The Integration of Technology into Clinical Legal Education: An Exploration of the 'Virtual' Law Clinic

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Thank you very much my name is Francine Ryan. I'm a Senior Lecturer at The Open University and the Director of the Open Justice Law Clinic. First of all, I just want to thank The University of Hong Kong for inviting me to give this presentation and to congratulate them on their 50th anniversary. It's kind of like a double celebration for me because it's also The Open University's 50th anniversary. So it's really lovely to be here and share your anniversary celebrations with you. I wanted to provide some background about The Open University because we are different to other universities. We are the largest provider of undergraduate legal education in the United Kingdom and Europe with around six thousand law students. The OU delivers distance education across the four nations of the UK, Ireland and worldwide. We have an open access policy, which means that there are no prerequisite qualifications to study with us. You can study at The Open University with no qualifications or with a PhD. Most of our students are studying part-time and have other responsibilities, for example, they are working or caring for others. Our students vary in age, we have students from 17 years old up until their 80s. We are a distance education provider so predominately our students' study online with us.

The Open University established the Open Justice Centre in 2016, to build a bridge between the Open University Law School and the wider community. We are passionate about giving distance education students the opportunity to be involved and engaged in their communities. Developing the Centre was a huge challenge because we wanted to give law students practical opportunities to apply their legal knowledge in a way that furthers The Open University's social justice mission. We did this by pioneering experiential learning in distance legal education, by providing students

with opportunities which have a tangible impact upon our students' employability, combining the provision of real-world professional experience with the development of transferable skills.

Technology is transforming the delivery of legal services. Richard Susskind has been referred to by a number of the other speakers, he talks about the impact of automation, changing client demands, new entrants into the market, and how a number of different factors are impacting on the legal profession. Technology is shaping new business models and creating new tools, and this requires students to have new skills and capabilities. Peter Joy yesterday referred to some of those aspects in his presentation. I would argue that clinical legal education provides a real opportunity to think about innovative ways we can engage students to respond to these changing developments. This gives students the capability to navigate a transformed legal landscape and provide new platforms to increase public access to legal advice and guidance.

So what did we do at The Open University? We wanted to include clinical legal education within our degree. And so we developed the Open Justice Centre, and as part of that, we created a new module in the Law Degree- W360- Justice in Action, and this was a pedagogic framework for students to gain academic credit for engaging in pro bono activities. The module begins with introducing students to the overarching themes of social justice, pro bono, professional identity, and professional values and ethics, and then it moves on to developing skills, so it looks at legal research, writing, interviewing and oral advocacy. Facilitating part-time students in meaningful clinical programmes is not without its challenges. None of our students are in a single location, although The Open University is based in Milton Keynes, we don't have any students in Milton Keynes. Our students are across the Four Nations of the United Kingdom. This was a real opportunity for us to think really carefully about how we were going to transform clinical legal education into an online environment. So one of the ways that we did was developing the virtual law clinic to allow students to engage in practical pro bono activity. The virtual law clinic is one of a number of opportunities that we provide for our students within this module. The module is assessed in similar ways to other clinical legal education programmes. The module requires students to engage in reflection, they reflect on their experiences of engaging in the practical legal activities such as working in the clinic, and they examine their reflections through the module.

I would argue that advances in technology are driving the rise of virtual law firms, and as part of creating this module, we wanted to look at how we could replicate that in a university law clinic. The increase in the number of virtual law firms is happening because of developments in technology and it is possible it will become more mainstream in the legal profession because we are already seeing a shift from the physical to the virtual space. And as a result, lawyers will be increasingly required to become proficient with online technology tools. Internet-based technology has the potential to enable law firms to provide efficient and affordable solutions, and technology also has the power to offer solutions to address the issues of access to justice. We wanted to give our students the opportunity to engage with clients and deliver legal advice through a virtual law clinic. Our students as I said are not based in a single physical location, so we wanted them to have the opportunity to collaborate with each other wherever they were within the UK. We also wanted to see whether we could offer legal advice to clients at distance, using technology and to reach out to those clients who cannot attend a face-to-face law clinic. And I think one of the things that we've really learned through this process is that you have to experiment, and innovate to try new ways of working. So we've put lots of policies and procedures in to develop the virtual law clinic, but until you actually try it, you don't really know how successful it's going to be. But we also know that future lawyers will need technological competence, so part of our drive to do this was to ensure our students had the opportunity to become familiar with using technology and developing online collaboration skills, which Bugden and others have argued are essential skills for law students.

