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## Australian clinical legal education: Models and definitions

### Introduction

The term clinical legal education means different things to academics, legal practitioners and students. In our survey results for *Best Practices*, the data illustrate the variety of forms and models encompassed within this term. In particular, it is apparent that newer clinical legal education programs are often quite different from the community legal centre-based real client clinics developed in the 1970s and 1980s (see Chapter 5). To ground the process of formulating best practices in Australian clinical legal education and make the best practices as meaningful as possible across a range of endeavours, it was necessary when conducting the research to clearly define our nomenclature.

This is not a straightforward process. The definition of clinical legal education has been and remains contested. This is reflected in the different views expressed within the research group and more broadly in the international and domestic clinical community. The variety of clinical legal education endeavours across Australia indicates it is a dynamic pedagogy. New forms of clinical legal education continue to be developed, especially in relation to work-placement-type programs (called externships, internships or placements).<sup>1</sup> Additionally, there is a growing recognition that clinical legal education ideally occurs at all stages

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1 For elaboration of these terms, see the section commencing at 'Terminology', in this chapter.

of a law degree and is integrated.<sup>2</sup> These factors warranted delineation between approaches while recognising that the categories are malleable. The categories of different forms of clinical legal education are based on the surveys we conducted and are relevant for the current Australian legal education environment.

In this chapter, we discuss and clarify key terms. We then focus on describing the emerging models of clinical legal education in Australia. We identify the merits of each model, and conclude by discussing the factors relevant to the choice of model. In discussing the merits of each model, we recognise that these are subjective considerations and can vary depending on the course goals, and on an individual's role within legal education as a full-time clinician, a traditional law academic, or a student.

## What is clinical legal education?

A preliminary question is: what is clinical legal education? Put at its simplest, it is one method of learning and teaching law. However, the phrase has evolved in Australia over the last few decades and has different connotations.<sup>3</sup> In order to differentiate clinical legal education from simulated practical legal training, Campbell wrote in 1991 that the 'term "clinical legal education" should properly be used only to refer to programs where students act for real clients in the handling of their *real* legal problems'.<sup>4</sup> In 1999 Giddings commented that:

[the] term clinical legal education has been used quite loosely in Australia ... Students and practising lawyers tend to relate clinical legal education to work with real clients or to 'skills' ... Other law teachers usually give clinical legal education a broader meaning, focusing on the use of teaching methods other than traditional lectures and seminars.<sup>5</sup>

2 Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (2013) Justice Press, Chapter 2, 78–81 (cited hereafter as Giddings (2013)).

3 For discussion of the definition of clinical legal education in 1996, see Simon Rice and Graeme Coss, *A guide to implementing clinical teaching method in the law school curriculum* (1996) Centre for Legal Education, 9.

4 Susan Campbell, 'Blueprint for a Clinical Program' (1991) 9(2) *Journal of Professional Legal Education* 121, 122 (emphasis added).

5 Jeff Giddings, 'A Circle Game: Clinical Legal Education in Australia' (1999) 10(1) *Legal Education Review* 34, 35.

In the last two decades, clinical legal education has developed to encompass a variety of approaches, with the common element being ‘real’ experiences. Clinical legal education is a pedagogy that places students in real-life environments. It is a form of experiential learning where students learn by doing and then reflecting.<sup>6</sup> Experiential legal education takes many forms, including problem-solving, role plays, mooting, simulation and placements. Generally, experiential learning encompasses clinical legal education. It includes teaching about skills as well as the broader legal system. For students to get the most out of experiential learning there should also be feedback, reflection and application of new skills and ideas.<sup>7</sup>

In Australia, ‘clinical legal education’ generally refers to law school experiential learning that places students in the role of lawyers representing clients with legal questions or problems. The research data for *Best Practices* reveal a range of experiential learning, from clinical components in law courses, to externships in a wide variety of organisations, and to intensive live client experiences within a university-controlled legal practice. This last example usually involves students working with clients on their legal issues, under the direct supervision of academic staff.

Clinical legal education confronts law students with the realities, demands and compromises of legal practice. In so doing, it provides students with real-life reference points for learning the law. Clinical legal education also invites students to see the wider context and everyday realities of accessing an imperfect legal system, enabling them to integrate their learning of substantive law with the justice implications of its practical operation.<sup>8</sup>

Clinical legal pedagogy involves a system of reflection, self-critique and supervisory feedback (discussed in Chapters 6 and 7) by which law students learn how to learn from their experiences and observation and, at its most effective level, how to take personal responsibility for clients and their legal problems.

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6 Hugh Brayne, Nigel Duncan and Richard Grimes, *Clinical Legal Education: Active Learning in Your Law School* (1998) Blackstone Press, 2; they state: ‘Understanding through both doing and reflecting is at the centre of the clinical ethos’, quoted in Giddings (2013), 3.

7 L Smith, ‘Why clinical programs should embrace civic engagement, services learning and community based research’ (2003–04) 10 *Clinical Law Review* 723, 725–27.

8 Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Mary Anne Noone, Simon Rice and Ebony Booth, *Best Practices: Australian Clinical Legal Education* (2013) Government of Australia, Office of Learning and Teaching, at [perma.cc/2J6E-ZMQX](http://perma.cc/2J6E-ZMQX).

Clinical legal education is normally intensive, one-on-one or small group in nature, and allows students to apply legal theory and develop lawyering skills to solve client legal problems. It relies on structured reflection to enable students to analyse the learning and insights they gain from their course. Favourable staff–student ratios (discussed in Chapter 9) and collaborative learning environments support a climate in which each student is motivated to improve and perform at their best. The personal responsibility of working with and being accountable to clients motivates students to perform to the best of their ability.<sup>9</sup>

With all the clinics, a key benefit is that students are responsible either for a client file or for a specific legal task such as research. ‘The learning is deeper and more meaningful when a student is participating as a lawyer, rather than as an observer or assistant.’<sup>10</sup> Law students’ legal work under supervision may include analysing client problems and giving legal advice; meeting with clients and witnesses to gather information; reviewing and preparing legal documents, such as contracts, wills, or legal briefs; negotiating with opposing parties or their lawyers; representing clients in administrative hearings, in court or before other tribunals in which the students have been granted a case-specific right of audience or the right to appear on behalf of a client; fact investigation; legal research for policy or law reform; and developing materials for community legal education and presenting a legal seminar.<sup>11</sup>

Working in a clinic is frequently the first time that students encounter clients who have been treated unfairly through the legal system. They have to communicate with them and form a professional relationship with these clients. This can cause them to question their own role as prospective lawyers and their role in providing access to justice for clients and improving the law and legal system to make it more just.

