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## Resourcing live client clinics

### Introduction

In this chapter, we rely on the insights of respondents to the *Best Practices* survey to inform the discussion of various dimensions of clinical program resourcing. All are related to the distinctive politics of Australian law school funding. Best practices in clinical legal education programs are the main focus of this book, and we deal with the full range of clinical models. In Chapter 3 we discussed all the models but, unless otherwise made plain, ‘clinic’ in this chapter refers only to the live client learning setting, whether in-house or in an externship.

After discussing the directions identified by the survey and stakeholder input, we address the important role of strategic direction, on which the overall impact of a clinical program often depends. In a live client clinic of any sort, whether in-house or external, there is a profound need for clinic administrators with both strong interpersonal skills and a detailed capacity to manage money. But the core resources of an effective clinic are the clinical supervisors—the individual lawyers or cross-disciplinary supervisors who personally direct, guide and nurture law students through the maze of their own ‘growth’ and its interaction with the learning objectives.

Only when these central role descriptions are on track will the clinical program have any chance of making a profound difference to learning and, where it is provided, to service delivery. But infrastructure issues remain important. Adequate funding for clinical programs is a recurring

headache for law school deans because of the demands of competing interest groups within law schools. Indeed, some law schools are still to be persuaded that superior legal education involves clinical integration in one way or another. There is also an obvious need to ensure that the clinical legal practice can operate to deliver both immediate and longer-term legal needs in the same way that any legal practice does—and this means all the compliance-related infrastructure of ethical systems, insurance, information technology (IT) resourcing and the like.

In respect of infrastructure (in effect, the funding of the clinic), *Best Practices* gives attention to insurance, training, IT/library access, administrative and locum support and the need to formalise the relationships between any external agency and the law school in relation to the full range of issues arising from clinical service delivery.

Apart from Giddings' recent major work on clinical sustainability,<sup>1</sup> there is very little other Australian scholarship on clinical quality and accountability.<sup>2</sup> Clinical funding remains tenuous. While almost all universities think they need a law school regardless of its cost, not all law schools see their clinical programs as indispensable. In this climate, the critical need for clinical leadership can never be underestimated, especially leadership that is emotionally and tactically sensitive to the political struggles inside law schools.

In the survey responses, infrastructure concerns almost always concentrated on the cost of running a program, and the slightly anxious desire to see that adequate professional indemnity and other insurances were fully provided by each law school. The Regional Reports make it clear that clinical programs consider their funding to be less than ideal in one way or another. These include the differences in salaries for different types of supervisors, inadequate funds for IT equipment and cramped physical conditions, even among those apparently successful clinical sites. Few respondents engaged in detailed reflection on sustainability concerns,

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1 Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (2013) Justice Press, Chapter 5.

2 However, see Hugh Brayne and Adrian Evans, 'Quality-Lite for Clinics: Appropriate Accountability Within "Live-Client" Clinical Legal Education' (2004) 6(1) *International Journal of Clinical Legal Education* 149; Adrian Evans and Ross Hyams, 'Independent Evaluations of Clinical Legal Education Programs: Appropriate Objectives and Processes in an Australian Setting' (2008) 17(1) *Griffith Law Review* 52.

but the impacts of periodic changes in law school leadership, external agency needs, required service delivery reviews and the uncertainties of government legal aid funding were a common underlying reality.

## Clinic supervisors

Resourcing clinical legal education appropriately is not just a matter of money. It is also a question of recruiting and retaining staff with appropriate values, attitudes, skills and energy. To go even further, real success in resourcing consists in recruiting ‘good’ leaders, clinic administrators and supervisors. The statement in *Best Practices* on resourcing is divided into two categories, ‘Staff’ and ‘Infrastructure’, in order to emphasise that staffing and individuals’ supervision qualities are not just a subsection of infrastructure needs. As we say there: ‘The effectiveness of a clinic will depend on the strength and sensitivity of the supervision provided. Clinical supervisors require a combination of legal practice backgrounds, a concern for improving access to justice and a deep interest in student learning.’<sup>3</sup>

