**XX Law school’s *Placement* *Clinic***

**Handbook**

**XXXX Edition**

**20XX – 20XX**

***Welcome to XX Law School’s Placement Clinic***

The Placement Clinic (*Clinic*) delivers a pro bono service in a variety of different legal practice settings, including law centres and other advice organisations, the courts, government law offices and private practice. Through this *Clinic* students at the Law School have the opportunity to take part in this hands-on legal work for the benefit of the wider community.

The *Clinic* helps provide free legal advice and other legal services. This forms part of the work of the organisation offering the placement and is supervised by qualified members of staff in that organisation, supported by tutors and administrative staff at the Law School.

This Handbook will guide you through the experience of working and learning in the Law School’s *Clinic*. It describes the professional standards applicable*,* the working practices of the *Clinic* and the role of the *Clinic* in your studies.

We hope that you will find it useful and you should have it to hand at all times when you are involved in *Clinic* work. Any comments you wish to make on the content of this Handbook or the work of the *Clinic* in general are welcome.

The original version of this Handbook (1999) was prepared with the kind assistance of staff at the Law *Clinic* at Sheffield Hallam University. This version contains material from the Handbook of the Griffith University Law School (Queensland, Australia) and thanks in particular must go to Professor Jeff Giddings for his co-operation in this respect.

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Director Clinical Education

XX Law School

September, 20XX

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**CLINICAL LEGAL EDUCATION AND THE PLACEMENT CLINIC**

* 1. **The Big Picture**

The Law School’s approach to clinical legal education (CLE) combines the strengths of the School’s programmes of study with a method of teaching different to that used in many other law courses, namely work placements. We have created a network of organisations willing to host Law School students. These organisations in the private, statutory and not for profit sectors are taking a strong and active interest in supporting the education of our students and this gives the Placement *Clinic* a special and valued quality.

Through CLE you will see your legal knowledge being put to practical use and this should give you a sense of satisfaction and greater confidence in your abilities. You should also gain a stronger appreciation of the ways in which the law does and does not work. Students are often surprised to see just how uncertain ‘the facts’ are in many situations. Taking part in the clinic should reinforce for you the value of effective communication skills.

Law schools often seem to fail to show their students the dynamic world in which the law actually operates and is practised. The presence of a ‘creative uncertainty’ presents real challenges and opportunities for lawyers. We need to test the assumptions about what lawyers do and why. These matters make it important that all of us involved in the *Clinic* have a common understanding of what the programme involves and why.

You will be dealing with situations which are probably more unstructured than those which you have been used to in your law studies to date. When you are working for your host organisation, please remember that the Law School is, in effect, ‘on placement’ with you. Your placement performance obviously reflects on the Law School as well as you personally.

When you embark on a new type of learning, such as with the *Clinic*, it can be very helpful to have the processes set out for you. This Handbook is designed to provide you with some signposts aimed at making the process easier. Your feedback would be appreciated as the Handbook is updated on a regular basis.

All the best with your participation in the *Clinic*.

* 1. **The Purpose of this Handbook**

This Handbook is designed to be used while you, as a student, take part in the *Clinic*. The Handbook aims to make the purpose and structure of the programme clear to you as early as possible. Similarly the Handbook is a guide for placement supervisors and Law School tutors. It has been designed to ensure that everyone involved in the *Clinic* knows how the programme works and has clear and manageable expectations.

The Handbook should be used as a starting point only. It is not the only resource you will need to rely on. You will be required to conduct detailed to tasks assigned to you by your supervisor using a variety of resources and research tools. The Handbook also aims to address the kinds of skills you will either need to use yourself during the placements of which you will observe staff from your host organisation using.

* 1. **What is clinical legal education?**

Clinical legal education (CLE) is learning by doing but it involves far more than this. It most importantly involves you developing the ability to learn from your experiences and to go on learning in this fashion throughout your professional career. There are many models of CLE of which the Placement Clinic is one. Through *Clinic* you have the opportunity to further develop:

1. your ability to reflect and evaluate your own work and that of your colleagues, and
2. your capacity to work in co-operative situations, both with your peers and others, such as your supervisor.

Clinical teaching should assist you to see the relevance of what you are learning. Other students who have been involved with our CLEcourses have found the prospect of contact with actual clients to be a significant challenge but invariably they have responded well and have appreciated the opportunity to learn in this manner.

The *Clinic* gives you the opportunity to see the legal system in action. Through the *Clinic* you can critically assess the operation of the legal system; its strengths and weaknesses. Is the law just? When does the law fail individuals in the community and when does it assist them? What are our responsibilities as lawyers? These kinds of questions are regularly raised during in-course discussions.

Originally, lawyers learned to be lawyers through being apprenticed to other lawyers. Lawyers learned the necessary skills and knowledge, through doing the job under supervision. Later law has been learned in law schools. At first the teachers were practicing lawyers and it is only in relatively recent times that law teaching has become primarily the role of non-practising lawyers or academics.

There are five major models of CLE, which are often used in combination to suit the needs of the Law School involved. The models are:

* Legal practices based in the Law School (for example the Law School Legal Advice Centre).
* Legal practices based in a host organisation but run by the Law School (for example the a Tribunal Representation Service).
* *Street Law* (legal literacy) clinics where law students ‘teach’ members of the community about their rights and responsibilities (the Law School is developing such a programme).
* Placement clinics such as the scheme discussed in this Handbook.
* Simulation Clinics where students act out cases and, through role-play and develop a better understanding of law and the legal process (often used in law schools as part of modules on the course of study).

The various clinical models can be voluntary or compulsory, may be assessed or not assessed and may be integrated into the mainstream curriculum or be in the nature of extra-curricula activity.

The *Clinic* described in this Handbook is therefore one type of CLE. The essence of this model (as for all CLE models) is to give the student the chance to put theory into practice **and** provide an opportunity for structured reflection.

