

# The Law Clinic Experience: A Guidebook for Students



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*FRANCINA CANTATORE*

BOND UNIVERSITY  
GOLD COAST



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# Acknowledgement of Country



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*We pay respect to Elders past, present and emerging.*

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# About the Author



Dr Francina Cantatore is an Associate Professor in the Bond University Faculty of Law and is admitted to the Supreme Court of Queensland and the High Court of Australia. Prior to joining the Bond Faculty of Law, she was the in-house legal adviser for an Australian finance company and practised as a solicitor and barrister in South Africa. Her specialty research areas are legal education, clinical legal education (CLE), intellectual property (IP) law, commercial and consumer law, media and

communications law, internet law, property law and finance law.

Francina holds a PhD from Bond University in copyright law and teaches Property Law, CLE, IP Law and Media and Communications Law. She has published three books, numerous book chapters and refereed academic articles. She is also the founding Co-Editor of the *Australian Journal of Clinical Legal Education* and the recipient of external grant funding in partnered projects relating to legal education and internet law research.

Dr Cantatore established and is currently the Director of the Bond Law Clinic Program, which consists of eight Pro Bono clinics with a focus on public interest matters and access to justice. Francina is the recipient of a number of teaching and research awards, including an Australian National Office of Learning and Teaching Citation for Outstanding Contribution to Student Learning. She is an Executive Member of the Australasian Law Academics Association Committee and the Centre for Professional Legal Education Committee. She is also an Executive Board Member of Bond Limited, and a member of the Bond University Human Research Ethics Committee.

# Foreword



*Law students at Bond University. © Bond University.*

This book is firstly and foremostly a resource for law students undertaking a clinical activity during their law degree. It has been widely acknowledged that law students entering the competitive work environment can benefit significantly from practical work experience during their law degree.

Whether gained through clinical education, external work experience or pro bono programs, the effect is to increase self-confidence, practical experience and, consequently, employability of students. It has also been recognised that extra-curricular community engagement enhances graduate employability by combining experiential learning, course work and community service.<sup>1</sup> Clinical legal education (CLE) is generally defined as a student's involvement with 'real clients' in a legal centre<sup>2</sup> or in-house campus clinic; or through a placement

1. Shelley Kinash and Linda Crane, 'Supporting graduate employability from generalist disciplines through employer and private institution collaboration' (Report, Australian Government Office for Learning and Teaching, 2015) 6.<<https://research.bond.edu.au/en/publications/supporting-graduate-employability-from-generalist-disciplines-thr>>.

2. See, e.g., Susan Campbell, 'Blueprint for a Clinical Program' (1991) 9 *Journal of Professional Legal*

program or internship.<sup>3</sup> This book promotes the idea that, not only is clinical experience an invaluable asset to students to enhance learning and to prepare them for practice, but it often has the added benefit of developing a sense of social responsibility in students gained by undertaking pro bono work.

There are currently limited practice-based Australian textbooks available for students undertaking clinical legal placements with industry partners or working in on-campus clinics. This guide aims to equip law clinic students with useful tips and know-how to make the most of their law clinic experience and provide guidance on how to develop important employability skills for future success, whether in the legal profession or related pursuits. By sharing professional and industry insights such as reported by Evans et al,<sup>4</sup> and additional resources on the positive effects of practice-based learning techniques demonstrated by law students, the book aims to inform and benefit law students at any point of their clinic journey, irrespective of the type of clinical experience they engage in.

If you are about to start your clinical experience, or are already immersed in a clinic or placement, hopefully this book will provide you with some helpful insights and advice along your journey. Enjoy your experience and make the most of it!

Dr Francina Cantatore

February 2023

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*Education* 121, 122; Frank Bloch, 'The Andragogical Basis of Clinical Legal Education' (1982) 35 *Vanderbilt Law Review* 321, 326.

3. For a discussion of external placement programs, see, e.g., Graeme Coss, 'Field Placement (Externship): A Valuable Application of Clinical Education' (1993) *Legal Education Review* 29; cf Laura Lundy, 'The Assessment of Clinical Legal Education: An Illustration' (1995) 29 *Law Teacher* 311; Janet Motley, 'Self-Directed Learning and the Out-of-House Placement' (1989) 19 *New Mexico Law Review* 211.

4. Adrian Evans et al *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press 2017) <<https://press-files.anu.edu.au/downloads/press/n2366/pdf/book.pdf>>.

# Chapter 1: Preparing for your Law Clinic Experience



*Law students in the Law Library at Bond University. © Bond University.*

## 1.1 Introduction

This guide is for you, the intrepid law student, looking for a meaningful and rich experience to set you on your path to your legal career. Although the benefits of a clinical experience in law have been well widely acknowledged and documented in academia, the idea of clinics may be a relatively unknown terrain for a law student who has, until now, been focussed on absorbing the doctrine and theory of law in the classroom, with elements of skills development integrated into law courses to a limited degree. Some questions you may ask when faced with the opportunity to participate in a clinic are:

- Why should I apply for a clinic?
- What are the benefits to me?
- How can I contribute best to the community?
- Which clinic opportunity will be most useful for me/my career?

- Should I take a clinic elective or pursue an extra-curricular opportunity?
- How important is access to justice/pro bono work in my decision?

You may be presented with a wealth of clinic choices – and knowledge is power in choosing the right clinic experience for you. Factors that may affect your decision include your current passions or interests. Are you interested in compelling human rights issues; sustainable development and climate change; access to justice; entrepreneurial or start-up enterprises; immigration law or family law, to name but a few?

A clinic is an opportunity for you to take your passion one step further and become involved in a hands-on capacity. You may be curious about a certain area of the law which you don't know much about but would like to experience. Depending on the clinics offered by your institution, participation in a clinic may open your eyes to a niche area of the law.

Other factors that may impact your decision on choosing a clinic include your own talent, skills and aptitude, as well as your knowledge base, i.e., where you are in your law degree. Clinics will typically require you to have completed certain subjects or courses; however, some clinics may be suitable for students earlier in their degree. It's up to you to investigate the opportunities and familiarise yourself with the clinic requirements by looking at the clinic websites.

## 1.2 The benefits of clinic experience

An enormous amount has been written about the benefits of clinical legal education (CLE), but to briefly reiterate the advantages of immersing yourself in a clinic experience, a few of the potential benefits of clinical involvement are listed below:

- Increased communication and listening skills
- Improved writing and drafting skills
- Ability to network with legal professionals and partner organisations
- Development of practical research skills
- Sharpening of problem-solving skills
- Legal tech and web-based learning opportunities
- Contributing to the common good/community service
- Pro bono opportunities in diverse areas of the law
- Opportunity to gain 'real-life' client experience
- Public interest project-based opportunities
- Engaging with peers and supervisors to work collaboratively

- Developing a professional and ethical mindset

Of course, these are only some of the demonstrated benefits associated with CLE. There are many more advantages to be gained, depending on what you hope to achieve from your experience, including the satisfaction you will gain from community or volunteer work by helping disadvantaged members of the community.

Don't overthink it! Start planning to participate in at least one or more clinic experiences during your law degree. You will reap the benefits in terms of job preparedness, increased self-confidence, a deepened sense of community engagement, and potential connections with future employers.

## **1.3 Where do I start?**

### **1.3.1 Choosing the right clinic**

Depending on what your institution offers, there may be an array of clinics for you to choose from. How do you ensure that you choose the right clinic? Should you choose an elective clinical subject or an extra-curricular clinic experience? In short, there is no one right or wrong answer. CLE offers you an opportunity to 'test-drive' different areas of the law and whether you choose to do so for academic credit or as an extra-mural activity, there are significant benefits associated with both options.

There is no 'right' or 'wrong' clinic – any clinic experience you have will help you gain insight into a particular area of the law, whether it be a criminal law clinic, human rights clinic, family law clinic, start-up law clinic, etc. Each type of clinic has a different focus and will offer you an opportunity to experience that area of the law in a practice, under the supervision of experienced academics and law professionals. It may assist you in deciding whether this is an area of the law you enjoy and want to pursue in the future, or whether it may not be for you – which is just as important. Either way, CLE affords law students those opportunities and insights.