Supervisors are the main resource of a good clinical program and the main challenge. Resourcing these clinics properly requires longevity in program leadership, as well as leaders’ personal acceptance of the need for succession planning. These are not contradictory qualities: the best clinics are those that have people in leadership who have the personal judgment and maturity to comprehend their interrelated nature. Often the sustainable, large and well-regarded clinical program is identified not just in its outputs—that is, in its teaching reputation, law reform impacts, delivery of services and attraction of funding—but in the broader personal qualities of its key staff. Among clinical supervisors who hold conventional academic positions, a key indicator of strength and productivity can also be the impact of their writing. *Best Practices*, as it relates to clinical supervisors, therefore responds not only to the depth and complexity of their required personal attributes, but also to their teaching status as supervisors (see Chapter 6 on supervision), equating them as far as possible to law school peers in their pay and conditions, their access to training and their relative autonomy. It is particularly important to

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3 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, 63, at perma.cc/2J6E-ZMQX.

recognise the long hours and intensive nature of supervision—having regard to any research and publication expectations—by controlling the number of students for which each supervisor is responsible.

A well-established clinic, particularly one in an external agency such as a community legal centre, may have an overall director and a site director, as well as an administrator and clinical supervisors. But it is probably more common, especially in an externship program, to find one or two lawyers with mixed responsibilities—partly for their own caseload and partly for the supervision of students. Smaller programs may get by with just one lawyer/supervisor and a part-time administrator at a single site. In our regional surveys, many views were expressed by respondents about the range of qualities needed by clinical supervisors.<sup>4</sup> Most comments were consistent in their listing of a demanding range of personal and professional skills and attributes. However, there were some inconsistencies.

A number of respondents thought ‘credentials’ are necessary, so that supervisors should have postgraduate qualifications in teaching.<sup>5</sup> A few respondents were wary of scaring off potential supervisors, whom they see as hard to attract into the field, and these respondents thought that supervisors do not have to be ‘teachers’, as long as they are good mentors.<sup>6</sup> The difference may be minor, but the general emphasis in United States clinics on proficient supervisors as educators and not just as practitioners—together with Australian national efforts to improve the quality of all teaching at all levels—may mean that postgraduate teaching qualifications will become a precondition to identifying good clinicians as time goes by.

Perhaps unconsciously reflecting this awareness, many respondents held the view that clinical supervisors are serious educators and need to be paid at the same level as ‘conventional’ teaching colleagues, with the same opportunities for career advancement. It is, however, unlikely that equal status will occur without comparable ongoing education requirements. Only a few respondents seem to be aware that the extensive wish list for

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4 Adrian Evans and others, cited at footnote 3; and refer to *Identifying Current Practices in Clinical Legal Education*, Regional Reports, cited in Chapter 1 at footnote 6. Section E of each Regional Report deals with clinical staffing issues.

5 Adrian Evans and others, cited at footnote 3; *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, Section E, at [perma.cc/J562-X6GU](https://perma.cc/J562-X6GU).

6 Adrian Evans and others, cited at footnote 3; *Identifying Current Practices in Clinical Legal Education, Regional Report: Victoria and Tasmania*, Section E, at [perma.cc/J562-X6GU](https://perma.cc/J562-X6GU).

good supervision is related to cost and funding, and that it could affect financial sustainability to compare salaries paid to supervisors with those paid to the comparatively few supervisors who also hold formal academic appointments in the relevant law schools.

