January 2015

Clinical Legal Education/Law School Legal Advice Clinics Annual Report 2014
Table of Contents

1. Overview .................................................................................................................................................. 4
2. Magistrates Court Legal Advice Service ('MCLAS') .............................................................................. 4
3. Adelaide Legal Outreach Service ('ALOS') ............................................................................................. 9
4. Community engagement ........................................................................................................................... 13
5. Student Project Work .............................................................................................................................. 14
6. Initiatives for 2015 ..................................................................................................................................... 15
1. Overview

Clinical Legal Education (‘CLE’) is a three point elective subject available to Law Students in their final year of study. The subject involves a clinical placement at a Law School legal advice clinic or community legal centre, alongside a lecture/seminar program and various assessable assignments. The subject is offered three times each year, a six week intensive semester in January/February, and in Semester 1 and Semester 2. Students attend placement for one day per week during either semester, or for two days per week during the intensive summer semester.

As part of the CLE program the Law School operates two free legal advice clinics, the Magistrates Court Legal Advice Service (MCLAS), and the Adelaide Legal Outreach Service (ALOS), where students work under the supervision of law faculty during their CLE placement. Other students are placed at various outside agencies via externship arrangements. These include Legal Services Commission; State Ombudsman; Adelaide Central Legal Service; Migrant Resource Centre; Credit and Consumer Legal Advice Service; and the Young Workers Legal Service.

Clinical placement can be counted towards practice requirements for GDLP/PLT purposes.

The program is managed by Margaret Castles, Director of Clinical Legal Education. Two solicitors, Paula Meegan and Ross Savvas, share a 2 year fixed term contract at 0.4 fraction, and manage and supervise the Magistrates Court Legal Advice Service and the Adelaide Legal Outreach Service.

The program is supported by a generous 3 year grant from the Law Foundation of SA which assists with running costs including computers, technology, publications, and supports outreach initiatives.

Approximately 80 students are able to participate in CLE each year. Selection for the course is not based solely on academic transcript, but work experience, interests, and past study, assist in matching applicants to places.

2. Magistrates Court Legal Advice Service (‘MCLAS’)

MCLAS is situated at the Magistrates Court of SA in Victoria Square. The clinic operates two days per week during semester (Wednesday and Thursday) and offers a fortnightly service during University breaks.

MCLAS deals only with civil claims in the Minor Civil Jurisdiction of the Magistrates Court, up to a value of $12,000. Litigants in the Minor Civil Jurisdiction may not have legal representation during their trial, but may seek legal representation or support managing their case and preparing for trial.

An increasing number of complex construction disputes fall under the minor civil claims limit are overly complex for the MCLAS but are not able to obtain affordable legal support elsewhere. This
will be the basis of a submission to the Attorney-General when the jurisdiction of the Minor Civil Claims jurisdiction is reviewed in 2015.

Students placed at MCLAS for one day per week provide extensive assistance to litigants in this jurisdiction. They are routinely involved in interviewing clients, investigating and researching claims, providing legal advice, drafting correspondence and court forms, and assisting litigants to negotiate or mediate their claims.

Students are supervised by senior legal practitioner Paula Meegan who is employed by the Adelaide Law School to manage the day to day operation of the service. Paula has an extensive background in civil commercial and government litigation, as well as law teaching.

**Supervising Solicitor’s Report**

The Magistrates Court Legal Advice Service continued its operations this year at the Adelaide Magistrates Court. We acknowledge with thanks the support provided by Courts Administration Authority, especially the members of staff who assist the students in their learning, and refer clients to the Service. Their assistance is invaluable to the Service.

During 2014, 40 students participated in the MCLAS clinical education program, with a number also volunteering during mid semester breaks.

Our clients are very diverse as are the types of matters in which they are involved. They include motor vehicle accident damage claims, various types of debt, neighbourhood disputes, breaches of contract, insurance law and others.

This year we have noticed an increase in matters involving domestic building projects in the higher range of minor civil claims, around $20,000. This has required us to develop ways of assisting these clients within our operational parameters, by providing unbundled services and developing strong referral relationships. Since the jurisdictional limit for Minor Civil claims increased from $6,000 - $25,000 we have found cases more complex and longer running, which provides a valuable experience for students.