### **1.3.2 CLE and pro bono – what is the difference?**

You may have heard different terminology being used in respect of clinics, which can be confusing. Clinics may take on different formats and consist of a placement with a law firm or community legal centre, project-based activities

with partner organisations with a public interest focus, or other access to justice focussed opportunities. Some clinics have a pro bono focus, which means they involve 'legal services provided in the public interest by lawyers for free or for a substantially reduced fee'.<sup>1</sup>

As for what constitutes 'legal services provided in the public interest' that may be:<sup>2</sup>

*"all interests under-represented by the private market, including the poor, ethnic minorities, unpopular causes 'across the political spectrum' and diffuse interests (such as environment and peace)".<sup>3</sup>*

The National Pro Bono Resource Centre defines pro bono as:<sup>4</sup>

1. giving legal assistance for free or at a substantially reduced fee to:
  - (a) individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or
  - (b) individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or
  - (c) charities or other non-profit organisations which work on behalf of low income or disadvantaged members of the community or for the public good;
2. conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest;
3. participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest; or
4. providing a lawyer on secondment at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.

Related to that, the National Pro Bono Resource Centre adopts the following definition of 'student pro bono' as:

1. Australian Law Reform Commission, Managing Justice: A Review of the Federal Civil Justice System, Report No 89 (2000) 307.
2. Les McCrimmon, 'Mandating a Culture of Service: Pro Bono in the Law School Curriculum' (2003-2004) 14(1) *Legal Education Review* 53 < <https://ler.scholasticahq.com/article/6164-mandating-a-culture-of-service-pro-bono-in-the-law-school-curriculum> >
3. Richard Abel, 'Choosing, Nurturing, Training and Placing Public Interest Law Students' (2002) 70(5) *Fordham Law Review* 1563.
4. National Pro Bono Resource Centre, *What is Pro Bono?* <<https://www.probonocentre.org.au/apbn/feb-2016/on-the-site-what-is-pro-bono/>>.



*'[S]tudent pro bono' is where students, without fee, reward or academic credit provide or assist in the provision of services that will provide or enhance access to justice for low income and disadvantaged people or for non-profit organisations that work on behalf of members of the community who are disadvantaged or marginalised, or that work for the public good.*<sup>5</sup>

The definition of pro bono often excludes university courses for credit, and pro bono and CLE programs are often seen to 'occupy different roles in the context of a law school education.'<sup>6</sup>

Although there is some overlap between CLE and pro bono programs, they have generally been regarded as 'separate and distinct entities'.<sup>7</sup> The main distinguishing factors between the two models appear to be as follows:<sup>8</sup>

- Academic credit is usually awarded for CLE programs,<sup>9</sup> as opposed to purely voluntary non-reward arrangements for pro bono students.
- The term 'pro bono' refers to voluntary work done out of a sense of professional responsibility, where the primary motivation for the work is a concern for justice or for reasons of kinship or friendship, as opposed to securing gain.<sup>10</sup>
- CLE programs typically have a teaching focus whereas pro bono programs typically have a community service focus.<sup>11</sup>
- Usually pro bono programs are at no financial cost to students whereas academic fees are usually payable for CLE programs.
- CLE programs are usually required to have formal assessment procedures to produce specific learning and teaching outcomes whereas pro bono programs generally implement informal feedback and reflective practices.<sup>12</sup>

5. National Pro Bono Resource Centre, *Information Paper: Pro Bono and Clinical Legal Education Programs in Australian Law Schools* (August 2004) < <https://probonocentre.org.au/wp-content/uploads/2015/09/ProbonoandCLEs.pdf> >: 'clinical legal education programs are available at 23 of the 28 law schools (82%)', 8.

6. John Corker, 'How Does Pro Bono Students Australia (PBSA) Fit with Clinical Legal Education in Australia?' (Conference Paper, International Journal of Clinical Legal Education Conference and Australian Clinical Legal Education Conference, 13–15 July 2005) 6.

7. McCrimmon (n 2) 54–57.

8. Francina Cantatore, 'Boosting law graduate employability: Using a pro bono teaching clinic to facilitate experiential learning in commercial law subjects' (2015) 25(1) *Legal Education Review* 147.

9. Adrian Evans et al, 'Best Practices Australian Clinical Legal Education' (Report, Australian Government Office for Learning and Teaching, 2012) 23.

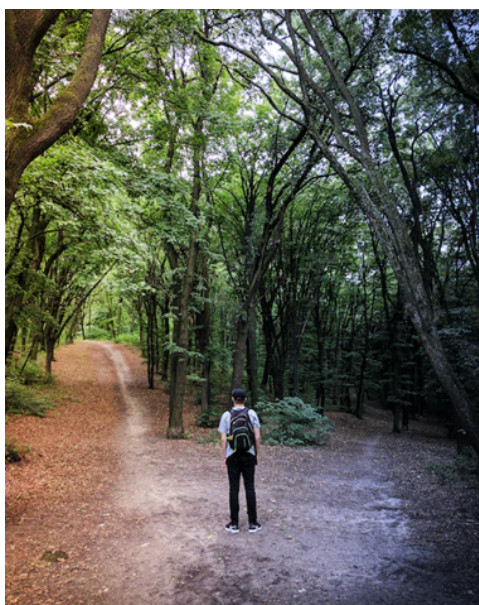
10. John Corker, 'How Does Pro Bono Students Australia (PBSA) Fit with Clinical Legal Education in Australia?' (Conference paper, International Journal of Clinical Legal Education Conference and Australian Clinical Legal Education Conference, 13–15 July 2005) 5.

11. Ibid 6.

12. Francina Cantatore, 'Boosting law graduate employability: Using a pro bono teaching clinic to

In Australia pro bono work is not compulsory per se; neither for law students (unless mandated by their institution), nor for lawyers. However, the legal profession in Australia has a strong pro bono ethos, evidenced by the number of law firms and legal professionals who subscribe to the National Pro Bono Target set by the Australian Pro Bono Centre.<sup>13</sup> Consequently, many law firms value a pro bono mindset in their lawyers.

However, as mentioned above, both CLE and pro bono activities will provide you with valuable practice-based experience to prepare you for a future career, whether in a law practice, alternative legal work or a related profession.



*Photo by Vladislav Babienko on Unsplash*

facilitate experiential learning in commercial law subjects' (2015) 25(1) *Legal Education Review* 148.

13. National Pro Bono Resource Centre.<<https://www.probonocentre.org.au/>>.

# Chapter 2: Applying for your Law Clinic Experience



*Law Clinic students with a mentor at Bond University. © Bond University.*

Most institutions require students to formally apply for clinical opportunities, and in some clinic programs this process is competitive. This means that the better prepared you are, the stronger your prospects of success in the process. It's a good idea to treat your clinic application as practice for your future job applications. You may need to explain why you are interested in the clinic, what attributes make you suitable for the clinic, and provide a CV and/or an academic transcript. Most clinic coordinators will consider how much effort you've put into your application and how passionate you sound about joining the clinic. It's up to you to impress them.

## 2.1 Your clinic application

First impressions are important, and your clinic application should convey your

enthusiasm for the clinic, as well as your attention to detail. Here are a few tips for writing a successful application:

## **2.1.1 Read the instructions!**

Treat the clinic application as you would a job application, which will require you to meet certain criteria to be successful. First, read the application instructions carefully – this is a good indication of your ability to follow instructions, a quality every law graduate should possess, and every employer will expect.

## **2.1.2 Do your research**

Make sure you are familiar with what the clinic entails. This will enable you to express your interest in the clinic in a meaningful way and ensure that you meet the minimum requirements for the clinic. For example, there is no point in applying for a clinic which requires you to have completed Criminal Law and Procedure when you haven't yet completed the course. You should also ensure that you are able to commit to the clinic times and dates prior to applying. Additionally, it may be helpful to ascertain who the coordinator for the clinic is and email them directly in advance to express your interest and ask any relevant questions you may have (not covered in the clinic description). This is also helpful if you are uncertain about whether you qualify for the clinic.

## **2.2 Build strong relationships**

Emailing the clinic coordinator directly, or arranging to see them in person, will assist in building a relationship with your supervisor and making them aware of your goals and objectives in taking the clinic. During your clinic experience, make use of the opportunity to build relationships with your peers, academics, and legal professionals in practice.

## **2.3 Follow the process step-by-step**

As mentioned above, follow the instructions carefully and ensure that you provide all the documentation requested. If, for example, the application

requires a one-page CV, ensure that your CV is no longer than a page. It may seem obvious, but you should ensure that you apply by the specified date and to the correct person. If you are unsure about anything, email the coordinator well in advance to have your questions answered (not at the last minute).

## **2.4 Use your past experience in your favour**

Be enthusiastic about the clinic you're applying for, demonstrating how you will be able to contribute to the clinic by using examples of your past work experience. For example, you could relate your customer service in hospitality, such as a holiday job working at a local café, demonstrating your ability to communicate effectively with a diverse range of people. Mentioning why you are passionate about a clinic opportunity is also important, for example demonstrating your wish to contribute to the community through your past volunteering at an old-age home or charity shop. Any past experience you may have could be used to show your abilities, interests and commitment to your chosen activities. Most clinics will have a strong focus on access to justice or pro bono work, and you should take care to explain why this type of work will be meaningful to you.