Our clinic is open to anyone with an internet connection, so irrespective of geographical distance, they can access our law clinic. We're also open all year round, and I'll explain a little bit more about how our clinic works, but we work around our clients' availability, we offer appointments to clients rather than offering drop in sessions. We receive enquiries via our website. We do limited advertising via social media, most clients find us via search engines. One of the difficulties of developing a clinic is being able to manage the workload, when we first started one of the things that we didn't know was how many enquiries we would receive. We didn't want to over-advertise or under-advertise, so it's been a challenge to work out the right balance of enquiries and to find out what works for us. We do very limited advertising and we have more than enough enquiries into our clinic. We triage through the clinic mailbox and either the cases go into the clinic or the cases are signposted to other organizations for help. The other thing about being a virtual law clinic

and getting enquiries via the web is that we get such a variety of cases coming into our mailbox, and sometimes I am really surprised at the type of cases that members of the public are asking law students to advise on. We had one case where an individual had a dispute over his bonus which amounted to a very significant sum of money. I was surprised that he wanted law students to give him legal advice. We are an advice-only clinic where we only offer a letter of advice, we are unable to offer representation, and we also limit the cases we accept to specific areas of law, such as employment, consumer, contract and tort. We think there are areas of advice that are less suitable for a virtual law clinic unless you're offering the service in partnership with other organizations. I think Kate touched upon it yesterday in terms of working with vulnerable clients, a virtual law clinic can still be offered but it is perhaps better to work in partnership with an organization to support the clients. A virtual law clinic may not be suitable for some types of work, for example in family cases involving domestic violence, it would be challenging for students to be working with very vulnerable clients in an online environment.

Once a case is accepted into the clinic, it's opened in our case management system. We use Clio which is a cloud-based practice management software so we are able to manage all aspects of the case in one place. A law clinic delivering legal advice online needs to be able to do this through a secure web space known as a client portal. The security of a client portal is that communication is encrypted and protected, and we can communicate and collaborate with our clients through Clio. All the case interaction is managed through Clio: the documents, the bills, we encourage all our students to time record, the reporting, the accounting is all done from one platform. Clio is offered free via an academic access programme, and it's also endorsed by The Law Society of England and Wales. So just to give you an indication of what it looks like, this is the main dashboard. The firm feed which you'll see across the top basically lists all the activity that happens within the case management system. So I can see exactly what each of my law students has or hasn't done and I can track their progress. It also enables me to run reports which are a rich set of data that I can use to show things like the value of the service that we're providing. Because the students are time recording we can create reports that show the value of the pro bono activity. Anyone who has worked in the law firm will be very familiar with the case management system, and Clio is one of those systems used by law firms. One of the things that was really important for us is to provide our law students with really practical opportunities to develop their skills because although many

of them do not want to practice law, some of them do and they don't come from families where they would necessarily have lots of connections with law firms. Therefore giving them the opportunity to develop the skills to use a case management system is really important if they are going to progress into law firms.

The next slide is the matter screen which identifies the particular matter. Just to highlight a couple of things, you can see on the timeline exactly what is happening on the case, which is a really useful tool for me when I'm checking on the matter to see how the students and the case is progressing. 'Clio Connect', which is on the top tab shows all the interaction with our client. All the correspondence with the client takes place within Clio and this happens via documents or secure messaging. Once the client is allocated to the clinic, they receive the initial documentation, and then we arrange to interview them. The clients are offered an appointment at their convenience. We are able to offer clients appointments at the weekends, and in the evenings because we have students who work part-time so it works better for them. We interview clients through Adobe Connect. The client receives a link to a meeting room, they simply click on to the meeting room link, and the students join from their location. One thing to stress with our students is they are not interviewing together, they are in different locations throughout the UK. Adobe Connect has some advantages for us is that clients can use it on their mobile devices. It also has the video function so we can do meetings as face-to-face video conferences, or we can offer it more akin to a telephone call. It has a recording facility and screen sharing, so sometimes our students will share their screen and work on documents with the client.

