

CLINICS IN TIME OF CRISIS: RESPONDING TO THE COVID-19 OUTBREAK

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Background

At the time of the Covid-19 lockdown in March 2020, Hertfordshire Law Clinic was still in its infancy. It had only opened its doors in October 2019 and was technically still in its 'pilot scheme' phase – with the official opening not due to take place until April 2020.

The aim of the clinic was to help support its local community by offering free legal advice in areas of unmet need. At the time of opening this included Family law, Employment law, Commercial and IP advice for SMEs, and preparing Powers of Attorney. At the same time, the clinic aimed to provide law students with real-life practical experience of dealing with clients and their cases.

An important factor restricting the type and quantity of cases we can deal with is the level of professional supervision available. The University is lucky on this front as some of its Law School staff are non-practising solicitors, and we had already built up good connections with local law firms who were generous with the pro bono work

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their lawyers could offer. We have therefore always had almost twice as many external lawyers (compared to law school staff) supervising the students; currently fifteen.

Practicalities

The students work in pairs for all their clinic work. For some cases they shadow the lawyer supervisor giving one-off verbal advice to a client whilst keeping detailed notes. They then prepare an attendance note, which once approved by the supervisor is sent to the client as a record of the advice they have received. In other cases, the students interview the client alone, to gather more detailed instructions, and then carry out appropriate research to enable them to prepare a letter of advice. Once the letter is approved by the supervisor it is sent to the client. The two options enable the students to gain the most from learning new skills and working with an experienced professional. Before being allowed to partake in any of this clinic work, the students have to undergo a formal application process and compulsory training which includes watching recorded lectures; reading relevant material; and attending live sessions.

Satellite Clinics

We wanted to ensure the clinic reached the most vulnerable and needy parts of the local community. We therefore arranged to establish two satellite clinics. The first had students and their supervisor attending the premises of Future Living Hertford

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(FLH),² a charity working to support victims of domestic abuse, to provide family law advice to their clients. This was only permitted after the students had undergone appropriate domestic abuse awareness training to ensure the charity's vulnerable clients were treated appropriately.

The second satellite clinic should have seen students visit HMP The Mount and provide family law advice to prisoners. It had been recognised that access to this type of advice was widely needed for those in prison, but was extremely difficult for them to obtain. This was postponed due to the pandemic lockdown, explained further below.

The feedback from students, supervisors and clients has been very positive on how the law clinic has worked for them. We were therefore keen to look into expanding the clinic; the areas of law we could advise on, the depth of work we dealt with and the number of students involved. However, the turn of events in March 2020 meant we had more pressing considerations to deal with.

Lockdown

The University of Hertfordshire decided to close down its campus and send all students and staff home shortly before the official Government lockdown in March

² www.FutureLivingHertford.co.uk

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2020, and with only 24 hours' notice to us all. The clinic had some immediate challenges to face:

Challenge 1 – Answering the telephone from home

The client telephone line to the clinic was based on campus and manned by students on a rota. This was probably the easiest issue to resolve with the dedicated telephone line being forwarded to the full-time clinic administrator so she could control the incoming calls and messages, and share out the work on making initial contact with clients between the student clinic assistants, all working from their own telephones and own homes.

Challenge 2 – Moving to Video Appointments

Client appointments, which were all taking place face-to-face on campus, were already booked in for the next 4 weeks. This was a little trickier as we had no wish to shut down the clinic or cancel appointments.

We recognised that the best approach would be to move the clinic online. Ideally, we would give you a helpful insight into the clear scientific approach we took in researching the various platforms on offer and showing how the statistical data highlighted which would be the best. However, time constraints meant it had to be far simpler than that. We had one afternoon to decide which platform would be free and easily accessible to clients, students and supervisors, including those students

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returning abroad. It also needed to keep the contact details of all those attending a video meeting confidential.

We therefore chose Zoom which seemed to conform to all our requirements and having purchased a Zoom licence, we moved the clinic online in less than 24 hours. Initially, when clients were advised their face-to-face meetings were suddenly going to be moved online over 50% opted to postpone their meeting in the hope the lockdown would end in a few weeks. As the lockdown continued, however, clients simply accepted the move to an online environment and readily agreed to book online appointments.

