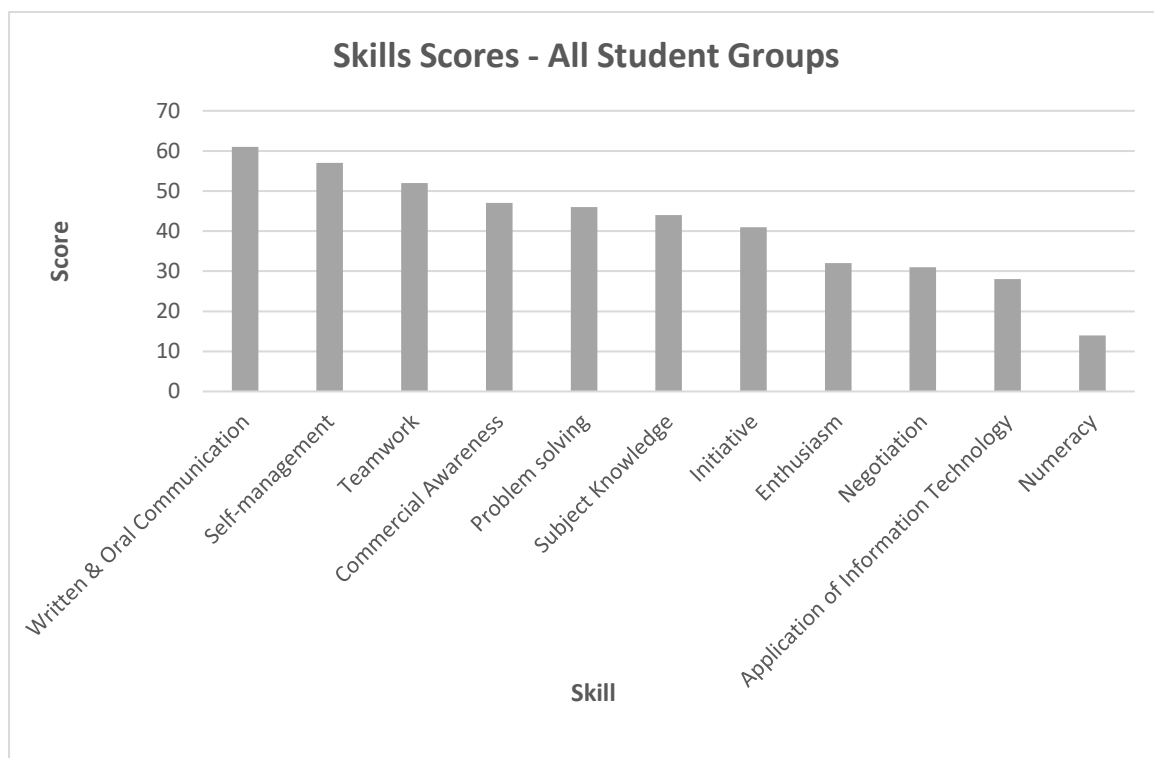
Some supervisors linked commercial awareness to client care, again acknowledging its importance across the profession, for example:

You can't achieve client care and your obligations as a lawyer under the Code of Conduct...unless you understand what their motivations are, how their business works, how they are impacted by things around them. (EF Supervisor)

These viewpoints take a different approach to the LETR⁸² (that associated commercial awareness more with commercial work) and Blandy (who thought that commercial awareness would be acquired only by those studying commercial law). The narrative of these supervisors supports the findings of its 'universal' importance noted by Strevens and others in their study involving law firms.⁸³

Students: Legal Profession and Law School Influence

The student picture was more complicated because whilst six firms completed the first Diamond16 only four completed both. The total scores for all firms (whether completing one or both Diamond16s) are shown in Graph 2. Like the supervisors, commercial awareness was perceived as the fourth most important skill.

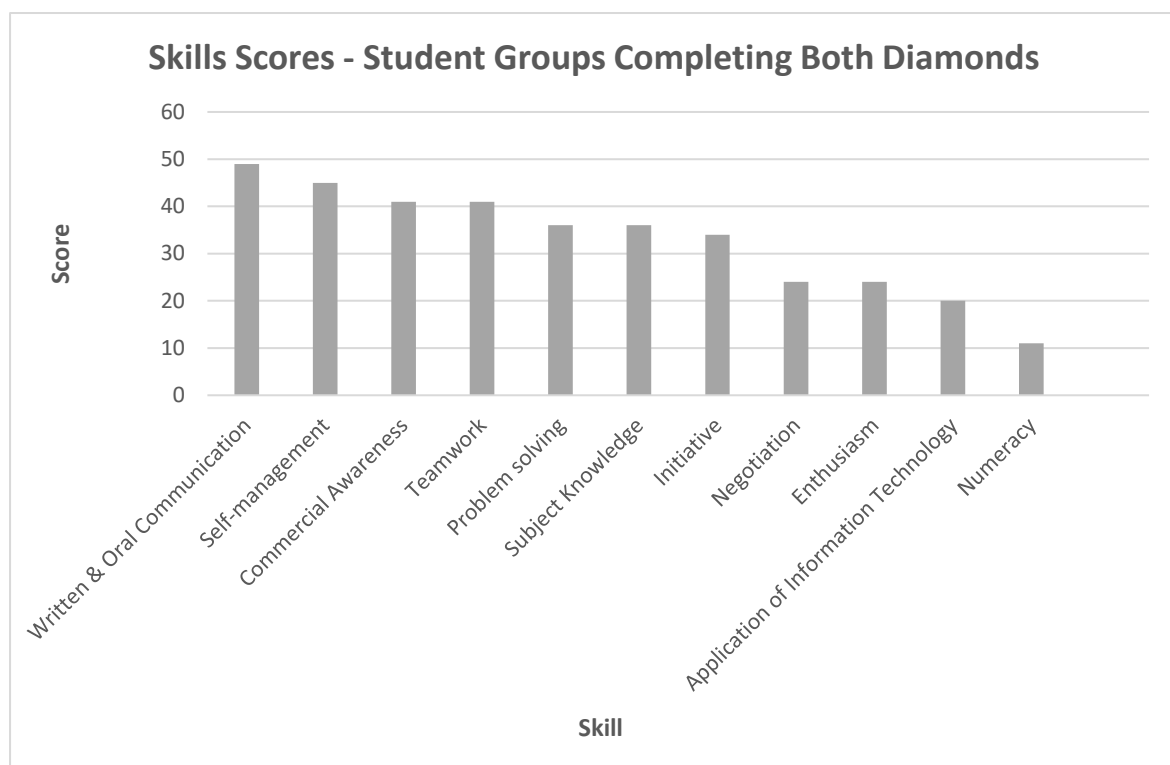


⁸² LETR (n 16) para 7.20.

⁸³ Strevens and others (n 18) and Etherington (n 43).

Graph 2 - Scores for Diamond16 Skills - All Student Groups

As noted in the Method section of this article, the non-completion of the second Diamond16 by two firms may misrepresent the results. Graph 3 shows the scores where these two firms are excluded – commercial awareness becomes the joint top third skill. This reflects the omission of the lower scores (criminal 4, postgraduate family, 2) attributable to the excluded firms.



Graph 3 - Total Scores for Diamond16 Skills - Student Groups Completing Both Diamonds

Like supervisors, students ranked commercial awareness highly. During card placement discussions, many noted it had 'got to be' in the top part, its ranking influenced by the views of law firms and the law school. For example:

Commercial awareness - we're always getting told commercial awareness is important. (CEF Student)

And

But every lecture we've been in, all they've said is "Commercial awareness is key! You need commercial awareness!" So I feel like that has to be...

in the top 3 lines,

...otherwise they've just wasted their breath. (FF Students)

The following exchange during card placement exemplifies perceptions of the importance of commercial awareness in the graduate recruitment process:

Other than an interview setting would you really need to talk about commercial awareness that much?

Yes, 'cos supposedly you need commercial awareness to carry out your job.

Do you?

To know about like the broad areas...

To get the job...

The whole interview is pretty much based on commercial awareness...so yeah

I'd agree you do need it. (FF Students)

Further statements provided more evidence of law firm influence on student perceptions of the importance of commercial awareness in accessing graduate

employment, for example:

When I've spoken to firms and they rank what attributes they look for in people that they're recruiting, commercial awareness does always come up. I've not been to one firm where they've not said commercial awareness. (CEF Student)

And

I think if you speak to a solicitor outside of the LC...about an interview or the application process, they would just say you need to be commercially aware... 'cos all the questions at their interview will be related to commercial awareness in some way. (FF Student)

The only firm that placed commercial awareness low (scoring 2) was the postgraduate family firm. Most students thought commercial awareness relevant only to commercial practice, adopting a more 'LETR approach' but most students were new to the UK and so arguably less influenced by UK law firm rhetoric.

Overall, supervisors and students ranked commercial awareness more highly than it is usually ranked by employers in recruitment surveys.⁸⁴ As there is little quantitative data showing how law firms rank commercial awareness compared to other skills,⁸⁵ it is difficult to know if the participants' views reflected law firm views or whether participants overestimated its importance. The reasons for its high ranking were clear.

⁸⁴ ISE (n 2) – this includes, but is not specific to, law firms.

⁸⁵ Dunn's study (n 54) is helpful but involved two firms. The LETR (n 16) does not present a quantitative comparison of commercial awareness with other skills other than to note 68.9% of practitioners ranked knowledge of the business context more highly than core legal knowledge.

Supervisors were influenced by their professional background. Students were influenced by law firm commercial awareness narratives (recognised by Sommerlad, Etherington and Strevens and others in their studies⁸⁶) that are repeated by the law school and other stakeholders that assist students with accessing the profession, for example, *Aspiring Solicitors*.⁸⁷ Students were clearly aware of commercial awareness and its importance – whether they actually understood it is something that is examined later in the discussion of Theme 3 - Understanding.

Theme 2 - Changing Perceptions of Importance

The data collection points (at the start of the LC year and post-LC) provide an understanding of whether student views on the importance of commercial awareness changed during that year and also an insight into the reasons for any change. Graph 4 shows how views changed in three of the four firms completing both Diamond16s.

⁸⁶ Sommerlad (n 6); Strevens and others (n 18); Etherington (n 43).

⁸⁷ *Aspiring Solicitors* is an organisation aimed increasing diversity within the legal profession, see <https://www.aspiringsolicitors.co.uk/> accessed May 2022.



Graph 4 - change in importance of commercial awareness

The views of each firm are now examined, using qualitative data to provide insight into the results.

Business Firm

These students ranked commercial awareness highly in the first Diamond16 because it was needed in any industry and because their supervisor had discussed it in detail the week before, suggesting how tutor influence may have had a role.⁸⁸ After the LC year, it became the most important skill, with students focusing on the impact of COVID-19 and how it was 'really important' to know about current affairs:

I think there's so much change happening, if you're not aware of it you're kind of left behind. I feel like it's become so important because there's been so much change, especially with everything that's happening with COVID.

⁸⁸ Dunn noted tutor influence in relation to commercial awareness in her study (n 54) 256.

Reviewed Article

Another student observed the increasing importance of commercial awareness as they reached the threshold of the graduate job market, noting:

...part of the reason we've put it as top as well now is because we are in our final year. Our next step is actually going out into the real world so I think maybe that's why it's top now 'cos it's even more forefront. I know we start applying...years in advance for training contracts, but actually now it's not "We've got another 2 years at uni so if we don't get one it doesn't matter," it's "You need to get a job" so...

This comment perhaps again reflects the pervasive influence of the commercial awareness narrative employed by the legal profession.

Civil/employment Firm

Here, the ranking remained the same. When placing the commercial awareness card in the first Diamond16, students cited law school influence. The post-LC discussion was similar –students stated: 'they're always banging on about it aren't they.' Dunn noted similar comments in her study.⁸⁹

Family Firm

Here, commercial awareness dropped by two places. In the first Diamond16, students linked importance to law school and law firm influence. When discussing its drop in ranking, one explained:

⁸⁹ Dunn (n 54) 199.

...I feel like the more that you go through the law school the more you just naturally become commercially aware anyway. I think at the start of the LC you didn't really ever come across it so it was more trying to look out for it. But now it just comes naturally to you so I don't think it's as important as something to actually look for.

And

I think when it gets to the later years of uni you are thinking more about jobs and when you're researching training contracts obviously commercial awareness is a big thing, so I think you take it upon yourself to read more of the news and keep up to date with things.

Like the business firm students, these students were conscious that the end of their degree was approaching, but commercial awareness was less important because they felt more aware.

Policy Firm

Students did not discuss why they placed the card in its allocated space on either Diamond16, although in the second Diamond16 they agreed, 'We did a lot on that didn't we.' Despite this, commercial awareness moved down two places. When questioned, students made comments similar to those in the family firm about feeling more confident in their commercial awareness.

Overall, there were differing reasons why perceptions of the importance of commercial awareness changed or did not. Whilst this data does not clarify the role of

CLE in explaining why the importance of commercial awareness changed (or why not), it provides evidence of some of the external and internal non-clinic factors that have an influence on its importance to students during their time in legal education. It would be useful to conduct further research in a broader legal education setting to understand how the importance of commercial awareness changes for students on their journey to graduate employment.

Whilst students are clearly aware of commercial awareness and its importance for graduate roles, it is critical to ascertain what commercial awareness actually means to students and how confident they are in that understanding. The following section considers how students defined commercial awareness and whether students' understanding changed during their time in clinic.

Theme 3 - Understanding Commercial Awareness

Supervisor and Student Definitions

As noted earlier, students may have difficulty in defining commercial awareness.⁹⁰ There is very limited empirical evidence on what commercial awareness means to law students⁹¹ and none on how supervisors, and more broadly, legal academics define it. When asked to define commercial awareness after the first Diamond16, several student participants hesitated, declined to contribute, asked to 'sit this one out' or

⁹⁰ Wilkinson and Aspinall (n 13).

⁹¹ Turner and others (n 62).

stated it was 'hard to describe.' The definitions that were provided tended to be basic, focusing on current affairs knowledge. One noted:

You've got to be aware of current events and stuff going on, you can't just like live in a little shell. (BF Student)

Other students referred to how businesses work and make money but none mentioned 'the law firm as a business' aspect of commercial awareness that is so frequently used by the legal sector. Some students adopted the LETR approach, linking it to commercial law and practice. Although students were aware of commercial awareness, they did not demonstrate a sophisticated understanding of it nor one that mirrored employer and supervisor views. Overall, their views shared little correlation with the author's suggested definition.

In contrast, supervisors gave a broader range of definitions reflecting those used by the legal sector, focusing less than student participants on current affairs knowledge and more on how law firms were businesses, for example:

It's having that awareness of the business, what sort of business are you working in, what does that mean for you, for your clients, for billing, how you make money, who the clients are, how you get your clients. (EF Supervisor)

One supervisor noted the change in the legal profession as it moved to a more commercialised basis:

I think it's very important to the law firms that students understand that they're a business...there's much more move to the changing understanding of what law firms are, that they are a business...and that decisions are made on a commercial basis...sometimes there may be a concern that law students don't see law firms as a business...they don't understand that actually you have to make money for employers, that's your role. (CEF Supervisor)

Such viewpoints reflect much of the academic and practitioner literature that focus on understanding the business element of running a successful law firm.⁹²

Did Student Understanding Change?

After the LC year, some students demonstrated a slightly deeper understanding. For example:

I would say it has slightly changed in the sense that I would see it more as the industry as a whole, as in the law working with politics...ethics...environmentally. (FF Student)

However, only two students (from policy and family firms) now included the law firm as a business in the definition. The words of this student suggest they had experienced some profound development of their understanding of what commercial awareness meant:

⁹² Strevens and others (n 18); Sommerlad (n 6); Etherington (n 43); various (n 21).

...it's obviously being aware of the things that are happening in the news and legal developments...but it's also, what I think I didn't get in the last three years of uni was, it's also looking how that's going to impact on a firm and how the firm is going to place importance on knowing that as well. It's going that step further. (FF Student)

Again, it cannot be said that the clinic experience itself was responsible for this deepening understanding; other factors, for example, engagement with the legal profession, will have had an impact. The overall lack of focus on the law firm as a business part of the definition suggests that the more sophisticated supervisor understandings of commercial awareness may not be transferring to students. The following section, outlining development activities, considers why this might be happening.

Theme 4 - Development Activities

This data is partially limited because only two student firms with supervisors contributing to the study, participated in both Diamond16s. Therefore, it is difficult to fully assess the correlation between activities that supervisors and students identified as developing commercial awareness. However, the data is helpful in showing similarities in supervisor activities and in highlighting the activities students identified as developing their commercial awareness.

Student Views

In the second Diamond16 discussions, the activities that students identified as developing commercial awareness in clinic fell into three categories: client work, the LC working environment and current affairs.

Client work

Client work was the most common example. Participants who completed the second Diamond16 provided nine different examples of how they perceived client work had developed their commercial awareness. For some it improved understanding of how businesses work. For example:

My client was starting up a business and they wanted their master agreement drafting...and I think that helped develop my commercial awareness because I had to go so deep into not only the actual legal side but also what were the business aims and how was the business going to make money. (BF Student)

Some students observed how client work assisted in understanding that the legal solution might not always be the right one for a client, part of the author's suggested definition. One student observed:

*You've got the law but is it actually practical, does it actually work for a client?
And looking at it that way, I feel like it does make you very commercially aware because we see it from a law student perspective and we're like "ah yeah,*

everything should work fine if they're following the law" but in reality it's not that black and white. (BF Student)

Bleasdale-Hill and Wragg recognised such considerations were important and could be linked to developing commercial awareness.⁹³ Some students stated that considering 'what works' and 'real life concepts' were critical in providing advice. Although students and supervisors did not focus on this point when defining commercial awareness, the discussions suggested that for some students it was an aspect of their developing commercial awareness.