## **2.5 The interview process**

If you are required to attend an interview with the clinic coordinator, treat it as you would a job interview. Dress appropriately like you would for a job interview and if unsure, ask the question in advance. Err on the side of professional business attire if in doubt, and avoid turning up at interviews in casual wear, which may convey a lack of preparation and professionalism. If you have prepared for the interview and have read all the available information on the clinic website, you should be able to ask and answer questions about the clinic activities and expectations. Ensure that you have read any information, policies and procedures available on the clinic website so that you know what the clinic entails. It may also help to speak to your peers who have already completed the clinic you are interested in and ask them what they liked best and least about their experience, so that you can address any issues in the interview.

# Chapter 3: Making the most of your Law Clinic Journey



*Law students at Bond University. © Bond University.*

## 3.1 Starting your clinic journey

A successful clinic experience starts with the correct attitude – an open mind and a willingness to learn. Dealing with clients in practice is different from solving problems in theory and can be challenging at first for some students, although there will always be a supervisor to lead the way and provide a support structure. Making the most of your clinic experience depends on a “can-do” mindset, and an ability to learn from your mistakes. By approaching the journey with enthusiasm and flexibility you will create an optimal learning experience for yourself, no matter the work involved in your chosen clinic. Even the humblest of jobs – photocopying or cleaning out wastepaper baskets – should be seen as an opportunity to learn and grow. Mostly, clinic will exceed students’ expectations and is often referred to as “the best thing I ever did” by students who immerse themselves in the experience.



## 3.2 The hero's journey



Photo by Vlad Bagacian on Unsplash

The law clinic experience has been likened to a “hero’s journey”.<sup>1</sup> This is because it provides law students with the opportunity to develop the ‘Great Eight Traits’ of heroism in becoming a civic-minded, ethical lawyer. These traits have been described as:<sup>2</sup>

1. Caring: compassionate, empathetic, kind
2. Charismatic: dedicated, eloquent, passionate
3. Inspiring: admirable, amazing, great, inspirational
4. Reliable: loyal, true
5. Resilient: accomplished, determined, persevering
6. Selfless: altruistic, honest, humble, moral
7. Smart: intelligent, wise
8. Strong: courageous, dominating, gallant, leader

1. Francina Cantatore and Nickolas J James ‘Heroism Science offers a new framework for cultivating civic virtue within clinical law programs’ (2017) 2(1) *Australian Journal of Clinical Education* 1 <<https://ajce.scholasticahq.com/article/5093>>.

2. Scott T Allison and George R Goethals, *Heroic leadership: An influence taxonomy of 100 exceptional individuals* (Routledge 2013).

Each of the Great Eight Traits is of relevance to becoming a good lawyer. A lawyer with civic virtue will be caring towards those they seek to help in order to best understand their interests and circumstances, and motivate them to trust the lawyer<sup>3</sup>. They must be charismatic when engaging in advocacy on behalf of those they serve, especially when seeking to persuade a judge or legislator to interpret or reform the law in a particular manner<sup>4</sup>. They must be inspiring if they are seeking to persuade others to join their cause in seeking to reform the law or strive for social justice. They must be reliable and loyal: to their client, to the court, to their colleagues and to the law itself<sup>5</sup>. They must be resilient, especially in the face of the extraordinary stressors associated with the study and practice of law<sup>6</sup>.

They must be selfless, willing to give of their time freely to help those who are incapable of helping themselves<sup>7</sup> or to engage in actions that benefit others even if the cost to themselves personally outweighs any personal benefits. They must certainly be smart: it does after all take at least three years of university study to qualify as a lawyer. And a lawyer with civic virtue must be strong: there will be times when their opponents will be well resourced and politically powerful, and a lawyer must be especially courageous when the cause they are advocating is unpopular or inconsistent with the preferences of the political status quo. If heroism is moral courage in the face of adversity and despite the personal cost, this eighth and final virtue is particularly relevant for civically virtuous lawyers.

In the law clinics, students are inspired to develop these character traits in the context of their legal experience. However, it is up to you to approach your clinic work with enthusiasm and determination to learn and to strive towards achieving these admirable qualities. A giving and selfless attitude will be instrumental in developing these attributes.

- Ethical Behaviour -The Keystone of Legal Practice
- Interviewing, Communication and Writing Skills
- Developing Research and Technology Skills
- Organisational Skills Development: A Recipe for Success
- Meeting Expectations: Clients', Supervisors' and your Own
- The Value of Reflection

3. Ian Gallacher, 'Thinking like Nonlawyers: Why Empathy is a Core Lawyering Skill and Why Legal Educators Should Change to Reflect Its Importance' (2011) 8 *Legal Communication & Rhetoric: JALWD* 109.

4. Deborah L Rhode, *Lawyers as leaders* (Oxford University Press 2013).

5. Ibid 17.

6. Ibid 30.

7. Richard Abel and P S C Lewis (eds) *Lawyers in society: An overview* (University of California Press 1995).



### 3.3 Prepare yourself for the journey

Before you start, equip yourself for your clinic journey. A good lawyer has strong organisational skills, and ensuring that you are well prepared will assist you in making a good start. As a priority, familiarise yourself with the course requirements if you haven't done so yet, including:

1. Your supervisor or clinic coordinator's office hours and contact details;
2. Your allocated clinic hours and attendance requirements (including dress code, parking arrangements, etc);
3. Clinic induction place and time;
4. Any information on the clinic website that may be important, including announcements posted by your clinic coordinator.
5. Additionally, where you are undertaking the clinic for academic credit/ as an elective subject, make sure you have reviewed:
  - Any prescribed materials and resources;
  - Assessment content and criteria for marking;
  - Any marking rubrics being used by the clinic coordinator.

### 3.4 Immerse yourself in the experience

Start making the most of your clinic experience from Day 1. Clinics are practice-based and some of the activities may be new to you. Don't hesitate to ask questions if you are unsure of anything; it is completely normal – your supervisor is there to mentor and guide you on your journey. Also, don't expect others to do the work for you or to meet your expectations; rather, make sure that you meet your own expectations by setting realistic goals for yourself and striving to achieve them. For example, you may be intimidated by the idea of interviewing a real-life client to obtain their information at the start. This is an opportunity to banish your apprehension and challenge yourself. Overcoming fears and obstacles is part of the clinic journey – if you embrace any fears or uncertainty with the support of your supervisor, you will leave the clinic with more confidence, more practical experience and a stronger sense of community values than when you started.

It is important to see each instruction as an opportunity to improve your skillset. Clinic work may include a variety of activities under the supervision of an experienced legal practitioner, for example:

- Researching the law relating to a client matter

- Taking instructions from a client
- Finding a precedent for your supervisor
- Writing a client letter or file note
- Answering the phone or meeting and greeting clients
- Online file management
- Administrative work such as filing or photocopying
- Dealing with a distressed client.

All of these activities, different as they may appear to you, provide you with a chance to prepare yourself for legal practice. Take advantage of each learning opportunity that presents itself.

### 3.5 Request and implement feedback

To have a real and valuable learning experience in the clinic, expect that there may be times that you fail in what you set out to do, or don't live up to your own or your supervisor's expectations. It's all part of the journey and it is important to learn from your mistakes. Make a point of seeking feedback from your supervisor during the semester to improve your skills and raise the quality of your work. This is a valuable opportunity to prepare you for the real world of legal practice and to acquire skills you may not even have realised are needed to be a good lawyer.

In addition to developing technical work skills, there are other qualities you could foster and improve during your time in clinic. Measure yourself against the “eight traits” of the hero – ask yourself, are there ways in which you could become not only a better person but a better lawyer through your clinic experience?

There are many ways in which you could try to incorporate these qualities into your activities. For example, you could foster compassion and empathy by taking note of the plight of many of the clinic clients in community legal centres, many of whom are disadvantaged or disenfranchised, and think about ways in which they may benefit from practical guidance or assistance. On a personal level, you may hone your communication skills and become more eloquent and confident in dealing with clients, your peers and your supervisor. You could strive to be inspiring to others through your dedication and hard work in the clinic and demonstrate your loyalty and trustworthiness by always being punctual and reliable. You could show determination and courage in your work ethic and dealing with problems and strive to be humble and moral in all you do. These are the qualities of a leader, and now is your chance to develop them.