* 1. **Some Specifics**

By taking part in the *Clinic* you will:

1. ***be exposed to the uncertainties of law, legal practice and public policy.*** You need to learn how to deal effectively with unstructured situations, how to work collaboratively as well as recognising the limitations of ‘legal’ solutions to problems. You should also subject the legal system to analysis and criticism.
2. ***develop a sense of professional responsibility which you have regarding your work.*** You should benefit from considering the professional roles you will play in the future. The programme will assist some students to decide what type of legal work, if any, they wish to be involved in.
3. ***be better able to ‘learn how to learn from experience’.*** Developing the ability to critically analyse your own work is very important for people who are advising others regarding legal rights and responsibilities. An important part of this type of learning is developing the capacity to both receive constructive feedback on your own performance and to provide constructive feedback on the performance of others.
4. ***have the opportunity to diversify your learning about the law.*** You may learn about new areas of substantive law. Further, you will be able to see and learn from the practical application of legal practice skills which you have considered elsewhere in your studies.
* ***be encouraged to*** ***observe and reflect upon ethics, values and professional conduct.***
* ***be required to assume real responsibility but in a supportive environment.***

**1.5 In Summary**

* ***What is the role of the Clinic in my legal education?***

The *Clinic* is a vehicle for the study of law and practice. Although it provides, what we hope is valuable help for the placement organisation and the wider community, it is primarily about putting theory into practice. It allows you an opportunity to see how a case progresses in practice and how the knowledge, skills and values that you will learn on your course of study are relevant in a practical context. It should also give you the chance to reflect on what has happened and why.

The *Clinic* forms part of the Law School’s commitment to pro bono services and clini*c*al education.

* ***How will I learn from the experience?***

 There are three principal ways in which you should learn from this ‘hands-on’ or clinical experience:

* working on a real client case
* discussion at your follow-up meetings
* evaluating your experiences
* ***What skills will I use?***

 Depending on your placement and the cases it handles, you will use some or all of the following skills:-

* Interviewing
* Fact analysis
* Problem solving
* Legal research
* Letter writing and legal drafting
* In some cases: negotiation and advocacy

You will also have the chance to develop your office and administrativeskills, your team working skills and your ability to manage your time. In addition, you should become familiar with the ethical and professional issues relevant to legal practice.

* 1. **Some definitions**

In this Handbook the following terms are used:

* Student – you – a student involved in the clinical programme.
* Tutor – a member of Law School staff who is responsible for organising the Clinic, overseeing your involvement in it and working with you to evaluate the experience.
* Supervisor – a member of the host organisation responsible for your day-to-day work including case management, professional standards and operational matters. The supervisor will liaise with your tutor in the effective running of the placement.
* Host organisation – the organisation with whom you are placed.
1. **The Placement Clinic**
* ***Who are the Tutors***

The Law School staff acting as Clinic tutors for 20XX/20XX are:

|  |  |  |
| --- | --- | --- |
| ***Title*** | ***Name & Room*** | ***Telephone No.*** |
|  |  |  |
|  |  |  |
|  |  |  |

The Clinic Administrator is ………………………………... No. …………………………..

The Clinic is run from room ………………………….. at …………………………………

The email address is:

The address is:

Telephone No:

Fax No.

**3. Your role in the *Clinic* - What we expect from you**

The nature of the program is such that you are learning under supervision. At the outset of the program you will be advised by your tutor as to who will be supervising your work in the host organisation. It is very important that you ensure that you keep your supervisor aware of the work you are doing. This Handbook gives guidance to supervisors on how supervision might best be carried out.

**3.1 You are required to:**

1. ***Attend 100% of the placement sessions***, unless you have a good cause such as sickness or domestic problems. You are required to spend a minimum of 45 hours working for the host organisation. This does not mean that you must necessarily be ‘on site’ as you may be asked to work elsewhere. For example, you may be involved in observing court proceedings. If for any reason you are unable to attend any placement session you must notify both your tutor and supervisor as soon as possible.

The timing of the placement is a matter for agreement between the supervisor and student. Students are however reminded of the need for them to be accommodating of the host organisation’s requirements in this respect. Typically a placement will be for one day per week over 5-6 weeks.

**3.2 Placement report:**

On completion of your placement you will be required to submit a written report. You are encouraged to maintain a reflective journal throughout the placement which would assist preparation of your report. There is no prescribed format for the report. You should feel free to discuss the focus of your report both with your tutor and with your supervisor. Your placement report will be read only by your tutor and your placement supervisor. We consider it appropriate for your supervisor to read the report with a view to ensuring that client confidentiality is respected.

Your report should be between 1 and 2,000 words and should focus on a particular issue of interest arising from your placement. This component of the assessment is designed to encourage you to reflect on your experiences within the host organisation. You are expected to critically analyse issues such as the nature of the work done in the host organisations and other legal service providers, deficiencies in the operations of the legal system and the way in which professional ethical issues arise and are resolved in practice.

You might usefully consider such questions as:

1. What are the most important lawyering skills? Consider this question in light of your experience on placement.
2. Are there tensions in legal practice? If so, how should we go about resolving these tensions?
3. How are your attitudes and values changing as a result of your experience?
4. Do you have more or less respect for and understanding of the legal profession as a result of your experiences?
* Do you have more or less respect for and understanding of members of the general community as a result of your experiences?
* Do you enjoy performing lawyer tasks?
* Could you (or the host organisation) do its work more effectively?

You are not obliged to keep a reflective journal but you are likely to find such a journal very useful in developing your placement report. If you keep a journal, we suggest you take time to reflect on your experiences during the course. It may be helpful to think of your journal in the following way:

1. Describe what happened,
2. Identify and outline how you reacted,
3. Ask what you learnt from the experience.

It is a good idea to make notes in your journal after each placement day. If your diary is comprehensive it may well satisfy the requirements of the report.

**3.3 Will I get any credit for working in the Clinic?**

Apart from the obvious benefits to your main studies of practising how to apply the law in context, the Law School will also award a Certificate of Participation to all students who successfully complete their placement. ‘Success’ in this context means conducting their various tasks, researching the case, providing written advice and taking further appropriate and authorised action on the case to a standard that meets the requirements of the host organisation. You will also be expected to behave in an appropriate, professional manner throughout.

You must also submit a report as described above.

Satisfactory completion of your placement will be endorsed on your results transcript.

**4. How your placement will operate**

In your work with your host organisation, you are likely to be expected to work with others as part of a team. Keep in mind that you will be working on files which are the professional responsibility of members of the host organisation. You will be working under the direction of a specified supervisor.