In the survey responses the attributes of clinic leaders or directors were not generally commented on, but one respondent considered people in these roles need at least five years post-admission experience, with management experience and the capacity to run a legal practice. The following list of desirable qualities for supervisors (regardless of the type of clinic) is a synthesis of respondents' views across all the regions surveyed:

- Have a practising certificate, current practical experience and a good working knowledge of the law.
- Have excellent lawyering skills ('good natural communication and supervision skills and experience').
- Have creativity, empathy and preference for use of plain, clear language.
- Have patience, enthusiasm, compassion, respect for difference and diversity and the maturity to be able to critique work without humiliating students.
- Have the ability to balance stakeholders' expectations, so that those who are unrealistic are restrained appropriately.
- Have good client communication skills (emotional intelligence) and the ability to discuss what they are doing and why with both clients as individuals and students as individuals.
- Like people and be interested in people's problems; must like students and young people and have a sense of humour.
- Know how to teach—have an understanding of reflective practice in teaching and learning, measured by achievement of recognised training in postgraduate teaching (for example, a formal teaching qualification such as a Graduate Certificate of Higher Education), or be trained in professional supervision and/or adult education for new staff.
- Be aware of the tensions between getting to know students and having to assess them and between being organised and being able to prioritise supervision within other responsibilities.
- Have a social justice focus and perspective—be able to expose students to the idea of making the law more just and fair; to influence their practice of law in the future.
- Have ethical awareness.

- Have sufficient administrative skills (to operate in a quality accountable learning/service delivery site).
- Have an awareness of the clinical and related literature, covering overall clinical objectives, teaching technique, policy debates, law reform and critical evaluation.

## Clinic program directors

Sometimes, law school leaders ask if clinical program directors<sup>7</sup>—those who oversee a whole program rather than just a single clinic—are actually needed. The question is often perceived by clinically aware academic staff as unfortunate, but it is understandable because of a perception inside law schools that teaching clinic is like any other teaching allocation and entails no additional roles or responsibilities. Perhaps, if clinical and conventional teaching methods were so well integrated that law academics could not distinguish them, it would be appropriate to ask if clinical direction is needed. In that world all substantive legal concepts would be finding expression in law schools helping to resolve the current problems of people, corporations and non-government organisations. But that is not the case and, as we discussed in Chapter 2, is unlikely while Australian law schools are funded at the lowest Commonwealth band for their LLB courses.<sup>8</sup> In the meantime, there is a struggle going on for better teaching integration of this nature, for external government and philanthropic funding of clinic to supplement law school sources, and for the law-in-context impacts that distinguish good clinical method.

Of course, there are program directors who lead single clinics and those who oversee multiple clinics, depending on the history and circumstances of the law school. But the key issue remains one of clinical leadership, which is something more than management or administration.

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7 The term 'program director' is generic. There is a considerable variation. For example, at Monash University, the term is 'Director of Legal Practice Programs', while at Griffith University, there is a 'Director of Professionalism'.

8 JD degrees are another matter of course, since they are funded by students and often make money for law schools, in the sense that they effectively subsidise the teaching of LLB students.

## What is involved in clinical leadership?

A broad educational and professional perspective is needed for the best in clinical leadership. A clinical director must have a real interest in constant liaison with law school senior leadership, seeking opportunities to achieve advances for the program as a whole. This connectivity is helped if their office is located close to those leaders so that they are ‘in the loop’: Kingsford Legal Centre, for example, is on the ground floor of the University of New South Wales (UNSW) law building. Correspondingly, clinic directors who may be located away from the main law school building or are obliged to report to CEOs of external agencies in which their clinics are located have a more difficult job in staying up to date with law school developments.

The capacity to lead is often witnessed in an ability to create and implement new clinics. But clinical leaders will often display many other attributes. While clinical supervisors without leadership responsibilities may not require an extensive range of skills beyond supervisory competence, that is not the case with clinical leadership.

With so much dependent on effective clinical direction, a prudent law school dean might consider using a search consultant to help recruit a new program director, and to utilise modern 360-degree analyses of potential appointees, in order to maximise the chances of a successful appointment.

Externship programs are by definition located inside agencies with their own governance arrangements and they may not engage in active casework where clients’ money is transacted. But if the clinical program director is also the solicitor formally in charge of a clinic that does handle clients’ money, then they will be required to hold a current, full practising certificate regardless of the Australian jurisdiction.<sup>9</sup> However, if the roles of program director and clinic director are separated (which is often the case in larger law schools), then it is only the clinic director—‘on the ground’ as it were and directly responsible for such clients’ files—who needs to have the full certificate. For this reason, it cannot be essential for a clinical program director to have a background as a practising lawyer, though most applicants for such positions will have this experience.