Clinical legal education might be considered a specific example of service learning. As we discussed in Chapter 2, service learning is a form of experiential learning that involves responding to humanitarian crises and focusing on community service, with students receiving little, if any, academic credit. Service learning is being actively promoted in a number

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9 Adrian Evans and others, cited at footnote 8, 10; see also Chapter 7 of this book on ‘reflection’ and Chapter 6 of this book on ‘supervision’.

10 Roy Stuckey and others, *Best Practices for Legal Education: A Vision and a Road Map* (2007) Clinical Legal Education Association, 190.

11 Adrian Evans and others, cited at footnote 8, 10.

of Australian universities and, as we pointed out, there is overlap between service learning and clinical legal education with differences in the voluntary nature of student contributions, the limited classroom component and the principal focus on service rather than student learning.<sup>12</sup> We also pointed out in Chapter 2 that clinical legal education is similar to practical legal training (PLT) courses<sup>13</sup> and work-integrated learning (WIL),<sup>14</sup> but that it is distinct in several respects. Both these approaches expose students to practical aspects of legal workplaces. Each approach also reinforces for students that a knowledge of legal theory is insufficient for legal practice and that their ‘law school’ impressions of what it is like to actually practise law will be expanded by time and a variety of experiences.<sup>15</sup>

An essential difference between clinical legal education and either PLT or WIL is that clinical legal education is an approach to integrating and strengthening the academic phase of legal education in the interests of students and clients. As we noted in Chapter 2, the emphasis in clinical legal education on meeting the diverse and complex needs (legal, emotional, systemic and therapeutic) of real clients, either individuals or organisations, places it well beyond the vocational focus of PLT and WIL, which can limit themselves to a ‘how to’ approach to practising law. Clinical legal education avoids any default concentration on apparently value-neutral practical skills (see Chapter 5) and is intended to develop a critical and analytical consciousness of law.<sup>16</sup>

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12 Jeff Giddings, ‘Two Way Traffic: The Scope for Clinics to Facilitate Law School Community Engagement’ in P Keyser, A Kenworthy and G Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro Bono, Clinical Legal Education and Service-Learning* (2009) Haltstead Press, 40; L Morin and S Waysdorf, ‘The service-learning model in the law school curriculum: expanding opportunities for the ethical-social apprenticeship’ (2011–12) 56 *New York Law School Law Review*; L Smith, cited at footnote 7, 723.

13 In Australia, a condition of admission to legal practice is that law graduates must complete a practical legal training component. For example, see *Legal Profession Uniform Admission Rules 2015* (NSW), r 6 (2).

14 See for example ‘Work Integrated Learning’ at [www.flinders.edu.au/cilt/wil](http://www.flinders.edu.au/cilt/wil). Accessed 4 February 2017. Work-integrated learning (WIL) describes directed or supported educational activities that integrate theoretical learning with its application in the workplace.

15 WIL is a form of experiential learning. The Australian Collaborative Education Network (ACEN) lists the following forms of work-integrated learning: internships; cooperative education; work placements; industry-based learning; community-based learning; clinical rotations; sandwich year; and practical projects. See [perma.cc/UY8L-HPWP](http://perma.cc/UY8L-HPWP). Accessed 9 July 2012.

16 Adrian Evans and others, cited at footnote 8, 11. For further discussion, see Chapter 5 of this book.

Similarly, clinical legal education is distinct from *pro bono publico* and student-run volunteer programs.<sup>17</sup> Such placements have limited educational objectives compared to clinical legal education, do not generally seek to develop students' normative awareness and do not set out to strengthen wider legal education and law reform curricula, although both can awaken and sustain graduates' civic consciousness once they are in practice.<sup>18</sup>

## The role of simulations

The inclusion of simulated legal practice in the definition of clinical legal education is controversial. Students acting 'for real clients in the handling of their real legal problems' has been a point of differentiation from other forms of legal education and practical legal training for Australian clinicians. As Campbell illustrates above, Australian clinical legal education proponents have emphasised the 'real client' aspect of clinical legal education and purposefully excluded simulations from the definition (particularly to differentiate them from PLT programs).<sup>19</sup> In discussing our research for *Best Practices*, we found that we held different views on the status of simulation in the definition of clinical legal education but agreed on its importance in preparing students for the 'real client' experience.<sup>20</sup>

We agree on the value of simulations as a means of teaching students specific skills, such as negotiation or interviewing specifically in preparation for actual negotiation or interviewing, or generally doing legal work. Simulations are a form of experiential education; but we could not agree that student engagement in simulated legal practice be included in the definition of clinical legal education.

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17 National Pro Bono Resource Centre, *Pro bono and clinical legal education programs in Australian law schools* (2004).

18 Although Nicolson would argue otherwise: D Nicolson, 'Learning in Justice: Ethical Education in an Extra-Curricular Law Clinic' in Michael Robertson, Lillian Corbin, Kieran Tranter and Francesca Bartlett (eds), *The Ethics Project in Legal Education* (2010) Routledge, 171.

19 Susan Campbell, cited at footnote 4, 122.

20 Roy Stuckey and others specifically include simulation within the definition of experiential education and recognise simulation-based courses for their value in developing professional skills: See Stuckey and others, cited at footnote 10, 181.

Understanding clinical legal education as a continuum in which simulations provide a valuable source of experience and learning for students provides a means of progressing the discussion.<sup>21</sup> Both simulations and ‘real client’ courses are valuable as a means of achieving specific learning goals with students. The ideal approach is an integrated one.<sup>22</sup>

An integrative approach to clinical legal education involves the use of simulations and case studies to prepare students for the responsibility of working with clients on real cases. It also involves drawing on real client experiences to inform the non-clinical law curriculum.<sup>23</sup> Students can best develop ethical awareness, judgment and proficiency in the application of professional skills through having ‘repeated opportunities to perform the tasks to be learned or improved upon until they reach the desired level of proficiency’.<sup>24</sup> Clinical teaching methods and insights can be constructively integrated into classroom-based courses. Integration emphasises the client focus so important to both clinic-based learning and legal practice. The law and legal processes can be examined, analysed and critiqued within the framework of client concerns and interests. Short field placements can provide a primer for more intense clinical experiences later in a law program. The use of complementary clinical experiences, or components, in doctrinal courses enables students to acquire additional skills and enhance their understanding of the law as practised.<sup>25</sup> Integrative approaches will be most effective if they culminate in real client work enabling students to learn about the uncertain, dynamic nature of law-related professional practice.