Business firm students described drafting leaflets on business start-up issues for entrepreneurial business students, presenting the leaflets and answering questions, one noting:

In reality the questions...were like a very, very small and specific part of business rather than...looking at privacy and data protection. They weren't interested in that, they were more interested in copyright and trademarks...I feel like you can research as much as you want on what you think is going to be helpful but when you actually go and talk to someone who is going to be a potential client you get your eyes opened as to what they actually want. I think it really opened my eyes. (BF Student)

Two policy firm students stated that their client research developed their commercial

⁹³ Bleasdale-Hill and Wragg (n 7) 264.

awareness because it made them consider the social justice issues arising in legal areas they had not been exposed to before, for example:

...it made me more aware of the injustice in...mental health...and I wouldn't have probably done that part of law in our normal modules so I wouldn't have ever probably realised...the levels of injustice in that spectrum. (PF Student)

Social justice is an unusual but interesting developmental angle because so often commercial awareness is linked to business and business issues. However, such views do fit within the author's suggested definition of commercial awareness.⁹⁴

Civil firm students were less convinced that client work helped, one noting:

I don't really know whether I would say my commercial awareness did – because we only really dealt with one case and it was more to do with an individual so...I probably don't think mine was that much improved. (CEF Student)

These students aligned development with the LC working environment.

LC Working Environment

Although no students mentioned the 'law firm as a business' aspect of commercial awareness as a direct example of development, comments suggested that some may

⁹⁴ McConnell (n 14).

Reviewed Article

have, perhaps unknowingly, developed it through the working environment of the LC, for example:

...even just the way...the LC was ran it gives you more of an idea of how a solicitors' firm is going to be ran and that...you need to be aware of the environment that you're going to be working in. So that gave us more awareness even of how it would be when we went into practice. (PF Student)

And

Yes being in that environment and understanding how the firm works...the counting of minutes when you're doing an interview and it being in six units...the importance of that stuff rather than the wider commercial awareness and current affairs. (CEF Student)

Current Affairs

Policy firm students linked their development to a weekly activity where students asked questions on legal issues in the news, noting:

...it made sure you were constantly looking - even if you hadn't looked that week then one of the other members was telling you something that had happened that week - so it was constantly keeping you up to date with what was going on in the general climate of the world.

The focus on current affairs led to some students making commercial awareness development part of their everyday learning, for example:

...now I keep up to date with the news...even just having the app on my phone and then notifications for the main stories coming through and things like that, whereas before the LC I didn't have that. (PF Student)⁹⁵

All firms identified at least one development activity. Unlike other research locating commercial awareness development with commercial law practice,⁹⁶ students from all types of firm recognised that they had developed commercial awareness in some way. Activities tended to fall into one of the three categories depending on the firm. For example, business firm students identified development through client work whilst civil firm students attributed development to the LC working environment. In contrast, as the following section demonstrates, supervisors identified many more development activities and promoted development across multiple categories.

Supervisor Approaches

Law Firms as Businesses

The most common supervisor activity centred on improving student understanding of the law firm as a business aspect of commercial awareness. Many supervisors asked students to think about their work, the time it took and how this would translate into

⁹⁵ This student also led a firm meeting, giving a presentation on commercial awareness and how to develop it in preparation for the graduate recruitment process.

⁹⁶ LETR (n 16) 7.20 and Blandy (n 56).

'real life' legal practice. Supervisors concentrated on time recording and billing, something not traditionally a feature of clinical programmes,⁹⁷ for example:

I usually do a billing exercise with them so I get them to go and look up the county court rates that they would be able to claim, consider which level that they'd be working at...then we actually bill their files. We bill it on the time that they've recorded and then we also bill it against the file, to highlight the difference between what they've time recorded and what they'd actually be able to claim...and that's normally quite significant when they're billing maybe two or three hours' worth of research and you're knocking it down to about 10 minutes because they'd be expected to have a lot of that knowledge. So it's highlighting the difference between the LC and what they would be expected to do in practice. (HF Supervisor)

And

We talked a bit about how firms make money, getting them to think about the sort of work that they're doing, how long they've taken to do it, whether or not that would ever translate into an actual bill...that side of the law as a business that I think sometimes is a bit missing from the LC. Because they can take endless time to do anything and they do. (EF Supervisor)

⁹⁷ Barry (n 8) 275.

Reviewed Article

Other examples included asking students to do a mock pitch to a potential client, a timed advice exercise and limiting client interviewing time to one hour:

We're telling them that time is money so I think there is a connection there with commercial awareness. (WF Supervisor)

Thomas advocated time recording, billing and costs discussions as methods of developing students' commercial awareness. He noted that some clinics did such activities but they were not standard practice.⁹⁸ This study shows how these activities *are* commonplace in the LC for supervisors but, as only one student mentioned such an activity, they are not necessarily recognised as development activities by students. This leaves a question mark over how explicit supervisors were in explaining that these activities developed students' commercial awareness and this issue will be examined in the section below concerning supervisor attitudes.

Current Affairs

Several supervisors provided news stories to students or asked students to research issues, similar to the activities policy students identified. The more 'high street' firms focused on giving students an understanding of the realities of the legal environment their clients experienced; one supervisor explained:

⁹⁸ Thomas (n 4) 153.

Reviewed Article

I always do one (session) on legal aid, just so that they've got an understanding, because often at that stage they won't...it's important for them to know why the clients, how they've ended up at the LC, which is often to do with legal aid issues. (Crime Firm Supervisor)

Client Work

The third most cited activity was client work and demonstrating the wider, often non-legal, factors influencing client advice. One supervisor described this as 'modelling' and supervisors discussed how this demonstration of the realities of legal practice was a way of developing commercial awareness, reflecting some student viewpoints:

I think part of it is modelling. I think a lot of what we do in the LC around commercial awareness is demonstrating the way in which we approach practice, so the types of things that we consider when we're looking at cases and the types of things that we would prioritise, the importance that we put on certain things, our response to deadlines. I think a lot of that also comes down to commercial awareness. (HF Supervisor)

This approach again reflects Bleasdale-Hill and Wragg's views on the benefits to students of experiencing real life disputes in gaining insight into the different factors critical in providing legal advice. They noted a link between these types of activities and commercial awareness development.⁹⁹

⁹⁹ Bleasdale-Hill and Wragg (n 7) 264.

Supervisor Attitudes

Although all supervisors tried to enhance commercial awareness using different activities, there were differing attitudes towards its teaching. These related both to supervisors' professional backgrounds and their confidence in teaching commercial awareness.

Three supervisors had practised commercial law in commercial firms and acknowledged how influential this was, one stating:

It's at the front of everything I tend to do to be honest with you because it has to be. (CF Supervisor)

For others, particularly those who had worked predominantly with claimants, there was much less focus, for example:

I probably haven't done enough of that (commercial awareness) and I think some of that relates to the background that I came from...working under not for profit contracts in the Citizens Advice. (WF Supervisor)

A minority lacked confidence in understanding commercial awareness and their ability to teach it.

I hate teaching about it...and I just kind of think "Oh I don't really feel qualified to be teaching about this." (FF Supervisor)

There are recognised difficulties in integrating employability skills into teaching.¹⁰⁰ It should not be assumed that supervisors with significant legal practice experience are necessarily equipped to teach skills like commercial awareness – further support and training may be needed.¹⁰¹

Signposting commercial awareness

Very few supervisors were explicit in signposting commercial awareness development to students by explaining that an activity could enhance it. For most it was an ‘unspoken thought.’ This may help to explain the mismatch in both the number and type of development activities identified by students and supervisors. The data indicated that the Diamond16 discussions were perhaps the first time that some supervisors had thought in detail about the link between their activities and commercial awareness development, for example:

Lots of things you (other participants) mention, I do that as well, but I don't red flag it enough to students that it's a commercial awareness aspect – not always anyway. I think I could do a better job at that. (CEF Supervisor)

And

¹⁰⁰ John Bell, ‘Key Skills in the Law Curriculum and Self-Assessment’ (2000) 34 *Law Tchr*; Egle Dagilyte and Peter Coe, ‘Professionalism in higher education: important not only for lawyers’ (2014) 40 *Law Tchr* 33.

¹⁰¹ Dagilyte and Coe (n 100) 48-9 calling for better quality pedagogy training for academics to deliver employment-ready graduates.

I possibly don't match it with commercial awareness enough...there probably is stuff that we teach them that I wouldn't necessarily link to commercial awareness and therefore I'm not bringing that enough to their attention perhaps...I do these exercises with them but I don't reach the end of it and go, "By the way this is an example of commercial awareness." (WF Supervisor)

Others felt they were more explicit but signposting focused on linking commercial awareness to current affairs knowledge, for example:

...I ask them to pick out something in the news and then relate it...I flag it then. But when we're giving advice and looking at commercial options, I do talk about it's important that they look at practicalities rather than the legalities, but I don't flag it as a commercial awareness issue. (CEF Supervisor)

Very few supervisors used the term commercial awareness. Some stated that they were more explicit but talked to students of the 'realities of practice,' for example:

I think I have given examples in the past, "You know what, if you go into a law firm this is what will be expected of you," but without getting deeper into it. I think I've just scratched on the surface. (WF Supervisor)

Such terminology does not match the commercial awareness label used by law firms.¹⁰² Two supervisors nearly always signposted commercial awareness; these were

¹⁰² Thomas (n 4) and websites (n 4).

the supervisors from a commercial law practice background for whom commercial awareness was critical.

Overall, students identified far fewer activities than supervisors and there was inconsistency between the activities identified. Supervisors focused more on activities that enhanced an understanding of the law firm as a business. Students identified development mostly through client work. The lack of supervisor signposting perhaps explains this disassociation and also why supervisor definitions of commercial awareness were not adopted by students. Francis argued that the value of experiential learning depends on student ability to identify what they are learning.¹⁰³ Bell called for academics to be more explicit about skills development.¹⁰⁴ Clearer signposting is needed if students are to appreciate they are developing commercial awareness.¹⁰⁵

The data shows a clear role for CLE in developing commercial awareness. This is encouraging. However, to realise the benefit of this development, students must be able to demonstrate skills like commercial awareness during the graduate recruitment process¹⁰⁶ and have confidence they can do so. Thomas examined how clinic boosts student employability but failure 'to equip them to explain how in a job application

¹⁰³ Andrew Francis, 'Legal Education, Social Mobility, and Employability: Possible Selves, Curriculum Intervention, and the Role of Legal Work Experience' (2015) 42 *JL & SOC'Y* 173, 195.

¹⁰⁴ John Bell (n 100) 191.

¹⁰⁵ For examples of commercial awareness development in real estate education see Joanna Poon, 'Commercial awareness in real estate courses' (2014) 32 *Property Management* 48 where most academics explicitly mentioned 'commercial awareness' when teaching and explained its meaning.

¹⁰⁶ Leonard Holmes, 'Reconsidering Graduate Employability: the 'graduate identity' approach' (2001) 7 *Quality in Higher Education* 111, 117-8.

or interview' does students a disservice.¹⁰⁷ As the following section demonstrates, students had mixed feelings about their confidence in their commercial awareness, particularly in a graduate recruitment setting.

Theme 5 - Impact

Students in business, policy and family firms stated that confidence in their commercial awareness - in understanding what it meant and in being more commercially aware - increased in clinic. However, in the civil/employment firm (where students associated development with working in the LC), there were perceptions that confidence had not increased, for example:

I think commercial awareness is a tricky one. I feel like if someone was to ask us a question, depending on what the type of question was, I don't really know whether the LC helped us develop that in particular. (CEF Student)

So whilst this firm's views of the importance of commercial awareness were unchanged, students did not feel more confident and that translated into a lack of confidence in how to cope with commercial awareness questions at interview. One family firm student noted her increased confidence but she was concerned about interviews, stating:

¹⁰⁷ Thomas (n 4) 153-4.

I'm a lot more confident in it but at the same time it is a concept that at interview it is scary and no matter how confident you are in it as soon as they mention commercial awareness I think it probably will throw you.

The viewpoints expressed here suggest there is further work to be done in promoting development in CLE. However, supervisors cannot, and should not, be expected to do everything in the context of teaching commercial awareness. The rest of the undergraduate law degree should play a part in its development by integrating commercial awareness into modules. Further employability support is needed from centralised careers advisers working with students in clinic and assisting them with packaging their experience for the graduate recruitment process. Whilst professional careers support is key, those teaching law must engage with students too. O'Leary argued that it is critical to ensure that academic departments remain involved in providing effective employability support to students.¹⁰⁸ In a law school setting, Childs and others found that law students valued input and advice from their tutors alongside the central careers service offering.¹⁰⁹ The conclusion suggests ways in which law schools, clinics and career services can work together to provide support activities.

¹⁰⁸ Simon O'Leary, 'Graduates' experiences of, and attitudes towards, the inclusion of employability-related support in undergraduate degree programmes; trends and variations by subject discipline and gender' (2017) 30 *Journal of Education and Work* 84.

¹⁰⁹ Penny Childs, Nigel Firth and Hugo de Rijke, 'The gap between law student career aspirations and employment opportunities' (2014) 48 *Law Tchr* 51.

Conclusion

The above findings allow for suggested responses to the research questions and to consider the implications for CLE.

How important is commercial awareness as a skill to those teaching and learning in CLE?

Commercial awareness was very important to supervisors and students in the LC – they ranked it highly in comparison to other skills. Further, both groups ranked commercial awareness more highly than graduate employers did in employer surveys.¹¹⁰ Such surveys are not law-specific and it would be interesting to undertake research with law firms to establish if the findings here reflect law firm views or whether supervisors and students overestimate its importance. The results also showed differences in view. Supervisors and students working in business, civil and employment firms ranked commercial awareness more highly than those working in family, criminal, housing and welfare firms. For supervisors, professional background was influential. Supervisors from commercial law backgrounds deemed commercial awareness more important than those with high street or mainly claimant experience. However, the discussions suggested a more nuanced reality. Commercial awareness could be more important for lawyers in smaller high street firms because they worked in a small business with more risk and less support. For students, the narrative of the legal profession, repeated by the law school, was influential in determining

¹¹⁰ ISE (n 2).

importance.

Do students develop commercial awareness in clinic and, if so, what types of CLE teaching and learning activities promote development?

The data shows that some students perceived that they had developed commercial awareness in clinic and that some developed it more than others. There was both practical development and also improved understanding of what commercial awareness meant. Supervisors named many more practical development activities than students. Even allowing for the fact that not all of the supervisor and student groups matched, this suggests that students do not always identify that their supervisors' teaching activities are aimed at developing commercial awareness.

Supervisors used authentic and engaging development activities. Some activities resonated with students, particularly those involving client work where students learnt, possibly for the first time, that the legal solution may not always be the right one, and that other factors, modelled so professionally by their supervisors, were critical in providing advice. Despite supervisor focus on developing the 'law firm as a business' aspect of commercial awareness, using activities such as time recording and valuing client work, there was very limited student discussion of those activities as examples of developing commercial awareness. This was reflected further by the fact that when asked to define commercial awareness, very few students mentioned the 'law firm as a business' aspect of the definition. These disconnects appear to result from supervisors not explicitly signposting their commercial awareness development

activities. Signposting skills development is critical.¹¹¹ For some supervisors, it seemed that the Diamond16 exercise was the first time they had really considered how the excellent activities they facilitated were actually exercises in developing commercial awareness and could be branded as such. This was, perhaps, because in providing these activities, their professional identity was so ingrained they did not think to label them as commercial awareness activities. Just as there may be a perception that there is no need to signpost a teamwork activity as developing teamwork, the same may apply to commercial awareness. However, commercial awareness is a skill that students struggle to understand and lack confidence in – it is also, unlike teamwork, a skill with which they are less familiar. The results support the view that the tacit needs to be explicit.¹¹² This research also supports Thomas' view that, whilst clinic enhances employability 'its value is lost if students are not able to, and do not, recognise this link.'¹¹³

Implications

This study reinforces the importance of commercial awareness to those teaching and learning in twenty first century law schools. As one supervisor noted: *'The days of lawyers being able to say, "Oh commercial stuff that's for the clients," I'm afraid, are long*

¹¹¹ Trina Jorre de St Jorre and Beverley Oliver, 'What students to engage? Contextualise graduate learning outcomes and assess for employability' (2018) 37 Higher Education Research & Development 44. Bell (n 100).

¹¹² Peter Knight and ESECT colleagues, 'Briefings on Employability 3 The contribution of learning, teaching, assessment and other curriculum projects to student employability' (2003) <<https://www.qualityresearchinternational.com/esecttools/esectpubs/knightlearning3.pdf>> accessed June 2022.

