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***"Bringing It All Together: Clinical Legal Educators in the 21st Century University"***

### **The Value of Community Participation from the Perspective of Law School Undergraduates Involved as Community Legal Companions**

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#### **Abstract**

This paper will consider the current importance of the graduate skills agenda in relation to a UK law degree by using as its focus the CLOCK (Community Legal Outreach Collaboration Keele) scheme, a collaborative social justice project involving law students, legal services providers, third sector advice agencies and law courts based in Canterbury and Brighton UK. In recent years, the UK Government has significantly cut civil legal aid in areas such as housing, family and welfare benefits, with a view to easing the strain on the deficit. Many, including lawyers, who have raised concerns that these cuts could leave the most vulnerable within our communities unrepresented in court and place an undue burden on our civil justice system, have opposed the cuts. The CLOCK Community Legal Companion scheme has been introduced to provide an opportunity for those within our communities who are caught in the so-called 'justice gap' to gain support and guidance from law students when they attend court unrepresented. The socio-legal experiential learning opportunities presented by such an initiative for undergraduate law students will be evaluated, together with an overview of how the scheme operates in the Canterbury and Brighton County Courts, as well as the benefits it provides for the local community. The scheme not only helps litigants in person in need, but enables law students at Canterbury Christ Church to use their knowledge for the benefit of their local society. Experiences of setting up a Community Legal Companion scheme and students reflections of participating as Community Legal Companions drawn from empirical qualitative research, will be shared. The way in which this community-based project can provide undergraduate law students with valuable employability skills, through analysis of their own perceptions, will be appraised.

#### **Introduction**

Various UK government initiatives together with the introduction of legislation, have over the past twenty years systematically dismantled aspects of the welfare state. This has included the incremental withdrawal of legal aid for many areas of legal advice and assistance within civil justice and most notably private family law. The reduction in local authority funding of the advice sector, the adverse impact on many people due to the prevailing economic climate, the rising cost of legal services and the reduction in court resources, has meant that a whole raft of UK citizens has been 'marginalised'. This has given rise to an increased number of litigants in person (LiPs) who are either unable to afford legal advice, or have the awareness to access the few legal services still available which provide pro bono or limited fixed fee advice and assistance.

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There is judicial concern about the strain this is placing upon the civil justice system. Initiatives have been implemented by the Ministry of Justice through investment in Personal Support Units (PSU), LawWorks, Law for Life and the RCJ Advice Bureau, in an attempt to remedy a growing problem for the civil justice system.<sup>2</sup> Due to closure of many charitable advice services and law centres during the recent period of austerity, universities have started to fill the space once occupied by legal advice services, which traditionally provided free advice and assistance to those most in need.

CLOCK is designed to give keen law students the opportunity to service community needs and gain valuable employability skills by acting as Community Legal Companions at their local county courts.<sup>3</sup> Initiated by Keele law school in 2012 following the introduction of LASPO and the reduction of legal aid,<sup>4</sup> CLOCK enables law students to become trained as Community Legal Companions to give signposting as well as other guidance and support to those in need and who attend court unrepresented.

### **Access to Justice and LASPO**

*The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)* resulted in a cut of £89 million per annum in Legal Aid on social welfare law, as well as the reductions in local authority funding of advice and legal support.<sup>5</sup> These cutbacks have compromised the advice and legal support sector at a time of increased need.

The Low Commission Report 2014<sup>6</sup> was established in late 2012 by the Legal Action Group to: collate evidence relating to the demand for advice and support on social welfare law; to explore options for future provision and funding; to develop a strategy for future provision and funding and then make recommendations to government. The Commission reported in 2014 and in all, made 100 recommendations including that university law schools should [*through collaborative efforts*] further develop the ways in which law students can provide pro bono services, including public legal education.

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### **Contextual Pedagogical Application**

#### Experiential Learning and the Skills Agenda

In December 2006, the government commissioned the Leitch Review to identify the UK's optimal skills mix in 2020 to maximise economic growth, productivity and social justice, and to consider the policy implications of achieving the level of change required. One of its

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<sup>2</sup> Ministry of Justice, "More Support for Couples and Parents", available at <https://www.gov.uk/government/news/more-support-for-separating-couples-and-parents>, in McKeown, P., & Morse, S. (2015), *Litigants in Person: Is There a Role for Higher Education?* Edited by Richard Owen. *The Law Teacher*, 49(1), 122-129.

<sup>3</sup> Ibid, p. 123.

<sup>4</sup> Full details of the CLOCK project at Keele are available at <https://clock.uk.net/> (Accessed on 13.05.17).