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<sup>9</sup> A full practising certificate is usually described as one entitling the holder to operate a client trust account. See, generally, e.g. *Legal Profession Uniform Law Application Act 2014* (Vic), Schedule 1, Part 4.2.

## Clinical supervisors ('clinicians')

As we emphasised in the introduction to this chapter, the core resource of any clinic is its staff and, among those staff, clinical supervisors perform the core function—supervision. It is essentially up to these lawyers to effectively communicate the complexities of supervision (see Chapter 6) to law students and to oversee their baptism into legal practice. Clinical supervisors have a critical role as student mentors and role models; and these attributes frame their quality as teachers, technicians and ethical, street-aware lawyers. There are few things as important to resourcing clinical legal education as the recruitment, selection and retention of appropriate clinical supervisors.

Of course, supervisors need to be eligible for current practising certificates, but there is a more fundamental list of criteria for those who will be able not just to practise law, but to teach that practice, to watch over those learning to do the same and to impart the socially conscious values that are integral to clinical methods.

Accordingly, good applicants for supervisory roles will be able to meet the following selection criteria:<sup>10</sup>

- Appropriate experience of legal practice.
- An understanding of the responsibilities of ethical legal practice, including an awareness of the pedagogical debates concerning competing legal ethical perspectives.
- The capacity to teach by example and encouragement, showing emotional intelligence.
- The willingness to trust students and to set reasonable boundaries around that trust so that they feel able to exercise appropriate client-related initiatives.
- An understanding of the distinction between normative and positivist theories of law (normative theory being that law must be understood in the context of its effects on justice; positivist theory being that the law simply 'is' and need not be further justified or examined, except for its likely capacity to provide loopholes for clients).

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<sup>10</sup> This list is based on a similar list in Adrian Evans, 'Normative Attractions to Law and their Recipe for Accountability and Self-Assessment in Justice Education' in Frank Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (2011) Oxford University Press, Chapter 24.

- An understanding and acceptance that clinical method extends beyond skills development to promoting a normative and critical orientation in law students.
- A shared understanding with the clinic as to the base or bases in curriculum theory of the clinical program and, in particular, as to whether the clinical program is law student–education centred, client-service centred or whether it seeks to foster a conscious balance of the two.

### Training, diversifying, strengthening and retaining good clinical supervisors

The strengthening of university expectations of teaching staff is such that consideration should be given to appointing clinical supervisors on probation for whatever period is common in the law school. During that period it is desirable, though not yet required by all law schools, that they undertake appropriate assessable teaching education. Typically, this will be a relatively short postgraduate teaching diploma of one or two years offered by the wider university of which the law school forms a part. New supervisors who come from legal practice environments may consider this to be prescriptive, but it is not unreasonable to require new teachers who are being employed as teachers but have no background in this craft to be so educated, particularly if they wish to attract similar employment conditions to conventional law teachers. It is also commonplace for external supervisors to be appointed, not by a law school but by the agency that manages them on a day-to-day basis. Law schools may have representatives on selection committees, but their influence will vary. In the agency environment, there will often be little encouragement of or requirement for training and teaching development among clinicians.

Sometimes there will be resistance to the concept of training at any level beyond the compulsory, but minimal, levels of continuing professional development, particularly if the agency will not or cannot support the cost of teacher development. When that resistance is encountered and the agency is indifferent or hampered by its own funding, clinic directors can lead by example, encourage and try to persuade their colleagues at a personal level of the longer-term advantages of participation in teaching training. These are slow processes and will not solve an agency's up-skilling

issue overnight. However, such processes are consistent with a best practice approach that prioritises professional development not just in substantive law, but also in the discipline of teaching.