¹¹³ Thomas (n 4) 149.

gone.' That message, so fully embraced by many law firms, now seems part of the law school narrative. The challenge for CLE is not in recognising that importance but in translating the clinic experience into a convincing commercial awareness narrative that students feel confident in articulating in an application form or at an interview. The findings suggest that supervisors are aware of the critical role commercial awareness plays in obtaining employment in a law firm and in practising as a lawyer. Their professional experience places them in an excellent position from which to teach the future of the profession commercial awareness. A minority of supervisors lacked confidence in their ability to do so or were unconvinced that commercial awareness was necessary at the point of entry to the profession. However, all recognised its importance to students and tried to enhance their students' commercial awareness. This research makes an original contribution to knowledge because it presents the wide range of activities that supervisors use to enhance commercial awareness, the activities students identify as promoting development and the gap between the two stakeholders. The results strengthen the argument for explicit signposting of employability skills. Fortunately, this can be easily remedied. The supervisors here only need provide more direction to their students. This would involve explaining what commercial awareness is, perhaps using the author's suggested definition, and its importance to graduate professions. Supervisors should then highlight how relevant clinical activities promote its development, focusing on which aspect of commercial awareness is being enhanced.

If we conclude that CLE can develop commercial awareness, there are wider law school issues to address relating to student confidence and timing. This study finds that even where students developed commercial awareness in the LC, they still lacked confidence in how to use their experience to demonstrate it during the graduate recruitment process. For some, this was because they could not make the link between their LC experience and commercial awareness. For others, there was a general lack of confidence about demonstrating it at interview. As for timing, it is too late to leave development until clinic. CLE usually occurs towards the end of a degree but commercial awareness should be part of the employability framework much earlier, because many law firms recruit in second year. Further, CLE is not a 'magic bullet' for commercial awareness or any other graduate skill.¹¹⁴ In line with Cantrell's views on ecologies of learning,¹¹⁵ CLE should enhance the foundational work that ought to occur earlier in degree programmes, whether through bespoke employability modules or by integrating commercial awareness into modules. Clinic can play a critical role in further developing commercial awareness because it puts the 'real life' practice students encounter into context, providing examples for use in the recruitment process. It also sits at the threshold of the employability journey – near to or at the point of graduation – where many employment opportunities still arise. Since the academic year 2020/21, the Careers Service and LC teaching team at Northumbria University have integrated additional employability activities into LC teaching. These

¹¹⁴ Deborah J Cantrell, 'Are Clinics a Magic Bullet' (2014) 51 *Alta L Rev* 831.

¹¹⁵ *ibid* 840, 843-4.

activities build on a first-year compulsory employability module (that introduces commercial awareness) and other co-curricular careers teaching provided in the years before clinic. The aim of the additional activities is to enable students to learn how to demonstrate the skills they have gained from their LC experience during the graduate recruitment process. The activities include bespoke careers sessions and supervisor-led employability workshops, one focusing on commercial awareness. As a teaching aid, supervisors use video interviews with recent graduates discussing what commercial awareness means to them and how it is used in their professional lives. The LC has introduced an electronic case-management system, enabling clinic to more accurately reflect legal practice. It would be interesting to re-run this study with students to see how these activities impact on commercial awareness development. These innovations, alongside the supervisor activities documented here, should provide support for supervisors and students in understanding commercial awareness in the context of CLE, the legal (or any other) profession and the graduate recruitment process. The role of CLE will increase in importance given that it can constitute qualifying work experience under the SQE path to qualification.¹¹⁶ The results of this study suggest that there is a real opportunity for CLE to provide an authentic commercial awareness experience that enhances students' graduate employability.

¹¹⁶ Thomas (n 4). Rachel Dunn, Victoria Roper and Vinny Kennedy, 'Clinical legal education as qualifying work experience for solicitors' (2018) 52 *Law Tchr* 439.

**Appendix – Examples of Questions Asked During Semi-Structured Interviews
Following Completion of Diamond16**

Students

At the start of the LC year

How would you define commercial awareness?

Why is commercial awareness ranked where it is on the Diamond16? (If not clear from discussion whilst completing the Diamond16).

After the LC year

How would you define commercial awareness – link back to previous definition – same views, different views now?

Why has the ranking of commercial awareness changed/stayed the same?

Is there anything you did in the LC that you think has helped you to develop your commercial awareness? Link to ranking.

What sort of activities did you do that you think helped to improve your commercial awareness?

Do people feel more confident about what commercial awareness means?

How would you demonstrate commercial awareness during the graduate recruitment process?

If you had to pick one thing from the LC that shows you are commercially aware what would that be?

Supervisors

How would you define commercial awareness?

Why is commercial awareness ranked where it is on the Diamond16? (If not clear from discussion whilst completing the Diamond16).

What sort of activities do you do in the LC that help to improve your students' commercial awareness?

Do you use the words 'commercial awareness' to describe those activities? Are you explicit in explaining that is the skill you are trying to develop?

HOLISTIC LEGAL SUPPORT FOR LITIGANTS IN PERSON: THE NORTH AND MID WALES VIRTUAL LAW CLINIC PARTNERSHIP

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Abstract

In 2020 the Access to Justice Foundation and Ministry of Justice launched the Legal Support for Litigants in Person (LSLIP) Grant, a two-year programme funding a range of earlier intervention services for litigants in person. Eleven projects were funded to deliver advice on a national, regional, and local scale, to litigants in person at different stages of their problem in various areas of civil and family law. Partnership working and earlier intervention were central to these activities, to achieve improved outcomes for clients. One such project became known as the North and Mid Wales Law Clinic (NMWLC), including seven Local Citizens Advice (CA) branches (six in North Wales plus Powys in Mid Wales) and Bangor University.

The NMWLC delivers a service to support Litigants in Person (LiP) at every stage of their journey, providing generalist holistic advice designed to identify LiPs early on, preventing escalation of their legal problems, reducing financial hardship, and resolving issues with information to support self-help. The partnership provides generalist advice, and specialist advice and casework in the areas of Family Law, Employment Law, and Powers of Attorney and Deputyship (the latter being areas where local demand was identified by CA and partners). Through the project law

students are supported to train as General Advisers and to assist specialist advisers and caseworkers.

The project provided a unique way to develop clinical legal education (CLE), not least as it commenced fully online during the Covid-19 pandemic, focused on preventing escalation of legal problems, including through triage and partnership, and occurred in a small law department where existing provision (aside from in criminal law) was largely based on simulated activity. This article evaluates the first two years of the NMWLC from a CLE perspective, focusing on the experiences of student volunteers, exploring the challenges and opportunities of online working, and how the initiative fits with CLE models.

Introduction

In April 2020 the Access to Justice Foundation and UK Ministry of Justice launched the Legal Support for Litigants in Person (LSLIP) Scheme, a two-year programme funding a range of earlier intervention services for Litigants in Person (LiP) (ATJF, 2020). Eleven projects were funded to deliver advice on a national, regional, and local scale, to LiPs at different stages of their problem in various areas of civil and family law. National grantees were Law for Life, LawWorks, RCJ Advice, Support Through Court and Advocate. The regional and local partnerships generally expanded the scope and/or capacity existing services. However, one project, the North and Mid

Wales Law Clinic (NMWLC), was a new regional virtual law clinic, first established during the Covid-19 pandemic.

The NMWLC delivers a service supporting LiPs at every stage of their journey, providing generalist holistic advice designed to identify LiPs early on, preventing escalation of their legal problems, reducing financial hardship, and resolving issues with information to support self-help. As with other LSLIP projects, partnership working and earlier intervention are central to its activities, which aim to achieve improved outcomes for clients and offer a wide range of experiences to students. In this article, I explain how the project provided a unique means to develop Clinical Legal Education (CLE) focused on social justice and preventing escalation of legal problems. I evaluate the first two years of the NMWLC from a CLE perspective, contributing to international debates about the development and practice of online CLE and the nature of community access to justice in the context of austerity cuts to services. I examine how the NMWLC's holistic and empowering approaches fostered a growing sense of social conscience in student volunteers, enabling them to develop a more nuanced understanding of justice problems and solutions, alongside addressing local legal needs, and enhancing their employability. I argue that this breadth of experience is especially important given the changing nature of legal and justice services and careers in many jurisdictions.

Establishing a Virtual Law Clinic, Partnerships, and Social Justice in the Community

The imprimatur to the LSLIP scheme was the UK Ministry of Justice (MoJ) Legal Support Action Plan (the “Plan”), developed after reforms under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) made substantial cuts to legal aid. The Plan acknowledged that “more needs to be done to understand what types of support work best, at what time, and for whom”, particularly noting the importance of people being able to access the appropriate level of advice at an early stage (MoJ, 2019, 5). The Plan included initiatives to work collaboratively with providers to develop web-based legal support tools, use funding to encourage the delivery of support through technology, improve signposting for advice, evaluate the impact of legal support hubs, pilot early legal advice in areas of social welfare law, and enhance support offered to LiPs. The LSLIP grants primarily aim to achieve this latter goal of providing legal support to LiPs.

The support need is especially high in North and Mid Wales, indeed LASPO reforms have had a disproportionately negative impact across Wales (Public Law Project, 2018). Between 2011/12 and 2017/18 legal aid expenditure fell by 37% in Wales as compared to 28% in England (Ifan, 2019). In the areas covered by the NMWLC - North Wales (Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd, and Wrexham) and Powys - matter starts in legal help in the Ministry of Justice category of “welfare” fell from 1,865 matters in 2009/10 to zero in 2020/21 (MoJ, 2022a). In September 2021, as part of its legal aid deserts campaign, the Law Society published “heat maps” showing

the number of legal aid providers in particular subjects of law operating in local authority areas across England and Wales. For North Wales and Powys, each of the seven local authority areas has one housing legal aid provider (Shelter Cymru) apart from Wrexham which has two. There is one community care provider in Gwynedd and one immigration and asylum provider in Wrexham; there are no other providers in North Wales and Powys (zero in education, and zero in welfare). The Law Society updated its maps in May 2022, and the situation for North and Mid Wales remains unchanged (Law Society, 2022).

With so few private firms now engaging in legal aid work, the third sector plays an increasingly important role, and CLE partnership projects between university law departments and local Citizens Advice (CA) have been on the rise, broadening and deepening to improve access to justice (Bengtsson et al, 2021). For example, at Northumbria University students studying a Law in the Community module volunteer weekly at their local CA, as do students completing Birmingham City University's Legal Advice and Representation Unit (LARU) module. These partnership modules help students develop their social justice awareness, legal knowledge, professional skills and understanding of professional conduct rules (Bengtsson *et al.*, 2021; King & Jones, 2018). The NMWLC is a project within this family of initiatives, but also with unique roots as a LSLIP funded virtual partnership.

Literature suggests that considerations involved in establishing a new law clinic can roughly be divided between the "organisational dimension" of how the clinic will be run as an educational initiative, and the "activities dimension" including matters such

as the location of the clinic and legal services it will provide (Nicolson, 2016). One can also distinguish between a structured “cathedral” approach to CLE, defining narrowly the architecture of a university law clinic, its resources, materials, who may enter, and what activities may be conducted, as compared to a “bazaar” of different CLE initiatives, widening access to a diverse student body, all with the underlying ethos of improving access to justice for the public (Thomas & Johnson, 2020, 8). Further considerations, especially in the context of re-imagining CLE beyond its traditional law school roots, are to decide both *when* CLE takes place, including extending out of term time as well as *where* it takes place (Thomas *et al* (eds), 2018). The *where* has increasingly become a combination of in-person, over the telephone, and online.

Traditionally most law clinics have been established first and foremost as in-person services with a physical base at a university, law centre, or other local premises, providing advice by appointment and/or through drop-in sessions. The use of technology by clinics has expanded over the years especially during the Covid-19 pandemic (McFaul *et al.*, 2020; Jones *et al.*, 2018) with new cloud-based practice management software, as well as using platforms like Zoom, Teams, and Google Meet. Some clinics provide telephone advice, which is still the most common form of remote advice delivery in social welfare law (Creutzfeldt & Sechi, 2021). Others provide advice online, through email and in online meetings.

For many law clinics the Covid-19 pandemic necessitated a swift move to remote and online working. This was understandably challenging, and concerns have been raised about client confidentiality and data protection, especially when students and clinic

staff are all working remotely and usually from home (Law Works, 2020). Many clinics did not take on new student volunteers during the pandemic, at least not until training could again take place within clinic or university premises, and most clinics scaled back their services to a degree (LawWorks, 2020).

Some clinics, on the other hand, have been truly virtual from their establishment, with prospective clients completing online contact forms then reviewed by a supervisor before work is assigned to students who then conduct discussions through secure online portals and online meeting platforms (Thanaraj & Sales, 2020 referring to the University of Cumbria online law clinic). The Open University has a fully online clinic using the Clio case management system, where web-based enquiry forms are triaged before allocation to supervisors and students, and all communication between supervisor and student also takes place online.

A proposed advantage of online CLE is the expansion in scale and scope of opportunities; that technology can connect students to placement sites anywhere in the world with CLE seen as “a global movement” where “the inherent benefits of online clinical legal education are not defined by national borders” (McCrimmon *et al.*, 2016, 78). Challenges, however, include that whilst law students may be ‘digital natives’, they cannot be assumed necessarily to have the required skills and confidence to use technology within their university learning experience (Ryan, 2020). On-location volunteering has been stressed as a particularly important benefit of partnerships between law schools and local CA (Bengtsson *et al.*, 2021; King & Jones, 2018); and where projects are fully online there is a clear need to enable students to

have as much exposure to real clients as possible (McFaul *et al.*, 2020). For virtual projects, a key challenge is to minimise students' feelings of isolation due to the remote nature of online CLE (Thanaraj & Sales, 2020).

That *what*, *where* and *when* of clinic establishment is also underscored by resource considerations, including the availability of funding, and the benefits (and drawbacks) of working in partnership (Preložnjak & Brozović, 2016; Thomas & Johnson (eds), 2020). There is also the question of whose needs are paramount. For example, Nicolson argues that putting student education first reduces the clinic's potential to service the community and to model an altruistic ethic to students. He argues that to achieve a social justice orientation, clinics should operate largely outside the curriculum to allow educational and social justice aims to be simultaneously pursued without sacrificing community service to pedagogy (Nicolson, 2006). Whilst social justice is a broad term, in the CLE context it can be taken to include core elements of equality, human dignity, freedom, basic education, healthcare, and justice systems (Weinberg, 2021). In legal education social justice can be over-shadowed by the appeal of the private sector, which stands out both academically and, apparently at least, for career prospects. Consequently, social justice risks being undervalued as students' attention is focused on fields where clients do not face the same challenges. It has been argued that clinics and law schools should collaborate to make students "justice ready", enabling them to acknowledge and evaluate injustice and its consequences with a different perspective from those who are merely "practice ready" (Weinberg, 2021).

The need to broaden student perspectives chimes with recognition that a wide range of individuals and organisations participate in social welfare legal advice ecosystems, especially at a local level, and that this includes public, private and third sector bodies (Edmiston *et al.*, 2022). The nature of legal services has also changed significantly, with unbundling increasingly evident in the access to justice sector. This is where discrete acts of legal assistance are performed under a particular contract or initiative, rather than a single full service where a solicitor, or other caseworker, would usually deal with all matters from initial instruction to conclusion of the matter. Various paraprofessionals, including those based within communities, are seen as important to expanding access to justice. As Rebecca Sandefur's work emphasizes, it should not be presumed that help from fully regulated lawyers, or participation in formal legal processes, is necessarily required, or even desirable, to secure legal entitlements and resolve legal problems. She concludes that there is a crucial distinction between "justice problems" and "legal needs": "If the problem is people's unmet legal needs, the solution is more legal services. If the problem is unresolved justice problems, a wider range of options opens up" (Sandefur, 2019, 50). Given that most law graduates will not go on to become solicitors or barristers (see e.g, Law Society, 2020), and with a larger and more diverse number of people needing access to justice help (see e.g., Mant & Newman, 2021) it is valuable, perhaps even crucial, that students be exposed to a range of modern paraprofessional justice careers.

Establishing and operating the NMWLC required answering the various questions - where, when, what, whom, with what priorities and with what ends in mind - in

unique ways, enabling us to advance our understanding of contemporary virtual CLE, especially against a backdrop of austerity cuts to services and the evolving nature of justice work as a profession.

The North and Mid Wales Law Clinic and Work Placement Module

The NMWLC includes seven local CA branches (six in North Wales plus Powys in Mid Wales) and Bangor University. It aims to provide support and advice to LiPs. For the purposes of the project, LiPs include people already engaged in a hearing or legal proceedings; people who have a legal issue and approach a service about potential legal action; potential or actual defendants in legal proceedings; and people who may have a legal remedy available but are unaware of that option. Advice and support are provided across four categories:

1. Early intervention via community navigation: Engage people who may have a legal remedy to their problem/s but are unaware of this. Resolve the causes of their financial hardship or civil legal problem at the earliest opportunity through skilled triage or generalist advice to diagnose the problems, followed by assistance to prevent the need for court action.
2. Later intervention via specialist casework: Provide specialist casework to the most vulnerable LiPs who approach advice agencies about possible action, uncovering all their legal needs to resolve problem clusters before court.

3. Before court: provide advice, guidance, and support to LiPs to enable them to represent themselves in court: advising on how to prepare any necessary paperwork/court documents, comply with court directions and comport themselves in the court room. Review the LiP's own draft documents and advise on the best method for presenting their case.
4. At court: provide legal advice and representation 'on the day' via in-court schemes operated or supervised by qualified lawyers.

This range of advice provision is more extensive than that formally encapsulated in most university law school modules delivered in partnership with local CA. More specifically, the NMWLC provides generalist advice, and specialist advice and casework in the areas of Family Law, Employment Law, and Powers of Attorney and Deputyship (the latter being areas where local demand was identified by CA and partners). Student activities include generalist adviser training and volunteering, specialist adviser training and volunteering in the areas of law noted above, research and campaigns activity, the opportunity to become an ICAN buddy providing emotional support to those going through the court process, public legal education through outreach, and various opportunities to work with project partners (including law firms, and others, providing advice on the day in a court or tribunal).