<sup>5</sup> Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, [www.parliament.co.uk](http://www.parliament.co.uk), available at: <https://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/311/31104.htm> (accessed on 06.06.17).

<sup>6</sup> Low Commission Report 2014, available at: <http://www.lowcommission.org.uk/dyn/1389221772932/Low-Commission-Report-FINAL-VERSION.pdf> (accessed on...)

recommendations was to widen the drive to improve the UK's high skills to encompass the whole working-age population, including preparing young adults for their working lives.<sup>7</sup>

The Legal Education and Training Review (LETB) published in 2013, suggested that law schools should be encouraged to embed practice-skills within the legal education curriculum. The committee considered this a matter of some relevance to the LETB in determining focus and direction of travel.<sup>8</sup> McKeown and Morse argue that students are often enthusiastic about engaging in practically based clinical activities and, linked to this, make the point that in a competitive market it is important that universities offer courses and extra-curricular activities, which are appealing and relevant to prospective students.<sup>9</sup>

The growing interest with which UK law schools are taking in dispute resolution, alternative dispute resolution (ADR) and its teaching, provides a perfect opportunity for students involved in CLOCK to work closely with people who are in dispute and apply practically the theory learnt in the classroom.<sup>10</sup> Any court proceedings arise from some kind of dispute and the casework with which Companions provide assistance, involves court service users seeking a civil remedy, which will ultimately achieve a resolution to their dispute in some way or another.

Teaching dispute resolution as a defined subject contextualises much of what student Companions learn within the curriculum, grounds theory and provides the opportunity for practical skills acquisition.<sup>11</sup> Even better, linking assessment to Companionship will enable students to gain academic credit for work-based learning.

### Employability

There is an arguable requirement, for those students wishing to enter either branch of the legal profession, to enhance their CV with extra-curricular engagement. This can then give them an edge in the job application process. Community Legal Companion support provides beneficial graduate profile enhancement. Anecdotally, for those students who have been involved with the CLOCK project and lucky enough to be invited for interview (for training contract or pupillage), genuine interest has been taken in the role at interview.

### Communities of Practice

In the sphere of legal education this is closely associated with professional ethics and an appreciation that aspirational lawyers will be entering a 'community of practice' when acting as legal executives, paralegals, solicitors and barristers. Baron and Corbin argue for a recognised need for law students to 'be professional and in turn act like professionals'.<sup>12</sup>

Situational or situated learning presents real time experience of ethical dilemmas. Dewey saw this as exposure to the 'problematic' that leads to and is the organiser for learning.<sup>13</sup> Students need to also have their moral sensitivities challenged to recognise that there are often

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<sup>7</sup> The Leitch Review p.143, published in December 2006 is available at [http://www.delni.gov.uk/leitch\\_finalreport051206\[1\]-2.pdf](http://www.delni.gov.uk/leitch_finalreport051206[1]-2.pdf) (Accessed on 08.06.17).

<sup>8</sup> Webb, J., Ching, J., Maharg, P. and Sherr, A., *Legal Education and Training Review (LETB), Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (London: Legal Education and Training Review, 2013). Available at <http://www.letb.org.uk/the-report/index.html> (accessed on 26.05.17).

<sup>9</sup> Supra, Note 3, McKeown, P., & Morse, p. 128.

<sup>10</sup> Waters B., (2017), The Importance of Teaching Dispute Resolution in a 21st Century Law School, *The Law Teacher*, 51:2: 227-246.

<sup>11</sup> Ibid.

<sup>12</sup> Baron P., & Corbin L., Thinking like a lawyer/acting like a professional: Communities of practice as a means of challenging orthodox legal education, *The Law Teacher*, 46:2, 100-119, pp.100-101.

<sup>13</sup> Dewey, J. (2007), *Experience and Education*, (Simon and Schuster New York).

“relevant others” who may be affected by legal actions.<sup>14</sup> Companionship present perfect opportunities for this.

Constructionist theory is applicable here and theorists such as Savery and Duffy suggest that knowledge evolves through social negotiation and through the evaluation of the viability of individual understandings. They argue that the social environment is critical to the development of our understanding as well as to the development of the body of propositions we call knowledge.<sup>15</sup>

### Community Engagement

The value of public service community engagement through CLOCK should be acknowledged. As well as an inherent sense of philanthropy associated with voluntary work within the community, it could also be a vital component if some voluntary services are to survive. Whilst the “Big Society” agenda seemingly embraces enterprising proposals to reinvigorate communities through greater autonomy, the initiative has in reality been devastating for some voluntary sector services that have traditionally relied on funding streams from local authorities, streams that during the recent austerity era have all but dried up.<sup>16</sup>