Probation periods for new staff are universal in law schools and agencies and the probation mechanism provides an opportunity to both foster the connections of a new clinical supervisor to wider legal education and normative lawyering and ensure they are handling the transition as well as possible. During probation it is desirable that a new clinic supervisor be not merely supervised by the clinic director in an operational manner, but also be encouraged to explore their potential for writing and reflecting on their clinical supervision.

However, encouragement of clinical supervisors to write about their experiences, whether they are in-house or in externships, has not been well managed by many Australian clinical programs for two reasons. First, clinics themselves are still often directed by lawyers who do not have backgrounds in writing and are unconvinced that scholarly connections are needed or are even desirable. And law schools for their part have not all been committed to ensuring that all those teaching their students are productive as lawyers as well as productive in terms of research and writing. They are still a long way from the integration ideal we spoke about in the introduction to this chapter. Indeed, as law schools offer more specialised electives in their degree programs and try to save on staff cost by employing practising lawyers as sessional and casual teachers, the *status quo* will continue, with sessional teachers and clinical supervisors in the same boat.

It is nevertheless becoming a norm for law school academics to achieve and maintain some sort of ‘research active’ status. Different law schools have different ways of measuring such activity, but minimum annual research outputs are not uncommon. Clinical supervisors who seek to be a part of the wider law school environment will at some point face these research output expectations. In our regional surveys, there were diverse opinions among clinical supervisors as to what could reasonably be expected of them in terms of research and writing. Most wanted the same employment conditions, including research or sabbatical leave—and the same levels of perceived respect—as conventional university teachers. However, they felt there was too little understanding by their law schools of the complexity of work associated with clinical case management. They do not always see themselves as law teachers at all, and some identify more closely as

lawyers who are far busier than (conventional) law teachers because of the ever-present reality of client and case deadlines and the need to ensure that the responsible students, who have their own challenges, are on top of these events on a 24/7 basis.<sup>11</sup> On the other hand, the bureaucracies of modern law schools and the wider university are effective in exhausting, dispiriting and removing ‘conventional’ law teachers on a regular basis as well. Any precision or consensus about who is busier or has more time is unlikely because the clinical and substantive law teaching environments remain quite different.

Clinical programs will also be more successful in retaining good supervisors, rather than see them move to other occupations or legal workplaces, if they are able to offer them a career track. So, just as the provision of good supervision to law students is perhaps the critical ingredient in their learning (see Chapter 5), the encouragement of clinicians’ thinking and writing demonstrates to them that they have a future in this discipline. Contrary to much present practice, new clinical supervisors in externship settings will be strengthened by deliberate linkages to the wider law school, such that they expect of themselves over time that they will research and write and will actually have fulfilling academic, as well as legal, careers. In this way, they will have a means to both combat the physical and emotional isolation from which clinical supervisors can suffer and bridge the gaps between clinical supervision and conventional law teaching.

In lobbying within law schools and clinics for greater recognition of clinical supervisors, it is worth putting several propositions that will be hard to rationally resist:

- That integrated clinical programs<sup>12</sup> offer best practice legal education and that global competition among legal education providers will eventually make clinics a point of differentiation among law schools (just as is beginning to happen in regional Australian settings).
- That career tracks among clinical supervisors are becoming clearer as the positive impacts of clinical methods gather more disciples.

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11 See e.g. *Identifying Current Practices in Clinical Legal Education, Regional Report: New South Wales and Australian Capital Territory*, Section E, at [perma.cc/FU7X-5TNV](http://perma.cc/FU7X-5TNV).

12 That is, where substantive, compulsory law subjects utilise clinical methods, including simulation and client-topic specific placements of early-year law students in clinics, as a matter of course; where these compulsory subjects are also regularly co-taught by clinical supervisors; and where all law school teachers, including clinical supervisors, are expected to develop similar capacities in theoretical and clinical teaching and in their ability to research and write.

- That new clinical supervisors need developmental support in their discipline if they are to have a career in clinical supervision and, eventually, leadership.
- That integrated clinical legal education must eventually mean that clinical supervisors themselves have an integrated approach and will publish as well as teach and practise law.