The NMWLC began operating in autumn 2020 when there were Covid-19 restrictions across the UK. From autumn 2020 to spring 2021 Bangor University teaching was mostly online, large group teaching commenced online in the 2021/22 academic year,

with small group teaching returning to campus from autumn 2021 and all teaching moving back to campus (with online options where necessary) from early 2022.

Students were initially introduced to the NMWLC through a bilingual online presentation during Welcome Week, delivered again at the start of the second of two academic semesters. This includes contributions from CA training managers and specialist LSLIP caseworkers, University staff, and, as the project progressed, students who had volunteered with the NMWLC. Students then have a supportive interview, considering their motivations and suitability for volunteering, the NMWLC roles they are interested in, as well as any needs they might have. This process takes place (from enquiry to commencement of training) within two weeks.

The initial training aim is for students to achieve CA general adviser competency, before moving on to support specialist advisers in Employment Law, Family Law, Powers of Attorney and Deputyship in the NMWLC. Law students follow an Adviser Learning Programme based around a set of online learning modules, supported throughout via telephone, Zoom, Google Meet and Group Hangouts. Students are provided with one-to-one mentoring by an allocated supervisor and given opportunities to attend training provided by, or in association with, external partners. The Learning Programme is explained to students in advance, noting that training consists of self-study packs, e-learning, podcasts, videos, and courses and webinars. CA have developed various training pathways for law students. All student volunteers are required to commit a minimum of six hours per-week to their training

(and later to their volunteering) with other pathways of 10 hours and 30 hours of weekly training and volunteering (with the latter option available during vacations). After a period of validation, volunteering with the NMWLC became part of a credit-bearing Work Placement Module. Learning outcomes are comparatively broad and include reflecting on experiential learning, as well as demonstrating transferable skills such as time management and adaptability. The full module information can be found online (Bangor University, 2022). Assessment for the module includes students writing a circa 3,500-word reflective report of their experience, in which they are required to address matters such as activities undertaken, skills developed, challenges faced and how they sought to overcome them, and the role and functions of the placement provider in the context of the legal system.

By design, students can volunteer with any of the seven local CA partners, however, in the first two years of the project the students' training was overseen by project Co-Leads Ynys Môn CA and Denbighshire CA. Students were divided between these two branches for initial generalist adviser training, they could then volunteer with any of the seven branches, and/or complete further training to volunteer as specialist advisers in the virtual NMWLC. Referrals into the NMWLC can be made by any of the participating CA branches, and individuals can self-refer through a dedicated email address, though to manage demand and capacity most self-referrals were on the advice of project partners including charities supporting local communities or people with particular characteristics. As Covid-19 restrictions lifted, Bangor students began volunteering in person at local CA branches across North Wales. From that point the

NMWLC became more a 'hybrid' than a fully 'virtual' operation, with community navigation and generalist advice starting to take place in-person, but with specialist legal support, and supervision of students engaging in such, mostly provided virtually.

Methodology of this Study

In spring 2020, Bangor University began an evaluation of its CLE provision, including a review of relevant literature and data in relation to CLE, and scoping legal needs and legal services across North Wales. The literature and data review informs this study. Following development of the LSLIP scheme, the review was extended to examine partnership models for providing legal support and advice to communities. This study is additionally based on evaluating student experiences of volunteering with the NMWLC, in particular by coding and analysing some of their reflective reports written as part of the assessment for the Work Placement Module. With student consent, and under the auspices of Bangor University, College of Arts and Humanities Ethics Committee, 13 student reports were coded using a reflexive approach. This involved identifying themes based on the module's learning outcomes and assessment criteria, alongside considering additional emerging themes, and seeking to make these more concrete through analysing how themes were used within the students' reports, and the limits and context of their occurrence (Clark *et al.*, 2021; Webley, 2010). The coding was conducted by the module leader, with the module's internal moderator examining a sample of six reflective reports against the coding

scheme. The exercise led to some concretised codes where the frequency of occurrence could be meaningfully quantified, such as employability skills referred to, and other themes to be expressed more qualitatively, such as the impact of the experience on the students' sense of social justice.

In addition to coding students' reflective reports, the module leader met regularly with CA staff, including the Chief Executive Officers of Ynys Môn and Denbighshire CAs, training staff, and LSLIP project caseworkers. There was also a weekly online drop-in session where law students could discuss their progress, and any concerns or challenges, with the module leader. The views of students not participating in the curricular module were ascertained by way of a focus group, and online free text survey.

In an aligned project, from May to July 2021, Bangor researcher Dr Sara Closs-Davies conducted interviews aimed at evaluating the effects of the Covid-19 pandemic at Ynys Môn CA. As at least half the students volunteering with the NMWLC during the 2020/21 and 2021/22 academic years did so under training and supervision provided by Ynys Môn CA, the findings of Dr Closs-Davies' report can be valuably read alongside the current findings on student experiences (Closs-Davies, 2021). Both evaluations have been discussed with CA staff, and further clarification and additional information sought through online meetings and email exchanges where appropriate.

The MoJ also undertook an Interim Evaluation of the LSLIP projects, and its findings are referred to in this article where relevant to illustrating the wider impacts, opportunities, and challenges of the LSLIP scheme (MoJ, 2022b).

The following sections are organised around the main - if overlapping - themes raised across the literature review, student reports, Closs-Davies' Ynys Môn CA report, and the Ministry of Justice report. These themes are working in partnership and funding; training, supervision, and assessment; employability and personal attributes; remote and online working; and community justice, sustainability, and empowerment.

Working in Partnership and Funding

The NMWLC is at base a partnership for improving access to justice for LiPs across North and Mid Wales. Partnership working also characterises developments in social welfare advice provision across Wales. Following recommendations of the Low Commission (established by the Legal Action Group to develop a strategy for access to advice and legal support on social welfare law in England and Wales) (Low Commission, 2014), Welsh Government established a National Advice Network (NAN) in 2017. The NAN is responsible for providing expert advice, guidance, and support to the Welsh Government on how to strategically develop the provision of accessible and good quality information and advice services to people in Wales. Six Regional Advice Networks (RANs) were launched in 2020 each with an independent Chair, a steering group (normally including local university representatives), and a membership of regional stakeholders. The initial aims of the RANs have been to map

advice needs and provision and identify gaps; build referral networks between services; combine experiences to identify root causes of common problems; and share best practice and support each other to deliver quality-assured advice (Welsh Government, 2020). The NMWLC has benefitted from linking into the North Wales RAN, with NMWLC Co-Leads being Steering Group members.

All the regional and local LSLIP projects have operated both within and across existing partnerships, as well as enabling the establishment of new partnerships. As the MoJ Interim Evaluation of the LSLIP scheme notes: “Strong communication, trust, rapport and shared information processes have been key to facilitate successful partnership working, particularly for partnerships with a range of advice networks with different cultures and ways of working” (MoJ, 2022b, 94). The LSLIP projects appear to have overcome some of the challenges evidenced by earlier partnership and network projects, such as Local Advice Networks (funded across England by the Big Lottery from 2007 to 2012). Earlier initiatives saw organisations sometimes struggling to work together and finding referrals (including electronic referrals) challenging (Advice UK & Law Centres Federation, 2012). Conversely, the MoJ evaluation of LSLIP reports organisations as having been adaptable and able to make effective use of online management and referral systems as well as other technology (MoJ, 2022b). The LSLIP projects are also freely formed partnerships, as opposed to, for example, the ill-fated Community Legal Advice Centres and Community Legal Advice Networks, whose funding criteria was divisive, effectively forcing established providers to expand

and/or to form consortia to compete for contracts or risk abandoning mainstream social welfare law practice (Fox *et al.*, 2011).

From the CLE perspective, there are different dimensions to partnership working, one is the base partnership between Bangor University and CA, and the other is the relationships with broader NMWLC LSLIP partner organisations, both local, regional, and national. Others operating law in the community partnerships have noted the need to maintain good relationships with partners, and the challenges on all sides where students occasionally disengage (King & Jones, 2018). As a small law department, an issue for Bangor has been encouraging a meaningful number of students to volunteer, whilst also ensuring those who do are sufficiently committed as to be more benefit than burden to external partners. The flexibility shown by CA in developing training routes and volunteering options (discussed further below) has been beneficial in keeping students engaged, but this causes extra work for those partners. In effect, Bangor has 'outsourced' some CLE provision, but does not, at this point in time, financially compensate CA for their work, and whilst the LSLIP grant aims to enhance CA's capacity by funding some administrative support and additional case-workers, who can then train and supervise students, this is unlikely to cover the full costs of developing and operating the training pathways and volunteering roles for law students. Nevertheless, other non-financial benefits for CA have emerged. Association with a university law department, particularly through the MoJ funded LSLIP project, has improved perceptions of CA as a professional player in the delivery of advice and support services in a regional legal context. This can be

evidenced, for example, by the then Lord Chancellor, Robert Buckland QC, referencing the project in a session with the Senedd Cymru/Welsh Parliament, Legislation, Justice and Constitution Committee in February 2021 (Senedd, 2021), and through news media including a Legal News Wales insight piece (Legal News Wales, 2022). CA Co-Leads of the NMWLC and LSLIP caseworkers have attended meetings of the Legal Wales Foundation (a forum convening all the elements of the Welsh legal community in Wales) and attended a roundtable with legal professionals across Wales aimed at establishing a committee to improve collaboration and coordination of pro bono support.

From the perspective of students, there is, however, potential for ownership of clinic work to feel compromised when delivery of training and facilitation of workloads are reliant on external partners. Nevertheless, as evidenced in their reports, students felt the NMWLC enabled them to engage with a wider range of experiences, including making connections with partner organisations, that led to their obtaining paid work experience with law firms, and conducting research and campaigns activity with partner charities including in relation to discrimination, domestic violence, LGBTQ+ communities, and advice seeking behaviours across the generations. Online communication, discussed further below, has made engagement with these wider experiences more obtainable, but much of this connectivity was due to the nature of the project itself as a broad partnership to support LiPs through all stages of their journey, as opposed to digital delivery methods.

An issue for the NMWLC, has been that the partnership initially developed in response to a specific funding call. This means there are funder requirements to comply with, and the future of the project, at least in its initial form, is uncertain. The extent of data collection and reporting required by the MoJ has been particularly burdensome. Whilst this is valuable for research purposes, the administrative work required to collect data has impacted staff time dedicated to training students and supporting client-facing work. The MoJ Interim Evaluation of LSLIP saw grantees sharing concerns that stable, longer-term funding was needed to offer their skilled advisers the job stability and security needed to retain them (MoJ, 2022b, 106). With insecure funding, managing expectations is important, and this could be problematic where volunteering with the NMWLC has been embedded into the curriculum (though as an optional Work Placement module where various other training and work experiences also meet the learning outcomes).

The initial funding period ended in June 2022. As with other LSLIP grantees, the NMWLC was only notified of a funding extension – to September 2022 – towards the end of the initial period. At the time of writing the MoJ has announced a new Help Accessing Legal Support funding scheme, with largely the same aims as the LSLIP projects, including improving and sustaining access to early legal advice and support. For many existing LSLIP grantees, this stream of funding requires an additional full bid, with funds having to be spent by 31 March 2023. This provides a further six months of funding, for which organisations already having established and delivered partnership services will have to submit an additional bid, and potentially do so

against new competitors. This context makes the NMWLC vulnerable to the same challenges faced by the social welfare law advice sector generally, of short-term funding streams, often requiring grantees to propose some innovative or novel approach, or new partnership, as a condition of funding (these issues around funding have been recognised for some time, including by the Law Commission, 2014).

Training, Supervision, and Assessment

In reflecting on NMWLC training, some students found the training to be longer and more in-depth than anticipated. In their own words: “the process of becoming a volunteer for Citizens Advice and the North and Mid Wales Law Clinic is more demanding than I expected and a much longer process of training than first anticipated”; and “the length of the training process was challenging”.

For students who could only commit the minimum six hours a week required for training, and especially for those who could only commit to the minimum 70 hours required for the Work Placement Module, they inevitably had fewer experiences of specialist advice and casework, and less client-interaction, and student frustrations on this point were evident.

In contrast to other CA partnership modules, Bangor’s Work Placement Module does not require students to complete generalist adviser training, whether out of term time or otherwise, before commencing the curricular module. On the Northumbria Law in the Community module students complete an online training course six weeks before starting at CA to “hit the ground running” (Bengtsson *et al.*, 2021). The Work

Placement module at Bangor operates on a more flexible basis. Students can begin volunteering with the NMWLC (outside the curriculum) at any time during their studies (though attempts are made to group students together to start training either at the beginning of semester one, beginning of semester two, or during the summer vacation). The Work Placement module requires 70 hours placement experience to be completed (and evidenced) and assessment involves reflecting on activities and critically evaluating the role and functions of the organisation within the legal system. This is different to other CA partnership modules where assessment is based on completing adviser training and/or being assessed for competence in particular skills such as client interviewing and taking attendance notes (Bengtsson *et al.*, 2021; King & Jones, 2018). The student body at Bangor is diverse, including international students, mature students, and students who live at home along the North Wales coast. There would be challenges for many were they expected to complete training as a condition of joining the module, and Bangor University generally operates on the principle that even optional modules should be open to all. Reasonable adjustments are made where appropriate, both in relation to module delivery and assessment, and in association with CA with respect to training, this is especially important to ensure respect for protected characteristics under the Equality Act 2010. Training itself can be adjusted, but students can also choose specific roles, for example a very small number of students engaged in only research and campaigns activity. Students did not register any dissatisfaction, either in their reflective reports, in module evaluation or otherwise, about not being directly assessed by the University on skills or

competencies gained. They noted that they were “assessed” regularly as part of their general adviser training, where relevant, and at the end of other optional training opportunities provided by partners, and that they found this beneficial, including the option to retake components.

To address students’ desire to gain more client-facing experience even within limited training hours, the NMWLC staff developed a specific project, Lasting Power of Attorney Adviser, for students wishing to gain legal client-facing experiences as soon as possible, but who were unable to commit to longer training hours. Students were able to complete legal documentation under supervision and gained a more immediate sense of having helped clients with a specific task. Thought could be given in future to developing different versions of the curricular module, such as an option with double the credits of an ordinary elective so that students can spend more time training and volunteering within the framework of their degree programme. This could be valuable as working with the NMWLC can constitute Qualifying Work Experience (QWE) for the purposes of qualifying as a solicitor under the Solicitors Qualifying Examinations (SQE) route.

A key aim of the NMWLC was to expose students to a range of social problems, with corresponding opportunities to consider what might be seen as less attractive areas of legal specialism. Students found welfare benefits law particularly challenging both in scope, complexity, and frequent change. As one put it: “I particularly struggled with the module related to benefits”. Another stated:

...social welfare systems or regulations of it, such as universal credit, constantly change, so that I occasionally had to spend time keeping up with it to give up-to-date advice. Some of them were surprisingly complicated to understand, but still, clients were continually coming to ask for help to understand those systems or rights that they are entitled to.

It is notable that this important and challenging area of law is not included within the SQE. Although social welfare law was not a specific requirement of the previous Legal Practice Course, concerns have been expressed that the SQE represents a missed opportunity. Victoria Speed, Director of Pro Bono and Corporate Social Responsibility at BPP University Law School, argued that “there are some glaring omissions in the list of practice areas covered” by the SQE, with potential to “alter the landscape of legal services in social welfare law for years to come” (Speed, *nd*). Academics from UCL’s Centre for Access to Justice have reached similar conclusions (Knowles & Kinghan, 2020).

A learning outcome of the Bangor Work Placement Module was for students to reflect on what worked well in their experience, with a commonly cited factor being supportive engagement with their supervisor. Students said: “consistent help from my supervisor and sufficient training materials have maintained my motivation for my work throughout” and “I was always able to contact my supervisor for support...this allowed me to regularly reflect upon my learning experience”. NMWLC staff, advisers, and supervisors, were described as the “real heroes” bringing

to life the principles of the service. Students noted that weekly one to one Google Meet with their supervisor provided a consistent opportunity to reflect on work and plan tasks. They gave examples of supervisors assisting them during periods of high workload with their studies, or at times when they were facing other difficulties such as illness. Supervisors worked with students to adjust training plans and client-facing workloads, to agree priorities, and to support student well-being.

Students valued training in client-facing work the most, on topics such as interviewing and taking attendance notes. Students also valued the opportunity to observe experienced advisors giving advice over the telephone and online, and the phased and supported introduction to giving advice themselves. As one put it: “the real development and practical appliance of the skills which we learned about were done by participating in communities of practice, where our role and responsibilities as trainees gradually increased as we learned more from those above us”.

Employability and Personal Attributes

An aim of the NMWLC project was to provide access to law work experience, increasing student employability after graduation. Most definitions of employability reference skills, abilities, and qualifications, as well as personal qualities and work behaviours (e.g., Yorke, 2006). Notably, some students reflected that their main motivation for volunteering with the NMWLC was their inability to secure placements with private law firms, having sent CVs and expressions of interest to firms in North Wales, Cheshire and further afield, often with no response, or having

been informed that firms were not offering work experience. This lack of opportunities seemed to stem both from initial office closures due to Covid-19, but later also from the challenges, particularly for smaller local firms, of supervising students after introducing more flexible and remote working for their staff. Larger local and regional firms have expanded their reach to offer online work experience to students from as far afield as Southeast England, increasing competition and reducing the offering to local students. Weakening links between local/regional law firms and their closest universities may be a wider potential impact of virtual work experience.