## **CLOCK in Kent & Sussex: Setting Up and Practical Issues**

### Setting Up

The Community Legal Companion (CLC) scheme was initiated by Keele University’s Law School following a 2012 regional Law Society meeting attended by local judges and practitioners as well as institutional academic staff. The meeting was arranged to discuss the implications of LASPO for Legal Aid provision, and a recognition that LASPO would inevitably lead to exponential increase in litigants in person. After successfully establishing the scheme in Staffordshire, the CLOCK franchise has been adopted by 11 UK universities including; University of Brighton, University of Sussex, University of Wolverhampton, Birmingham City University, Salford University, Liverpool John Moores University, Staffordshire University, Canterbury Christ Church University and most recently; University of Leicester, University of Lancaster and the Open University.

A national network of nominated judges for LIPs has been established and the initiative in the southeast region was initially driven by Kent and Sussex family judges. Both Canterbury Christ Church and the University Brighton coordinated meetings in their respective areas. Potential stakeholders, including the judiciary, court staff, representatives from the legal services community and third sector advice agencies, attended these. The help desks in the Brighton and Canterbury courts then became operational in 2015 and 2016 respectively. Staffing of these desks requires the assistance of willing law student Companions who are trained with the help of the CLOCK partners over a five-day period.

All law students at these universities participating as CLCs are monitored and insured by their respective universities. Students are required to undertake DBS checks and are bound by the CLOCK confidentiality agreement. Companions from each institution commit to a certain number of court based help desk hours agreed by their respective institutions during term-time. They are required to record all community legal companion activities. It is important to

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<sup>14</sup> Ibid p.104, Hazard, G.C., Jr, “Dimensions of Ethical Responsibility: Relevant Others” (1992–1993) 54(4) *University of Pittsburgh Law Review* 965–977, at pp.969–971, in Baron P., & Corbin.

<sup>15</sup> Savery J. R., and Duffy T.,M., in Wilson B. G., (1998), *Constructivist Learning Environments: Case Studies in Instructional Design*, (Englewood Cliffs, New Jersey, Educational Technology Publications), p.136.

<sup>16</sup> See the Guardian [www.guardianonline.com](http://www.guardianonline.com) (Accessed on 08.07.14).

recognise that Companions do not provide advice, but a key part of Companionship is signposting.

#### The Scheme in Operation

Structures, including a rota and a reporting system were introduced. Law students were recruited for training, which was delivered in Canterbury and Brighton (both Brighton and Sussex Universities provide law students) by members of court staff, representatives from local legal service community (law firms and barristers chambers) and third sector agencies.

Once trained the Companions are allocated to the court rota by choosing their own slots. service users arrive at Court Help Desk through a number of different routes including; phone calls, applying for assistance through the CLOCK website,<sup>17</sup> which in turn alerts the Companion on help desk duty via email. Partner providers also refer service users. Some who attend court for a hearing are directed to the help desk by court staff. Once the Companion has established the service user's needs, the service user will sign a 'Community Care Letter'. At that stage the service user can be signposted to a Legal Aid franchised firm or affordable fixed fee or pro bono services e.g. Kent Law Clinic in Canterbury and the Sussex Family Law Clinic in Brighton. CLOCK National, based at Keele, operates a web-based administrative system (the clock.uk.net national dataset) which is available for recording the information gathered from all service users assisted.<sup>18</sup>

The Companionship role involves assisting litigants in person with; filling in court forms; arranging and collating court papers; note taking and accompanying the litigant in person to court hearings, if no signposted legal advice and assistance support is available. Any Companionship assistance provided in court is conducted along *Mackenzie Friend* principles. Companions can also simply help litigants in person find their way around court. An important part of the role is being able to establish the needs of the litigant in person and then perhaps signposting to local provider organisations. See *figures 1 and 2* overleaf for details of the type of Companionship work areas undertaken by the Canterbury court help desk.

#### **The Brighton and Canterbury Research Study**

The small-scale qualitative research study undertaken by the University of Brighton and Canterbury Christ Church University, was designed to determine the value of the CLOCK Companionship role for undergraduate law students in terms of skills acquisition, community involvement and employability enhancement.