## 3.6 Build connections

“Only connect” – E. M. Foster<sup>8</sup>

Being part of a clinic also presents a great opportunity to increase your connections, both professionally and personally. Because of the collaborative/ teamwork nature of many clinics, students are often able to build lasting friendships amongst themselves and connect with their peers on a level where everyone has the same objectives. Whether your task is to complete a collaborative project or complete the clinic successfully as an individual, a sense of camaraderie and support is typical of the clinic environment. Students help and support each other to find solutions for legal issues, find resources and share experiences in the clinic community. This is also part of legal practice, where lawyers typically help their colleagues with advice, precedents and resources, and support each other when the going gets tough.

On a professional level, clinics also give you a chance to network and make valuable professional connections which could be helpful once you are a law graduate or entry level lawyer, or even when considering a different career. This obviously depends on the type of clinic you are undertaking, but most clinics require legal practitioner or academic supervision, which is an ideal opportunity to cultivate mentorships and ongoing connections. Some clinics may partner with industry which could open the door to other opportunities once you complete your studies. It is up to you what you make of this golden opportunity and to impress your superiors with your outstanding work ethic and enthusiasm.

## 3.7 Wellbeing and resilience

It has been recognised that it may be stressful for clinic students to meet a distressed client or encounter an unfamiliar environment.<sup>9</sup> In the clinic

8. E M Foster, *Howards End* Accessed 14.12.22, Chapter 22< [http://www.online-literature.com/forster/howards\\_end/](http://www.online-literature.com/forster/howards_end/)>

9. Nigel Duncan, Caroline Strevens and Rachael M Field, 'Resilience and student wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive' (2020) 1(1) *European Journal of Legal Education* 83 <<https://ejle.eu/index.php/EJLE/article/view/10>>; Gregory Baker, 'Do You Hear the Knocking at the Door - A Therapeutic Approach to Enriching Clinical Legal Education comes Calling' (2006) 28(1) *Whittier Law Review* 379; Adrian Evans, et al, *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press 2017) <<https://press.anu.edu.au/publications/australian-clinical-legal-education#tabanchor>>; Nigel Duncan, 'Resilience, positive motivation and professional identity The experience of law clinic students working with real clients' in Caroline

environment you may be exposed to clients who are agitated, emotionally charged, or adversely affected by their circumstances, depending on the type of clinic placement you are undertaking. It is important that you are able to deal with these challenges and that you are aware of coping mechanisms and strategies that can help you navigate difficult situations.

Your supervisors will be experienced and well-versed in managing difficult clients and stressful situations, and you should always defer to them in the first instance when faced with a challenging issue and seek their advice and support. As a law student you would never be expected to deal with such matters on your own in the clinic environment.

One of the approaches that may be helpful to you as a clinic student is to embrace the principles of Self-Determination Theory, as discussed below.

## Self-determination theory

Self-Determination Theory (SDT) is regarded as an important theory of human motivation<sup>10</sup> and can be a helpful tool in building resilience and wellbeing in law clinic students. SDT is based upon the idea<sup>11</sup> that there is a link between high levels of wellbeing and being intrinsically motivated, where the reason for acting is for the enjoyment and sense of fulfilment it provides, therefore an end in itself.

For example, this can be illustrated by a student undertaking a clinic placement out of curiosity and interest, or a sense of community values, rather than ticking a box for their CV. This can be contrasted with external motivation, where a student takes on a clinic role because they feel obliged to do so. It can therefore be argued that your clinic experience should be motivated by intrinsic rather than external considerations. Ask yourself: Why am I undertaking the clinic placement? What does it mean to me in my personal development? How can I optimise enjoyment of my experience? How does it help others? These types of questions will help you to identify your personal

*Stevens and Rachael Field (eds), Educating for Well-Being in Law: Positive Professional Identities and Practice (Routledge 2019) 143.*

10. Nigel Duncan, Caroline Stevens and Rachael M Field, 'Resilience and student wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive' (2020) 1(1) *European Journal of Legal Education* 83 <<https://ejle.eu/index.php/EJLE/article/view/10>>; see also Richard M Ryan and Edward L Deci, 'Brick by Brick: The Origins, Development, and Future of Self-Determination Theory' in Andrew J Elliot (ed) *Advances in Motivation Science* (Elsevier 2019) Vol 6, 111.

11. Edward L Deci and Richard M Ryan, *Intrinsic Motivation and Self-Determination in Human Behavior* (Plenum 1985).

motivators and appreciate the experience for its own value (and your community values) rather than what it will do for your future career.

Another concept that has surfaced within STD is Basic Psychological Needs Theory. It proposes that psychological well-being and optimal functioning is based on a person experiencing autonomy, competence, and relatedness.<sup>12</sup> These concepts are also relevant in the law clinic environment and can be explained as follows:

- **Autonomy:** Experiencing the ability and opportunity to exercise choice;
- **Competence:** Being able to experience increasing mastery; and
- **Relatedness:** Experiencing trusting and trusted relationships with others.<sup>13</sup>

In general, wellbeing is linked to experiencing all three concepts, which, if implemented, can have a positive impact in the context of clinic experience.

Autonomous motivation has been linked to higher levels of positive effect, better productivity and less burn out at work, greater understanding and higher subjective wellbeing,<sup>14</sup> which emphasises the importance of personal choice. To experience autonomy, it is suggested that people need to be true to their values, feel empowered, and act in a way that supports their true beliefs, values and interests.<sup>15</sup> This holds true for the clinic environment too, and supports the need for students to exercise choice in their own clinic experience. For example, if you are commercially minded and averse to trauma, a criminal law clinic may affect your wellbeing adversely, whereas you may have a more positive experience dealing with small business matters in a commercial law clinic.

To increase competence in students, law clinics should support the development of student competence by providing well-structured affirming learning environments.<sup>16</sup> It is important that your clinic supports this ethos and that you are able to have conversations with your supervisor to ensure you are enjoying an optimal learning experience in a well-organised setting. It may also be up to you to apply organisational skills and to ask for personal feedback when you require it.

12. Nigel Duncan, Caroline Strevens and Rachael M Field, 'Resilience and student wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive' (2020) 1(1) *European Journal of Legal Education* 83.

13. *Ibid.*

14. Edward L Deci and Richard M Ryan, 'Facilitating Optimal Motivation and Psychological Well-Being Across Life's Domains' (2008) 49(1) *Canadian Psychology* 14.

15. Christopher P Niemiec, Richard M Ryan and Edward L Deci, 'Self-Determination Theory and the Relation of Autonomy to Self-Regulatory Processes and Personality Development' in Rick Hoyle (ed), *Handbook of Personality and Self-Regulation* (Wiley Blackwell, 2010) 169, 176.

16. Nigel Duncan, Caroline Strevens and Rachael M Field, 'Resilience and student wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive' (2020) 1(1) *European Journal of Legal Education* 83.

Relatedness requires “meaningful and reciprocal connection with significant other people”,<sup>17</sup> which implies a two-way street. Trust needs to be built by both parties. You have the opportunity of building strong relationships with your supervisors and peers in the clinic, which will enhance and enrich your clinic experience and your own wellbeing. Don’t be afraid to reach out to your fellow students as the clinic environment encourages mutual support and collaboration.

The clinic provides a suitable environment to foster these qualities, but it is ultimately up to you to ensure you make choices which support your values and beliefs, and to incorporate the concepts of autonomy, competence and relatedness into your clinic experience. In this way, you can contribute to your own wellbeing and resilience.

## Vicarious trauma

There are however circumstances which may trigger vicarious trauma in a clinic environment, depending on the type of clinic. Vicarious trauma can result from working with individuals who have experienced traumatic events, such as clients in domestic violence situations or clients suffering financial abuse. It is a relevant issue for students working in law clinics where they may be exposed to clients who have experienced trauma or witnessed traumatic events. If your clinic deals with these types of matters, it is important to recognise that you may be affected by other people's stress and trauma.

Here are some strategies you can use to deal with vicarious trauma:

- **Seek support:** Your mentor or supervisor can provide support, feedback, and guidance on how to manage vicarious trauma. Talking to a trusted friend, family member, or mental health professional can also help to process and manage vicarious trauma; however, it is pivotal to respect client confidentiality in these circumstances. It is acceptable to discuss details of legal matters with your supervisor but not with friends or family members. Your university counselling services may also be able to provide you with support in dealing with vicarious trauma.
- **Engage in self-reflection:** Take time to reflect on your experiences and emotions related to your work in the clinic. This can help you to identify areas of personal strength and growth, and to identify any potential triggers for vicarious trauma.
- **Limit exposure and debrief:** Your clinic supervisors will aim to limit students' exposure to graphic or triggering material, but it is up to you to

17. *Ibid.*

alert them when you feel stressed or challenged by situations or clients in the clinic. You should also be able to take breaks and debrief with our supervisor after dealing with traumatic cases, ensuring that you communicate any concerns to your supervisor honestly and openly.