**4.1 Tasks**

You should be given a range of tasks to work on as well as being giving the opportunity to observe others doing things. Observing others can be very valuable as it gives you a clearer sense of how various tasks can be approached. You will need to consider the relative merits of different ways of assisting people (for example through submission writing to providing individualised legal advice to group legal services) and make use of the most appropriate method or methods. Some of the tasks you will be asked to carry out may seem minor ones to you others may seem challenging. We will try to ensure that you get a mix of work to give you a representative legal practice experience. Try to be flexible and tolerant in respect of the workload but if you feel it is too mundane do say. We do not expect our students to spend hours for example photocopying – although you ought to expect some work like this - it needs doing by someone!

* 1. **The 3 way relationship between student, supervisor and tutor**

The *Clinic* relies on a close working relationship between the student, the host organisation supervisor and the Law School tutor. The course is primarily designed for educational purposes while we also recognise that host organisations are likely to benefit from your work for them. Clear communication is obviously important to this 3-way relationship.

If you have concerns about how your placement is going, please contact your tutor straight away. Most difficulties arise from misunderstandings which have not been resolved.

**4.2.1 Your supervisor's role:**

**Your supervisor will:**

1. Discuss with you the work activities which you will be involved with whilst on placement.
2. Make observations on your work, providing feedback to you on your performance.
3. Discuss your performance with your tutor.
4. Discuss with your tutor any difficulties which arise during the placement.

It must be emphasised how important it is that you are supervised during your work in this course. Past clinicstudents have often commented that it is very reassuring that they were not being left to ‘sink or swim’ without support and guidance.

There are two main reasons why supervision is so important:

1. ***Incorrect or unsuitable advice, negotiation or advocacy could seriously jeopardise a client's position.*** It is your responsibility to make sure all your work is checked by your supervisor. Your supervisor will be relying on you to make your advice and any documents that you draft available for checking. Remember that one of the most important abilities you can develop is knowing when to obtain advice from someone else who will be better placed to provide the information the client needs.
2. ***You are learning and will benefit from constructive feed-back.*** Supervision is not simply about checking whether something is correct. It is also about discussing alternative approaches, gaining positive encouragement and resolving difficulties. Your supervisor will not necessarily provide you with ‘the answer’. Rather, your supervisor should guide and assist you to identify the action you should take.

***Remember that when you speak to your supervisor, GO PREPARED.*** Have specific questions to ask and explain yourself clearly.Often it is best to prepare a written summary ahead of time. Clarify how long your supervisor expects the task to take.

* + 1. **The role of your tutor**

Your tutor will:

1. Speak with you on a regular basis (at least once during the placement and before and after the event) to discuss your placement and your progress;
2. Speak with your supervisor to discuss your progress;
3. Conduct an induction and evaluation session.
4. Assist you with any problems which students or supervisors encounter during *Clinic*.

**4.3 Confidentiality**

It is very important to always keep in mind the need to respect the client confidentiality obligations of your host organisation. When you discuss your placements with your tutor, you should do so in terms which will not identify the client or clients of your host organisation.

The topic of confidentiality is examined in more detail on page 38 in Appendix A.

The Law School respects the right of organisations to have students sign an undertaking of confidentiality if this is considered necessary. We ask that any concerns regarding client confidentiality be raised with the Director of Clinical Education at the Law School who will ensure that issues are dealt with appropriately.

**4.4 Insurance:**

The Law School carries insurance to cover work undertaken on our pro bono programme in respect of:

1. Public Liability,
2. Accident or death (including direct travel to and from and attendance at

 placement venues), and

1. Professional indemnity.

However to minimise risks we must stress that as part of this programme you must make sure all advice you give is checked by your supervisor, you must take personal responsibility to protect both yourself and the host organisation from any insurance claims.

Host organisations will also carry their own insurance cover.

**4.5 Dress standards:**

Your supervisor will advise you as to the dress standards which apply to your *Clinic* host organisation. You are expected to comply with the organisation’s requirements in this respect.

**4.6 Operational rules of your host organisation**

The rules that apply in the organisation where you undertake your placement may vary from place to place. You must be familiar with any such rules and comply with them. The rules applicable in your host organisation can be found in Appendix B. on page 39.

**5 Practical legal skills**

The diverse nature of the host organisations involved in the *Clinic* means that the tasks which different students will undertake and the skills they will need to utilise will vary considerably. This part of the Handbook discusses various legal skills which you are likely to encounter. You will not necessarily receive an opportunity to utilise such skills yourself but these notes should provide you with a window through which to observe the work of other people.

Very often, you will find it useful to think briefly about what is the objective of whatever task you are undertaking. Seek clear instructions from your supervisor and, if necessary, check these instructions if you encounter a problem which you can not resolve yourself. What follows is a brief guide or reminder of key legal skills.

**5.1 Written communication – letter writing:**

You may be required to write letters, Letter writing remains one of the most important forms of communication for lawyers. In this programme, you are likely to need to develop these skills.

**5.1.1 Some guiding points for writing good documents:**

The following offers a guide for writing, it is not a set of absolute rules.

1. The form that any document takes ***will depend on the audience***: who are you writing to? Different people will need different types of information. If you are writing to a client it may be appropriate to stress different issues to those which you would stress when writing to another solicitor. The tone of your document will be more formal when you write to another lawyer than when you write to your client.
2. Wherever possible, ***use plain English***. If there is no simple word to describe a concept, use the legal term and then explain it. Generally you should not use Latin terms. In circumstances where the client is likely to encounter the term again, it will sometimes be empowering for the client if you use the Latin term and then explain its meaning. Avoid using words such as herewith, aforementioned and forthwith.
3. ***Be polite***, thank clients for instructions and apologise for delays where appropriate. Even if making points on a clients behalf be polite. You are likely to win an argument if you don’t offend someone in the process.
4. ***Use direct language***, when referring to yourself in a letter, do not refer to 'the writer', use 'We'. The use of ‘we’ reflects the fact that you are working as part of a team. Avoid using language which creates distance in the lawyer/client relationship. It is important to recognise that your client is generally approaching you with a very personal and important issue to sort out. Convey the personal nature of the relationship in your letters to your client. Your host organisation may ask you to adopt a ‘to use style’. If so please do.
5. Use ***concise, short sentences***. Many people are not used to reading regularly. Long sentences may confuse and cause misunderstandings. Do not hesitate to use point form where appropriate. Do not use double-negatives, they can be unnecessarily confusing ie. ‘... we can not be certain that action will not...’.
6. The person receiving the document may have queries about its content. Include details of **who to contact where and when** if they need to ask any questions.
7. ***Include a file reference***, especially on letters to large organisations so that people know who to respond to. When writing to government bureaucracies include the clients name, address, date of birth and national insurance number wherever appropriate.
8. When you are writing to someone other than your client it is important to explain who your client is; use the phrase ‘***We act for...***’
9. Make sure that any **instructions** to clients are **clear and unambiguous**. For example, if you require a response from the client, tell them what you need and when you need the response by. Avoid using terms such as ‘at your earliest convenience’ or ‘as soon as possible’.
10. Usually **end letters** ‘Yours faithfully’ (if addressed to Sir or Madam) or ‘yours sincerely’ (if the addressee is identified by name).