The skills and attributes referenced by the NMWLC students can be loosely divided into transferable skills, legal skills, and personal qualities. All students noted they had been exposed to a range of online learning platforms and approaches, and other tools and apps such as benefits calculators, with most considering their technological capability had developed as a result. As one student reflected: "The opportunity to learn how to use an online work system such as, diary, case recording and reporting, has been a particular gain for me as I had no experience of this beforehand". Students also mentioned improving their telephone skills, e.g., through being given "guidance on techniques to use when speaking to clients on the telephone", and that "training conducted on client communication through various sources including telephone, email, letters, webchat and face-to-face was also relevant to greater future employment skills". Students also reflected on improving their problem-solving and critical thinking.

In terms of legal skills, students reflected on having learnt about maintaining client confidentiality, acting ethically and in accordance with relevant data protection and privacy laws. The majority felt the experience was directly relevant to applying their legal knowledge including in areas of law they were currently studying, such as family law, employment law, consumer law and even criminal law. As one student said, "I have gained experience in Community Care, Family and Employment Law...I now understand how to prepare a case for court and have acquired administrative skills by completing documents including N1 claim forms". Students reported that the experience gave them an insight into areas of law that are not part of compulsory teaching on most undergraduate degrees, in particular the law relating to debt, benefits, and tax. Most students reflected on developing their client interviewing skills, and how this also required them to adapt to client needs. Some students, particularly those managing their own caseloads, developed their abilities to draft professional letters and emails. Students reflected on learning how to use casebook software to record information about clients and their problems and using Advisernet.

Reflecting on the personal attributes, all students mentioned confidence, linking growth in confidence to training in client-facing skills. There are many examples of research highlighting the impact of CLE on student confidence (e.g., Cantatore, 2018; Wortham *et al.*, 2012) including in the context of CA partnerships (King & Jones, 2018). Student comments are indicative: "After I completed my training, I felt a sense of confidence and achievement at learning a new skill"; "training has developed a

number of my skills and provided me with the confidence to deal with clients by myself”; “as my experience grew, so did my confidence and my skills which led to me handling my own client caseload”.

Across the LSLIP partnerships, the MoJ Interim Evaluation found that grantees attributed an increase in clients helped “to the successful training and upskilling of their staff and volunteers, which has enabled their organisation to triage clients more effectively and provide more in-depth advice at an earlier opportunity” (MoJ, 2022b, 32). The evaluation also concluded that grantees have been able to increase the delivery of early advice as “LSLIP funded specialist caseworkers have provided training for volunteers and staff, increasing the volumes, quality and effectiveness of initial advice and triage activity” (MoJ, 2022b, 39).

Remote and Online Working

The NMWLC, as a partnership with CA, allowed Bangor to bypass many of the logistical issues associated with establishing a virtual clinic as the IT systems used were those already developed and adapted by CA, including online meeting platforms. CA were able to loan students laptops and mobile phones to ensure their clinic work was kept separate from their personal devices. CA staff and volunteers, including NMWLC students, are only permitted to use organisationally owned IT equipment. Platforms are password protected (numerous times), and hardware is required to be stored and locked away when not in use. In their reflective reports, some students expressed frustration with the extent of password protection, including

the need to have different passwords for different systems, but these were necessary working practices. CA operates a cloud-based platform for adviser training, and for accessing CA's Client Relationship Management System (CRM). All staff undertake mandatory annual GDPR training, with such training, and other modules on confidentiality and ethics, being compulsory for law student volunteers. Staff and volunteers are only permitted to work remotely where they have a private room in which to do so. All information imparted via WhatsApp or over the phone is required to be recorded within the CRM and then deleted from devices. Generic emails are used for communication with clients, rather than staff organisational email addresses.

Closs-Davies' report on the effects of the Covid-19 pandemic at Ynys Môn CA paints a largely positive picture of remote working. She finds that all staff had access to necessary equipment, and that use of WhatsApp messaging for staff groups to keep in touch, to share resources when policy, rules and practice were changing frequently, and to engage with clients, has been "immensely beneficial" (Closs-Davies, 2021, 5-8). She also found that for many clients the accessibility of the service increased by the offer of different modes of communication, though she also notes staff concerns around losing touch with existing clients who lack digital literacy or who are physically impaired and unable to communicate effectively over the telephone or by text message (Closs-Davies, 2021, 8).

In their reports, NMWLC student volunteers critically reflected on the impact of the Covid-19 pandemic on the delivery of social welfare law advice, the challenges of online advice delivery particularly for certain client groups, and the challenges for

volunteers. Their comments echoed those reported in a Pandemic Welfare Advice Survey, where 90% of adviser respondents thought the delivery of advice remotely was either very or fairly effective, but nearly half thought this mode of delivery affected their relationship with their clients, and most also believed that clients had been affected (Creutzfeldt and Sechi, 2021). However, Closs-Davies records Ynys Môn CA staff citing *improved* relationships with clients, particularly where staff have provided services in gradual and piecemeal approaches over time, with some clients correspondingly playing a more active role in their case, whereas in-person advice appointments might have been brief and heavily dependent on adviser input (Closs-Davies, 2021, 7).

Students, on the other hand, appeared to experience difficulties with remote and online working, including that navigating a range of online sources proved more challenging than anticipated. Dependence on technology increased the length of training for some participating students as they needed to become confident in using online applications as well as in other key skills. This led to feelings of disappointment about lack of inter-action with real clients; a lack of interaction sometimes exacerbated by clients not attending arranged online meetings, in part due to the clustered problems they were facing, and in part due to their own challenges with using technology.

For some students finding a suitably private place to take part in meetings and/or engage with clients around their university studies was difficult, especially once academic classes moved largely back on campus, and particularly for students living

some distance from the University and factoring in travel time. In future, the University should be able to provide quiet, private spaces for students to conduct client work. Whereas CA staff found a piecemeal, 'little and often' approach to client support - such as through WhatsApp - beneficial, this tactic was more difficult for university students, many of whom generally preferred volunteering within clearly timetabled hours, ideally set by themselves, to manage their various commitments. CA staff also noted the increased use of WhatsApp, text messaging, and phone calls led to some clients becoming (too) familiar with caseworkers. It is important that students are properly supported and safeguarded when providing services through these methods of communication, and that work-life balance is well managed.

Closs-Davies' report found that CA put the well-being of their staff at the forefront of their work, with weekly Well-being Wednesday sessions, twice-daily staff Zoom meetings and by adapting staff weekly reports to become more discursive and less quantitatively focused (Closs-Davies, 2021, 12). Some students reflected that the cohort of NMWLC volunteers were able to bond and support each other, including through Well-being Wednesday, regular Google Hangouts and WhatsApp Groups. However, the most significant challenge for students was the remote nature of the experience. Although the majority saw value in the flexibility of online working, many considered this had limited their opportunities to feel fully part of the workplace. As one student put it, the remoteness "badly impacted the placement as it reduced my motivation" and that as a result "no sense of belonging to a workforce community within a charitable organisation" was developed. Another explained: "remote

working caused difficulties for me...I did not feel quite as connected to my colleagues as I would have done had we been working together in person. Though the remote working was good in some ways, for example saving on travel time". Another said, "doing this placement during a pandemic is harder [and] contributes to the feeling of not being ready and capable to advise the public".

Perhaps a key difference here is that CA staff have already formed relationships and are experienced in their roles, but are adjusting to new modes of working, whereas student volunteers are developing relationships with each other, with University staff, and with CA staff, as well as training in sometimes unfamiliar areas of law and practice, all online and/or over the phone. The experience of the NMWLC students suggests the absence of any physical in-person interaction is a significant barrier for some volunteers in feeling fully part of an initiative. Further research could examine whether the lack of connection and lack of belonging some NMWLC students felt was in part due to their perceptions of the role of CA, and whether such feelings are as evident with other forms of online CLE; especially as students linked the remoteness of training with not feeling ready to engage with clients in real time, even after observing online and telephone advice delivered by their supervisors. Research with Ynys Môn CA found that some CA staff would welcome a hybrid approach of working between home and the office, and early indications from students volunteering in-person with local CA branches is that they would prefer something similar, enabling them to connect physically in-person with staff and clients, but also allowing them to expand their experiences, and their volunteering hours, online.

Community Justice, Sustainability, and Empowerment

A key aim of the NMWLC LSLIP partnership is for students to develop an understanding of broader social issues relating to well-being, and for participants to be more willing to contribute to the wider community and encouraged to contribute to pro bono services beyond the lifetime of the project. Social justice and sustainability (in its various forms) are central to Bangor University, which was founded in 1884 as a direct result of a campaign in the late Nineteenth Century for higher education provision in Wales. Funds were raised by public subscription to establish a college of university rank in Bangor. An important feature of its foundation was the voluntary contributions made by local people, including farmers and quarrymen, from their weekly wages. The quarrymen's dream of social justice through education remains central (Roberts, 2009).

When asked to reflect on why they volunteered with the NMWLC, some students noted their desire to "make a positive difference in the lives of others" and to "contribute something positive back into my community". However, these students were in the minority, and were more likely to cite experience of family members, friends or others who had received advice from CA, and/or to note their own socio-economic background and life challenges as motivating them. Similarly, the Legal Aid Practitioners Group 2021 Legal Aid Census found that students who personally experienced injustice or poverty, or witnessed or heard about injustice, were influenced by their experiences to become legal aid practitioners (Denvir *et al.*, 2022).

In writing about the NMWLC connection to the legal system, all students referred to cuts in legal aid and LASPO, and their impacts on people seeking advice. Students cited “equal access to justice as a fundamental element of the rule of law”, and how services such as the NMWLC have been developed to “fill gaps” where LASPO has had a “devastating impact upon societies’ access to justice”. Students referred to social welfare advice services as providing a “safety net” for those on low incomes and as a vital institution for “safeguarding the rule of law” in a society where it has become “practically impossible” for ordinary people to access legal advice and to access the courts. As one student put it: “Citizen’s Advice has always aimed to help people and make a fairer justice system”, but that the LASPO cuts undermined the “universal right to justice”.

A minority of students perceived a disconnect between the LSLIP project aims of providing early legal help through community navigation, generalist and specialist advice, and their career goals to become lawyers. Some also saw encouraging client proactivity as at odds with their perception of how advice should be given. Other students reflected much more positively on “empowerment”, especially as a guiding principle of CA aimed at helping people understand their legal rights. This approach empowers clients to have more voice, influence, and agency in resolving their own problems, with access to information, support, and casework where appropriate.

Students reflected on the clustering of social welfare legal issues (identified e.g., by Pleasence *et al.*, 2004) and the importance of holistic advice that could be offered through the NMWLC, where advice can be given on a range of issues affecting a client,

from benefits to debt, housing, and family problems, in addition to legal support. As one student noted: “It was evident that there can be several legal issues which may revolve around a particular client”.

Students also reflected on the social justice aims of CA and the NMWLC. As one put it, CA “has developed and touched many key issues in the society by not just providing free advice and information to the citizens but also by influencing policymakers”. Examples given included in relation to debt issues, housing law and employment law initiatives, as well as campaigns relating to equality and non-discrimination. CA was seen as particularly effective at demonstrating to government the issues people in communities are facing and how fixing these issues can save significant sums of public money. Other research has found that law students volunteering with CA show a particular aptitude for identifying social policy issues that has been beneficial for CA partners (King & Jones, 2018), and this was also evident with NMWLC student volunteers. The project also has some shades of so-called “rebellious lawyering” as student advisers and staff see client issues as evidence of potentially community-wide problems (Owen, 2022), and the empowerment approach of CA encourages clients to advocate for themselves.

From the evidence in this study, it can be argued that the NMWLC project arrived at an organic balance between social justice and educational CLE paradigms. The first year was catalysed by the availability of funding to address identified regional access to justice needs, and student engagement was voluntary, by the second year a curricular (albeit elective) module had been developed which rewarded students who

demonstrated a commitment to volunteering, that in turn led to higher levels of commitment and longer volunteering hours, which snowballed into students benefitting from a broader range of experiences and developing more extensive skills and capacities. Developing the NMWLC as a LSLIP project has been a means to achieve the simultaneous pursuit of both educational and social justice aims without sacrificing community service to pedagogy. Here the students' reflections are valuable:

“This experience has “enhanced my professional values, administrative and legal skills whilst instilling a sensitivity to the concept of justice within me and have allowed me to put legal education into practice, deepening my understanding of the legal environment which awaits me upon graduation”.

“As someone who has always been passionate about volunteer work, the Clinic allowed me to apply my passion in a way which benefits my future career path. The skills I have learned and developed are invaluable, and I believe have played a key role in securing a Vacation Scheme...”

“One of the things I enjoyed about my work experience as a trainee advisor at the North and Mid Wales Law Clinic was that I was able to recognise that in our society we have many complex issues”.

“Being able to provide help and support gives a feeling of closeness to the weakest of our society, but also the perception of contributing to social justice”.

“...not only is researching into policy campaigns useful to my future employment but has also made me eager to improve a better standard for not just my local community but nationally”.

“I feel as though without volunteering I would not be as socially aware or as tolerant”.

In addition to social justice and empowerment, sustainability is also important to Bangor University, whose 2030 Strategy is entitled, *A Sustainable World for Future Generations*, and is founded on the seven well-being goals in the *Well-being of Future Generations (Wales) Act 2015*. The strategy states: “The University will continue to support student volunteering activities to promote engagement between students and the community contributing towards a Wales of cohesive communities”; such communities being “attractive, viable, safe and well-connected” (*Well-being of Future Generations (Wales) Act 2015*). Law clinics have been recognised as having an important role to play in relation to communities of practice around well-being under the future generations framework (Owen, 2020). In particular, the community engagement work of clinics can contribute to well-being plans which set out local

priorities and actions for a five-year period to improve economic, social, cultural, and environmental well-being.

In addition to improving sustainability as understood through various compartments of well-being, law clinics can also contribute to the sustainability of the legal profession, and the wider social welfare advice profession. The 2019 Commission on Justice in Wales found that: “The age profile of solicitors combined with the very small number of training contracts available in Wales each year are indicators that the Welsh solicitors’ profession risks significant demographic pressures over the next few years” (Commission on Justice in Wales, 2019, para 9.11). It also concluded that few firms in Wales practise social welfare law, and that whilst the third sector is endeavouring to fill the void created by the disappearance of legal aid, this challenge cannot always be met by voluntary services (Commission on Justice in Wales, 2019, para 3.9). Through discussions with the Solicitors Regulation Authority, the activities completed by students in the NMWLC constitute competencies set out in the statement of solicitor competence and could therefore be confirmed as QWE for the purposes of qualifying as a solicitor on a case-by-case basis; though there can be practical challenges in confirming QWE outside the traditional law firm environment (Roper *et al.*, 2020). Initiatives like the NMWLC contribute to efforts to retain legal talent in Wales. Providing more partnership training opportunities in Wales could also counteract QWE’s potential to entice graduates to leave as the diversity of routes to qualification in England also expands.

Concluding Reflections

As a model for advice services and CLE, a key element of the NMWLC has been the development of a partnership beyond the lead organisations. Rather than being enforced through funding conditions this has grown up organically based on local conditions and connections. The use of technology has also developed organically from the bottom-up, drawing on existing and developing expertise and experiences of the advice sector, shared both through NMWLC partnership events, the North Wales RAN, and the wider ATJF Network for Justice.

Hundreds of people have been helped by the NMWLC and over 50 students have volunteered in various ways in the first two years. Most of the advice provided has been at early intervention stage, followed by later intervention via specialist advice. The holistic nature of the project to support and advise LiPs has changed many of the students' perceptions, to the extent that they are much less likely to equate access to justice solely with the work of solicitors and barristers and participation in formal legal processes; subsequently expanding their understanding of their career options in the contemporary legal training and legal services context. Students have a much greater appreciation of "empowerment" and enabling people and communities to help themselves with some elements of their justice problems, as well as being aware that this is increasingly achieved or supported using new technology. These developments are part of a global trend, whose elements also include a greater appreciation of sustainability in all its forms, both economic and well-being based,

with the NMWLC evaluation then demonstrating important learning across legal jurisdictions.

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MEASURING THE IMPACT OF CLINIC PARTICIPATION ON LAW GRADUATES: A SMALL CASE STUDY

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Abstract

In an academic environment where there is an increasing emphasis on impact, it is rather surprising that there is a paucity of studies on the effect (if any) of participation in a clinical legal education programme on the career trajectory of law graduates. In this article, after considering the methodologies behind and outcomes of two such studies conducted in North America, the author describes how he devised a survey, which was sent to a group of law students at the University of Galway's externship-based clinical programme in its pilot year, and analyses the responses. In short, this study – like the other two – suggests that clinic participation has a marked impact on lawyers in terms of enhancing practical legal skills, but a less significant impact when it comes to inspiring graduates to embark upon public interest-oriented legal careers or undertake *pro bono* work. The article acknowledges that there are myriad factors influencing these choices and that it is foolish to extrapolate excessively from these studies. It concludes by arguing that, no matter these “failings” with respect to the social justice imperative that helps define clinical legal education, the capacity of

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programmes to equip future lawyers with key skills and to instil in them, at the very least, a cognisance of the shortcomings of the law and legal system means that our work is still eminently worthwhile.