Challenge 3 – Going Paperless

One problem the Hertfordshire Law Clinic did not face was the physical movement of any confidential paper files. This is where we were probably assisted by being so new. We were already paperless, with all confidential client information and documentation being held in our case management system Clio.³

Challenge 4 – Ensuring we maintain confidentiality

There were still concerns about confidentiality and potential breaches of GDPR. We trusted the clinic students to ensure they behaved professionally even when online. Their compulsory training before working in the clinic, included a two-hour session

³ www.clio.com

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on professionalism, and they all signed a student agreement setting out the high professional standards we expect of them. We felt that the level of trust which had been afforded to students before lockdown should be continued when we moved online.

We provided them with an updated student handbook to highlight the practical changes of moving the clinic online and reminded them of specific issues with confidentiality. For example, a student needed to ensure they had client interviews and discussions about cases alone, without any third party listening in. As the majority utilised headphones and microphones for their online learning, this did not ever appear to be an issue.

We took the decision not to record the online student/client meetings. We were not present in the room with them when the meetings were face-to-face, and we felt that the risks had not increased significantly with those meetings taking place online.

There was a presumption that the clinic staff and supervisors would continue to comply with confidentiality once working for the clinic online – they were having to do all their other confidential day-to-day work in lockdown, so we again trusted them to follow the new guidance.

When it came to document confidentiality Clio assisted us with the additional advantage of offering Clio Launcher; an application within the case management system allowing students to access and amend confidential documentation without downloading it to their personal device. Its use ensured compliance with data

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protection legislation and the duty of confidentiality whilst still allowing the student anywhere in the world to access, draft, or amend a client document.

There seemed to be no issue with clients receiving their attendance notes or letters of advice by email with little or no access to post. Most already made their first contact with the clinic using email and now we offer nothing else.

Challenge 5 – Retaining and Gaining Volunteers

We were initially concerned students would no longer wish to continue volunteering for the clinic – particularly if they had left student accommodation, or even the country, for lockdown. However, we appeared to have a captive audience. The students were no longer commuting to attend their seminars. Most were unable to socialise or work, or even gain unpaid work experience. Suddenly, the clinic was seen as the only form of practical work experience they were likely to get for months. Further, anything that changed a somewhat monotonous day in lockdown could be seen as light relief. We actually managed to increase the number of students helping.

Likewise, whilst there were a few professional volunteers who were exceptionally busy during lockdown, family lawyers in particular, the majority of them were happy to continue assisting the clinic. A few, if furloughed, actually had more time to help, or even if still working, found it was far easier to give us an hour of their time to log into a video call, than have to book out a whole afternoon to travel to our campus. The move to an online clinic also meant the geographical area from where our external supervisors came from could expand.

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It was actually in the midst of lockdown that we first expanded the areas of law the clinic covered to include housing, due to the number of enquiries we were getting from tenants worried about rent arrears and eviction. This was only possible because of the move online - one external lawyer was on furlough, and another could supervise one afternoon a week as part of their day job with a charity supporting young people.

Outcome for the Clinic

After our smooth transition into the virtual world, we became the University's first virtual law clinic and during lockdown, up to the end of July 2020, we managed to engage with 75 clients online. We appreciate that we had the advantage of our clinic being part of the University and so never had the worry about resources, in terms of both money and paid staff.

Satellite Clinics

We were pleased to be able to continue the satellite clinic with FLH without any disruption. Their clients, although many were vulnerable, were learning that many things during lockdown had to be dealt with virtually so accepted that their clinic appointments would be too. If they wanted the extra reassurance of their support worker with them, they could just be invited to join the Zoom video call. The same could not be said for the planned satellite clinic with HMP The Mount. This project had its own, unique challenge.

Challenge 6 – Internet Connection

Whilst technology was an issue for the main clinic when it came to choosing which platform to use, after that it was rarely mentioned. Of course, there was the odd occasion when someone couldn't access the Zoom link or forgot how to unmute themselves – but these minor teething problems were part of the new virtual life.

The prison had much more basic IT issues which were not so easily overcome. The prisoners do not have access to the internet in their cells, or any other confidential area. They cannot even receive telephone calls in their cells but have pre-set times each day when they can have privacy in their cell and telephone out on a pre-agreed telephone number. This was our first clear insight into how the wonders of modern technology do not help you in a secure prison, these findings resonate with a recent Law Society report:

“During the lockdown period, meetings with legal representatives were predominantly by telephone or video conferencing and the majority continue to be so. For those who are living in institutionalised settings, such as prisons, immigration detention centres, mental health units or care settings, this is particularly important. People in these settings are reliant on those detaining or caring for them to facilitate access to legal representatives and during lockdown this depended on the supply of and access to technology.”⁴

⁴ Law Society (2020) Law under lockdown: the impact of COVID-19 measures on access to justice and vulnerable people, [Online]. Available at <https://www.lawsociety.org.uk/topics/research/law-under->

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We are now hoping to find a way to overcome these restrictions with the use of a new, dedicated telephone line for the prisoners to contact the clinic on, and for student volunteers to be staffing this telephone line at set times each day, as we cannot simply return messages. It has taken some thought and ingenuity, but it is just another hurdle thrown-up by the pandemic.