**5.1.2 Before you send a document:**

1. Read it thoroughly!
2. Make sure the letter is consistent and coherent.
3. Spell check and justify (making sure the text is neatly aligned), check with the supervisor if you don’t know how to use the computer to do this.
4. If you have used a precedent letter make sure it is appropriate. Inappropriate precedents can mislead and may not convey all the relevant information.
5. Make sure the letter is checked and signed by your supervisor in the appropriate place.

**5.2 Maintaining a client's file:**

A client’s file should be a complete record of all the dealings the client has had with their lawyer. When someone looks at the file they should be able to get a clear and complete picture of all that has happened in relation to the client’s matter. It is important that any other person in the organisation can read the file and quickly work out what the situation is. For this reason, files need to be logically ordered and neat. All notes should be clearly written. Again your host organisation may have their own file systems – you must follow these.

Lawyers need to remember that the file may be read by the client and may eventually be read by another solicitor in a different firm or in front of a court. The file should not contain any emotional responses or personal opinions relating to the case or the client, except as they relate to the relevant law or its application.

It is best to take contemporaneous notes so that they most accurately reflect what has been said. It is also important that all notes taken in relation to files are signed and dated.

**5.3 Research:**

Research in the context of *Clinic* is likely to have a different style to the kind of research you will be used to doing in your substantive law courses. While you will still need to be able to analyse relevant case-law reports, you are likely to need to work on research with a more practical and applied focus. You will probably find that you use legislation and the rules and regulations associated with legislation more often than you have before.

Legal research in the practical context of *Clinic* has as its central aim, sorting out issues for clients of your host organisation. Sometimes this will mean that the best answer for your client will come from a non-legal source, for example a financial counsellor or it may mean that the client should do nothing and wait for some other party to act. You must always remember this, you will not necessarily find that an innovative approach will be used as it may be impractical. The client’s requirements may also limit your research. For example, the client may not be in a financial position to take their matter to court or they may require urgent advice.

Beware of over-using the telephone or internet as a research tool as you can not be sure that the people you speak to or whoever posted material on the web have correct and up-to-date information. It is also often not possible to rely on such information in any subsequent litigation. Use the ‘net’ as a resource but always check its authenticity (for example look up the legislation itself).

Always direct your research towards satisfying the client’s needs and achieving the client’s goals. This makes it important to ascertain the relevant facts at an early stage so that you can keep your research focussed. Unlike in most of the other law courses you will have studied to date, the facts will almost always be unclear and may well be disputed. You should also keep this in mind when conducting your research.

Make sure you document your research clearly, noting relevant authorities and references as you go. You may need to retrace your steps at some stage. Note also what the issues are that you are researching and why you are researching them.

When researching it is also useful to keep in mind any relevant limitation periods and whether the results of your research are up-to-date.

**5.4 Interviewing:**

There is no right way to interview a client just perhaps better ways. The following material offers a guide, rather than any hard and fast rules about how to conduct successful interviews. It is important to develop your own style and to use methods that you are comfortable with and that work for you. Your interviewing skills will improve with practice and experience. To assist you in developing your style, several of our seminars involve a range of interview role-plays. At different times you will take the role of either lawyer, client or observer. The following section sets out some ideas about what makes good interviewing.

Lawyers generally conduct interviews within a timeframe. They need to obtain certain information from their client and to that extent need to control the direction of the interview. Keep in mind that clients are expected to make their own informed decisions. The two aims of limiting the interview time and allowing the client to make their own decisions sometimes conflict and must be balanced.

**5.4.1 Starting the Interview:**

It is important that the interviewer try to establish a rapport with their client. The client should feel that they are able to trust you with information that is very important to them. Introducing yourself to your client will help to establish a rapport. The client may be nervous and uncomfortable when they first consult a lawyer and the way that you introduce yourself may help to set them at ease. Physical contact may be appropriate; such as handshaking.

Think before the interview about who the client is: their nature, beliefs, expectations. You should also make an effort not to over-load clients with information, too much information can confuse clients. Again a balancing exercise is required, clients need enough information so that they can make an informed decision.

**Things to remember:**

1. Make a proper introduction, including your name. Take careful notice of what the client calls themselves. Do they introduce themselves by their first name or as Mr X, or Ms Y. If other people are sitting in the room, make sure they are introduced and their role explained.
2. Explain to the client that the interview is confidential but that you will be sharing the information with the supervisor. Make sure the door is closed.

**5.4.2 A suggested interview approach:**

We suggest the following structure is helpful:

1. Firstly, ***listening***, identifying the problem and a chronological overview.

 When getting initial instructions; find out

 a) what client wants and why (the goals).

 b) how client wants to achieve goals.

 c) what is the client's time frame for achieving goals. Is it urgent?

1. Secondly, ***questioning***, theory development and verification.

 Exploring the instructions:

a) Get clarification from the client, is there anything from the previous steps that doesn't make sense?

b) Who else can help you to get a fuller picture/ What information can be obtained from other sources? Who else do you need to talk to? What documents could you ask for?

 c) Think about time / effort / risk.

1. and finally, ***advising***.

It is important to keep in mind the need for all the parties involved to be clear about who is going to do what following the interview and by when.

After reading about some of the various approaches, you should take the approach you feel most comfortable with. It is important to develop your own style, doing so in an informed way. Make sure you are aware of the different types of approach which can be used.