If all these things are predictable over time, then an expectation of reflection and writing by clinical supervisors is not just reasonable, it is an investment in continuing clinical integration.

Supervisors can be engaged in collaborative, team and multidisciplinary supervision of students, so that their understanding of the educational possibilities of supervision is deepened. And they will benefit by rotating in and out of clinical supervision sites and roles, alternating with otherwise conventional law school academics as supervisors, whenever the opportunity presents itself.

## Rationales behind clinical supervisor–student ratios

A key factor in retaining any employee in any job is the workability of the role. For clinical supervisors, workability means being responsible for the correct or appropriate number of students, but no more. Today, clinical supervisors need to ‘[develop] in students a breadth of personal, interpersonal and management skills’<sup>13</sup> that cross over into almost every aspect of their human development. Further, the analysis of law in context within a specific legal case is more intense than in a traditional doctrinal lecture. A relatively high clinical supervisor–student ratio, ideally at no more than 1:8 for a full-time clinical supervisor in an Australian setting, is required not just to cope with students’ caseloads, but also for the necessary discussion and reflection process. Significantly lower ratios undermine the depth of supervision or lead to burn out among supervisors. To take just one example, the supervisor needs to ensure that their students are making systemic connections between the drug-using client in their office and public policy related to substance addiction as a crime rather than

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13 Jeff Giddings, ‘Contemplating the Future of Clinical Legal Education’ (2008) 17 *Griffith Law Review* 1, 16.

a sociomedical problem. It takes time and much concentration to manage students' critical transfer of clinical insight to effective sociolegal policy recommendations and law reform.<sup>14</sup>

Each of these activities demands major emotional and energy commitments from clinical supervisors year after year. If the supervision ratio required by the law school involves too many students, then the attractiveness of the role reduces and supervisors depart or, just as unfortunate, conventional law teachers have bad experiences and decline to be involved in anything but instruction in doctrinal law.

## Funding

Clinical programs containing a clinic (as distinct from those confined to simulations or externships that are not engaged in client service) need to recognise a legal obligation to adequately resource the legal practice that operates in the clinic. For present purposes, the clinic includes the legal practice, but the 'legal practice' is in some ways distinct from the clinic in the sense that the former consists of the mix of regulatory and ethical protocols that a lawyer must provide and operate within. The clinic is more than that: it includes the physical facilities that are needed to accommodate students, in addition to the lawyers and support staff. This obligation may be difficult for the wider law school or university to recognise or accept, but it is set out in various pieces of legislation, in particular, the legal profession frameworks governing lawyers in all jurisdictions.<sup>15</sup> These frameworks are developing very slowly into a code, most notably in the beginning of a national legislative regime,<sup>16</sup> that covers a host of issues relevant to the funding of clinics, such as:

- The provision of a client trust account, requiring a part-time bookkeeper or accountancy-trained administrator and approximately \$3,000 per year in audit fees; internal safe-keeping facilities (a safe or other secure cabinet) for cash, registers of securities and transit

14 Liz Curran, 'Innovation in an Australian Clinical Legal Education Program: Students Making a Difference in Generating Positive Change' (2004) 4 *International Journal of Clinical Legal Education* 162.

15 For example, see the *Legal Profession Uniform Law Application Act 2014* (Vic) (the *Uniform Law*), which has provided a uniform legal regulatory framework that took effect in Victoria and New South Wales from 1 July 2015.

16 The *Uniform Law*, cited at footnote 15.

payments, cheque books and related banking records; and risk-management staff training to prevent fraud and reduce inadvertent mistakes in trust accounting.