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21 James Moliterno, Plenary Presentation, *International Journal of Clinical Legal Education* Conference, Olomouc, Czech Republic, July 2014.

22 Giddings (2013), 113–14.

23 Kathy Mack refers to many of the benefits of clinical legal education relating to ‘integration of different areas of law, integration of law and fact, synthesis of legal and non-legal materials and improved problem solving skills such as issue recognition, planning, strategy, tactics, analysis, synthesis and decision making. These are the sorts of “generic” skills which legal education must foster, since legal knowledge rapidly becomes outdated’: Kathy Mack, ‘Bringing Clinical Learning Into a Conventional Classroom’ (1993) 4 *Legal Education Review* 89, 99.

24 Roy Stuckey and others, cited at footnote 10, 178.

25 L. Smith, cited at footnote 7, 531. At 533, she further suggests linking ‘simulation courses to live clinical work so that the simulations provide a framework for analysis, while the live work provides the richness of reality, additional practice, opportunities to learn from experience and experiences for contemplation’.

In a law degree, students would initially have simulated experiences and they use these as building blocks, or as a means to help them structure or scaffold their learning. This enables them to confidently and competently provide legal services to ‘real clients’ in a live client clinic or externship. Real clients have unexpected, unscripted issues and ways of dealing with legal problems and the ‘real client’ clinic provides a unique and rich learning environment for students. Clinicians recognise the importance of preparing students for real client interactions through simulations and, while some choose to include this within the definition of clinical legal education, others do not.

## Distinguishing features of clinical legal education in Australia

In Australia, clinical legal education was established with dual goals: community service and educating law students.<sup>26</sup> A focus on access to justice and the need in the community for legal services triggered the early initiatives in clinical legal education.<sup>27</sup> Arising out of this, the connection between clinical legal education and Australian community legal centres has developed strongly, as we describe in detail in Chapter 5.<sup>28</sup>

Our research for *Best Practices* revealed a number of clear trends in Australian clinical legal education, among which are that:

- Australian clinical legal education still has a strong focus on service to the community;
- within the curriculum of a clinical legal education course there is usually discussion of law in context;
- students are engaged in a wide range of legal activities including individual case work, law reform, legal research and community legal education;

26 See Chapters 2 and 5 of this book; Jeff Giddings, ‘Clinical Legal Education in Australia: A Historical Perspective’ (2003) 3 *International Journal of Clinical Legal Education* 7; MA Noone, ‘Australian Community Legal Centres – The University Connection’ in Jeremy Cooper and Louise G Trubek (eds), *Educating for Justice: Social Values and Legal Education* (1997) Ashgate, 257.

27 Jeff Giddings, Roger Burridge, Shelley AM Gavigan, Catherine F Klein, ‘The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada, and Australia’ in Frank Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (2011) Oxford University Press, Chapter 1; and Frank Bloch and MA Noone, ‘Legal Aid Origins of Clinical Legal Education’ in Frank Bloch (ed), cited above, Chapter 10.

28 See Giddings (2013); and MA Noone, cited at footnote 26.

- most clinical legal education is located in not-for-profit organisations, community legal centres and legal aid organisations; and
- there is a significant growth in the number of work-placement-type programs (called externships or internships) across the country.<sup>29</sup>

## Terminology

The data obtained from our *Best Practices* survey show a significant diversity of clinical legal education programs. It is apparent from the diversity that, in order to develop best practices in Australia, clarity around terms and a delineation of different models of clinical legal education are necessary.

### What is ‘clinic’?

In our experience, the word ‘clinic’ is used loosely and is often used to describe the actual site of the clinical legal education program, the legal practice or the clinical legal education course undertaken by students. Things happen ‘at the clinic’ or ‘in the clinic’. The ‘clinic’ often refers to the physical legal practice or agency where students are undertaking their clinical legal education, and the simple word ‘clinic’ often refers to the clinical course.

### What is a ‘client’?

The variety of work performed in clinical legal education programs in Australia ranges across individual legal advice and representation, community legal education, policy and law reform work.<sup>30</sup> As a result, there are several meanings of ‘client’. Doing ‘legal work for the client’ covers more than just legal work for individuals. The expression ‘the client’ can refer to one or more of:

- an individual (as a client of a live client clinic);
- groups of individuals with common interests or concerns;
- an organisation or group of organisations;

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29 Adrian Evans and others, cited at footnote 8; and *Identifying Current Practices in Clinical Legal Education*, Regional Reports, cited in Chapter 1 at footnote 6.

30 *Identifying Current Practices in Clinical Legal Education*, Regional Reports, cited in Chapter 1 at footnote 6.

- a community (the client of a law reform or community development clinic or component within a clinical course); and
- the general beneficiaries of law reform or impact litigation.<sup>31</sup>

## Models

*Best Practices* describes five models of clinical legal education,<sup>32</sup> developed from the survey data detailed in the Regional Reports and the distinguishing features of Australian clinical legal education outlined above. We acknowledge that other clinicians (especially from other countries and contexts) might prefer different models and criteria; however, we drew on our empirical data and our collective experience. With substantial diversity in the Australian clinical legal education environment, the identification of models is fraught. None is a discrete entity; there can be and is overlap. The models should be seen as a continuum and as complementary and, depending on the objectives of a course, there is significant scope for variations and hybrids of these clinical legal education models.<sup>33</sup> Our approach to categorisation focuses primarily on location and control of the learning environment.

In *Best Practices* we identified five models:

- in-house live client clinic;
- in-house live client clinic (some external funding);
- external live client clinic (agency clinic);
- externships (including internships and placements); and
- clinical components in other courses.<sup>34</sup>

In in-house live client clinical courses, law students work closely under the supervision of law school staff to provide legal assistance to clients or perform other legal tasks such as drafting law reform submissions, analysing legislation, mediating disputes, community legal education or other work done by lawyers. In external live client clinic (agency clinic), students work under the joint supervision of law school staff and agency staff. In externship courses, law students are placed in professional legal settings outside the law school where they work on real legal matters and

31 Adrian Evans and others, cited at footnote 8, 21.

32 Adrian Evans and others, cited at footnote 8.

33 Jeff Giddings, cited at footnote 5, 35.

34 Adrian Evans and others, cited at footnote 8, 20.

are primarily supervised by lawyers who are not law school staff. In all the above models, there is usually a classroom component in addition to the placement. In courses with clinical components, students assume lawyer roles in working with real clients, such as interviewing clients, drafting law reform submissions or other ‘real’ activities.