I. Introduction: Clinic, Then What?

“I was a bit surprised to discover how humane this profession is. On a visceral level, you know that clients are probably the most necessary element of any kind of legal practice. That did not prevent me from being surprised at how intimate the discussions between a solicitor/legal advocate and a client can be. Up until this placement, I had never realised how important being heard was...I imagined that interactions between solicitors and clients would more closely resemble a problem exam question. This placement also gave me a realistic expectation of what a career in the legal profession - with an emphasis on human rights - may look like, as well as helping me to shift my expectations for my potential career trajectory. Through this experience I was able to learn more about the housing crisis and get an on-the-ground glimpse at the people directly affected by it and better understand the failings of the legal system when it comes to providing for people.”²

² Student Reflective Essay, Academic Year 2021-2022 (on file with author).

It is arguably this type of student feedback that makes those of us involved in the enterprise of clinical legal education tick. Especially in programmes where the emphasis is on human rights, social justice and the public interest, our students, like the one quoted above, are exposed to the realities of law practice and of working within the legal system that simply cannot be captured in a seminar room or lecture hall. Albeit in a more advanced context than the externship/placement-based (the two descriptors are used interchangeably from here) clinical programme in my own law school, Stephen Wizner encapsulates the essence of this animating impulse for clinical legal education:

students can engage in faculty-supervised law practice in a setting where they are called upon to achieve excellence in practice and to reflect upon the nature of that practice and its relationship to law as taught in the classroom and studied in the library. It is a method of teaching law students to represent clients effectively in the legal system, and at the same time to develop a critical view of that system. Law students in the clinic learn that legal doctrine, rules, and procedure; legal theory; the planning and execution of legal representation of clients; ethical considerations; and social, economic and political implications of legal advocacy, are all fundamentally interrelated.³

³ Stephen Wizner, "The Law School Clinic: Legal Education in the Interests of Justice" 70 *Fordham Law Review* 1929, 1930 (2001).

Fortunately, more than 15 years on from the foundation of the clinical legal education programme in the School of Law at the University of Galway, the required periodic emails and summative essays from students who undertake placements for academic credit indicate that our students have a cognisance of what Wizner adverts to, as well as of the dissonance between the theory they learn and what “real world law” is ultimately about. A straightforward question has struck me over the years as I have read hundreds of revealing student submissions, often while nodding or smiling ruefully at what they have encountered to their delight or dismay in the clinical experience: What, then, do they do? Stated another way, what impact will their participation in our humble legal clinic have on their career trajectory and professional ethos down the road? Of course, impact is something that all academics are being forced to examine across virtually all aspects of our activity and a central component of any assessment of our labours.⁴

Naturally, when students are fresh from their externships – usually their first exposure to law practice – and memories are unsullied in their minds, they will say that the impact of the clinic has been and will be significant. A cynic might assert it is all well and good, particularly when they understand completely what the goals of the clinical programme are and are seeking the best mark possible, to mouth platitudes about what it has meant to them. But still, the question remains: What

⁴ See generally, Kylie Smith, Ellie Crookes and Patrick Crookes, “Measuring Research ‘Impact’ for Academic Promotion: Issues from the Literature” 35 *Journal of Higher Education Policy and Management* 410 (2013).

difference does clinic make? And a specific sub-query is there for those students emerging from clinics in the human rights/social justice/public interest space: Are they engendering more “lawyers for others” – to borrow a mantra from Jesuit education?

To this end, after undertaking some research to see what, if anything, had been done previously, I decided to survey the first group of participants in the clinical programme in the law school at the University of Galway from academic year 2006-2007. Notwithstanding the delaying and other effects of the pandemic, 9 of the 14 members of that cohort eventually responded. In the main, their responses to the questions posed in the short questionnaire were admirably honest, detailed and considered. They ranged from gratifying to underwhelming to downright disappointing. Part Two of this article will briefly summarise the literature on previous endeavours to measure the impact of clinical participation; Part Three will outline the methodology behind and outcomes of my modest survey; Part Four will ponder “the good, the bad and the ugly” of the mostly unflinching answers that were elicited; and finally, the article will close with a play on a question that inspired the survey and this article: What, then, will *we* do?

II. Past Surveys of Clinical Graduates

The American authors of an article considering the findings of a national, longitudinal survey – “After the JD”⁵ – aimed at early-career attorneys in the United States, who had been sworn in as members of the bar in the previous decade, make an important distinction at the outset between what they envisage as the “skills and civic dimensions of lawyer training.”⁶ The first relates to the nuts and bolts of practising law; the latter is concerned with professional identity and ethics. Both lie at the heart of clinical legal education.⁷ But it is the analysis of the relevant portions of “After the JD” and the findings of another, narrower survey with respect to the second, civic dimension that this article and my own survey are focused on.

Citing what they call an evidence gap, the authors note that, despite roughly 50% of students at law schools in the US being involved in a range of clinical activities, from “live client” to externship, there is a paucity of research “to reveal, explain or otherwise inform our understanding of the relationship between clinical legal education and the practical and professional development of law students.”⁸

Accordingly, the first of its kind “After the JD” opinion poll, and what they were able to distil therefrom, was a badly needed, long overdue resource. On the skills side, a

⁵ Ronit Dinovitzer, Bryant Garth, Richard Sander, Joyce Sterling and Gita Wilder, *After the JD: First Results of a National Study of Legal Careers* (The NALP Foundation for Law Career Research and Education and the American Bar Foundation, 2004).

⁶ Rebecca Sandefur and Jeffrey Selbin, “The Clinic Effect” 16 *Clinical Law Review* 57, 57 (2009).

⁷ Margaret Martin Barry, Jon Dubin and Peter Joy, “Clinical Legal Education for This Millennium: The Third Wave” 7 *Clinical Law Review* 1, 5-32 (2000).

⁸ Rebecca Sandefur and Jeffrey Selbin, “The Clinic Effect” 16 *Clinical Law Review* 57, 78-79 (2009).

majority of those surveyed in it identified clinical training as one of the most useful elements of the formal law school curriculum for making the transition to early work assignments as an attorney.⁹ This is not surprising. As clinical legal education has expanded even to jurisdictions and law schools that were late and somewhat reluctant converts, a big incentive to buy into it was the expectation that clinics would be a valuable complement to pre-existing skills modules.¹⁰

It is undeniably disappointing, though, from a clinicians' perspective, that the authors' detailed study and analysis of "After the JD" – utilising myriad control factors to account for some of the vagaries of the survey, the limited pool of respondents and other inconsistencies – found scant evidence of a relationship between clinical training experiences and new lawyers' civic participation or pro bono service.¹¹ They also "found no consistent relationship between clinical training experiences and new lawyers' active participation in community, charitable, bar-related and political advocacy groups."¹² They did, however, "find a strong relationship between clinical training experiences and public service employment. But this relationship held only for new lawyers who reported they had entered the profession for what might be

⁹ Ibid at 81-89.

¹⁰ See generally, Richard Grimes, "Legal Skills and Clinical Legal Education" [2005] 3 Web Journal of Current Legal Issues available at <<http://www.bailii.org/uk/other/journals/WebJCLI/1995/issue3/resear2.html>> last visited 16 June 2022.

¹¹ Rebecca Sandefur and Jeffrey Selbin, "The Clinic Effect" 16 *Clinical Law Review* 57, 57 (2009). The authors did not have an easy task of extrapolating findings from the "limited" data from and often imprecise, indirect questions in the "After the JD" survey. Drilling down into exactly how they did so would distract unduly from the focus of this article and lies far outside its author's area of competence. The authors of "The Clinic Effect" recommend strongly further research and "hope to encourage more in-depth and sustained inquiry into the clinic effort." Ibid at 102-107.

¹² Ibid at 101.

termed 'civic' reasons: a wish to help individuals as a lawyer or to change or improve society."¹³

Some crucial observations about the clinics themselves, market forces, economic realities and a dearth of public service law jobs are made: "Clinical training's impact...is mediated by the nature of the clinic experience itself, the context of the overall law school experience and forces external to legal education that powerfully shape lawyers' attitudes and behaviour."¹⁴ Nonetheless, many of us believe passionately that clinical legal education has the unique capacity to be a change agent and aren't afraid to say it.¹⁵ For us, then, these are, to put it euphemistically, mixed results.

A more focused survey was undertaken of graduates of the University of Saskatchewan College of Law in Saskatoon, Canada by Professor Sarah Buhler and her research assistant, Janelle Anderson, in 2012.¹⁶ From a pool of 106 potential students, they wound up with 58 total respondents, 23 males and 35 women.¹⁷ The vast majority were under 40 and they had embarked upon a variety of predominantly legal or law-related career paths.¹⁸ The clinical programme at the university – a "not-

¹³ Ibid at 101.

¹⁴ Ibid at 105.

¹⁵ Lucie White, "The Transformative Potential of Clinical Legal Education" 35 *Osgoode Hall Law Journal* 603, 607 (1997); Lawrence Donnelly, *Clinical Legal Education in Ireland: Progress and Potential* (Free Legal Advice Centres/Public Interest Law Alliance, 2015) 46.

¹⁶ Janelle Anderson, "Clinical Legal Education: Perspectives from Former Clinical Law Students" 37 *Manitoba Law Journal* 427, 428-429 (2013); See generally, Sarah Buhler, "I Am Not a Caped Crusader: Clinical Legal Education and Professional Identity Formation" 49 *University of British Columbia Law Review* 105 (2016).

¹⁷ Janelle Anderson, "Clinical Legal Education: Perspectives from Former Clinical Law Students" 37 *Manitoba Law Journal* 427, 429-430 (2013).

¹⁸ Ibid at 430.

for-profit community legal clinic with a mandate to serve low-income clients that are unable to afford legal services and do not otherwise qualify for legal assistance” – has a strong “social justice orientation” and unapologetically teaches students to “challenge the status quo.”¹⁹ Indeed, 63% of the graduates listed an interest in social justice as their primary motivation for attending law school; this was easily the number one factor of eight that they could choose from.²⁰ And their qualitative feedback consistently illustrated that they were moved by the plight of many clients of the clinic and felt a duty to use their own privileged positions to ameliorate the clients’ typically unenviable situations.²¹

In addition to questions about the age and reason for attending law school, survey participants were asked about their motivations for enrolling in the clinic, the nature of their current employment, their extent of their involvement in *pro bono* work, as well as more open-ended questions about the overarching impact of Saskatchewan’s clinical programme on them as persons and professionals.²² There were some very interesting responses. More than 80% opted for the clinic because they felt it would enhance their legal skills and more than 2/3 cited their own orientation toward advancing social justice and the public interest.²³ More than 60% were employed as practicing lawyers and less than 20% were working in the public sector.²⁴ Rather

¹⁹ Ibid at 430-431.

²⁰ Ibid at Appendix.

²¹ Ibid at 433-437.

²² Ibid at Appendix.

²³ Ibid at Appendix.

²⁴ Ibid at Appendix.

discordantly, however, in light of their responses to other questions, more than half either never or rarely undertook *pro bono* work and just 1/4 could readily be defined as active in the area.²⁵ As for impact-related questions, those surveyed generally concurred that their clinical experiences equipped them with legal skills, set them apart from other law graduates and inculcated a cognisance that the “practice of law is related to social justice.”²⁶

III. The Galway Survey

It was the aforementioned emphasis in academia on impact – together with a paucity of similar surveys in Europe and, perhaps above all, a genuine curiosity – that led me to read about “After the JD” and what had been done in Saskatchewan and to then devise my own survey in 2019. I started the clinical legal education programme at the School of Law in the University of Galway in 2006 and decided that an ideal and manageable group to send a questionnaire to would be the pilot class from academic year 2006-2007. Our clinical programme in Galway, like others at Irish law schools, is modest when compared to the “Rolls Royce” models of clinical legal education in operation elsewhere.²⁷ At the University of Galway, final year undergraduate law students undertake part-time, optional placements/externships for which they receive

²⁵ Ibid at Appendix.

²⁶ Ibid at Appendix.

²⁷ See generally Lawrence Donnelly, “Irish Clinical Legal Education *Ab Initio*: Challenges and Opportunities” (2008) 13 *International Journal of Clinical Legal Education* 56; Lawrence Donnelly, *Clinical Legal Education in Ireland: Progress and Potential* (Free Legal Advice Centres/Public Interest Law Alliance, 2015).

academic credit and are evaluated by means of participation in seminars, a reflective essay, feedback from supervisors and, in some instances, non-privileged work product.²⁸ The programme emphasises placements in the social justice/public interest sphere, but there are opportunities available in many areas. In recent years – regrettably, speaking frankly – there has been a marked decline in student interest in placements with non-governmental organisations or community law centres, with placements in commercial law firms being in far greater demand.²⁹

While the amount of students taking this Clinical Placement module rose to the mid-50s prior to dipping to around 30 during the pandemic, 14 brave souls decided to take the plunge and see for themselves what clinical legal education was like back in 2007. They were all excellent, high-achieving students. Because they were small in number and had been pursuing careers for more than a decade, I viewed them as the optimal cohort. Having used the internet – primarily LinkedIn – to find them, 9 ultimately replied. Given that Buhler and Anderson heard back from roughly 55% of those they sought to contact, this seemed a decent rate of response.³⁰

²⁸ Lawrence Donnelly, “Irish Clinical Legal Education *Ab Initio*: Challenges and Opportunities” (2008) 13 *International Journal of Clinical Legal Education* 56, 61-63.

²⁹ This is something of a global trend. See generally, Lynisse Phillips Pantin, “The Economic Justice Imperative for Transactional Law Clinics” 62 *Villanova Law Review* 175 (2017). The author notes that business/commercial/transactional law clinics have proliferated in the US as students demanded more opportunities in the field and asserted that they wanted to be seen “practice-ready” by large law firms. Nonetheless, she argues persuasively that transactional lawyering and the public interest are not mutually exclusive. *Ibid* at 184-192.

³⁰ Janelle Anderson, “Clinical Legal Education: Perspectives from Former Clinical Law Students” 37 *Manitoba Law Journal* 427, 429-430 (2013).

Based in part on what they had done and accounting for the different realities of legal education and practice in Ireland, I composed and put the following 10 questions to them:

- 1) Please provide your age.
- 2) Why did you decide to study law at the University of Galway?
- 3) Why did you opt to take the clinical placement module at the University of Galway?
- 4) What is your current job title? And what is the nature/type and geographic location of your current employment?
- 5) Do you or did you perform any *pro bono*/public interest work in your current or in past legal employment?
- 6) Do you have any interaction with law students in your current or in past employment through clinical legal education programmes? Please provide details if so.
- 7) What was/were the primary difference(s) between your study of law, in general, and your experience of the clinical placement module at the University of Galway?
- 8) In what ways – if any – has your experience of the clinical placement module at the University of Galway influenced your career?
- 9) What ideas did you take away from law study and/or clinical legal education at the University of Galway about the role of law graduates in society and/or the efficacy of the laws and the legal system?

10) Please share any further reflections or thoughts that may have come to mind or struck you about your exposure to clinical legal education at the University of Galway either during the course of your career or while completing this survey?

The students ranged in age from 31 to 37 at the time the survey was completed and 7 of the 9 correspondents were women.³¹ Perhaps unusually, most of them knew back then, at the young age that they would have been making a big life choice, that they wanted to study law. Galway, both as a city and a university, was a place they were very much drawn to for a mixture of factors. Just one referenced what she termed “the clichéd but honest reasons around social justice” as underpinning her decision to study law. Regarding their motivations for taking the clinical placement module, all bar one (who summed it up as “an easy way to get a decent grade”) referenced a desire to gain practical experience because it would give them an understanding of law practice that they were not getting in their mainly theoretical studies and/or it would boost their CV and chances of obtaining employment or traineeships after graduation.

In terms of their career trajectory and current position, four are solicitors in large law firms in Ireland or the UK, three are solicitors in small to medium sized firms in

³¹ The survey was conducted in 2019 and this article was delayed, like so much else, by the onset of Covid-19. The summary of and quotations extracted from the survey responses are all on file with this article’s author.

Ireland, one is a lawyer in the Irish public sector and one is a legal academic at an Irish university. Five of the nine have never performed any *pro bono* legal work; one indicated that she provided a small amount of *pro bono* legal work; two volunteer with the Free Legal Advice Centres, a national legal rights organisation that has a network of volunteer lawyers who give legal information to individuals in need at clinics around Ireland; and one posited that the question was not applicable.³² And seven of the nine have interacted with students through the various clinical legal education programmes that have proliferated in Ireland and the UK. Lastly, in reflecting upon their clinical experiences and campus-based law study, they were unanimous in noting a very noticeable disconnect between the two on multiple different levels and several voiced the opinion that legal education should be more focused on the practical realities that await graduates, especially given that the practice of law is rapidly transforming.³³

The group's answers to the final three, open-ended questions focusing on impact and soliciting broader input were, in many respects, the most fascinating. The feedback from those surveyed can be organised in three rough categories: two were either neutral or incomplete and offered little food for further thought; two were alternatively cynical or negative; five were either broadly or very positive. The first

³² It is worth noting that more of them may now be undertaking *pro bono* legal work since the inception of the "Pro Bono Pledge" was launched in November 2020, is coordinated by the Public Interest Law Alliance and has been signed onto by many firms and solo practitioners. See www.probonopledge.ie for more details.