- Professional indemnity insurance to offset the risk of lawyer or student mistakes in their legal work. For clinics that are a part of the community legal service network, such insurance is available through the National Association of Community Legal Centres (NACLC) at a significant discount.<sup>17</sup>
- Continuing professional development (CPD), which typically requires each lawyer to undertake 10 hours of education annually in current legal issues. At least some of this education will be available only at a cost of several hundred dollars per hour per lawyer, but clinics commonly organise their own CPD to achieve more targeted delivery at a lower cost by drawing on internal and law school academics as presenters.
- Annual practising certificate fees (typically \$300–400 per lawyer per year) and contributions to local fidelity funds, which compensate clients when their lawyers steal from them (typically \$100–300 per lawyer per year for those who work in clinics). Optional law society membership can add another \$300–500 per lawyer per year.
- Office procedural manuals specific to each clinic, which in turn dictate office standards for other documentation covering file maintenance (maintaining adequate details and records of each client’s matter); conflicts registers; complaint handling, secure and fire-safe file storage (for a minimum of seven years),<sup>18</sup> practising certificate and CPD records.
- Access to an adequate law library (usually through their law school) that includes low- or no-cost access to digital ‘how-to-do-it’ manuals that instruct law students in the detail of model case procedures in common areas, for example, how to conduct a Magistrates’ Court/ Local Court case, or how to defend a consumer debtor.<sup>19</sup>

17 There are additional costs associated with general compliance: e.g. Directors and Officers Liability Insurance for governing board members, recurring occupational health and safety training, regular fire drills, maintenance of first aid facilities and public liability insurance.

18 Cloud storage of client information is problematic for lawyers for security reasons. See Christine Parker and Adrian Evans, *Inside Lawyers’ Ethics*, (2014) Cambridge University Press, 2nd ed, Chapter 4, 104–06.

19 The interstate network of *Lawyers Practice Manuals*, which have their origins in the early connections between community legal centres and clinics, is one such resource. See e.g. perma.cc/KC5F-B65H.

## Major funding needs

This table lists minimum and desirable funding levels, expressed in qualitative terms, for the major expenditure categories of a typical clinic:<sup>20</sup>

Category of expenditure	Minimum funding level	Desirable funding level
Clinic director (principal solicitor with full practising certificate, entitled to hold trust funds) <sup>a</sup>	Average for fifth-year admitted lawyer	Minimum for eighth-year admitted lawyer
Clinical supervisor	Average for second-year admitted lawyer	Average for fourth-year admitted lawyer
Clinic administrator (F/T)	Equivalent to administrative staff classification applicable to mid-level law school manager	Equivalent to administrative staff classification applicable to second-tier law school manager
Support staff (depending on the number of law students)	Equivalent to administrative staff classification applicable to first- to second-year law staff	Equivalent to administrative staff classification applicable to second- to third-year law staff
Locums for above staff categories <sup>b</sup>	Equivalent to four weeks per year for annual leave plus any agreed study leave	Equivalent to four weeks per year for annual leave plus any agreed study leave
Ancillary staff costs	Allowances for periodic increments and long service leave from the start of employment	Three weeks conference leave and the cost of attendance. Allowances for periodic increments and long service leave from the start of employment

<sup>20</sup> The authors are grateful to Gai Walker, Managing Director, SCALES Community Legal Centre, Western Australia, for her helpful comments on the items included in this table.