Challenge 7 – Communications – too much or too little

Communication seems to have been the hardest challenge during lockdown for all clinic activities. For the prisoners it was an issue of lack of communication – or at least access to it. However, for those of us lucky enough to have uninhibited access to the internet, the issue was often the opposite. Without being able to see anyone face-to-face there was suddenly a deluge of emails, messages, webinars and online announcements sent out – from the NHS, the Government, employers, work contacts, colleagues, friends, family, and many more. We found many of our student volunteers were overwhelmed by the volume of virtual communications and they struggled to process and deal with them all in a time-sensitive manner.

This deluge of electronic communications also left us at a disadvantage when trying to ask a favour for the clinic. No longer able to pop along to a colleague's office with the offer of coffee and cake, or meet up in a café with a potential new external

lockdown-the-impact-of-covid-19-measures-on-access-to-justice-and-vulnerable-people (Accessed 19 November 2020)

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supervisor, we had to resort to the seemingly over-formal booking of a MS Teams video chat.

So, one clear challenge was to find the appropriate level and quantity of communication. We needed to stay in touch with everyone connected to the clinic, but not to such an extent as to feel like we were harassing them.

Clinical Legal Education Module

It had always been planned that once the Clinic was up and running, we would introduce a CLE module to be able to gain the best student experience in the clinic and utilise their clinic work as part of an assessed module. The timing meant this was due to start in the middle of the pandemic lockdown in May 2020, with a group of accelerated law degree students. This new module therefore had its own challenges.

Challenge 8 – Blended learning

By this time, we had all learnt how to teach, and be taught, online. However, we had never undertaken clinic training in this way, and these were practical skills we were teaching. Interviewing needs to be tried and tested to fully understand it. How could we expect students to work well in pairs with real clients when they had never even met their clinic partner face-to-face?

Of course, the great advantage we had was the students themselves. They have grown-up in a generation used to handling electronic devices on a daily basis, and to

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adapt to continual changes and improvements to technology. They had already become accustomed to learning from their bedroom or kitchen table; and using a mobile telephone or tablet rather than a PC. They were well versed in reading training manuals on a screen, rather than printing them off, and were used to making friends and connecting with others remotely.

So, we introduced our first attempt at creating an entirely online training programme. This included recorded lectures, documents, and videos to read and watch at their leisure; and live online group seminars to interact with. Remembering to unmute ourselves; making use of the chat box and screensharing all became second nature. This was a steep learning curve for everyone, but that's probably why it worked. We were all in the same position, and there wasn't any alternative. If anyone suggested the students were not learning practical skills in a lifelike way, then they were wrong. The pandemic meant most clients were seeing their paid solicitors via a screen, and even court hearings were being conducted by telephone or video call. The student experience was entirely similar to what the legal world had become during lockdown. We never got to actually meet some of those accelerated students, and now never will, as they have finished their degree and gone on elsewhere to work or continue studies. That is a real shame, but does not appear to have affected their results, with a high proportion of the class attaining an upper second class or above. We believe that these results are a testament that online learning can work, and that student's main practical experiences can still be completely natural and real even if they are virtual.

Streetlaw Projects

The CLE module students also took part in another of our pro bono projects; Streetlaw. This allows students to work in a small team to produce a presentation on a specific legal subject, relevant to the audience they will present it to – for example knife crime to school children, or cybercrime to the elderly. Usually these would be live presentations with the students travelling to the chosen venue. The pandemic presented this project with its own challenge:

Challenge 9 – Presenting virtually

We wanted to avoid this project being frozen during lockdown and had to continue it for at least the CLE module students as it was already part of their course and assessment. We therefore simply followed what all other training providers have done during the pandemic and moved the presentations online.