**Things to remember:**

1. Show interest
2. Concentrate
3. Be patient

It always takes practice and experience before these techniques can be integrated into an interview effectively and unselfconsciously.

**5.4.3 The objectives of the interview:**

You should ask yourself, what are the objectives of the interview? These will vary depending on the type of interview. A police officer interviewing a suspect will have a different objective to a counsellor interviewing a person. A lawyer will have a different objective again. Your objective for the interview may be different from the client's objective. It is important to clarify objectives early on, this will help to avoid any potential misunderstandings between yourself and the client.

The following objectives are common to most interviews conducted by lawyers:

1. to obtain as much relevant information as possible from the client.
2. to establish the goals of the client and the priority to be given to each of the goals.

The information obtained can then be used to advise the client appropriately.

**5.4.4 Let the client have his or her say.**

In a first interview, the client should be allowed to have their say without interruptions. It is important to get an overall picture of clients and what their problems are. If they are interrupted, they may lose track of their story. Interviewers might find themselves getting caught up in details that turn out to be irrelevant. Allowing the client to talk in an uninterrupted fashion at this initial stage can also have the effect of setting the client at ease. Allowing the client to outline the full story helps the lawyer avoid jumping to conclusions about what the issues might be. In legal practice getting the right facts is important. Unlike in other law courses where the facts are generally given to you and clearly indicate the area of law to be tackled, legal practice requires you to find the facts and then to find out which area of law, if any, is relevant. It is important to understand that a lawyer is starting to solve a legal problem from scratch with each new client.

**5.4.5 Take notice of non-verbal cues:**

You should also think about the non-verbal cues clients give during an interview, for example:

a) ***Facial expressions***, how is the person feeling?

b) ***Speech***. Is the person’s speech fast, breathless and high-pitched, are they nervous? Is the person's speech slow paced and low-pitched, are they depressed?

c) ***Body posture*** may suggest anger (fists clenched, body tense) or depression (body slumped and turned inwards or a relaxed demeanour (hands open and the body in a forward position).

d) Excessive use of ***gestures and body movements*** may indicate nervousness, boredom or impatience.

e) ***Lack of eye-contact*** may indicate shame, embarrassment or guilt. Too much eye-contact could be interpreted as dominance or aggressiveness. Infrequent eye-contact may indicate nervousness or boredom. Cultural issues can be very important here.

f) ***Physical proximity*** can be interpreted in various ways. People have differing requirements of personal space. It is important to respect a client’s needs for space and try to respond in a way which makes the client feel comfortable.

* + 1. **Listen actively:**

Active listening involves regularly sending back to the client their message in a reflective statement (a mirror statement or fairly detailed summary). Passive listening is good but active listening is better. If the interviewer does not listen actively, it is likely they will not get the full story, or may become distracted. There are several advantages of active listening;

a) It shows that you understand what your client is telling you and alternatively can clarify any misunderstanding.

b) It helps you stay focussed on what your client is telling you.

c) It indicates that you are listening and paying attention to the client.

d) It indicates that you are not pre-judging the client or their situation.

e) You can express understanding which will provide encouragement and support to the client.

**How often should reflective statements be used?**

Again there are no fixed rules but it is useful to take advantage of natural pauses in a client’s explanation of their situation. To wait more than, say 5 minutes without making a reflective statement will make it difficult for you to capture the essence of what your client has been relating.

* + 1. **Asking questions:**

After your client has had the opportunity to tell their story, you will need to ask questions. The purpose of asking such questions is to :

a) clarify issues of fact.

b) to elaborate background.

c) to enable a fuller explanation to be provided.

There are two types of questions; open-ended questions and closed questions. Open-ended questions should generally be used early in the interview to encourage the client to provide a lot of detail and get their ‘story’ off their chests. Closed questions generally require yes / no answers and will be more appropriately used when you are trying to clarify details.

Sometimes clients will be reticent to give information and the interviewer will need to use questions to tease out the facts of their situation. In such situations, the interviewer’s skills will be important. You should also encourage your clients to ask you questions.

**6. Guidance for supervisors**

These notes are intended to provide guidance for placement clinic supervisors. They are indexed in this Handbook so students, supervisors and tutor’s can be see what is expected in their respective roles.

Placement programs, usually known as ‘externships’, are used very extensively by Law Schools in the United States of America but have not been established by many Law Schools in the UK. In 1992, externships were offered by 130 of the 155 US Law Schools surveyed for the MacCrate Report on legal education. More than 10,000 law students participate in externship programs each year in the USA. We think it is about time to expand this opportunity.

**6.1 Purpose of this Handbook**

The main purpose of this section of the Handbook is to explain and clarify your role as a student supervisor in the *Clinic*. The term ‘supervisor’ refers to the person responsible for the day-to-day review of the work of the student on placement with your organisation.

The Handbook is designed for use as a reference. It is not meant to prescribe the way in which you work with and supervise your *Clinic* student. The Handbook sets out how the course operates and endeavours to answer the questions likely to be posed by those involved in supervising a student for the first time. The respective roles and responsibilities of the supervisor and Law School tutor are also outlined.

**6.2 The educational value of clinical legal education:**

According to Rice (1998) three main factors contributed to the development of CLE:

1. ***Community legal service***: Entailing both a concern to contribute to the level of legal services for members of the community and also to develop in students a sense of their ethical / professional duty to the community.
2. ***Educational theory***: Encouraging students to take responsibility for their own learning and to encourage an active and reflective approach to learning.
3. ***Legal practice training***: The skills component: learning how to conduct interviews, draft documents etc.

In the USA in the absence of apprenticeships such as training contracts this third factor has become a central aim of CLE. In the USA there is a lack of post-degree training prior to admission to practise.. No doubt this, at least partially, explains the different emphasis in the USA. In the UK the aim of encouraging students to take responsibility for their own learning and encouraging active and reflective learning is perhaps more of a driving force behind CLE.

But the aim of providing legal services to the community and developing a sense of students’ ethical duties and professional responsibility also can not be overlooked – especially in the context of cut backs in publicity funded legal services.

**6.3 The Law School and clinical legal education**

Through the *Clinic*, students develop their **reflective and analytical processes**. The students are encouraged to think carefully about the work they do and to consider what they have learnt from their experiences. This is the main aim of the programme. If the Law School can help by providing willing staff and students to help build capacity for host organisations then this is a welcomed additional benefit.