We recognise there may be other ways to classify clinical legal education models. There could also be a number of subcategories within the five models we have proposed. For example, a discussion about the legal aid origins of clinical legal education noted that legal aid-oriented law school clinics typically fall into one of three categories: the individual service model, a specialisation model or a community model.<sup>35</sup> Another approach to categorising focuses on the extent of legal representation the clinic engages in: full representation, partial representation, community lawyering orientation or community legal education (sometimes also called ‘Street Law’).<sup>36</sup> In the Australian context, especially in community legal centres where many clinical programs are based, the range of work can include all these aspects. Accordingly this categorisation would not be useful. The features of a clinic may change over time due to variations in funding, support from the university, withdrawal of host organisations and staffing issues. As well, some clinical legal education programs may combine a number of different models. At La Trobe and Griffith universities and the University of New South Wales, for example, there are live client clinics as well as externships and clinical legal education components.<sup>37</sup>

Another approach would classify clinics according to whether the law school or some other body has formal (legal) responsibility for client work and student supervision. This apparently straightforward subdivision would mean that there are just two types of clinics: those that the law school

35 Frank Bloch and MA Noone, cited at footnote 27, 158.

36 UK Centre for Legal Education, *What forms can clinic take?* at [perma.cc/EM7T-MM7B](http://perma.cc/EM7T-MM7B). Accessed 2 September 2013. For discussion of Street Law, see Giddings (2013), 105–07; and [www.streetlaw.org/en/home](http://www.streetlaw.org/en/home). Australian examples exist at Griffith University, the University of New England and the University of Melbourne: see *Identifying Current Practices in Clinical Legal Education, Regional Report: Queensland and Northern New South Wales*, 5, at [perma.cc/257Z-6EMR](http://perma.cc/257Z-6EMR).

37 *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, 5, at [perma.cc/J562-X6GU](http://perma.cc/J562-X6GU); *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 5, at [perma.cc/FU7X-5TNV](http://perma.cc/FU7X-5TNV); *Identifying Current Practices in Clinical Legal Education, Regional Report: Queensland and Northern New South Wales*, 5, at [perma.cc/257Z-6EMR](http://perma.cc/257Z-6EMR). See also Kingsford Legal Centre, *Australian Clinical Legal Education Guide 2014–2015*, Kingsford Legal Centre.

controls and those that it does not. However, this strict categorisation is not realistic or sufficiently subtle in the Australian context where many clinical programs are built on a partnership model with the legal services provider/agency. Specifically in our external live client clinic (agency clinic), the legal work may be the ultimate responsibility of the agency but law school staff act as supervisors and legal practitioners. They are formally responsible for student supervision. Additionally, it can never be said that an externship has full responsibility for student supervision. A law school never relinquishes its final say on the mark or credit that a student receives for the overall clinical course. The law school can therefore never fully divest itself of supervision in favor of an external agency. Therefore this classification is not helpful in the Australian context.

In this chapter we combine discussion of the models ‘in-house live client clinic’ and ‘in-house live client clinic (some external funding)’. Keeping in mind our categorisation criteria of location and control of the learning environment, these two categories of clinic are fundamentally the same. The distinguishing feature is the funding source and this can vary from year to year. Other aspects of the models are similar so, to avoid repetition, the discussion is amalgamated.

## In-house live client

‘In-house live client clinics’ are defined as being ‘on campus, wholly or substantially funded and controlled by the law school for student education’. This is the dominant clinical program model in the United States. In this model, clinics may receive some external funding, as do the clinics at Kingsford Legal Centre, University of New South Wales (UNSW), or may not receive external funding, as at the Newcastle University Legal Centre.<sup>38</sup>

The oldest example of an in-house live client clinic without external funding in Australia is the Newcastle University Legal Centre. The clinic is situated on a city campus of the university and is dedicated to an integrated version of clinical legal education: students are offered the

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38 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, at [perma.cc/257Z-6EMR](https://perma.cc/257Z-6EMR).

opportunity to be introduced to clinical legal education in their first year of study and, throughout their degree, students have further opportunities to study in the clinic.<sup>39</sup>

In 2011, the University of South Australia opened its in-house clinic wholly funded by the law school. At the time of our *Best Practices* survey, the University of South Australia Legal Advice clinic was physically situated within the law school. More recently, this clinic has received funding from external sources and now also provides services at various outreach locations.<sup>40</sup>

A key benefit of a wholly law school–controlled clinic is the substantial control of the clinical teaching. While an in-house live client clinic has additional functions, such as providing a legal service to students or the community, one of its primary goals is to teach students. The course goals determine the specific learning objectives for the program.

These joint aims, to provide both student learning and client service, can create a tension. However, to date, the Australian experience is that both aims can be accommodated.<sup>41</sup>

For example, in the Employment Law clinic at Kingsford Legal Centre, UNSW, students sometimes represent clients in conciliation hearings<sup>42</sup> at Fair Work Australia when clients are claiming they have been unfairly dismissed. While it could be argued that a client would be better represented by a lawyer, the level of representation is relatively high as students prepare thoroughly for their conciliation hearings and, in the process, they learn about interviewing clients, negotiation skills and dealing with informal tribunals. The student is accompanied in the conciliation hearing so that a clinical supervisor can contribute if there is a need for it, to ensure that a client's interests are not compromised. This example shows the balancing of both student learning goals and client interests being met together.

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39 See *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, at [perma.cc/257Z-6EMR](http://perma.cc/257Z-6EMR).

40 See University of South Australia Legal Advice Clinic Annual Report 2013, at [perma.cc/J5BY-TNXX](http://perma.cc/J5BY-TNXX).

41 Judith Dickson, 'Clinical Legal Education in the 21st Century: Still Educating for Service?' (2000) 1 *International Journal of Clinical Legal Education* 33; Giddings (2013); Anna Cody, 'Clinical Programs in Community Legal Centres, The Australian Approach' (2011) 4 *Spanish Journal Education and Law Review*.