#### Methodology

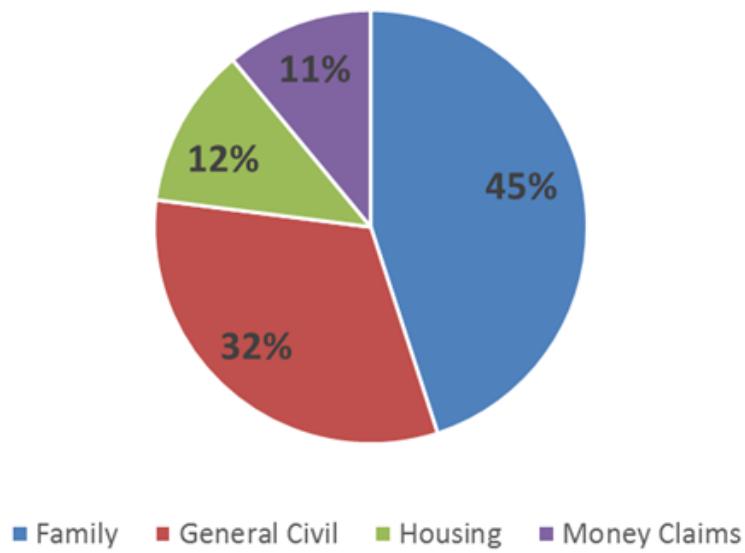
Questionnaires and focus groups were used to establish the perceptions of the Community Legal Companion role. These included questions about student motivation for volunteering for the scheme, student views on preparation and the training they received, the challenges presented by the role, the supportive link made to students' academic studies and the opportunities for 'key skills' acquisition (through experiential learning). There were also questions about employability enhancement and the likely impact of the role in supporting students' future careers and their readiness for work. Responses from both institutions were high overall; 69.5% respondents for the first questionnaire and 60% for the follow-up.

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<sup>17</sup> See supra, note 4, the general public access the website at <https://clock.uk.net/>, which is hosted by Keele University's Law School and by clicking on the *Apply for Assistance* button they can initiate a referral to the CLOCK scheme in their local area.

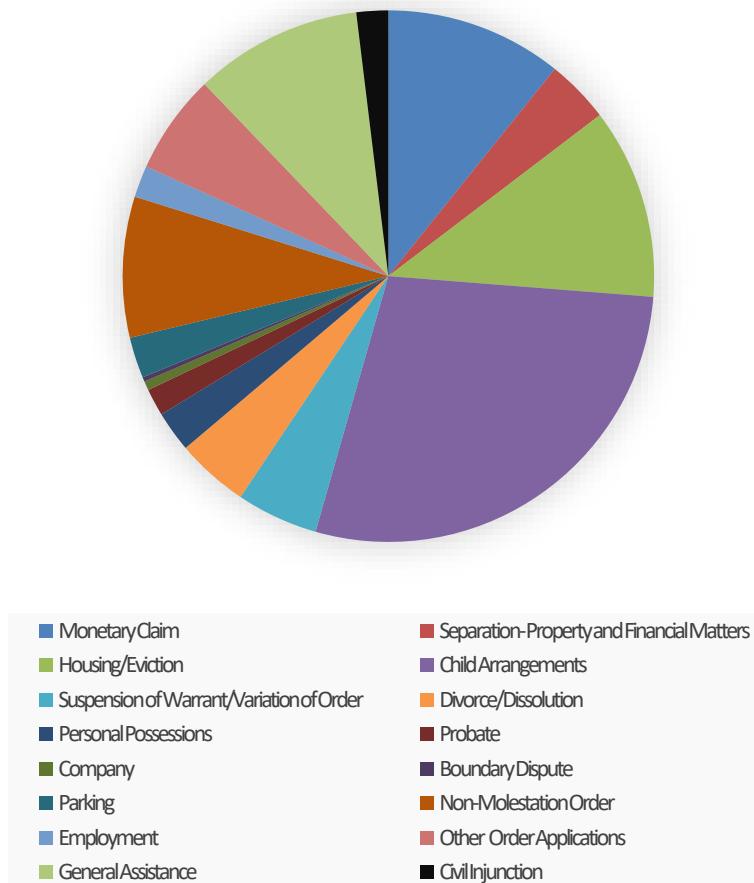
<sup>18</sup> This is an encrypted system, which holds confidential service user information and data.

**Proportion of Assistance in Canterbury**



*figure 1*

**Proportion of Assistance in Canterbury by Case Type**



*figure 2*

### Findings

The emerging themes in response to the question participants were asked about their motivations for applying to participate in the CLOCK scheme, included the fact that many participants considered the CLOCK scheme to have given them an opportunity to provide community support and help deliver social justice to those most in need. Nearly all the participants who responded to the questionnaire, acknowledged work experience opportunities presented to Companions as being a significant motivator.