Here is a very scary picture of me using Adobe Connect, but just shows how it works. One of the really important things for our students is they have to learn to interview when they're not all in the same room. So that's a real challenge for them, they have to really develop the skills of online interviewing. They have to be really prepared for the interview, they have to know who's going to ask the questions, who's going to be the note-taker, how it's going to work. They also have to sometimes resolve some technical issues on technology if that's not quite working properly. So it is a real challenge for our students and they are really developing their skills as part of the clinic. Once the interview is concluded, then the students prepare a proof of evidence, they research the client's case, they prepare a letter of advice which is then sent out to the client, and we do any

follow-up questions. All the work the students do is supervised by qualified solicitors. In terms of the training for our students it is also delivered online. We do training in interviewing, legal research, ethics and professional responsibilities. One of the really great things about Clio is that we have two versions of Clio. We have a training site and a live site, the students are able to conduct a simulated case before moving into the live clinic. In the simulated case they are able to learn how to use Clio, they do a practice interview, they do research and then they prepare a letter of advice. So they basically take a matter from start to finish as a simulated case. Any university which doesn't necessarily want to offer a live virtual law clinic could still use Clio this way to offer a simulated virtual law clinic. We prepare lots of written training documents for our students and deliver online training materials to ensure our students are able to effectively work as part of the law clinic. But what we've learned is that really for students to understand how to use Clio, to get to familiar with the technology, they have to actually use it rather than just read about it, using a simulated case is a really effective way of training them. Students can conduct the entirety of their case virtually from different locations across the UK, so they need to learn how to collaborate online. We don't have any paper files, everything is stored in the cloud. In 2018, we conducted research with our students to ask them how they found the experience of working in a virtual law clinic. What we found is that although students are entering university as digital natives and very familiar with digital technology, in particularly social media tools, that doesn't mean they have the right skills to use these types of technological tools. I think it's really important to stress that students don't necessarily have the skills and confidence to use applications. They do need lots of time and opportunities to practice to be able to get to grips with the technology and to use it effectively. So being good with social media tools doesn't mean that you are competent to use technological applications in your learning. And I think sometimes we perhaps overestimate the competency of our students in terms of using technology, it is enough of a challenge just to experience working with clients, so adding in working with technology is a lot for them to deal with. There are lots of positive aspects about incorporating technology into clinical education, our students talked about how it gave them more confidence, they felt they were able to use it in terms of learning how the practice of law is changing and requiring different skills, and this kind of goes with the literature Pistone has talked about in their work.

Technology is creating new roles and skill sets. I think Peter Joy discussed the ones from Richard Susskind's book, Tomorrow Lawyers, yesterday. The Institute for the Future in 2011, identified virtual collaboration- the 'ability to work productively to drive engagement and demonstrate presence as a member of a virtual team' as a key skill applying to all future workers. Although it is challenging, students need the opportunity to practise online and virtual collaboration. Giving students the opportunity to practise those skills in law school is a really vital thing to do, and again this is supported by the literature Bugden and Long talk about the importance of this in their work. We really think that a virtual law clinic gives students the opportunity to develop connectivity and collaboration which are essential attributes of the future law graduate, and something that The Law Society of England and Wales have identified in their research as important for a future legal professional.

To conclude, transferring clinical legal education online is not without its challenges, but giving students the opportunity to work in a virtual law clinic facilitates the development of the skills which will be required for technologically enhanced practice, and a virtual law clinic also offers services to communities who may struggle to access face to face clinics. We've had clients who are not able to travel, we've also had clients who have a range of disabilities who found a virtual law clinic as something that was a really good option for them. I would really advocate and encourage more research into the use of technology in clinical legal education. It's a really emerging area and I think more research is important in terms understanding the benefits to students from new ways of working. I'd also say that a virtual law clinic is not a replacement for a face-to-face clinic. They complement each other. I think it's really important to stress that harnessing technology can be really beneficial but also we cannot ignore the value of face-to-face. For us, a face-to-face law clinic isn't an option but they both complement each other. I think there are a number of universities in the UK that are looking at how they can offer both types of clinics. I think Kate talked yesterday about how Strathclyde is using online as well, and I think they do complement each other really well. I have included in the presentation some references to relevant literature, but if anyone is interested in finding more about virtual law clinics I wrote an article for the law teacher which you may find useful. Many thanks.