42 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 11, at [perma.cc/257Z-6EMR](http://perma.cc/257Z-6EMR).

## Analysis

There is a high degree of control by a faculty of law over an in-house clinical course. This means that the course can be specifically tailored to suit the learning goals in a course at any time and provides a level of flexibility to the faculty. As stated in the South Australian Regional Report, ‘because our clinic is here within the cocoon of the law school we can control and look after them and keep tabs on them’.<sup>43</sup> In contrast, in an external live client clinic (agency clinic), for example, a student’s learning has to be negotiated in the context of the external agency’s priorities.

There is a range of approaches within in-house clinical courses. In some, the students’ learning is paramount: ‘A clinic is designed for a student experience. A community legal centre or a firm or any organisation has not been designed for the volunteers who come in.’<sup>44</sup> For some in-house clinics the focus is the students, and this clear prioritising means specific learning goals can be set and worked towards clearly. In others that are also community legal centres, there will be a shifting balance with constant attention on both student learning goals and client service.<sup>45</sup>

A benefit of this model, referred to in the Regional Reports, is that trained and experienced educators work with students. Clinical supervisors have experience teaching a range of diverse students. A core part of a clinician’s job is to teach students. The in-house live client clinic has the advantage of being specifically established to teach students. There can be a strong and well-articulated link between practice experience and reflection. Another benefit referred to in the Regional Reports by interviewees is that students in in-house clinical courses are more likely to be given more responsibility.<sup>46</sup> Supervisors are accustomed to working with students in a supportive way to enable them to increasingly take more responsibility throughout a semester. In contrast, supervisors in an externship may feel less comfortable with giving students responsibility, even if they have formal (legal) authority to do so.

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43 *Identifying Current Practices in Clinical Legal Education, Regional Report: South Australia*, 19, at perma.cc/3MPF-5U5A.

44 *Identifying Current Practices in Clinical Legal Education, Regional Report: South Australia*, 19, at perma.cc/3MPF-5U5A.

45 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, at perma.cc/257Z-6EMR.

46 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, at perma.cc/257Z-6EMR.

Another benefit of in-house live client clinics is the shared facilities and infrastructure, which offer some costs savings.<sup>47</sup> For example, the university may absorb some of the financial responsibilities for the clinical program, or provide human resources support to clinical staff, as discussed further in Chapter 9.

Another positive aspect of the in-house clinic is the more obvious integration of the clinical course within the law faculty. Clinics have sometimes been on the periphery of law teaching, but a clinic that is physically located within the law school gives the implicit message that it is an essential part of the law school's function, and provides a constant reminder of the connection of learning law with the practice of law. A further benefit of this model is that it is physically easy for students to gain access as the clinic is located where they study.

One of the disadvantages of an in-house clinic is that it can present a model of legal practice that a student is unlikely to encounter when they enter legal practice. Demand may be limited and the client numbers can usually be tightly controlled in order to ensure the educational experience. Students may gain the impression that they have unlimited time to devote to one particular case. In fact, one of the skills of legal practice is being able to allocate sufficient time to each client file, juggling the competing needs of clients, co-workers and other work priorities. If work is highly controlled, as it is more likely to be in an in-house live client clinic, then the hectic pace of legal practice is less likely to be found.

If an in-house clinic is the only model of clinic offered by a university, then our research for *Best Practices* shows that is more likely to be a clinic that provides legal services to disadvantaged clients.<sup>48</sup> An in-house clinic that is also serving the community is more likely to offer students a more intensely paced experience, akin to legal practice. However, an in-house clinic with a poverty law focus may not cater for the diversity of student interest. While many students are keen to learn about law in this

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47 *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, at [perma.cc/J562-X6GU](http://perma.cc/J562-X6GU).

48 This does not have to be the case, but if a law faculty is going to fund a legal practice for the purpose of teaching students, then this expense is more likely to be justified if it also fulfils the goals of community engagement. There are no examples of in-house clinics that do not provide legal services to either students or disadvantaged communities: see *Identifying Current Practices in Clinical Legal Education*, Regional Reports, cited in Chapter 1 at footnote 6.

environment, some may prefer to learn about other ways of practising law. Providing externships in a range of locations meets the needs of a greater variety of students.

One of the main disadvantages of in-house live client clinics is the cost of the model. In the current climate of constrained budgets, law schools are looking to expend their clinical programs in a cost-effective way. Establishing relatively expensive in-house live client clinics is not likely to be a growth area.

## External live client clinic (agency clinics)

The distinguishing features of this model are that students are placed at an agency over which the university has limited control, often the subject of a memorandum of understanding, and a law school academic/legal practitioner provides the supervision of students onsite in the organisation. The model relies on a significant level of partnership and collaboration between the university and the agency. Longstanding clinical programs at La Trobe, Griffith, Monash and Murdoch universities and at ANU are external live client clinics.<sup>49</sup> The funding arrangements and the level of involvement in these clinics vary among the programs. One common and distinguishing aspect of this model is the involvement of law school staff onsite at the agency (away from the campus). Other agency staff are also often involved in the supervision of students, both formally and informally. In this type of clinic, supervisory control of students is a shared enterprise between the law school and the agency.

## Analysis

In an agency clinic, students benefit from exposure to the realities of working in agencies like community legal centres. They experience the high levels of client demand and need, the challenge of insufficient resources, and the commitment of agency staff. Especially in a larger organisation, like a legal aid commission, students and academic staff get the opportunity to work and engage with a diverse range of legal practitioners.

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<sup>49</sup> Kingsford Legal Centre, *Clinical Legal Education Guide 2013–2014*, Kingsford Legal Centre.

In an agency clinic, the university will have limited responsibility for the running costs and infrastructure. The university will employ staff and often make a contribution to the agency, but the agency relies on external funding for the bulk of its support. Consequently, agency clinics are a less resource-intensive option for universities than in-house clinics.

Partnerships with local community agencies enhance the universities' community engagement profiles,<sup>50</sup> and agency clinics offer a positive way for universities to make a contribution to their communities.