AUSTRALIAN CLINICAL LEGAL EDUCATION

Category of expenditure	Minimum funding level	Desirable funding level
Office and associated accommodation space <sup>c</sup> — equivalent rental cost per m <sup>2</sup>	<p>One interview room per four students; one terminal or desk space per two students in shared workroom</p> <p>Separate offices for clinical director and clinic administrator; shared offices for clinical supervisors</p> <p>Shared offices for support staff</p> <p>Staff toilet facilities</p> <p>Joint meeting and staff room</p> <p>Quiet or reflection space for staff and students</p> <p>Client waiting room and separate toilet facilities</p> <p>Client file storage (enough for at least seven years)</p> <p>Parking facilities at local municipal standard ratio</p>	<p>One interview room per four students; one terminal or desk space per student in shared workroom</p> <p>Separate offices for clinical director, clinic administrator and clinical supervisors</p> <p>Shared offices for support staff</p> <p>Staff toilet facilities</p> <p>Meeting room, staff room and shared purpose teaching and function room</p> <p>Quiet or reflection space for staff. Two hot-seat terminals away from clinic workroom for visitors, volunteers and graduate placements</p> <p>Client waiting room with internet, children’s playroom and separate toilet facilities</p> <p>Client file storage (enough for at least seven years)</p> <p>Parking facilities at local municipal standard ratio</p>
Information Technology <sup>d</sup>	<p>Multi-port Asynchronous Digital Subscriber Line2 + access for all fixed terminals (or NBN fibre link if available)</p> <p>Unlimited access to main law school library and law intranet (including full access to all law school online subscriptions, for example, the local <i>Lawyers Practice Manual</i>)</p>	<p>As for minimum funding level</p> <p>In addition, multi-node security-enabled wi-fi access throughout the clinic, including client waiting room</p>

<sup>a</sup> Clinic directors who are not law school academic staff members may nevertheless seek access to study leave from time to time. Typically, such leave can cost the clinic up to six months’ annual salary.

<sup>b</sup> Locum expenditures are often overlooked in clinic budgetary discussions, but they are essential for sustainable clinic operations. A supervisor who routinely returns to work after annual leave to find that their students were effectively unsupervised or poorly supervised in their absence will become dissatisfied and start to look for other employment. Since good supervisors are difficult to find in the first place, their loss for this sort of reason has many implications for clinic reputation and clients’ outcomes.

<sup>c</sup> Gai Walker (see footnote 20) has contributed several specific suggestions to the detail of office accommodation. For example, the university or other funders will have a square-metre-staff-required-space formula that may be applicable. Walker states that the Western

Australian Government requires 13m<sup>2</sup> for each person employed. Further, since the law school will expect and even require a closely related clinic to apply for external funds, it ought to seek additional space above and beyond the recommended m<sup>2</sup> allowance, to cope with the extra accommodation required if external fundraising is successful. Note that it is not realistic to cost externship accommodation using this measure because the organisations in which externships are located will share their own facilities with students, other organisations and any external (law school) supervisors.

<sup>d</sup> Gai Walker (see footnote 20) suggests also that 'workstations need to be set up appropriately' for occupational health purposes, ideally through the university; that 'IT support from the University is invaluable' and is far less expensive than through private providers. She adds 'replacement provisions for equipment within the university programs is important. Interview rooms should be cabled so that a laptop can be taken into the room to help with internet access forms ... [and] phone equipment should ALWAYS include headsets for EACH phone ... with voicemail on staff phones'.

## Conclusion

'Clinic' is perceived to be expensive,<sup>21</sup> but that perception is a clichéd consequence of unfair comparisons. The per-student direct cost of a large conventional lecture taught by one person to 300 students (or to thousands of students, via the massive online open course or MOOC) is lower than that of a legal clinic, but both of these delivery methods measure direct costs only and presume satisfactory learning outcomes. Learning outcomes from conventional lectures may also be focused on intellectual understanding. They are as unsuitable to the development of lawyers' professional expertise as they would be to developing similar capacities in hospital residents facing their first nervous exposure to an emergency room. Properly resourced clinical programs are perhaps the most reliable, holistic and sustainable contributors to future lawyers' professional competence, versatility and integrity.

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21 The federal Attorney-General, who is responsible for the Commonwealth's national contributions to the states' legal aid funding, wrote to CALD in late 2008 encouraging all law schools to provide both clinical education and *pro bono* opportunities for law students and advising of his intention to involve the federal Minister of Education in that effort, in an attempt to broaden the bureaucratic and Cabinet support base for law school clinical programs: Letter from the Federal Attorney-General Mr McClelland to Prof William Ford, Chair of the Council of Australian Law Deans, 10 September 2008.

This text is taken from *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school*, by Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Peter Joy, Mary Anne Noone and Simon Rice, published 2017 by ANU Press, The Australian National University, Canberra, Australia.