- Learn about vicarious trauma: Becoming knowledgeable about the effects of vicarious trauma can help to validate and understand one's own experiences.<sup>18</sup>
- Practice self-care: Recognise when you may have been affected by vicarious trauma and take steps to look after your wellbeing. To look after your physical and emotional health engage in activities such as exercise, meditation, and spending time with family and friends.

It's important to remember that everyone's experiences with vicarious trauma are unique and what works for one student may not work for another. Seeking help and support early is crucial in preventing the effects of vicarious trauma from becoming overwhelming.

Your clinic supervisors recognise that students come from different circumstances and have had different life experiences, and that some students may need more support than others. All students may need support or guidance at some stage during their law degree, irrespective of their background or age. It's natural to share your difficulties, challenges and uncertainties with your supervisor, and to ask for support when you need it, especially when dealing with traumatic matters or difficult clients, or even when issues relating to a personal matter may be impacting on your work. You are not alone in your clinic journey – it's okay to rely on the mentorship and support of your clinic supervisors and colleagues.

18. See, for example, Silver, M. A., Portnoy, S., & Peters, J. K. (2015). Stress, burnout, vicarious trauma, and other emotional realities in the lawyer/client relationship. *Touro Law Review*, 19(4), < <https://ejle.eu/index.php/EJLE/article/view/10>>.





# Chapter 4: Building your Skillset



*Law Clinic students in the Bond University Law Library. © Bond University.*

## 4.1 Introduction

*In the last chapter we focused on ways to make the best of your clinic journey. We now consider more closely how you could develop practical skills which will not only prepare you for legal practice, but any other career path you may choose to follow. Developing these skills will also – in the shorter term – assist you in the successful completion of your law degree, at least from a skills perspective. Of course, by the time you graduate, you will have also attained a strong knowledge base in some of the most important areas of law (if you listened well in class and did all your readings). In this chapter we focus on the importance of professional and practical aspects of your clinical journey, and the benefits of improving these skills and attributes during your clinic experience.*

## 4.2 Ethical behaviour – The keystone of legal practice

### 4.2.1 What is an ethical lawyer?

*An important aspect of legal practice is the need to always behave ethically – during your clinic experience this is something that will be emphasised by your supervisor. What does that mean to you? Ethical behaviour applies to many activities and scenarios you will face in dealing with clients, client files and court matters in your clinic experience. It includes issues such as conflicts of interest, client confidentiality, a lawyer's duty to the court, honest conduct and acting on instructions. Of course, as a law student you are not able to provide legal advice as you are not an admitted solicitor, but you may be dealing directly with clinic clients and matters during your placement. It is pivotal that you act ethically in all your dealings with clinic clients, supervising solicitors and your peers, and that you check with your supervisor if you have any doubts or concerns about the conduct of activities or ethical behaviour in the clinic. Much of what is prescribed comes down to common sense and an innate sense of what is right and wrong. For example, as a lawyer you cannot act for a client and then, after being the recipient of their confidential information, switch sides and act for the opposing party – that would clearly be unethical. You also cannot act for two opposing parties simultaneously, or where there is a potential for conflict occurring between them, as that would be a conflict of interest.*

### 4.2.2 Your ethical behaviour in the clinic

*As a law student you will be expected to adhere to the guidelines, practices and procedures prescribed in your clinic. These may vary between clinic models, but the same foundational ethics requirements will apply in all legal clinics. This includes the same issues considered by lawyers in practice, such as:*

- *Client confidentiality*
- *Avoiding any conflicts of interest*
- *Being honest and transparent in all your dealings (with clinic clients, your peers and your supervisors)*
- *Acting on instructions*

*As means that, as a clinic student, you should always:*

- *Maintain confidentiality of client's confidential information*
- *Assist the supervising lawyers in identifying any conflicts of interest*
- *Act honestly and fairly in the client's best interests, as well as being transparent and forthright in dealing with peers and supervisors*
- *Follow instructions given to you by your supervising lawyer*

*In addition, law students must not hold themselves out as lawyers or otherwise imply that they are lawyers.*

### *Client Confidentiality*

*Law clinics, like law firms, have a contractual duty to keep their clients' records and information confidential, subject to overriding legal duties, or where the client has given their informed consent to particular disclosure. This means that clinic lawyers and students must not disclose to a third party, any client information that has come to them in the course of their work.*

*It also means that clinic lawyers and students must not remove any documents from the Clinic premises, nor keep them on electronic devices or email them to external emails or devices where they may be accessed by third parties.*

### *Conflict Checks*

*Conflict checks on the client and other parties will usually be carried out as far as possible by the clinic administrators prior to appointment, but this is not always possible with walk-in clients. Clinic lawyers are also responsible for conducting conflict checks and there will be systems in place to deal with matters where a conflict arises. The client may be referred to an alternate community legal centre or the Queensland Law Society or other relevant Law Society for a referral.*

## 4.2.2 Australian Solicitors Conduct Rules

*Guidance for the conduct of legal practitioners is set out in the Australian Solicitors Conduct Rules 2012<sup>1</sup>. The ASCR Rules provide guidance on:*

- *Fundamental duties of solicitors in relation to their conduct;*
- *Relations with clients, including communication, confidentiality, conflicts and client documents;*
- *Advocacy and litigation, including avoiding personal bias, formality and frankness in court, responsible use of court process and privilege, communication with opponents and witnesses, integrity of evidence and public comment;*
- *Relations with other solicitors and other parties; and*
- *Law practice management.*

## 4.3 Interviewing skills

### 4.3.1 Interviewing clients

*The interviewing process<sup>2</sup> is an important part of being an effective lawyer. During the interview, the client will explain their problem and the lawyer will take notes – this is called “taking instructions”. As a clinic student, this is your opportunity to hone your abilities and gain confidence in interviewing clients and taking instructions.*

*An interview can essentially be broken up into four parts:*

- *Icebreaking*
- *Initial problem identification*
- *Information gathering*
- *Closing*

1. Queensland Law Society, Australian Solicitors Conduct Rules (2012) < <https://www.qls.com.au/Content-Collections/Rules/Australian-Solicitors-Conduct-Rules>>.

2. Excerpt adapted from Francina Cantatore, Bond University Commercial Law Clinic Volunteer Handbook 2021, p 31-32.

## a. Icebreaking

*In client interviews a few moments of small talk will allow the client to relax, lets them know that you are sensitive to their needs and gives them confidence in your ability. By establishing rapport, lawyers encourage clients to provide required information. This is your opportunity to learn how to communicate with clients and make them feel at ease.*

## b. Initial problem identification

*No lawyer can solve a client's problem without the help of that client. Throughout the preliminary problem identification students should use open-ended questions, active listening, and structural guides to encourage a client to continue describing the problem. Examples of structural guide questions would be:*

*"Can you give me a brief description of your problem, how it arose, and what solution you hope to find?"*

*"Please start by giving me a description of your problem, whatever concerns you may have, and how you would like things to turn out."*

*A useful way to conclude this section of the interview is to summarise the client's problem. Brief summaries of this sort, conveyed to the client using their own words where possible, encourage rapport by showing the interviewer is listening and that they understand the client's problem.*

## c. Information gathering

*There should be two phases of information gathering:*

- *the timeline phase; and*
- *the theory development and verification phase.*

*During the timeline phase, a student seeks to create a chronological, step-by-step narrative of events giving rise to a client's problem. The chronology begins with whatever the client believes first gave rise to the problem and continues to the time of the interview. A timeline story will suggest a number of potentially applicable legal theories. During theory development the student tailors the conversation based on their legal theories and need for specific*

information. Students develop interviewing skills by learning which questions to ask and how to ask them.

Students should be aware of those factors which inhibit and those factors which facilitate client participation. Factors that inhibit client communication include information which the client perceives as threatening their self-esteem or their case, or which they consider irrelevant. They may also be inhibited by their expectations of the lawyer-client role, their reluctance to discuss taboo subjects or by a preoccupation with another subject. On the other hand, factors that facilitate client communication include:

- empathetic understanding;
- conveying an expectation that information is revealed;
- recognition of client contribution;
- appealing to the client's altruism (selflessness); and
- indicating why information is useful to the client's case.

Once a student becomes familiar with and learns to recognise and use inhibitors and facilitators, they must carefully choose the form of questions in order to fully maximize the information they are gathering.

You may be expected to participate and/or conduct client interviews in the clinic. However, your role is one of information gathering and not one of providing legal advice – that is the role of your supervising lawyer.