Often, in agency clinics, the clinical legal education course operates only during university semesters, and the community agency is likely to take responsibility for any ongoing case commitments between semesters. Academics involved in such a program are likely to be able to focus on research and scholarship outside of semesters, as well as contribute to the teaching of other courses.<sup>51</sup>

In an agency clinic, the law school will have little direct control over the work of the agency and its staff. Although agency clinics usually have a memorandum of understanding that sets out details of student involvement and areas of work, the educational aspect of a program is often viewed by the agency as secondary. A tension between service and education is highlighted in an agency clinic,<sup>52</sup> so good working relationships between university staff and agency staff are therefore critical to the success of agency clinics. The maintenance of effective and productive relationships requires nurturing<sup>53</sup> and is often time-consuming.

As the university clinical staff are located at the agency clinic, they can become isolated from the law school. This can have implications both for the careers of the individuals involved and for the profile of clinical legal education within the university. At worst, the clinic and its staff can become marginalised. Time and energy is therefore needed to ensure the reputation and work of the clinical legal education program and its staff are recognised both by the law school and the broader university. This is an example of the same issue in all clinical models, as clinical teaching is distinct from traditional law teaching and frequently not understood by law faculties.

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50 Jeff Giddings, cited at footnote 12, 40.

51 Giddings (2013), 104.

52 Judith Dickson, cited at footnote 41.

53 Giddings (2013), 104.

## Externships (including internships and placements)

Our *Best Practices* survey revealed that the most significant growth in clinical legal education was in externship programs, also sometimes described as internships or placements.<sup>54</sup> From our research it is clear that these terms are used interchangeably and do not reflect substantial differences. In this book we use the word ‘externships’ to describe the form of clinical legal education where individual students are placed in an independent legal practice, community legal centre, government agency or not-for-profit organisation.

The distinguishing feature is that, unlike external live client clinics, everyday student supervision is the primary responsibility of the host organisation, although there may also be an academic supervisor who monitors the students’ work. This form of education is not unique to law schools and is common in many other disciplines.<sup>55</sup> The pedagogy of externships is well developed in the United States.<sup>56</sup> However, externships have often been seen as a lesser form of clinical legal education in Australia and elsewhere, because frequently they are not rigorously designed with clearly defined learning outcomes. It is more likely that there will be variable learning outcomes in externships because the supervision varies from workplace to workplace. As the teaching of students is not an essential part of the student supervisors’ role, there is a risk that student learning goals are of secondary importance to the functioning of the workplace.<sup>57</sup>

There is significant variability in this lower-cost clinical legal education model. Most externships programs involve students working for a day a week during the semester at the host organisation. However, this can vary, so that students work intensively for two or three weeks, particularly if the placement is overseas or interstate. Ideally, externship programs

54 Adrian Evans and others, cited at footnote 8.

55 The prevalence of this form of student experience and the experience of student exploitation prompted the Fair Work Ombudsman (with Rosemary Owens) to initiate a research project: see *Experience or Exploitation? The Nature, Prevalence and Regulation of Unpaid Work Experience, Internships and Trial Periods in Australia* (2013) Fair Work Ombudsman, Melbourne. As a consequence of the report’s recommendations, the Fair Work Ombudsman has developed a range of material: see [perma.cc/7JFA-WQ6J](https://www.fairwork.gov.au/research-and-publications/reports-and-research/2013-14/experience-or-exploitation?_ga=2.141111111.141111111.141111111.141111111).

56 P Ogilvy, Leah Wortham, Lisa G Lerman and Alexis Anderson, *Learning From Practice: A Professional Development Text for Legal Externs* (2007) Thomson Reuters.

57 Giddings (2013), 89.

include a seminar program (often fortnightly) and an opportunity for students to come together and discuss their individual experiences in the larger group. For example, at La Trobe University, students in the course Public Interest Law Practice attend a fortnightly seminar and supervision session on campus. This enables students to learn about other student experiences and provides a supportive environment in which to discuss any issues or concerns.

Externship programs can be either generalist or specialist. For example, at Griffith Law School there is the Semester in Practice program; the University of Sydney offers an externship course focusing on social justice and at UNSW there are specialist externship programs (for example, the Hong Kong Refugee Law Clinic).<sup>58</sup>

Although this model enables law schools to provide diverse learning sites in a cost-effective way, the actual standard of any externship program will be dependent on available resources and skilled, sensitive relationship management. Universities do not have to cover the infrastructure costs of an externship program, but quality externships require ongoing training of supervisors, committed academic staff involvement and maintenance of the interpersonal relationships between law school and agency. The true cost of a good externship program should not be underestimated.

## Analysis

The number of externship programs is increasing in Australian law schools because they are much less resource intensive than in-house clinic programs. They do not require establishing infrastructure and the clinical supervision is contracted out. The first Australian externship programs did not pay the host organisations for their participation in the programs. However, more recently, the establishment of some externship programs has involved the law schools paying the host organisations (often community legal centres) a fee.<sup>59</sup> As Giddings notes, '[t]he cost differential between externships

58 Kingsford Legal Centre, cited at footnote 49.

59 Discussion at presentation by Matilda Alexander, Andrea Perry-Petersen, James Farrell, Monica Taylor, Queensland Association of Independent Legal Services (QAIS), 'Outsourcing clinical legal education to community organisations: the good, the bad and the ugly' at 11th *International Journal of Clinical Legal Education* Conference and 12th Australian Clinical Legal Conference, Griffith University, Australia, July 2013.

and in-house clinics will be influenced by the resources the law school commits to supporting externship students',<sup>60</sup> but that differential will narrow if a trend for paying for externships continues.

The nature of the supervision arrangements in externships enables larger numbers of students to be given a clinical opportunity. For instance, Deakin Law School runs an externship program with over 30 partnerships.<sup>61</sup> This supervision aspect of externships also facilitates significant community engagement for the university. Externships also enable students based in regional campuses to participate in clinical legal education. Universities are less likely to establish in-house clinics in regional campuses where the number of students is fewer, although there may be opportunities to place students in local legal aid agencies, or to form partnerships with these organisations. In Bendigo, Victoria, La Trobe University offers an externship to second-year law students. This is beneficial for students' future job prospects and the university's relationship with the local legal profession.<sup>62</sup>

Externships are well suited to facilitate learning that involves an assessment of aspects of the justice system other than just legal practice. This wider perspective is particularly true for students who are placed with magistrates or judges, law reform agencies and government departments. Equally, externships can enable students to pursue their preferred areas of legal practice.