The acquisition of practical skills and at the same time the opportunity to gain valuable work experience was recognised as being useful. Some participants considered that the Companionship enabled them to gain specific legal experience:

*"Currently I am studying family law....and have found that a lot of family cases have been assisted by the CLOCK scheme. "This has allowed me to view the theoretical teachings of this module in practice."*

Given the numbers of service users who have private family related disputes, this was not an uncommon response. Students were also asked about their views on how being a Companion might support their academic law studies. Responses were generally very positive here and revealed that in the subjects that they had been studying or would be studying, family law was revealed as being the most popular.

Some participants considered that Companionship had given them an opportunity to familiarise themselves with court forms e.g. the N1 Claim Form, which is used to commence proceedings an example of this can be seen from this participant's response:

*"[Being a Companion] has provided me with knowledge of some of the legal paperwork which I will be dealing with as a solicitor, which I would not have become familiar with through the study of my degree alone."*

There was also a general appreciation that through acting as Companion, students could make a clear link between what they learn in the lecture theatre and the work of a Companion. A number of respondents thought that being a Companion enabled them to put theory into practice. There was evidence from the answers that students like the 'reality' of the experience.

*"I think it will provide me with valuable experience in terms of what to expect when it comes to dealing with real life disputes as well as understanding the legal environment."*

This supports a point that Kerrigan and Murray make when they say that clinical legal education requires participation in the legal system.<sup>19</sup>

The emerging themes arising from the question about how participants thought their volunteering as a Companion could support a future career, included future career support as a lawyer, being able to assist with applications for further study and the employment market, acquiring a better knowledge, understanding and awareness of procedural justice:

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<sup>19</sup> Kerrigan, K., & Murray, V. (2011). *A Student Guide to Legal Education and Pro Bono*. Palgrave Macmillan, pp.6-7.

*"The programme helped me to know more about the procedures when bringing a claim to court. As a solicitor, I will be talking to clients and helping them fill forms in some cases. The CLOCK programme is directly tailored to the experience I need."*

Some participants thought that the experience of court and office environment had been useful. A number of respondents thought that they had gained in confidence through acting as a Companion:

*"I'm looking to go into the police side of the Law; this has taught me how to be more personable and confident with talking to the public, as well as useful court experience."*

A questionnaire circulated to all participants after three months of Companionship included questions on what the role says about experiential learning, what Companions had most/least enjoyed, whether or not Companions thought the role supported their academic studies and whether or not they considered the role to have helped them develop key skills. The broad themes, which emerged included employability and CV enhancement, opportunities to provide community support, the perception that Companionship supports academic studies and skills development.

*"It's helped me to apply skills I have already and to use them in a novel situation e.g. when a litigant comes into the room, you have no advance notice of what he/she will need help with, and it's essential to be calm, inspire confidence, listen and fully grasp the issues before jumping in."*

## **Conclusion**

This paper has demonstrated how CLOCK has provided an opportunity to introduce clinical legal education to two UK law schools, and enable students to learn by 'doing', alongside the curriculum. Clinical legal education is intended to produce students that can take the learning experience offered by live clinics and reflect upon how and why cases were progressed and how this fits into the overall context of their legal studies.<sup>20</sup>

Such approaches intend to empower students to become pro-active learners and to provide opportunities for formative and credit bearing summative assessment, which are in themselves a strategic and integral part of the learning experience.<sup>21</sup> CLOCK provides undergraduate law students with the opportunity to link their experiences to credit, as well as acquiring valuable employability skills by acting as Community Legal Companions at their local law courts.

Law students' practical legal experience is enhanced through the establishment of regional versions of CLOCK and the Community Legal Companion scheme. The advantages of such projects are self-evident. They assist the community, they facilitate referrals to local third sector and mediation services (through agency signposting), they provide employability opportunities for students through personal professional development/CV enhancement and give students a sense of responsibility, independence of thought/achievement through community/public spirited social justice engagement and an appreciation of legal ethics.<sup>22</sup>

<sup>20</sup> See Ibid V. Murray, pp. 226-249, for helpful analysis of established approaches to reflection taken by Schön (reflection on action and reflection in action) and Greenaway, Boud, Gibbs and Kolb for models of reflection.

<sup>21</sup> Ibid pp. 250-268, for some ideas on assessment methods for such clinical legal education projects.

<sup>22</sup> See generally; F. S. Bloch, (ed.) (2011) *The Global Clinical Movement: Educating Lawyers for Social Justice*, (New York: Oxford University Press); P. Baron, & L. Corbin, L. (2012). Thinking like a lawyer/acting like a professional: Communities of practice as a means of challenging orthodox legal education. *The Law Teacher*, 46(2), 100-119." 46(2).