## d. Closing

An interview should be closed with an understanding between the student and client as to the client's status with their case, the actions to be taken by the student under the guidance of their supervising lawyer, and the client, and a brief assessment of the client's circumstances. Identifying possible actions to be undertaken fosters client confidence, avoids miscommunication, and helps expedite matters. Note that any legal advice needs to be provided by your supervising lawyer.

### 4.3.2 Elements of the interview: Anatomy and structure

In his book "Client interviewing for lawyers", Avrom Sherr describes the

interviewing tasks by stages<sup>3</sup> – this provides a useful framework for students to conduct a successful client interview:

<b>Listening</b>	<ol style="list-style-type: none"> <li>1. Greet, seat and introduce;</li> <li>2. Elicit story with opening questions, etc;</li> <li>3. Listen carefully to basic outline of personalities and case from client's own words.</li> </ol>	Note Taking
<b>Questioning</b>	<ol style="list-style-type: none"> <li>1. Question on facts for gaps, depth, background, ambiguities and relevance;</li> <li>2. Sum up and recount lawyer's view of facts and check for client's agreement or amend.</li> </ol>	Note Taking
<b>Advising</b>	<ol style="list-style-type: none"> <li>1. State advice and/or plan of action and deal with question of funds;</li> <li>2. Repeat advice/plan of action and check for client's agreement or amend;</li> <li>3. Recount follow-up work to be done by client;</li> <li>4. Recount follow-up work to be done by lawyer;</li> <li>5. State next contact between lawyer and client;</li> <li>6. Ask if 'any Other Business' and deal with it;</li> <li>7. Terminate, help out and goodbye.</li> </ol>	Note Taking

### 4.3.3 The first interview

Libby Taylor<sup>4</sup> suggests the following useful steps for new lawyers in conducting an interview:

1. Begin to establish rapport in meet, greet, seat phase.

3. Avrom Sherr, *Client interviewing for lawyers* (Sweet and Maxwell, 1986).

4. Libby Taylor, "The first interview", in Bond University Commercial Law Clinic Volunteer Handbook 2021, p 35. Author's note: These suggestions will be suitable for lawyers with a practising certificate, able to provide legal advice to clients. Law students will be able to undertake steps 1-8 only – any legal advice should be provided by the supervising lawyer.

*2. Explain to the client the format for the interview, client and lawyer roles in the process, especially lawyer/client confidentiality.*

*3. Obtain details about the client's background.*

*4. Preliminary problem identification:*

- *The client explains problem and the lawyer gains a general understanding of the type of matter and parties involved,*
- *The client's main concerns are obtained.*

*5. The client then tells their story in chronological sequence:*

- *This requires effective use of communication skills including – listening, acknowledging, questioning, summary, clarification and organisational skills to elicit relevant facts.*

*6. Ensure you exhaust the client's knowledge and memory of relevant facts.*

*7. Identify the main issues for resolution and provide preliminary advice to the client if appropriate, taking into account the needs and desires of the client (assuming they are realistic). In this phase options should be identified and explored, and also weigh up the advantages and disadvantages. Formulate a "plan of action" going forward and involve the client in the process.*

*8. Recap, summarise and check that all relevant details have been obtained.*

*9. Finally offer appropriate advice to the client, or defer giving advice until all information is obtained, investigations and research completed.*

*10. Confirm in summary future progress with the client, and discuss the issue of fees, retainer and costs agreement.*

*11. Inform and encourage the client to keep in contact on a realistic basis.*

*12. Ensure the client understands what has happened and what will happen.*

*13. Confirm the next step and/or meeting.*



14. Conclude the interview appropriately.

## 4.4 Communication skills

### 4.4.1 Communicating in different forums

*In terms of developing communication skills, it is important to differentiate between client interviewing and courtroom advocacy, which involve different skills and perspectives. It is unlikely that you will be given an opportunity to practice your own advocacy skills in the clinic environment; however, you may be able to observe experienced legal practitioners or prosecutors leading arguments in court, depending on the type of clinic you are attending. You will note how client interviews often resemble “counselling”, whereas advocacy skills involve stronger elements of reasoning and argument. The role of the advocate is different from the role of the advisor,<sup>5</sup> and this is also reflected in the use of language and communication. During your law degree these communication skills may typically be incorporated into your law degree through activities such as client interviews, negotiations, oral presentations and mooting. In the clinic environment, you have the opportunity of experiencing “real world” client issues and cases, and it is important to seize opportunities to develop a diverse set of communication skills in different forums. Speaking to a client will usually require a different approach (and different language) from addressing a judge or a fellow colleague – the context will dictate your communication.*

### 4.4.2 Tips for improving your communication skills

**Eye contact:** *Make eye contact with your audience – avoid reading from notes. Whether dealing with clients, colleagues or judges, effective communication relies on forging a connection that is facilitated by eye contact.*

**Diction:** *Speak clearly and slowly to create understanding. If dealing with a non-English speaking client, ensure that they understand you or consider involving an interpreter to communicate effectively.*

5. See David Luban, “Twenty theses on adversarial ethics” in Helen Stacy & Michael Lavarch (eds), *Beyond the adversarial system* (Federation Press, Sydney 1999) 140.

**Language:** Use plain English – steer away from complex legal terminology when speaking to a lay person or client. Even when speaking in a legal forum such as a court, a simpler explanation is often more effective than convoluted or theory-heavy explanations (where the circumstances allow).

**Obtaining information:** Ask relevant questions to elicit the response you want. This is particularly true of interviewing clients to extract all the information you need that will allow you to pinpoint the client's problem and legal issues that you need to research; and which your supervising lawyer will require to provide the client with legal advice. If the client is unsure or does not have the relevant information on hand, identify what needs to be obtained before advice can be provided.

**Rely on your mentor:** If in doubt, ask your clinic supervisor – ensure you have open lines of communication. The clinic is a learning experience and rather than make assumptions or rely on guesswork, ensure that you address any concerns you may have, or lack of clarity in taking client instructions with your supervisor.

### 4.4.3 Clients with behavioural issues

On some occasions, clients of the clinic may present as aggressive or unreasonable.

Check on your clinic's policy in relation to clients who present with problem behaviours, as the safety and welfare of all attendees should be a priority of the clinic. The clinic should have security measures in place to deal with these incidents. Generally, clinics will not provide services to a client who is threatening, abusive or alcohol or substance affected. You should remain calm and call your supervising clinic lawyer for assistance should this occur. You should ensure that you are never in a situation where you are left alone with a client. Appropriate safeguards include:

- ensuring your supervising lawyer (or another lawyer) is always close by
- familiarising yourself with the operation of security access at the clinic
- “checking in” on clinic colleagues if you hear raised or angry voices from an interview room.

The clinic should be a safe place for students, supervising lawyers and clients. If

at any time you feel threatened, fearful or intimidated, seek help immediately  
– you are not expected to deal with such circumstances on your own.

## 4.5 Writing skills

*Clinics offer a great opportunity for you to improve your general and legal writing skills. This depends on the type of clinic, of course, but client advice clinics, research clinics, project-based clinics and clinics dealing with court matters all involve some aspects of writing. During your placement you may gain experience in:*

- *Writing file notes*
- *Drafting legal advice and legal letters*
- *Conducting and summarising research*
- *Drafting counsel briefs*

*You can improve your writing skills in the clinic by taking the following steps:*

1. *Follow instructions: Pay close attention to and follow your supervisor's instructions when undertaking any writing activities. If you are given a template of the expected format for your file note/advice letter/etc., make sure you follow it accurately.*
2. *Practice your writing: Writing is a skill that improves with practice. Seek out opportunities to improve your writing wherever possible.*
3. *Always ask for feedback: Receiving constructive criticism can help you identify areas for improvement and make revisions.*
4. *Other ways to improve your legal writing skills are to take writing classes if your law school offers such opportunities, and to study grammar and style guides (as well as referencing guides where research is concerned) to improve your understanding of language structure and usage, and to help express yourself more clearly.*

*Your supervisor will expect you to write in plain English rather than in legalese and be able to convey your understanding to the reader. Focusing on honing your writing skills will not only prepare you better for the workplace, but also help you in your further studies and general communication skills.*

### 4.5.1 Taking accurate file notes

*When taking file notes, it is important to take notes during the interview,*

*rather than afterwards. This can help to capture important information, avoid confusion, and reduce the risk of forgetting important details. The file note needs to be detailed enough to clarify what the client said and which issues they raised. Ask the client to clarify anything that is unclear or confusing. File notes should only convey the content of the interview, not your personal thoughts or assumptions. They should be clear and concise, and structured in such a way that your supervisor will be able to have a clear record of what was discussed during the interview. Omission of important facts or misinterpretation of what the client said could result in misunderstanding and incorrect advice.*