³³ A telling comment from one respondent about the contrast between law study and law practise: "A person once said to me that being a solicitor is 90% admin and 10% law and they were absolutely right."

in the negative “pile” evidenced what some might describe as the worst of a stereotypical big firm mind set. In short, clinical legal education is a reasonable enough idea, but its goal should be to assist students in getting “proper jobs” with large firms and not on placements with NGOs or small firms that “lack sophistication.” The second felt that the impact of a part-time placement was minimal and regarded a subsequent LL.M. degree at another university which was delivered in large part by non-academics – “barristers, judges, forensic scientists, guardians ad litem, probation officers, journalists, etc.” – as a far more valuable formative pedagogical event.

Most of the positive comments focused on the “real world” exposure – “it was great to see law in practice” – or on how it helped sharpen relevant skill sets: “it was probably the first time I carried out a task that remotely resembled what I do every day in practice.” Others honed in on how it helped their career trajectories and boosted career prospects: “The programme was very helpful from a CV and interview perspective as it showed some real experience and, for the purposes of interviews, it was helpful for providing real life examples. From a practical perspective, it was also good to have some office and law firm experience and to get a reference from a well-regarded solicitor...who was very nice and offered good career insight...this was all notwithstanding the fact that I did placement in a general practice (family law, criminal law and conveyancing), but trained and practice in a corporate law firm.”

There were a couple of “gems” for those of us who contend unwaveringly that the mission of clinical legal education lies in the social justice/public interest sphere. “One take away point was the scale of opportunity for lawyers to contribute in making a difference to the world and that, while results are not always immediate, the effort of law graduates in the various (NGOs, government agencies, international institutions, etc.) can have an impact on our lives and on how our society develops.” And finally:

Although the legal profession gets a bit of a slagging, I think that if we were to get rid of all the lawyers in the morning, it would not be the wealthy and the powerful that would suffer. I have always believed that law is a tool through which we can address an imbalance of power in society. Despite how the legal profession is portrayed in the media as immoral, there are many lawyers who make sure that families are reunited, keep children away from abusive caregivers, protect domestic abuse victims, and fight for their clients’ right to a fair trial or work to ensure that human rights are protected generally. Without these lawyers (of which I don’t claim to be one), the most vulnerable people in our society wouldn’t have a voice or a means to protect themselves and the world would be a more sinister place. Most of us are just trying to represent our clients’ interests to the best of our ability and whilst this isn’t as lofty a goal as the preservation of human rights and may seem like a small thing, to the clients themselves, I imagine it matters a great deal.

These words are equally powerful and gratifying for all of us law teachers trying to keep the faith.

IV. Reflections on the Surveys

In many respects, comparing the results of the “After the JD” and University of Saskatchewan College of Law surveys with my own is a case of apples and oranges. There are plenty of factors distinguishing the respective mind set of law students and lawyers in Ireland and North America. First and foremost, our students are undergraduates whose ideas and ambitions are nowhere near as fully formed as those who are typically a minimum of five years older and pursuing professional doctoral degrees. For one thing, the latter category of student is far less likely to have been influenced by parents in choosing a course of study than the former. Moreover, there are the realities that a legal education costs far more in North America than in Ireland (or anywhere in Europe) and that, unlike in Canada or the US, approximately half of our students opt not to qualify professionally as lawyers and use their law degrees to pursue other lines of work. Finally, clinical programmes across the Atlantic are way more advanced and allocate to their postgraduate students a lot more responsibility than European clinics ordinarily do.

That said, and before considering the responses of University of Galway students “in a vacuum,” there are some similarities among the answers to the three surveys, notwithstanding the contrasting milieu in which each was conducted. “After the JD” obviously involved a much higher number of participants than either of the other two.

Yet when it comes to illustrating the measurable, tangible impact, at least with respect to the civic dimension, of clinical legal education on law graduates, it reflects many of the same truisms. That is, the impact is fairly insignificant. “After the JD” just did not unearth any demonstrably greater rates of participation in charitable, community or political activities, *pro bono* legal practice or public service employment – except for the last among the relatively limited pool who professed to a social justice orientation prior to commencing their studies – attributable to having taken clinics in law school. In this American survey, there were very glowing reports of how clinics had helped early on when completing tasks. The skills-enhancement aspect was enthusiastically endorsed; the civic component did not feature to anywhere near the same extent.

Likewise, and notwithstanding the facts that the questionnaire was more targeted and that the law school’s clinical programme wears its social justice and public interest identity on its sleeve, the results from Saskatchewan were pretty deflating. Graduates repeatedly stated that they still had strong faith in the ideals that led them to enrol in the clinic and moved them profoundly while seeking to achieve justice for the clinic’s indigent clinics. They asserted that these notions and memories continued to inform them in their professional lives. But at the same time, only ¼ are active *pro bono* practitioners, with more than half never or rarely undertaking *pro bono* work. One would expect that the type of commitment these lawyers espouse would translate into more hours and cases. Additionally, a fairly paltry 20 per cent are employed in the public sector. Again, one could be forgiven for anticipating that this number would be higher. It is no secret that working at a private large firm, particularly a large one,

usually comes with a much higher salary than a job as a government or legal services lawyer and that educational debt is a serious burden for the majority in North America, but there are clear advantages to eschewing “big law,” which, in theory, would seem to be a draw for this cadre in western Canada.³⁴ The survey does not bear this out, however.

The “forces external to legal education that powerfully shape lawyers’ attitudes and behaviour” identified by Sandefur and Selbin are manifestly at work not only in North America, but also here in Ireland.³⁵ The career tracks pursued by the pilot group of students at the University of Galway reflect this inescapable truth; in the main, they are lawyers in financially lucrative private practice. And that is entirely understandable at many levels. The cost of living in Ireland – for literally everything, from housing, to child care, to a pint of Guinness – is sky high and far in excess of the European average, particularly in and around Dublin where most of the country’s leading law firms are located.³⁶ As such, despite the fact that Irish law graduates are minimally indebted by comparison to their counterparts in the US and Canada, they need to earn a good salary to afford rent initially and to be able to purchase a home eventually.

³⁴ Katie Taylor, “BigLaw v Public Service: Pros and Cons to Consider for Life after Law School” (24 May 2022) available at <<https://www.nitrocollege.com/blog/big-law-v-public-service>> last accessed 14 July 2022.

³⁵ Rebecca Sandefur and Jeffrey Selbin, “The Clinic Effect” 16 *Clinical Law Review* 57, 105 (2009).

³⁶ Charlie Weston, “Ireland’s cost of living soars above EU average as new report reveals just how much prices are rising” *Irish Independent* (21 June 2022) available at <<https://www.independent.ie/business/personal-finance/irelands-cost-of-living-soars-above-eu-average-as-new-report-reveals-just-how-much-prices-are-rising-41774596.html>> last accessed 19 July 2022.

What's more – even leaving aside some of the comments that are unjustifiably biased in favour of “big law” – the qualitative feedback is revealing when it comes to their professional identity. For instance, as outlined above, one respondent was positive about her clinical placement experience years earlier, but inserted the caveat that it was in general practice whereas she was trained at a corporate law firm and now works in the area. Another praised the efforts of lawyers fighting on the frontline for access to justice, yet was careful to indicate that she was not one of them and, instead, was attempting to secure the best result for her own clients in law practice. It may be over-parsing their words, but they are at least suggestive of what critics might term a “corporatist” professional identity or ethos that most clinical legal educators would either explicitly or implicitly reject. In reading and re-reading my former students' comments, I also had to continually remind myself that these then final year undergraduates were not required to adopt the ideals that animate most clinical legal education instructors. All this pilot group had to do was show a willingness to take a risk on something different and a desire to see how law operates in the “real world.” They did and, to a person, they acquitted themselves very well. I will forever be in their debt for enrolling in the module and getting the programme off to a fine start. That they have done so well since they completed their degrees is testament to their ability.

And again, neither their nor the clinical community's point of view, broadly speaking, is necessarily the right one. Indeed, those who tend to heap scorn on “big law” and use terms only half in jest like the “dark side” to describe working in large commercial

firms are too glib and do not have any legitimate claim on ethical superiority. Still, the common, undeniable thread running through the “After the JD,” Saskatchewan and Galway surveys is that clinicians are having a quite pronounced impact in the skills dimension and a rather negligible impact in the civic dimension of lawyer training. That is definitely affirming, on the one hand, and deeply concerning, on the other, for many of us true believers.

V. Some Concluding Thoughts

To return to a question posed at the outset, then, what difference is clinical legal education making? The surveys detailed herein suggest that clinic participation is equipping graduates with the vital skills and aptitudes needed to work as a lawyer or in a law-related field and are frequently cited by those charged with hiring and recruitment as the most important and most lacking.³⁷ But what one leading clinical scholar would probably call the *sine qua non* of clinical legal education – making students “intensely aware of the mission of lawyers in serving justice, and in representing the weak against the strong”³⁸ – does not seem to be creating the reservoir of “lawyers for others” that many of us would have hoped for, at least if these three surveys are anything to go by. Of course, they represent a tiny sampling and it would be a mistake to extrapolate excessively from them. Yet they are discouraging.

³⁷ Mark Cohen, “Law’s Looming Skills Crisis” *Forbes* (21 May 2019) available at <<https://www.forbes.com/sites/markcohen1/2019/05/21/laws-looming-skills-crisis/?sh=6f59c20e445c>> last accessed 19 July 2022.

³⁸ Richard Wilson, “Western Europe: Last Holdout in the Global Acceptance of Clinical Legal Education” (2009) 10 *German Law Journal* 823, 829.

Above all, it would seem that the very powerful, often corrosive forces – economic, historic, institutional, cultural, et al – that clinical legal education programmes, at their best, are purposed to hold to account militate against clinic participation having a more transformative impact in the longer term, after students have finished and move on. For example, it is easy to decry a lack of correlation between clinic enrolment as a student and public interest or government employment as a lawyer. But it is equally easy to comprehend in a context where these jobs are regularly limited in number and poorly remunerated as inflation continues to soar.

What should we do? Despair is not an option. Although it may be trite to say, we must keep on keeping on and never lose heart, even as we need to be realistic and manage our expectations about what we can and cannot accomplish. Some of the feedback from graduates in the three surveys, albethey in the minority, demonstrate the potential clinic has and will always have. A small initiative I have been pursuing is to identify past students for whom clinic genuinely was impactful and to bring them in – physically or virtually – to speak to present students about what they did then and what they do now. It seems to resonate. And even if it proves fleeting a lot of the time, it is important to remember that, through clinical legal education, many students are obtaining a cognisance, an awakening about the law and legal system, the flaws therein, and the special responsibilities being conferred upon them. As one of them wrote after going above and beyond in her work on a fledgling Innocence Project at the University of Galway, it

allowed me to see how I can provide a voice for those who might not ordinarily have been afforded one...it is important to use our educational privilege in the future to effect change in flawed systems because, in turn, we have the ability to save others from the needless suffering of those who came before them.³⁹

Serious challenges and difficulties aside, the mere prospect that these enlightened sentiments will inform this student's life in the law is why we do what we do – and why it is so gratifying.

³⁹ Student Reflective Essay, Academic Year 2018-2019 (on file with author).

CLINICAL LEGAL EDUCATION: HUMAN RIGHTS, AND ARTS AND CRAFTS CAFÉS

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Abstract

This practice report provides an account of two outreach projects that enabled different community groups, members of staff at Royal Holloway, University of London, and students at Royal Holloway's Legal Advice Centre, to discuss human rights in an accessible and relatable way, which empowered the delegates, and encouraged open dialogue.

At the first event, Royal Holloway and the Afghanistan and Central Asian Association collaborated to host an online Being Human café as part of the Being Human 2020: a Festival of Humanities programme organised and set up annually by the School of Advanced Study, University of London and funded through the Arts and Humanities Research Council and the British Academy. The café "Afghan Women Small Spaces Café: Sewing Pathways to Human Rights" took place via Zoom. Meeting over Afghan

¹ Whilst the authors are not medical or clinical experts that specialise in dealing with people with autism, they have made every effort to use reliable information to discuss the matters raised in this report. The authors are grateful to Mariam Diaby, researcher, who contributed to this article and to all participants at the events described.

tea and cake, participants - from the public, generally from the Afghan diaspora community and researchers - used mixed participatory methods including artwork, sewing and conversation to explore what everyday habits and material objects tell us about ourselves and each other. Working with these, and other culturally specific lived experiences, Marshall linked her research, on human rights law's purpose of ensuring universal dignity, equality and rights, to French writer Georges Perec.

Following this style of Café, the authors created the Autism Legal Rights Café, in partnership with the Sycamore Trust U.K. At this second event, Marshall's research on everyday spaces was developed into a short talk about law, everyday spaces, objects and being human at a focused arts and crafts workshop for young women with autism. Particularly during Covid-19 lockdown, it was explored how and why our objects took on a new meaning. This talk included an analysis of *Species of Spaces* where Perec traced what is truly daily, those everyday habits and material objects of which our lives consist, what goes without saying. Perec claims, although these do not seem to pose any problems, we need to ask what they may tell us about what is important in life, what makes it worth living.

1. Integrating members of the public with research-led events

It is increasingly recognised that, within universities, there is a need to build partnerships with industry and non-academic stakeholders to support the development of new research collaborations, as well as to engage members of the community to share research-led activities. Over the years, the relationship between

research and teaching in higher education has expanded.² The benefits that have been highlighted, include being able to teach from immediate research experience, and offering students a unique insight into the research interests that have an impact on the areas that they are studying.³ Whilst some have argued that this alignment may have its own challenges, creating a hybrid by actively engaging students within the process is advantageous because their learning is relatable to real life.⁴

Taking lessons from most clinical legal education activities, these research-based events can increase civic engagement, as well as enhance our students' critical thinking and understanding of the research interests of academic staff who also teach them. Importantly, through the projects that we have worked on at Royal Holloway, our students have also developed an insight into the various social justice issues that the community groups we work with continue to face.⁵

The events that are discussed in this report have similar components to Street Law programmes. As Wallace states, "the three basic components of a successful Street

² Mary Malcolm, 'A critical evaluation of recent progress in understanding the role of the research-teaching link in higher education' (2014) 67 *Higher Education* 289.

³ Maureen Haaker and Bethany Morgan-Breet, 'Developing Research-Led Teaching: Two Cases of Practical Data Reuse in the Classroom' [2017] *Sage open journals* 1 <<https://doi.org/10.1177/2158244017701800>> accessed 4 May 2022.

⁴ Carla Pfeffer and Christabel Rogalin, 'Three Strategies for teaching research methods: A case study' (2012) 40 *Teaching Sociology* 368.

⁵ Jacqueline Weinberg, 'Preparing Students for 21st Century Practice: Enhancing Social Justice Teaching in Clinical Legal Education' (2021) 28[1] *IJCLE* <https://doi.org/10.19164/ijcle.v28i1.1127> accessed 4 May 2022.

Law program are practical content, interactive skills-based teaching strategies, and community involvement".⁶

2. Afghan Women Small Spaces Café 2020: Sewing Pathways to Human Rights

As part of Being Human 2020: a Festival of Humanities programme, organised and set up annually by the School of Advanced Study, University of London and funded through the Arts and Humanities Research Council and the British Academy, Royal Holloway, University of London, collaborated with the Afghanistan and Central Asian Association (ACAA) to host a café event. Student volunteers from Royal Holloway's Legal Advice Centre, together with staff, joined the 'Afghan Women Small Spaces Café: Sewing Pathways to Human Rights'. This event took place in ACAA's community hub and via Zoom in November 2020. The ACAA is a charity that provides support and advice for refugees and migrants in the Afghan communities based in west and south-east London. ACAA run a wide variety of events and projects, with the aim of supporting refugees and immigrants throughout the UK who feel isolated and are in need of advice and support.⁷ The ACAA has worked in the UK for twenty years. During the recent upheaval in Afghanistan, the organisation has played a pivotal role in welcoming and providing vital essential support and resources to Afghans who had to urgently evacuate their country.

⁶ Amy Wallace, 'Classroom to Cyberspace: Preserving Street Law's Interactive and Student-Centered Focus During Distance Learning' (2020) 27[4] IJCLE 83, 84 < <https://doi.org/10.19164/ijcle.v27i4.1055> accessed 4 May 2022.

⁷ The Afghanistan and Central Asian Association <https://aca.org.uk/> accessed 4 May 2022.

At the café, Marshall, through her research linking law to French writer Georges Perec's work on small spaces and everyday life, explored how law can mean something positive and important by connecting it to our own lived experiences.⁸ The aim is to understand aspects of legal theory, such as what law is and its purpose, and human rights law, through exploring everyday objects and spaces. This is a different methodology to reading texts alone, the traditional method of legal study and analysis. It seeks to show how our experience of the world around us affects the topics we are studying and examining. Particularly during Covid-19 lockdown, it was explored how and why everyday objects took on a new meaning. Our everyday habits, challenges, objects, and environments are rarely questioned. Such ordinary things tend to be taken for granted due to bigger, more dramatic events taking centre stage in supposedly informing us about the world. However, the size of an event in our lives does not always determine its value to it. How something is determined to be valuable depends on where we look as well as our own unique perspective. A deeper inquiry into these ordinary matters that are often overlooked and form the very fabric of our lives and society may provide us with new insights into our communities and ourselves.