Students become **active participants in their own learning** in a CLE program which leads to self-directed learning. The advantages of self-directed learning are well documented. The student develops the ability to learn from experience and active learning also promotes in students a sense of professional responsibility. Students who are able to learn from their experiences are likely to be life-long learners and this will be beneficial to them in their professional careers. Each of the elements of *Clinic* is designed to encourage self-directed learning.

**Personal development** can also be advanced in a CLE program, these aspects include:

|  |  |
| --- | --- |
| * *professional responsibility*
 | * *personal motivation*
 |
| * *self-confidence, self-awareness*
 | * *social, cultural and political awareness*
 |
| * *capacity for self-learning skills*
 | * *co-operative working practices*
 |
| * *time management*
 | * *and personal planning and career-development*
 |

CLE teaches also **law in context**. All students in the Law School’s clinical prgramme are enrolled in the vocational stage of their legal education. Many students have the opportunity to revisit some of the areas of law that they have already studied. This revisiting takes place in the context of clients with real legal and social problems. This can develop the students understanding of law they have already studied. Studying law in this way offers a good opportunity for students to learn about and understand a range of ethical issues relevant to the legal profession.

**Legal skills development** is also an important but secondary part of Law School’s approach to teaching. For those students who go on to practise law, they are likely to apply and develop the skills learnt in *Clinic* before their admission to the profession. The utilisation of these skills will vary from workplace to workplace.

**6.4 Thank you:**

The Law School very much appreciates your involvement as host organisations and supervisors in the *Clinic*. The response of our students to the use of clinical teaching methods has been uniformly positive and has motivated us to explore ways of extending our clinical teaching. We believe that student placements can be of benefit to all concerned with host organisations being able to harness the enthusiasm of our students. Any suggestions you have regarding the running of the course are very welcome and encouraged.

**6.5 The Placement in action**

The Law School expects students taking part in the placement clinic to work in the host organisation for a minimum of 45 hours. The timing of this is a matter for agreement between the supervisor and student. Students are made aware of the need to be flexible in this respect. In the event of any difficulties supervisors should contact any of the tutors named on page 9 or the Law School’s Director of Clinical Education.

Students will have been made aware, through an induction programme of the need to comply with Law School rules and procedures. They will also be aware of the general professional allegations applicable to lawyers. These are summarised in Appendix A. Students must also follow the rules that operate in your organisation. Please add these to this Handbook (in Appendix B). An opportunity will be provided before the placement starts for you to tell the students about working in your organisation.

* 1. **Who is ‘the supervisor’?**

We ask that all host organisations participating in our *Clinic* designate a particular individual as the student supervisor. Experience indicates that students should have a person they can turn to for advice and clarification. While the Law School has ultimate responsibility for the programme, the supervisor’s role is obviously central to the placements.

If members of your organisation other than the designated student supervisor want to have an involvement in the course, we wish to also encourage this. As a supervisor, we consider it important that you monitor any work given to the student by other members of your organisation, both in terms of quantity and type of work.

* 1. **The relationship between supervisors and Law School tutors:**

The Law School tutors and other staff named on page 9 have responsibility for the administration of the *Clinic*, and the selection and assessment of students. The supervisor’s take responsibility for day-to-day operation of the individual placements. Students will have been inducted on the likely demands of the programme and will have a copy of this Handbook.

Law School tutors will work closely with you to ensure that the placements work effectively, with a minimum of two meeting’s during the placement. Regular contact between the tutors and students and supervisors will be maintained to ensure that students are not receiving mixed messages.

* 1. **Supervising students:**

This Handbook does not seek to prescribe *the method* for supervising students on placement. We do not believe that there is any one method. Different students learn best in quite different ways and there are also significant differences between the various placement sites. In view of these differences, the Handbook now sets out some suggestions on matters you can usefully consider.

**What do students find interesting/educational?**

Studies from the USA have looked in detail at how to maximise the benefit that students receive from work placements. It is clear that the 2 most important matters in making the placement useful are:

1. that the student is not left without work to do (‘Idle hands etc….), and
2. the student and the supervisor clearly understand what is expected of each of them and act appropriately.

It is also important to give students a representative sample of work balancing the overtly interesting with the more mundane! Students for example may not appreciate just being photocopiers or tea makers!

Feedback from other placement clinics has revealed the following:

| **Positives** | **Negatives** |
| --- | --- |
| 1. Establishing and honouring shared expectations.
2. Regular supervision. Even brief contact between the supervisor and student is valuable provided it is regular. Opportunities to clarify issues are important.
3. Participating or observing activities such as court proceedings and interviews.
 | 1. Where there is a mismatch of skills with the supervisor not recognising what the student is capable of.
2. Where the student does not receive sufficient instruction in relation to the purpose of research tasks allocated to them.
3. Where there is an imbalance the nature of work undertaken.
 |

It is best if file work can, wherever possible, be both manageable and challenging for the student. We hope you will encourage students to be candid with you in relation to whether they are finding their work interesting and useful. Limited amounts of work on simple files which do not particularly stretch them may still be useful to students in terms of providing an example of the process to be followed in particular cases. In this context it is important to ensure that files are maintaining the student’s interest. Students also benefit from having the relevance of their work explained to them.

**Some useful supervision techniques**

The following are examples of techniques which have been found to be useful in supervising placement students.

1. Providing case files. If possible students should have an involvement with at least 3 case files; one almost complete, one in process and one just starting
2. Having a brief meeting on each placement day.
3. Putting requests to students for information or research in writing. This should minimise misunderstandings as to what is expected of the student.
4. Shadowing. Students should spend at least part of each placement day working alongside their supervisor, if this is possible.

**How directive should you be?**

While students work obviously needs to be thoroughly supervised, it is important not to be ***overly directive***. The Law School’s primary goal for the *Clinic* is to educate students in a practical environment and we ask that you supervise students in a way that gives them the opportunity not only to find answers but also to discover the ways in which to find answers themselves. A common problem for Clinical supervisors is the tendency to jump in too quickly to assist students to find answers.