In the externship model, the law school has less control over the student learning experience as the supervision is primarily the responsibility of the host organisation. This delegation of supervisory responsibility by the law school to the host organisation may be formal under a memorandum of understanding, or informal. Ideally, the former will occur, but a *complete* delegation of responsibility is impossible where the student is receiving credit for their externship work. This is why we prefer to emphasise the collaborative reality of the supervisory environment rather than legal liability for supervision. Also, within a given clinical course, there is

60 Giddings (2013), 91.

61 *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, 4, at [perma.cc/J562-X6GU](https://perma.cc/J562-X6GU); Adrian Evans and others, cited at footnote 8, 29.

62 Chris Casey and Judith Bennett, "It really opened my eyes": The impact of a social justice focused, regional clinical legal education in attracting and retaining the next generation of lawyers in regional and rural settings: pilot findings' at 11th *International Journal of Clinical Legal Education* Conference and 12th Australian Clinical Legal Conference, Griffith University, Australia, July 2013.

a likelihood of significant variability in the work students are engaged to perform across different placement sites.<sup>63</sup> Accordingly, the overall quality and consistency of the externship program can be compromised.

Given that many externship placements in Australia are in community legal centres—which are severely under-resourced organisations—there is a risk that students will not receive appropriate levels of supervision. To counter these risks, supervisors should receive university-funded training and a supervision manual, and liaise with relevant university academics.<sup>64</sup> Another limitation of externships is that student responsibility for client work is reduced, because staff who are supervising students are accustomed to actually being responsible and performing the work themselves. Giving students responsibility for client files,<sup>65</sup> law reform submissions or other legal work is challenging and a different way of working from that with which placement supervisors may be familiar.

With the growing interest in developing externships, there is increased competition among law schools to obtain placements. A number of community legal centres in Queensland, for example, take students from a variety of law schools. With increased demand for placements and a static supply of placement sites, the need to obtain sufficient placement sites could mean less attention to the actual quality of the placement. However, increased competition among universities enables the host organisations to demand adequate resourcing from universities that could improve the quality.

A recent variation on the externship model is the creation of ‘virtual clinics’. Utilising online communication, students work for an external organisation that is based overseas or interstate. The student remains in their local environment and works with the external organisation via online written, video or audio communication. They may have a designated supervisor in the external organisation and/or a supervisor in the home university. For instance, in the ANU course, The International Human Rights Clinic, students work with non-government organisations (NGOs) in the Pacific and Asian regions.<sup>66</sup> Because of the globalisation of

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63 Giddings (2013), 89.

64 Adrian Evans and others, cited at footnote 8, 55–59; and see Chapter 6 of this book on ‘supervision’.

65 Margaret Martin Barry, ‘Practice Ready: Are we there yet?’ (2012) *Boston College Journal of Law and Social Justice* 264.

66 Kingsford Community Legal Centre, cited at footnote 49.

legal practice and the increasing use of online technology to deliver legal services, especially to remote and rural areas of Australia, this mode of clinical legal education offers significant potential.

## Clinical components in other courses

In *Best Practices* we described a clinical component as occurring when a substantive law course includes within its teaching and assessment a section that is clinical.<sup>67</sup> This can include interviewing clients and writing a reflective assignment,<sup>68</sup> participating in judicial mentoring (for example, accompanying a magistrate or judge in order to understand their work as a part of courses in criminal procedure, evidence, and family law and policy),<sup>69</sup> or working in a community legal centre for two weeks with a focus on family law.<sup>70</sup>

In the New South Wales (NSW) and Australian Capital Territory (ACT) Regional Reports, interviewees reported that specific skills such as interviewing, research, case evaluation and negotiation could all be incorporated into doctrinal law courses.<sup>71</sup> This is usually through a simulated approach to legal practice. For example, students may be asked to draft pleadings or conduct negotiations over specific scenarios.

The *Best Practices* research asked about the merits of an integrated approach to legal education, combining simulation, doctrinal teaching, clinical components and clinics. There is a range of views about whether any integration needs to occur in a linear form. Many responded that all approaches are useful for different purposes. One of the comments from the Regional Reports was that exposure to clinical methodology through a clinical component in a doctrinal subject may be difficult in law schools that do not have in-house live clinics. Interviewees expressed the view

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67 Adrian Evans and others, cited at footnote 8, 20.

68 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, describing the Law, Lawyers and Society course with an interviewing component at Kingsford Legal Centre, at perma.cc/257Z-6EMR.

69 *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, at perma.cc/J562-X6GU.

70 *Identifying Current Practices in Clinical Legal Education, Regional Report: Western Australia and Northern Territory*, at perma.cc/4EDN-5SZG.

71 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 20, at perma.cc/257Z-6EMR.

that '[i]t is not possible in the partnership external model'.<sup>72</sup> However, the approach taken by Charles Darwin University,<sup>73</sup> based in Darwin in the Northern Territory but with a clinical component in Albury-Wodonga (NSW and Victorian border), almost 4,000 kilometres away, suggests otherwise. In this course, students spend two weeks on site in Albury-Wodonga in a community legal centre family law practice where they learn client communication skills as well as substantive law.

## Analysis

A clinical component has the benefit of providing a large number of students with a short, sharp experience of legal work that, with a reflective component, can be very effective. For many students, a clinical component in a course will be their first experience of law in practice or of real clients. It can be an affirming experience for students who are questioning what role they may play in the legal system, and it can bring academic learning to life through real legal issues faced by ordinary people in the community.

The logistics and administration required to provide large numbers of students with a clinical component is resource intensive. This can be taxing on the site where the clinical component is being provided<sup>74</sup> and requires a high level of administration in the course. Students' learning can be prioritised over client service<sup>75</sup> through a clinical component as the student will generally have more limited skills than if they were doing an entire clinical course, since they are there for a brief experience only.

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72 *Identifying Current Practices in Clinical Legal Education, Regional Report: Queensland and Northern New South Wales*, 18, at perma.cc/257Z-6EMR.

73 *Identifying Current Practices in Clinical Legal Education, Regional Report: Western Australia and Northern Territory*, 5, at perma.cc/4EDN-5SZG.

74 Each semester Kingsford Legal Centre has to draw up rosters for up to 256 law students for separate advice clinics and ensure that they attend; *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, at perma.cc/257Z-6EMR. See also, Anna Cody, 'What does legal ethics teaching gain, if anything, from including a clinical component?' (2015) 22(1) *International Journal of Clinical Legal Education* 1.