In 2014 MCLAS continued developing a partnership with commercial law firm Lipman Karas. As part of its pro bono commitment Lipman Karas practitioners visit the service on a regular basis to assist students with case management and professional development on placement. This partnership continues to develop and provide benefits for all the stakeholders; the students, the clients and the Lipman Karas practitioners, who have the opportunity to participate in a different style of practice. We thank Lipman Karas for their assistance and support during the year.

Students at MCLAS acquire a range of practical and professional skills. Some matters are complex and a significant number have led to students undertaking additional work and assisting clients to prepare for court appearances, mediation and negotiation with other parties, with some very positive outcomes. Students consistently report that they can feel their confidence in dealing with clients grow throughout their placement, and a high level of satisfaction at being able to help “real people”.
Statistics
A snapshot of the work of the Service in 2014 is provided through the following statistics.

Number of files opened: 64
Number of files closed: 25

Distribution:

<table>
<thead>
<tr>
<th>Category</th>
<th>Files</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing/Tenancy</td>
<td>5</td>
</tr>
<tr>
<td>Contract Law</td>
<td>10</td>
</tr>
<tr>
<td>Neighbourhood Disputes</td>
<td>8</td>
</tr>
<tr>
<td>Debt</td>
<td>19</td>
</tr>
<tr>
<td>Personal Injury</td>
<td>1</td>
</tr>
<tr>
<td>Administrative/ Government issues</td>
<td>-</td>
</tr>
<tr>
<td>Consumer Law</td>
<td>5</td>
</tr>
<tr>
<td>Business Law</td>
<td>-</td>
</tr>
<tr>
<td>General Civil</td>
<td>4</td>
</tr>
<tr>
<td>General enquiry</td>
<td>2</td>
</tr>
<tr>
<td>Motor Vehicle Accidents</td>
<td>8</td>
</tr>
<tr>
<td>Strata Title</td>
<td>2</td>
</tr>
<tr>
<td>Child Support</td>
<td>2</td>
</tr>
<tr>
<td>Building Work</td>
<td>2</td>
</tr>
</tbody>
</table>

Trends
Case numbers have decreased slightly, although the complexity of cases has increased. This is attributed to the availability of a "walk in" advice service provided by the Legal Services Commission at the Magistrates Court. MCLAS is better placed to provide ongoing assistance in more complex cases, and statistics for 2014 indicate that this is happening. We have noticed an increase in complex commercial and construction cases at the higher end of the jurisdictional range. Our observation is that many litigants find it very difficult to manage complex claims of this nature, and require basic assistance with forms, understanding the law, and preparing documentation.

Case studies

Liam*
Liam was referred by Magistrate's Court Registry after he was asking them how he could have been sued for a debt he had already paid. Liam had been involved in a motor vehicle accident. He had paid the other drivers' damage when requested to do so by that driver's insurer. The other driver
then sued Liam to in his private capacity, to obtain more money than his insurer had obtained. When Liam came to see us it was the last day on which he needed to file his Defence to avoid default judgment. We prepared his Defence that same day and he filed it on time. However due the nature of his work, which required absences away from home for an unpredictable duration, Liam missed the Notice of Directions Hearing; so he missed the Directions Hearing itself and default judgment was signed against him. We contacted him to get his instructions. He had not realized this had happened. Around this time he was offered work overseas and told us he was inclined to just ignore the situation as he had to leave within weeks. Liam is a young man and likely to apply for a loan for a house over the coming years; he was not aware of the effect that having judgment signed against him would have on his credit file. We explained the ramifications of just ignoring the situation; and the steps we could assist him with to address it. We prepared the documentation for him to achieve these steps: set aside the judgment, make an application to have the Claim dismissed, explain the full situation to the court and to seek leave to have an authorized family member appear on his behalf after his upcoming departure. The Claim was dismissed. We are continuing work with his family representative to ensure he is able to have his credit file corrected if necessary.

Lisa*

Lisa’s ex-partner was refusing to pay her child support and was sending her intimidating text messages saying he had no intention of paying her. We provided her with support to understand that she was entitled to the payments and assisted her in the steps required to recover the child support payments as a debt: going through a Final Notice and progressing to a Claim. Once the Claim was filed her ex-partner paid the full amount into court straight away.

* Names and identifying details have been changed to protect confidentiality.
3. Adelaide Legal Outreach Service ('ALOS')

ALOS operates out of the premises of Westcare Babtist Daycentre in Wright Street in Adelaide city. The clinic operates two days per week during semester (Wednesday and Thursday) and offers a fortnightly service during University breaks.