While it may be less time-consuming and simpler for you to provide students with ‘answers’ to their questions, this tends not to assist students to learn how to make effective decisions for themselves. It will be to the student’s ultimate benefit if supervisors are able to respond to their questions by explaining that students are expected to reason their own way through the issues. You should consider asking students questions designed to direct them towards the answer as well as inquiring as to what steps they have taken in researching the issue at hand. At the same time, students should not be discouraged from asking questions as this is an extremely important part of the learning process in the context of CLE.

If gaps in research or instructions are apparent, a question which alludes to the gap may be appropriate, rather than a direct comment to that effect. Our experience suggests that students will benefit if they are encouraged to do such work and engage in their own process of discovery.

Of course you must be free to intervene where necessary, for example to protect the clients interests.

**Giving effective feedback**

Student’s value regular feedback both from you and other staff in your office. Key aspects of this process relate to encouraging students to reflect on their work and to think critically about their performance. There are a number of different ways in which feedback can be provided to students. Providing encouragement rather than answers may well be the appropriate approach to a question from a student. As discussed earlier, you can often assist your student by saying less rather than more with the focus being on encouraging them to work methodically through the issues at hand and reflect on their own performance.

According to Johnson + Le Brun, (1996):

|  |  |
| --- | --- |
| **Effective Feedback is:** 1. Descriptive
2. Specific
3. Focussed on what happened.
4. Directed to what the receiver can do
5. A sharing of information
6. Governed by the amount of information the receiver can use
7. Concerned with what is said or done
8. Well timed
9. Checked for accuracy
10. Communicated clearly
11. Followed-up
 | **Effective Feedback is *not***1. Judgemental
2. General
3. Focussed on the person
4. Imposed on the receiver
5. Directed to a shortcoming over which the receiver has no control
6. the giving of advice
7. Governed by the amount of information the giver wants to give
 |

When reviewing a student’s written work, it may be useful to distinguish clearly between matters of style and substance. Each of us has our own style of letter writing and style is only significant if it impacts on the way the information concerned is communicated. You should not become too focussed on matters of style and should instead focus on providing constructive feedback on the substance of the work.

When providing feedback to students, it will often be important to explain your reasons for wanting the student to reconsider their work. For example, if you believe a letter requires change, explain to the student in general terms the ‘effect’ you believe needs to be achieved and then seek to prompt the student to think through how that can be achieved.

**Keeping a record of student performance:**

It is a good idea to take regular notes about student participation. Such notes can form the basis for written feedback provided to students at the conclusion of the course. They can also be useful when you are providing mid-semester feedback. The notes may enable you to be more specific when you are providing suggestions on how student performance can be improved. In the past, students have commented on the value of such feedback. The notes also assist in making the assessment as transparent and objective as possible.

**Feedback criteria:**

The criteria used giving feedback on placement performance are:

1. ***Thoroughness of file work.*** In particular, this relates to the amount of detail provided in file notes and other documents.
2. ***The clarity of the information which students provide to their supervisor*** ***and others.*** This focuses on discussions between the student and the supervisor regarding action to be taken on behalf of a client. This is a major aspect of assessment given that it indicates ‘on-the-spot’ performance and as such is viewed as a good proxy for the quality of performance. This includes an appreciation of purpose and strategy as well as clarity and relevance.
3. ***The level of initiative taken by students with designated tasks.*** This is strongly related to the ability of students to balance the need for initiative against the need to recognise personal limitations. It is important for students to avoid excessive reliance on supervisors, particularly where the information required can be easily located.
4. ***Evidence of forward planning and strategic skills.*** If the time available to complete a task is limited, students need to be able to use the available time effectively to achieve the ‘best possible’ outcome.
5. ***Ability to be flexible with various work requirements.*** A task which needs finishing still needs finishing even though students have other commitments.
6. ***Dealings with host organisation staff.***
7. ***Problem analysis skills.*** Students need to develop the ability to quickly assess what are the relevant issues, both legal and non-legal, a client.
8. ***Awareness of alternative solutions*** to the difficulties faced by clients.
9. ***Ability to use the range of available resources*** to the benefit of your client. In part, this relates to identifying any need for someone other than a lawyer to be involved in advising a person.
10. ***Attendance*** for the placement sessions.
11. Evidence of application of ***research skills***.

**Placement Report**

Each student is required to submit a 1-2,000 word report focussing on a particular issue of interest arising from their placement. This report will be made available to both supervisor and tutor.

**6.9 Encouraging students**

The value of reflection

We consider reflection to be a vital aspect of the education of future lawyers. Students should be encouraged to think about what they have done in any given situation, both what they did well and what they did not so well. The purpose of such reflection is for the student to learn in the sense that they identify strengths which should be reinforced and weaknesses which need to be rectified.

Self-evaluative skills are crucial to the professional who continues to learn through their career. The students are likely to find it useful to maintain a journal in which they set out their observations. The keeping of such a journal is recommended for *Clinic* students but is not required. We suggest to students that they approach any journal writing in the following manner:

1. Describe what happened,
2. Identify and outline how you reacted,
3. Ask what you learnt from the experience.

**Dealing with ethical issues**:

One of the main aims of the *Clinic* is to promote the development of professional and public responsibility amongst future lawyers. Learning about legal ethics is a good way for students to think about these issues of responsibility. This Handbook contains a summary of professional practice issues (Appendix A).

For practitioners, dealing with professional practice concerns can become a routine part of everyday life. Practitioners may become so used to resolving such matters that they do not notice that particular situations pose an issue. Students in the *Clinic* will probably have difficulty recognising ethical issues and it is likely that they will be uncertain as to how to deal with them if they do arise.

Students have raised concerns in the past that far too much is assumed of their knowledge and understanding of ethics. We therefore consider it best that you assume that students have effectively only limited knowledge of these issues. It is important then for supervisors to put ethics in context, both in an historical sense and in a practical sense.

It should not be assumed that students have thought about the concept of lawyers as professionals. This is however addressed at various parts in the Handbook.

**6.10 What you can expect from students**

**Courses previously studied:**

You can assume that most, if not all, students have completed or are studying the following courses:

|  |  |
| --- | --- |
| 1. *Contract*
2. *Equity and Trusts*
3. *Property Law*
4. *Torts*
 | 1. *European Law*
2. *Criminal Law*
3. *Public Law*
 |

Students may also have completed several elective courses.

Some students will have also studied or be studying litigation and legal skills.

All students should be able to carry out basic legal research.