75 Two-week family law clinical component in Albury: *Identifying Current Practices in Clinical Legal Education, Regional Report: Western Australia and Northern Territory*, at perma.cc/257Z-6EMR.

## Factors in choice of model

As discussed above, ideally, clinical legal education ought to be integrated throughout the law curriculum and a range of models will be used, including simulations, clinical components, externships, agency clinics and in-house clinics.<sup>76</sup> Currently, most universities have not adopted this approach. The choice of a clinical legal education model depends on a range of factors.<sup>77</sup> Although we discuss these factors discretely, they are not unrelated; each one affects another. The decision about which model of clinical legal education to adopt will be based on a combination of issues, including:

- learning objectives of the course;
- available resources, financial and physical;
- extent of control and supervision;
- potential partnerships/placements;
- types of legal work; and
- students' location and their numbers.

## Learning objectives

The most important aspect of choosing a preferred model is matching the learning objectives of the course with the best model to facilitate those objectives.<sup>78</sup> The various models of clinical legal education offer different learning opportunities to students. In Chapter 4, 'Course design for clinical teaching', we discuss these issues more fully.

## Extent of control and supervision

One of the key aspects of high-quality clinical legal education is the standard of supervision:<sup>79</sup> 'Close supervision is often described as a hallmark of clinical education.'<sup>80</sup> In any externship or external live client agency relationship, there is less control over the specific learning goals and

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76 Giddings (2013), 80.

77 MA Noone, 'Planning a clinical legal education program: what are the issues?' (1994) 19(6) *Alternative Law Journal* 285.

78 See Chapter 4 of this book on 'course design'.

79 See Chapter 6 of this book.

80 Giddings (2013), 41.

supervision may not be as intensive.<sup>81</sup> The advantages of these as options for clinical legal education are that they are generally less expensive to establish for law schools, and also provide greater diversity in placement sites for students. Weighing up the degree of control that the law school wants with the cost of providing in-house clinics will be part of the decision-making in choosing the model.<sup>82</sup>

## Available resources

Ideally, a staged approach, beginning with simulations and ending with a live client experience, enables students to scaffold their learning more effectively than in any other way. However, this is often seen as too resource intensive, and the choice of model is often limited by available funds. A law school will have to weigh up the specific educational objectives for students with the resources that are available. The resources needed to run a clinical legal education program include staff (academic, legal supervisors and administrative) and the costs of office infrastructure including information technology, rent, equipment and related expenses, which we discuss more fully in Chapter 9, 'Resourcing live client clinics'. As discussed above, establishing an in-house live client clinic is the most resource-intensive form of clinical legal education.<sup>83</sup> The benefits include the law school's ability to clearly shape and develop the educational experience it provides for its students with a high degree of control.

## Potential partnerships/placements

Universities may have well-developed connections with the community and frequently see their role as reaching into and collaborating with the community. 'Community' can include student communities, local communities, the legal profession, the judiciary, the general public and even specific groupings within the general public and government agencies.<sup>84</sup> Universities and law schools may want to develop these relationships and

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81 Liz Ryan Cole, 'Externships, A Special Focus to Help Understand and Advance Social Justice' in Frank Bloch (ed), cited at footnote 27, 327.

82 Giddings (2013), 82.

83 Giddings (2013), 99.

84 Neil Rees, 'How should law schools serve their communities?' (2001) 5 *University of Western Sydney Law Review* 111, 114, referred to in Giddings (2013), 42.

collaborations at particular points in time. These will in turn influence the decision about where to situate a clinical legal education program and how to develop it.

Another factor in deciding whether to develop an externship program is the diversity and opportunities of placement sites that might be available. Not all clinical legal education courses need to have learning objectives related to community or social justice. Placement opportunities may arise that give students the chance to develop their skills and reflection in another type of legal practice, such as commercial or sports law, or even internationally. Externships offer this last benefit and flexibility,<sup>85</sup> permitting international clinical courses to be offered that may be attractive to students.<sup>86</sup>

## Types of legal work

A further factor related to facilitating learning objectives and making the most of placement opportunities is the type of legal work available. Some argue that students in in-house clinics are able to engage in a fuller range of work with greater responsibility and actual client representation.<sup>87</sup> However, in Australia diverse types of legal work with large levels of responsibility are practised throughout each of the types of clinical legal education. In clinical components, for example, students actually interview clients<sup>88</sup> and work on family law cases with a substantial degree of responsibility.<sup>89</sup> In externships, students may represent clients, draft law reform submissions or draft legislation, develop community legal education projects and provide legal advice, among many work possibilities.<sup>90</sup>

85 Liz Ryan Cole, cited at footnote 81, 328.

86 Liz Ryan Cole, cited at footnote 81, 329.

87 Roy Stuckey and others, cited at footnote 10, 191; Giddings (2013), 94.

88 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 5 (Law, Lawyers and Society clinical component at UNSW), at [perma.cc/257Z-6EMR](https://perma.cc/257Z-6EMR).

89 *Identifying Current Practices in Clinical Legal Education, Regional Report: Western Australia and Northern Territory* (Charles Darwin University, Albury Wodonga Community Legal Centre), at [perma.cc/257Z-6EMR](https://perma.cc/257Z-6EMR).

90 Liz Ryan Cole, cited at footnote 81, 329.

## Students' location and numbers

Another factor in choosing a clinical legal education model is the number of students that need to be accommodated within the program. If there is a law school commitment to provide a clinical legal education experience to all students—as is the case for Newcastle University, UNSW and the University of Western Sydney (UWS)<sup>91</sup>—and there are limited resources available, then the choice of model is also limited. For example, UWS gives students a five-day clinical exposure/component as it is committed to giving all law students some clinical experience.<sup>92</sup>

Another aspect of the 'student' factor is their location. Given the increase in online learning, the choice of clinical legal education program may be further limited. However, several universities in Australia are engaged in developing 'virtual' clinics and these may offer new opportunities to law schools.

## Conclusion

In this chapter, we have clarified key terms and described the models of clinical legal education emerging in Australia. For each model we have identified both merits and some disadvantages. Finally, we have discussed a range of factors that need to be considered when choosing a model for clinical legal education.

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91 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 5, at [perma.cc/257Z-6EMR](https://perma.cc/257Z-6EMR).

92 *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, 5, at [perma.cc/257Z-6EMR](https://perma.cc/257Z-6EMR).

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