*After the interview, bear in mind the importance of confidentiality of any information obtained from the client and ensure that your file note is securely recorded and filed as instructed by your supervisor. It is also pivotal to review your file note as soon as possible after the client interview and amend it if necessary. Finally, your supervisor will need to review and sign off on your file note to ensure it is an accurate reflection of the client's instructions.*

## **4.5.2 Dealing with review and feedback**

*Students are often concerned about obtaining feedback in case it is negative or critical. However, your time at the clinic is an opportunity for you to learn, and your supervisor is there to mentor you and facilitate learning. It is up to you to ensure that you get the most out of your experience and seek constant feedback on your tasks.*

*Don't be afraid to ask your supervisor questions and be specific in your questions. This will result in more detailed and useful feedback. Being proactive in seeking feedback shows that you are willing to learn from your mistakes. Try to schedule regular meetings with your supervisor to discuss your work and make sure you incorporate their comments and suggestions. Afterwards, follow up with your supervisor to let them know how you have incorporated their suggestions into your work.*

*Always be open to criticism. Even if constructive criticism can be difficult to hear, all students need feedback for growth and improvement. The important thing is that you show a willingness to improve, and that you maintain a respectful and professional relationship with your supervisor. Once you enter practice (or another related profession) you will find that being able to deal effectively with constructive feedback is an important skill in the workplace.*

## 4.6 Research and technology skills

*As noted above, your opportunities for skills development will largely depend on the type of clinic you are engaged in. For example, there are clinics that specifically focus on legal technology and others which are research or project based. You would have already considered what type of clinic experience would benefit you most at this point in your studies.*

*The research activities you undertake will depend on the objectives of your clinic and the nature of the project/case/issue you are tasked with. However, some general pointers are provided below for you to consider.*

### 4.6.1 Foundational research skills

*If your clinic offers the opportunity for legal research, here are some basic ground rules for conducting your research:*

- 1. Clarify instructions: Clarify with your supervisor the issues and area of law you should be researching, the objectives of your research, and the expected format of your research report.*
- 2. Sources: Only use reputable and trustworthy sources, such as primary materials (for example, statutes and case law) and secondary sources (for example, textbooks, commentaries, and journal articles). If using internet resources, ensure that they are correct and reliable (for example, Government websites).*
- 3. Using legal research tools: Subject to your supervisor's instructions, you could consult library databases such as Westlaw, LexisNexis or HeinOnline and Government websites and publications as a starting point for your search.*
- 4. Analyse and apply: After summarising your research, you should analyse and evaluate the information you found, apply it to the legal issue/matter in question, and use it to support your arguments and conclusions.*
- 5. It is important to cite your sources correctly and in an appropriate referencing style. If quoting from a source, the words should be placed in quotation marks and properly referenced to avoid plagiarism.*

*The types of sources you will focus on depend on your clinic. For example, if you are researching the legislative structures for cyber security in various jurisdictions for an internet law clinic, your research will likely be statute-based. If, on the other hand, you are researching a child custody issue in a family law clinic, your research may be both statute and case law based.*

## 4.6.2 Technology in CLE

*The extent to which clinics may accommodate the development of technology skills varies depending on the type of clinic – however, post-COVID 19, many clinic programs have incorporated a higher degree of technology in their operations. This is true of many client advice-based clinics where clients may be interviewed on online platforms such as Zoom and lawyers and students may join online. Many project-based clinics now also include remote attendance and participation opportunities. Because the use of technology has allowed for students to participate online in some clinic opportunities, it has also raised new opportunities for technological skills development. These opportunities should be embraced by clinic students as skills that are transferrable into legal practice. Given the rapid development of technological advances in legal practice and online file management, employers expect at least a reasonable level of legal technology knowledge in graduate lawyers.*

*As a clinic student, you may be able to gain insight and knowledge into the following areas of technology and related skills:*

- *Engaging in and communicating effectively in online meetings.*
- *Building rapport online (with clients and supervising lawyers) through eye contact and interaction.*
- *Using online platforms such as Zoom and Teams effectively.*
- *Familiarising yourself with the available tools on online platforms, such as break-out rooms, chat facilities, etc.*
- *Electronic file management.*
- *Cyber security issues.*
- *Online policies and procedures.*
- *Privacy and confidentiality online.*
- *Intellectual property issues.*

*If in doubt about any technology related issues, ask your supervisor. Each clinic will have its own guidelines, policies and procedures that need to be complied with, and you need to familiarise yourself with these before and during your time at the clinic. Most importantly, remember that ethical, professional, and legal considerations apply in the online world just as they do in the “brick and mortar” world.*

## 4.7 Organisational skills development: A recipe for success

*The clinic offers an ideal environment within which to hone your organisational skills. Also, the better organised you are in your approach, the more beneficial your experience will be. This includes being able to plan ahead and structuring your time in the clinic effectively to ensure you get the most out of your experience.*

### 4.7.1 Time management

*You may already be utilising some of the suggestions below, but here are some helpful hints for managing your time in the clinic effectively:*

- 1. Schedule your time and be organised: Use a calendar to schedule your clinic placement, making allowance for travel time to ensure you are punctual. Avoid last-minute scrambling by being prepared – read all the relevant information ahead of time so that you don't waste time catching up or asking questions that you should have known in advance.*
- 2. Communicate with your supervisor: If you expect to run late or miss any of the clinic activities, ensure that you inform your supervisor in advance, as this may impact on clinic arrangements.*
- 3. Prioritise tasks in the clinic: Based on your supervisor's guidance and instructions, identify the most important tasks to be carried out and prioritise them, ensuring that you take notes and keep a list of what needs to be done. If unsure, always check with your supervisor.*
- 4. Break tasks into smaller chunks: Break larger tasks into smaller chunks to make them more manageable and less overwhelming. For example, if you are given a legal issue to research, break it down into a summary of facts, issues and sub-issues, and the applicable law. Ask for guidance if you're unsure which sources to consult first – your supervisor is there to mentor you.*
- 5. Use a timer: If you tend to lose track of time, a timer on your phone may help you stay on track and avoid running late or overtime. This may be an important issue when dealing with clients in a limited window of time, such as a weekly clinic night.*
- 6. Avoid distractions and unnecessary interruptions: Focus on the tasks at hand and ignore private messages/emails on your phone during clinic. Be aware of and eliminate distractions such as social media and other non-essential activities to help you stay focused on your tasks. Don't be*

*distracted by idle conversation with fellow students – it's up to you to ensure your time is used constructively.*

- 7. Make time to take short breaks if needed: If you require a break during the clinic or are adversely affected by any of your client dealings, ensure that you approach your supervisor immediately. The clinic should be a safe and secure environment where students are able to express their concerns and take breaks when needed.*

## **4.7.2 Tools and templates, calendars and planning**

*There are several online tools available to help you manage your time effectively. These apps and resources may apply to time management in general, but can be very useful in your clinic placement. Some suggestions include the following:*

- 1. Consider a calendar app: These can be used to schedule appointments, set reminders, and manage deadlines. Popular calendar apps include Outlook and Google Calendar.*
- 2. Investigate to-do list apps: These apps can be used to create and manage task lists, set reminders, and prioritise tasks. Popular to-do list apps include Todoist, Trello, and Wunderlist.*
- 3. Try a time tracking app: These apps are typically used to track how much time is spent on different tasks and activities. It can help you identify where time is being wasted and adjust your activities to improve efficiency. Popular time tracking apps include RescueTime, Toggl, and Harvest.*
- 4. Apply a mind mapping app: These apps can be used to organise thoughts and ideas and plan projects and may assist you with generating approaches to problem solving in the clinic. Popular mind mapping apps include Xmind, MindNode and MindMeister.*
- 5. Use templates and fact sheets: Your supervisors may have access to templates and fact sheets to assist you in your clinic activities, for example, step-by-step instructions for dealing with common legal issues such as debt recovery or court appearances. You may also find some of these resources online, for example on the Queensland Courts or LawRight websites.*

*You may already be using some of these apps or accessing these resources. It is advisable to try different options to determine which apps work best for you and to opt for free apps wherever possible. When using online legal resources, ensure that they are from a reliable source such as a government website and that they apply to your jurisdiction.*



## 4.8 Reflective practices



*Photo by Ian Wagg on Unsplash*

*Reflective practice is an important part of the clinic experience. Evans et al have pointed out that many Australian clinical legal educators from a broad range of programs have 'consistently identified reflection as central to the clinical legal education process, many calling it a 'minimum standard' for*

CLE programs.<sup>6</sup> This means that most clinics involve some form of reflective practice, i.e. an expectation that students are able to reflect on and learn from their personal clinic experience. This may take the form of workshop participation, presentations, debriefs, reflective essays and journal entries.