**Practical experience:**

Students are unlikely to have much, if any, practical experience of dealing with clients and only a limited experience of undertaking practical work in relation to legal problems. The practical skills that students do have are likely to have been developed through simulation-type activities, such as moots, letter writing exercises and role-plays of client interviews.

**Attendance:**

Students are expected to attend at your office (or elsewhere by arrangement with you) each week during the semester on the designated placement day for a minimum of 45 hours, you and they may volunteer more. Typically this is one day per week for 5-6 weeks. If you are happy to do so, arrangements can be made for students to attend on additional days. Our aim of the programme is to encourage students to take responsibility for their work and part of this responsibility involves students learning to be flexible with their time and to meet deadlines. Students need to recognise that a lack of continuity can harm a clients position, for example by causing delay. So far as possible students are expected to fit into the working practices of your organisation. However we ask that you try to accommodate the students needs so far as is practicable.

**Use of time:**

It is not realistic to expect all students to use time as efficiently as an experienced lawyer would. Students should be encouraged to approach interviewing in pairs. Writing letters and drafting documents is also likely to take students a longer time and can be quite stressful for them as many have not done this type of work before on behalf of actual clients. Students are encouraged to keep a diary to set out their experiences.

A final word

Perhaps the most important thing to say in this conclusion to students (and to supervisors and tutors!) is *DON’T PANIC!!!* While students will be working in a less structured environment than in other law courses, they will hopefully be learning in a different and interesting way. You should also remember that people who have participated in similar programmes have been very positive in their evaluations of their experiences. Everyone (including us!) says they had learnt a lot.

This Handbook is designed as a general guide to the *Clinic* programme. It is meant to reduce any fears you have about the work you will be involved in. If you have any concerns or problems, feel confident to speak-up. Supervisors and tutors are there to help. If issues cannot be resolved, you should speak to the Law School’s Director of Clinical Education.

Thank you for taking part.

 **APPENDIX A**

**A guide to professional practice**

This guide applies to all of the Law Schools clinical programmes. Barristers and solicitors working with the public must ensure that their services comply*,* in all respects, with the practice rules governing the profession, This Handbook gives an outline of the basic rules for your attention.

The rules regulating solicitors can be found in the Solicitors Regulation Authority Handbook, version 19, 2017. The professional practice rules applicable to barristers can be found in the Bar Standards Board Handbook, (BSB, version 3.3, 2018).

1. **Indemnity Insurance Rules**

All barristers and solicitors, who are held out as principals in private practice, are required to be insured against loss arising from claims in respect of civil liability, of any description, incurred in connection with practice. The Law School carries insurance to cover the work undertaken by its clinical programmes, in respect of any professional negligence claims.

1. **Supervision and management of an office**

The supervising barristers, solicitors and para-legals are responsible for exercising proper supervision over the students giving advice within the Clinic scheme.

In accordance with this principle and as appropriate, professionally qualified staff will supervise and manage the host organisation. Professionally qualified Law School staff will oversee the placement though will not be responsible for the casework conducted by the host organisation. The general rule of professional conduct is that a barrister and solicitor cannot escape responsibility for work carried out in their office by leaving it to other staff, however well qualified.

**3. General principles of obtaining instructions**

A prospective client who is seeking a Solicitor must have a free choice as to who to instruct. It is therefore fundamental to the relationship which exists between a Solicitor and the client that a Solicitor should be able to give impartial and frank advice to the client, free from any pressures or interests which would destroy or weaken professional independence or the relationship with the client. The fundamental principle relating to obtaining instructions is that a Solicitor cannot do anything in the course of practising as a Solicitor, or permit another person to do anything on his or her behalf, which compromises or impairs or is likely to compromise or impair any of the following:

 the Solicitor's independence or integrity;

 a person's freedom to instruct a Solicitor of his/her choice;

 the Solicitor's duty to act in the best interests of the client;

 the good repute of the Solicitor or of his/her profession;

 the Solicitor's proper standard of work;

 the Solicitor's duty to the court.

If the client needs to be referred elsewhere the Law Schools uses a referral list, which you can obtain from the Centre administrator. Referrals can only be made with the consent of your Supervisor.

**4.**  **COMPLAINTS**

The Law School operates an internal procedure for complaints in relation to its clinical work. This operates on the following basis:-

 The client is entitled know the name of the students responsible for conducting their case and the Supervisor responsible for supervision. This information will normally be contained in a letter confirming that the Centre or host organisation will be able to provide advice or other assistance.

 The client must know whom to approach in the event of any problem with the service provided by the host organisation. In the first instance, this will normally be the Supervisor. The operational rules for the host organisation can be found in Appendix B.

 Any complaint received from a client must be passed immediately to your Supervisor.

**5.** **ConflictS of interest**

A legal adviser should not accept instructions to act for two or more clients where there is a conflict, or a significant risk of a conflict, between the interests of those clients.

If a solicitor or firm of solicitors has acquired relevant knowledge concerning a former client during the course of acting for that client, the solicitor or firm of solicitors must not accept instructions to act against the client.

A solicitor or firm of solicitors must not continue to act for two or more clients where a conflict of interest arises between those clients.

A solicitor must not act where the solicitor's own interests conflict with the interests of a client or potential client. The Centre for example cannot act against the Law School of Law, its Governors, staff or current students. If the host organisation your are placed with is instructed by a person seeking advice against the Law School or its Governors, staff or students in a case in which you are involved you should report the matter to your supervisor and tutor.

**6.** **Confidentiality and professional obligations to thE Client**

As mentioned earlier, a solicitor is under a duty to keep confidential to his or her practice the affairs of any client and to ensure all the practice’s staff do the same. Although this duty can be overridden in certain exceptional circumstances, this is a decision that can only be taken by your Supervisor. An adviser must not disclose a client's address without the client's consent under **any** circumstances. Nor must the details of a client's case be revealed or the fact that you are advising a client e.g. by leaving a telephone message for a client (unless the client has authorised this). Similar care must also be exercised if using e-mail.

A solicitor is obliged to deal promptly with correspondence on behalf of the client or former client and with any correspondence with the Law Society or Bar Council.

Note: The duty of confidentiality extends beyond the length of time a student is working on the Law School’s clinical programme.

**APPENDIX B**

**Operational rules and policies of the host organisation**

[insert here any rules of the host organisation]