⁸ Jill Marshall, 'Law, Everyday Spaces and Objects, and Being Human' in C Stychin (ed) *Law, Humanities and the COVID Crisis* (forthcoming University of London Press 2022). Georges Perec *Species of Spaces and Other Pieces* (Penguin Classics, Harmondsworth, 1999) especially *Species of Spaces* (1974), and *L'Infra-Ordinaire* (1989) containing numerous pieces including 'Approaches to What?' first published in *Cause Commune* 1973. Marshall also uses Xavier de Maistre *A Journey around My Room* (Alma Classics reprint 2017, first published in French in 1794).

Examining the habitual can raise awareness about our identity and social structures. Marshall's work on the place of the ordinary, everyday objects around us particularly focusing on Perec's work, and Xavier de Maistre's *A Journey around My Room* written in confinement in the 1790s, connects these to law. Marshall explains that the Covid-19 lockdown has been the catalyst. "This forced physical confinement on those of us previously free to move to different spaces and places. Illness aside, to those complying with the legal regulations, the lockdown has restricted our ability to meet, associate and assemble, with others, including with family, friends, loved ones. We stayed in those spaces and surroundings in which we were placed at time of lockdown, for most, one's own home. Being alive and living well depends on legal, social and cultural contexts or environments where our individual personalities are formed and have potential to flourish. Can a focus on the 'infra-ordinary' of the everyday, and our awareness of it, shed light on the deficiencies of the world in which we exist: a world which is shaped and regulated by law?"⁹

After Marshall's presentation on these themes, we created break out rooms on Zoom, where Afghan women, meeting over tea and cake, took part in mixed participatory methods, such as sewing, drawing and conversation. These creative forms of expression sought to encourage Afghan diaspora women and our student volunteers at the Legal Advice Centre to discuss or express everyday objects. Participants chose their own object that had some meaning to them. The artistic expressions of those

⁹ Marshall 2022 *ibid.*

objects and small spaces was linked by Marshall to the ‘small spaces’ in Eleanor Roosevelt’s analysis during the formation of the International human rights regime after the horrors of the Holocaust and the end of the Second World War in 1945.¹⁰ Roosevelt argued that for human rights to have meaning they have to begin within each person and from our own particular experience and the way we treat those immediately around us. Weinberg notes that social justice can take on different meanings.¹¹ Singo and Raymond’s definition seems fitting here, namely that social justice must “attain a basic set of entitlements for all people, which at the very least must include human dignity, freedom, equality, and justice for all members of society”¹²

Our student volunteers gained an insight into the challenges and struggles those members of our café have faced and continue to face. Our students were also participants themselves as they chose their own identified spaces or everyday objects. Participating students were able to connect this to our separate research project on the effects of Covid-19 among the Afghan diaspora community and in Afghanistan in which they had played a vital role as research assistants.¹³

¹⁰ Perec’s parents both died during the War. His mother’s remains were never recovered but she was reported to have been deported to Auschwitz: see Perec above note 8. Eleanor Roosevelt’s full quotation is available at <https://unfoundation.org/> accessed 4 May 2022.

¹¹ Jacqueline Weinberg, above note 5.

¹² Dakalo Singo and Alicia Raymond ‘Clinical legal education and social justice — A perspective from the Wits Law Clinic’ (2018) Stellenbosch Law Review Volume 29, Part 2 p. 295-313.

¹³ Nicola Antoniou, Jill Marshall, Alexander Gilder and Rabia Nasimi (2020) ‘Royal Holloway, University of London and the Afghanistan and Central Asian Association: New Partnerships and Challenges During Covid-19 in the Clinical Legal World’ (2020)27 [4] IJCLE <https://doi.org/10.19164/ijcle.v27i4.1058> accessed 4 May 2022.

This interactive and research-led workshop, bringing academics, researchers, students and the community together provided a unique opportunity for our student volunteers to see how the law, and in particular human rights, can make a difference to the social justice issues that they had researched on Afghanistan. For the remaining part of this piece, we will focus on the second event, the use of this method of exploring everyday objects for young women with autism and aspects of how autism affects young women.

3. Royal Holloway at Sycamore Trust's Romford Autism Hub: Autism in Young Women

Inspired by the effect of the Afghan small spaces café, the authors of this report successfully applied for internal funding to develop the research and organise a similar event, but this time working with a charity called the Sycamore Trust U.K. The Sycamore Trust is a charity dedicated to providing a variety of tailored services to support families, carers and individuals affected by Autistic Spectrum Disorders. Services offered by the organisation range from Parent Support Groups, Youth Clubs to a Girls' Project – a scheme designed exclusively for girls and young women with autism. In addition to these programmes, the organisation aims to raise awareness about autism.¹⁴

¹⁴ The Sycamore Trust <http://www.sycamoretrust.org.uk/> accessed 4 May 2022.

3.1. What is Autism and how does it affect girls and young women?

Before discussing the event in more detail, the authors will first consider, what is autism and what are some of the potential challenges of its diagnosis, particularly in women? Autism is a lifelong developmental disability, which affects how people communicate and interact with the world.¹⁵ As suggested in its diagnostic name ‘Autistic Spectrum Disorder’ (ASD), the condition is an umbrella term, which includes a range of diagnoses, such as Asperger’s Syndrome and Pervasive Development Disorder. As research in the field continuously evolves, the law has refrained from providing a definition of ASD.¹⁶ Although it is recognised that the characteristics of ASD can be different amongst all individuals,¹⁷ and has its own strengths, the following are three key characteristics that may be challenging to someone on the autistic spectrum: social communication (which can include verbal and non-verbal challenges), social interaction, and sensory challenges.¹⁸

Such social communication characteristics have, however, founded some misconceptions, for example, that people with autism lack a sense of humour and/or creativity. Autistic people may have an alternative sense of humour,¹⁹ and how

¹⁵ The National Autistic Society, <https://www.autism.org.uk/advice-and-guidance/what-is-autism> accessed 4 May 2022.

¹⁶ Explanatory notes to the Autism Act 2009, Commentary, Section 1, para 11.

¹⁷ Cathy Pratt, Rachel Hopf, and Kelsey Larriba-Quest, ‘Characteristics of Individuals with an Autism Spectrum Disorder (ASD)’ (2017) 21(17) *The Reporter* <<https://www.iidc.indiana.edu/irca/articles/characteristics-of-individuals-with-an-asd.html>> accessed 4 May 2022.

¹⁸ National Autistic Society, above note 15.

¹⁹ Shaun May, ‘Autism and comedy: using theatre workshops to explore humour with adolescents on the spectrum’ (2017) 33 (3) *RIDE* 436.

autistic people see the world enables their creativity to be approached in various ways.²⁰

A diagnosis is central in helping a person on the autistic spectrum as this will enable them and their families to benefit from appropriate support and services. ASD is diagnosed by assessing an individual's behaviour. This is done through diagnostic manuals, such as ICD-10²¹ and DSM-5.²² As autism presents itself differently in all individuals, having an assessment that specifically examines their daily interactions is advantageous in gaining a full picture of the condition as opposed to adopting a single inflexible test. However, the prevalent misdiagnosis in girls and young women highlights that there may be issues in the diagnosis criteria itself.

The most recent figures show that more men and boys are diagnosed compared to girls and women at a 3:1 ratio.²³ There has been an extensive and ongoing discussion amongst academics and researchers about this gender diagnosis gap which has been

²⁰ Catherine Best, Shruti Arora, Fiona Porter and Martin Doherty, 'The Relationship Between Subthreshold Autistic Traits, Ambiguous Figure Perception and Divergent Thinking' (2015) 45 *Journal of Autism and Developmental Disorders* 4064; Tracy McVeigh, 'People with autism and learning disabilities excel in creative thinking, study shows' *The Observer* (London, 22 August 2015) <<https://www.theguardian.com/society/2015/aug/22/autism-creative-thinking-study#:~:text=People%20with%20autism%20and%20learning%20disabilities%20excel%20in%20creative%20thinking%2C%20study%20shows,-This%20article%20is&text=A%20new%20study%20showing%20that,about%20people%20with%20learning%20disabilities>> accessed 4 May 2022.

²¹ World Health Organization, 'ICD-10: international statistical classification of diseases and related health problems' (tenth revision, 2nd edn, World Health Organisation 2004) <<https://apps.who.int/iris/handle/10665/42980>> accessed 4 May 2022

²² American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th edn Arlington VA, American Psychiatric Association 2013).

²³ National Autistic Society, 'Autistic women and girls' <https://www.autism.org.uk/advice-and-guidance/what-is-autism/autistic-women-and-girls> accessed 4 May 2022.

an obstacle for women and girls in accessing the help they need. It has been argued that in attempts to blend in with their peers, autistic girls may “mask”²⁴ their traits and therefore symptoms may not be recognised. “Masking”, also known as “social camouflaging”, is a coping mechanism adopted by autistic individuals to pretend not to be autistic.²⁵ This strategy has been described as an obligation as opposed to a choice.²⁶ A way in which an autistic person may camouflage is through mimicking other non-autistic people, such as their facial expressions, attitudes, and gestures, or their interests,²⁷ to appear more socially aligned with their peers.²⁸

The constant observation and modification of one’s behaviour can have adverse effects. The suppression of symptoms at school can result in a child having meltdowns once returning home as an outlet to release the built-up tension maintained during the school day.²⁹ This behaviour at home is also facilitated by the belief that children feel able to be “their worst selves” in their safe spaces as their families will still love and care for them.³⁰

²⁴ Will Mandy, ‘Social camouflaging in autism: is it time to lose the mask?’ (2019) 28[3] *Autism* 1879.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Katherine Hobbs, ‘Autism in Girls: What are the Signs?’ (*Autism Parenting Magazine*, 13 April 2022) <<https://www.autismparentingmagazine.com/signs-of-autism-in-girls/>> accessed 4 May 2022.

²⁹ Beth Arky, ‘Why Are Kids Different at Home and at School?’ (*Child Mind Institute*) <<https://childmind.org/article/kids-different-home-school/>> accessed 4 May 2022.

³⁰ *Ibid.*

Imitating neurotypical behaviour and disguising their symptoms is also observed by many autistic young women. Social camouflaging is practised to find a good job as well as connect with friends.³¹ To navigate through social interactions without drawing attention to themselves, some women on the autistic spectrum have expressed that they create and rehearse scripts to share in conversations.³² The long term effect of social camouflaging can, however, lead to mental health conditions.³³ Whilst “masking” can of course be employed by both autistic men and women, it appears to be more common amongst girls and women who may not only feel the pressures to come across as neurotypical but also to conform to gender stereotypes.³⁴ However, as Pearson and Rose highlight, masking should not be linked to a “female-specific” subtype of autism because this might also lead to other people getting a diagnosis, and exclude non-binary people or those who did not fit into any of the current criteria.³⁵

ASD largely affects how an autistic person communicates and socialises and this directly affects how they process information. As some people with autism may not understand sarcasm and abstract concepts, there may be some difficulty in reading

³¹ Francine Russo, ‘The cost of camouflaging autism’ (*Spectrum*, 21 February 2018) <<https://www.spectrumnews.org/features/deep-dive/costs-camouflaging-autism/>> accessed 4 May 2022.

³² *Ibid.*

³³ Katherine Hobbs, ‘Autism in Girls: What are the Signs?’ (*Autism Parenting Magazine*, 13 April 2022) <<https://www.autismparentingmagazine.com/signs-of-autism-in-girls/>> accessed 4 May 2022; Milner, McIntosh *et al*, ‘A Qualitative Exploration of the Female Experience of Autism Spectrum Disorder (ASD)’ (2019) 46[6] *J Autism Dev Disord* 2389.

³⁴ *Ibid.*

³⁵ Amy Pearson and Kieran Rose, ‘A Conceptual Analysis of Autistic Masking: Understanding the Narrative of Stigma and the Illusion of Choice’ (2021) 3[1] *Autism in Adulthood*, 52.

others and interpreting information. It has been said that autistic individuals tend to think from the bottom up.³⁶ This seems advantageous in situations where examining details is required.³⁷ The literature on how autistic people process legal information is scarce. However, what is certain is that the law in general is renowned for being complicated and/or intimidating to non-legal people. Although under researched, it has been recognised that autistic people may be at a disadvantage at the hands of our legal systems due to difficulties relating to communication and social skills and body language.³⁸ Identifying an individual as autistic earlier on in the process can help ensure the relevant professional support is offered.³⁹

An interview between Camilla Pang, scientist and author specialising in autism with the National Autistic Society, has highlighted the difficulties in processing information during the Covid-19 outbreak.⁴⁰ The confusing and constantly changing laws and government guidance severely interrupted everyone's lives but this had a particularly distressing effect on autistic people who have a strong preference for having a routine which ensures stability. In navigating the new social norms, Pang

³⁶ Applied Behaviour Analysis, '4 Ways a Child with Autism Processes Information Differently' <https://www.appliedbehavioranalysisedu.org/4-ways-a-child-with-autism-processes-information-differently/> accessed 4 May 2022.

³⁷ *Ibid.*

³⁸ Graeme Hydari, 'Autism and the criminal justice system' (*The Law Society Gazette*, 29 November 2013) < <https://www.lawgazette.co.uk/practice/autism-and-the-criminal-justice-system/5039018.article>> accessed 4 May 2022.

³⁹ *Ibid.*

⁴⁰ National Autism Society, 'Stories from the Spectrum: Camilla Pang' < <https://www.autism.org.uk/advice-and-guidance/stories/stories-from-the-spectrum-camilla-pang>> accessed 4 May 2022.

recommended not to suppress one's anxiety but to replace that energy with something enjoyable or helpful.

3.2. The Autism Legal Rights Café

In June 2021, Sycamore Trust U.K. and legal researchers from Royal Holloway, University of London hosted an Autism Café, at the Sycamore Trust's Romford Autism Hub. The Autism Café consisted of two parts. The first part of the café involved the delivery of a legal workshop on Special Educational Needs (SEN) law, delivered via Zoom by specialist lawyers from Talem law. This workshop engaged the audience and provided an overview of SEN, Special Educational Provision, including meeting SEN in schools and the framework of Education, Health and Care plans.

The second part of the café consisted of an arts and crafts afternoon with the authors and a research assistant, Sycamore Trust personnel, and part of the young women's group at the Sycamore Trust. The experimental session was largely carried out in person, with one student attending remotely. All of us as participants explored our everyday habits, challenges, objects, and surroundings to see what they can tell us, and then to explore how they connect to the uses and problems of law. Marshall's 'everyday spaces' research was discussed with a focus on how lockdown has demonstrated our care for each other, from our intimate partners and families, to those we do not know, including certain groups of people categorised by special requirements and in need of extra assistance, for example, the infirm elderly, the

homeless, those with disabilities. As in the Afghan café, Marshall explained how a focus on the ‘infra-ordinary’ of the everyday, and our awareness of it, can help to highlight aspects of the legal system, and how our society is shaped and regulated by law.⁴¹ This sought to encourage the young women at the Autism Hub to express their experiences and thoughts about their daily lives and challenges through various creative outlets such as painting, drawing, and air-drying clay, bringing new perspectives to whose voices count in shaping the world we see and experience and in turn the laws we create in it. Exploring the unquestioned and seemingly mundane can help us discover how we perceive ourselves. It can enhance empathy and understanding of others’ perspectives and our awareness of the material world in which we live.

What was evident through the event was that the young women were able to express objects that were important to them. They explained why these had importance. Their artistic ability was evident and their vivid explanations of problems and deficiencies encountered with the legal system were shared. They told us how they perceived law, and what the law should look like, for example, in order to “protect” people, as one participant noted. This arts and crafts workshop enabled the applicants to work together to connect legal practice to law’s theory, practice and social justice. In addition, the workshop promoted both the Legal Advice Centre’s mission to empower those in society whose legal needs are often unmet. Further, it promoted public legal

⁴¹ Jill Marshall, above note 8.

education to the local community. Most importantly, the young women actively participated. Most of them openly spoke and shared their views and they all expressed, through their individual artwork, the talents and creativity they possess in abundance. This project was participatory and collaborative: an essential approach to deal with human rights, social justice, disability, and equitable knowledge exchange and production.

The main aim of this public engagement and collaboration is to enhance, in any way we can, the empowerment of those with autism and hardworking under-resourced charities working with them. This shows how universities can enrich communities and provide a platform to the charities working to improve lives. Our Law and Criminology Department's Rights and Freedoms research cluster, Marshall's research, and the Legal Advice Centre's outreach support seeks to encourage this through open dialogue, demonstrating our commitment to being part of a socially responsible university, and to making research accessible to the public, specifically those isolated in society.⁴²

4. Conclusions

The need to be creative in the way information, and in particular the law, can be disseminated was something with which the authors experimented, through the lens of Marshall's most recent research, and these Café events.

⁴² See <http://www.sycamoretrust.org.uk/latest/article/A-Royal-event%21> accessed 4 May 2022.

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The events provided space for the clinical legal educators to collaborate with researchers and external stakeholders through an original piece of research. This event enabled Royal Holloway to disseminate research for public benefit and specifically to develop collaborative networks with a non-governmental organisation working with vulnerable diaspora communities, a disability charity and legal professionals. We linked theory to practice through knowledge production, offering alternative ways of rethinking law and risks of discriminatory treatment and law's potential to transform injustices. One future aim is to develop further research into how policy and legal documents, that are often accessed by these groups of people, can be re-written so that they are informed by their own views and more accessible to them. The lessons that can be drawn from these events are that listening to participants' original expressions and being creative with the way that research can be explained to the public, including those that may have learning or developmental disabilities, has shown that it is possible to make the law interesting and accessible.