Reflection allows you to examine and reflect on your ethical and social awareness and show how you benefited from the clinic experience in relation to a range of activities and issues, for example, dealing with substantive law, drafting, negotiating, communication skills, self-organisation, and law reform process. Specialist clinics may also have exposed you to specific areas of law such as family law, internet law or criminal law, which will each have associated benefits. Depending on whether your experience was positive or negative, it may have also cemented your decision to avoid or pursue a specific area of law. These insights provide an invaluable life experience, and are worthy of reflection.

From your perspective as a clinic student, reflective practice is an opportunity to:

- Keep a journal of your clinic experience, irrespective of the reflective activity associated with the clinic. This is good practice for entering the workplace and will help you recall details of cases and clients when doing a reflective assessment.
- Consider and reflect on the impact and reach of your allocated clinic, as well as the scope of its services.
- Reflect on your own clinic experience – both the positive and negative aspects – and consider why you perceived them as such.
- Review each clinic activity you engaged in and consider how it impacted you personally and professionally.
- Consider what impact you made in your role as a student in the context of community service.
- Ask: 'What have I learnt/gained'? Think widely in terms of knowledge of the law, communication skills, confidence-building and networking, in addition to other skills gained.
- Question how you could have done better and the steps you need to take to improve in the future.

## 4.9 Meeting expectations: Clients', supervisors'

6. Adrian Evans, et al, *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press 2017) <<https://press.anu.edu.au/publications/australian-clinical-legal-education#tabanchor>>.

## and your own

*During your clinic placement you may feel under pressure to meet expectations – this may take the form of assessments, client expectations or your own expectations. It is important to keep a balanced perspective in all of this – you are undertaking a learning experience in the clinic, and no one expects you to be perfect or to know everything. In fact, it is important to realise that you still lack knowledge and experience and use the clinic as an opportunity to expand your knowledge and learn from your peers and your supervisors. At the same time, you can build your professional confidence by honing your communication, writing and research skills.*

*Having said that, it is very helpful to ensure that you are aware of what is expected from you in the role from inception. Don't be afraid to ask questions and to clarify with your supervisor if you are unsure of what is expected from you. This way, you can focus on meeting the clinic's requirements and contribute in a meaningful way.*

*It is also useful for you to decide from the start what you would like to gain from your clinic experience. This will enable you to plan ahead and self-assess and reflect after each clinic upon what you have learnt, and how you can improve. It's up to you to grasp the opportunity and make the most of it. As with many opportunities in life, the benefits gained will be directly related to the effort expended on your part.*

## 4.10 Conclusion

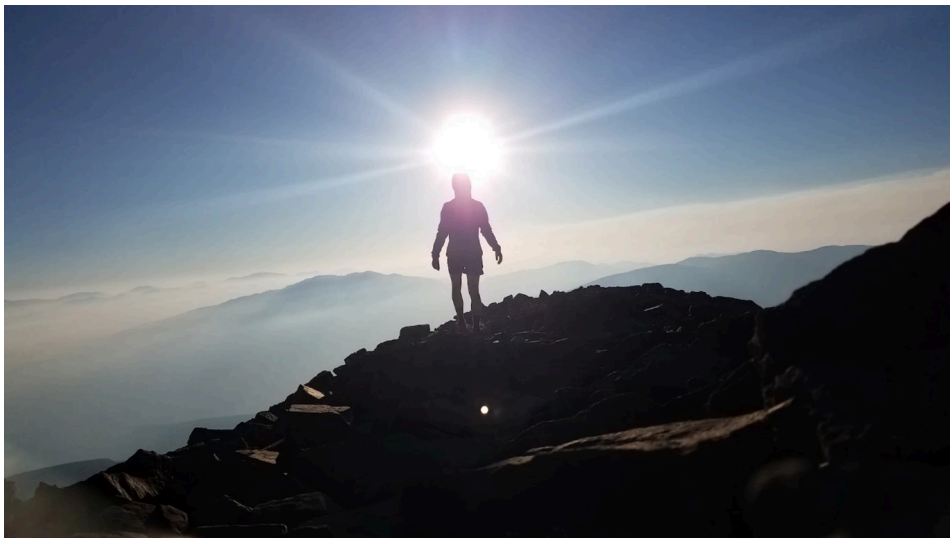
*"I learned that courage was not the absence of fear, but the triumph over it. The brave man is not he who does not feel afraid, but he who conquers that fear." – Nelson Mandela<sup>7</sup>*

*For any law student, overcoming the fear of failure is a crucial step towards success. A clinical placement may take you outside of your comfort zone and require you to embrace the possibility of failure. It may also test your resilience and provide you with new challenges that you haven't previously contemplated. Remember that failure is simply an opportunity to learn and improve. Every great accomplishment and breakthrough were preceded by countless failures and setbacks. So, embrace the fear, take that leap of faith,*

7. <https://www.britannica.com/list/nelson-mandela-quotes>

*and trust in your abilities and determination to persevere and overcome any obstacle that comes your way.*

*We started this guide by talking about the hero's journey, and the fact that the law clinic offers you the chance to develop the 'Great Eight Traits'<sup>8</sup> of heroism in becoming a civic-minded, ethical lawyer. Apart from developing practical, transferrable essential skills such as research, writing and communication skills with enthusiasm and dedication, I hope that you will seize the opportunity to develop the heroic traits and carry them forward into your future career. You can be the kind of person you admire – caring, charismatic, inspiring, reliable, resilient, selfless, smart and strong – the amazing person you deserve to be!*



*Photo by Rachel Ellis on Unsplash*

8. According to S T Allison and G R Goethals, *Heroic leadership: An influence taxonomy of 100 exceptional individuals* (Routledge 2013) 9-10.

# Chapter 5: Additional Resources



Law students outside Bond University's Faculty of Law. © Bond University.

## 5.1 Articles

1. Francina Cantatore and Kana Nakano, 'An Overview of Australian Clinical Legal Education in Pandemic Times: Possible impacts on the Development of Graduate Employability Skills' (2021) 9(1) *Australian Journal of Clinical Education* 53 <<https://ajce.scholasticahq.com/article/36731>>.
2. Francina Cantatore 'Pro Bono in law schools: Tracking the effect of pro bono service in an Australian university law clinic', (2020) 27(1) *International Journal of Clinical Legal Education* 101 <<https://www.northumbriajournals.co.uk/index.php/ijcle/article/view/878>>.
3. Francina Cantatore, 'New frontiers in Clinical Legal Education: Harnessing technology to prepare students for practice and facilitate access to justice' (2019) 5(1) *Australian Journal of Clinical Education* <<https://ajce.scholasticahq.com/article/11191>>.

4. Francina Cantatore, 'The impact of pro bono law clinics on employability and work-readiness in law students' (2018) 25(1) *International Journal of Clinical Legal Education* 147 <<https://www.northumbriajournals.co.uk/index.php/ijcle/article/view/696>>.
5. Francina Cantatore and Nickolas J James, 'Heroism Science offers a new framework for cultivating civic virtue within clinical law programs' (2017) 2(1) *Australian Journal of Clinical Education* <<https://ajce.scholasticahq.com/article/5093>>.
6. Francina Cantatore, Linda Crane and Deborah Wilmoth, 'Defining clinical education: Parallels in practice' (2016) 1(2) *Australian Journal of Clinical Education* 2:1-8 <<https://ajce.scholasticahq.com/article/5087>>.
7. Francina Cantatore and Ian Stevens 'Making connections: Incorporating visual learning in law subjects through mind mapping and flowcharts' (2016) 22 *Canterbury Law Review* 153 <<https://www.austlii.edu.au/nz/journals/CanterLawRw/2016/9.pdf>>.
8. Francina Cantatore 'Boosting law graduate employability: Using a pro bono teaching clinic to facilitate experiential learning in commercial law subjects', (2015) 25(1) *Legal Education Review* 147 <<https://ler.scholasticahq.com/article/6298>>.
9. Tammy Johnson and Francina Cantatore, 'Equipping students for the real world: using a scaffolded experiential approach to teach the skill of legal drafting' (2013) 23(1) *Legal Education Review* 113 <<https://ler.scholasticahq.com/article/6271>>.

## 5.2 Other useful resources

Linden Thomas & Nick Johnson (Eds) *The Clinical Legal Education Handbook*, (University of London Press 2020) <<https://library.oapen.org/handle/20.500.12657/39720>>.

Adrian Evans, et al, *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press 2017) <<https://press.anu.edu.au/publications/australian-clinical-legal-education#tabanchor>>.