The aim of producing relevant content for the audience was maintained, and for the students, they still had the experience of trialling newly learned skills. These included working as part of a team; researching a new area of law; creating a presentation on the subject matter, ensuring the content is appropriate for the audience and gaining confidence in their presenting. Our students impressed us with their innovative ideas and we even ran a YouTube live event with the help of a housing solicitor from Shelter on housing rights for students living off campus.

Lessons Learnt

The Hertfordshire University campus reopened in September 2020, but with heavy demands on limited teaching spaces, which had to be Covid secure, the clinic remains online. Given the second lockdown in November 2020 we are experiencing at the time of writing, this was by far the best decision.

Students would probably have agreed to come on campus for face-to-face client meetings, but for the clients and external supervisors, the remote clinic works better, at least for now. Even for some of the internal supervisors, whilst they remain working from home and teaching online, it is simpler to maintain their clinic work online too.

Clients have finally recognised the advantages in accessing a remote clinic. They no longer have to worry about taking time off work for their appointment or finding childcare cover. They no longer have the problem of ensuring they have the permit to park on our campus or locating the correct bus to get here.

Many of our external supervisors are also more easily able to continue being a part of the clinic when they do not have to travel to our campus but can log on to an online meeting. This is particularly the case when their own firms would not permit them to visit our campus at present and some are still working from home. If third parties were allowed onto campus, we would be at ongoing risk of having to change this – often on short notice. We now know the virtual clinic works for everyone, and it can remain steady during these fluctuating times.

Whilst we have not specifically surveyed the clients to enquire whether they would prefer to remain online, not a single one has asked to have their appointment on campus. This allows us to capture clients from a wider geographical area. There is the issue of whether virtual advice can work for vulnerable clients. However, if a client is suffering from physical or mental health issues, being able to reach legal advice from virtually anywhere should hopefully be seen as a positive. The flexibility of online meetings would also allow them to have a third party attend with them, even if they cannot be in the same room together.

We do obtain feedback from clients after every meeting. We are grateful that it has always been positive, and this did not change after moving online. However, some clients, whether it is a generational issue or simply lack of ability or confidence to utilise technology, have still refused to access us online. For example, so far, we have had no clients come to the online clinic to draft their Power of Attorney.

We will also never be able to fully resolve the concern of who is in the room next to the client, listening in, or what is going on just beyond the camera. Unfortunately, we have seen examples in our clinic of a client discussing child welfare issues with the child concerned in earshot, and another client who would not use her microphone but typed all instructions into the chat box on screen because her abusive partner was in the room next door. We cannot find solutions for every issue – certainly not with a virtual clinic only seven months old.

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On the teaching front, the CLE module has now been allocated a face-to-face seminar slot on campus each week. However, this is not necessarily the positive step we had hoped for. Some students struggled to return to campus, either physically trapped overseas due to travel restrictions, or having their own, or other's, health issues to deal with. Those that are in the classroom cannot do the mock interviews and small group work we had hoped for; they have to wear face coverings, sit at least one metre apart, and face the front. None of this is conducive to trying out new practical skills. Should we therefore revert to purely online teaching?

There is still a lot to be said for having a group of students in the classroom together. They can interact with the lecturer and each other; and learn from each other. When it comes to reflecting on their clinic experiences, they can share successes and even failures. They can actually see the person they are going to do their clinic, or other pro bono, work with and there is a sense of camaraderie. Their later seminars when they are sharing reflections on their clinic work are actually named team meetings, preparing them for working amongst others, akin to the department in a law firm.

What's Next?

It is generally accepted that we still need to return to seeing some clients face-to-face – particularly vulnerable clients. Once FLH has reopened its offices and we can transport students in a Covid safe way, we will return to see their clients there. Some

of them need this extra security when seeking advice on personal and traumatic events. There are also the elderly clients who don't have access to electronic devices and internet. Further, the satellite clinic at HMP The Mount will only really run to full capacity when we can visit the prisoners in person.

For all the advantages of the virtual clinic, interviewing in person is still a vital skill for the students to experience. It is different to a screen, in some ways easier, like maintaining eye contact; understanding body language; being able to work with their student partner and not interrupt each other. However, it also has some more challenging aspects – dealing with real 'in your face' emotions; proper 'meeting and greeting' your client; and of course, ensuring your smart attire continues below the waist! However, the virtual clinic will never disappear, not now we have shown it can work, and work well. Why would we want to take a step back? And just as lockdowns 1 and 2 have caught us rather unawares, who knows when it will happen again.