ALOS takes on most legal inquiries, including minor criminal, family, civil, traffic fines, debt, breach of contract, and housing. It does not take on personal injury cases. A significant number of clients are homeless or disadvantaged, and co location at Westcare enables those clients to access legal services. Clients can also make appointments via online booking options which helps to increase access.

Students work under the supervision of senior legal practitioner Ross Savvas, who is employed by the Adelaide Law School to manage ALOS. Ross has extensive experience in private practice and legal aid, particularly criminal and family law, is actively involved in pro bono work.

Students are routinely involved in interviewing clients, investigating and researching claims, providing legal advice, writing correspondence and court forms, and assisting litigants to negotiate or mediate their claims. Students will also communicate directly with other parties and agencies to try and sort out client’s issues. Many clients need low level support and assistance with basic steps in process that they are unable to access elsewhere.

Managing Solicitor’s Report

For the first time, the service operated for a full year from offices at the WestCare Centre in Millers Court off Wright Street. We acknowledge with thanks the support provided by the Centre’s management for the provision of office space, reception and IT support.

During 2014, 17 students participated in the ALOS clinical education program and a further 8 as volunteers during the mid-semester break.

The service provides support to anyone making an enquiry, with a focus on disadvantaged members of the community. We have also noticed an increase in the number of tertiary students seeking advice on commercial, tenancy, and criminal matters.

Through its community engagement program, the service has established links with other community services and legal firms. The community organisations have formed part of the ALOS referral network. The legal firms have provided some pro bono services to our clients, where the legal issues are deemed to be outside of the charter or expertise of the ALOS. We thank those firms for their assistance during the year.

While some of the matters have been relatively routine and resolved at interview, a significant number have led to students undertaking additional work and assisting clients with court appearances and in negotiation with regulatory and other government bodies.
Statistics

A snapshot of the work of the Service in 2014 is provided through the following statistics.

Number of files opened: 92
Number of files closed: 79

Distribution:

<table>
<thead>
<tr>
<th>Category</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing/Tenancy</td>
<td>5</td>
</tr>
<tr>
<td>Contract Law</td>
<td>9</td>
</tr>
<tr>
<td>Neighbourhood Disputes</td>
<td>1</td>
</tr>
<tr>
<td>Debt</td>
<td>7</td>
</tr>
<tr>
<td>Personal Injury</td>
<td>2</td>
</tr>
<tr>
<td>Employment/ Support/ Income</td>
<td>8</td>
</tr>
<tr>
<td>Criminal/ Statutory breaches</td>
<td>18</td>
</tr>
<tr>
<td>Administrative/ Government issues</td>
<td>4</td>
</tr>
<tr>
<td>Consumer Law</td>
<td>5</td>
</tr>
<tr>
<td>Family Law</td>
<td>15</td>
</tr>
<tr>
<td>Wills &amp; estates</td>
<td>10</td>
</tr>
<tr>
<td>Business Law</td>
<td>2</td>
</tr>
<tr>
<td>General Civil</td>
<td>4</td>
</tr>
<tr>
<td>General enquiry</td>
<td>9</td>
</tr>
</tbody>
</table>

Trends

The number of people requiring one off advice on basic legal problems has increased. We have also noticed an increased demand for ongoing support in some complex matters. The co location of the service at Westcare enables increased collaboration with case workers and support workers.

Case Studies

Criminal Law

Mr P is an international student, who was charged with driving without a valid licence. He previously held an SA licence which he allowed to lapse as he had returned to Hon Kong where he was issued a licence. Under SA law, Mr P was permitted to drive in this state provided his Hong Kong licence was still current. He confirmed this with the Dept of Transport and carried his email response from
the department with him at all time. This was not accepted by Police, and he was subsequently charged with the offence and fined.

Student advisors wrote to the department confirming his eligibility to drive, and to the Expiation branch inviting them to withdraw the fine. After some negotiation the fine was withdrawn and Mr P allowed to continue to drive in South Australia.

Family Law
Ms V, an immigrant from Greece attended the clinic seeking advice on a family law matter. Ms V was the victim of family violence and wanted to stop her husband from selling their family home. However she was afraid of “what he would do.” The cultural issues associated with this matter provided a powerful learning experience for the students in dealing with family law issues in the context of cultural expectations. With the assistance of the supervising solicitor, an experienced family law practitioner, the client was referred to the Family Violence Section of her local Police Station and to a firm who could assist. The structure of property ownership and the method set out in the Family Law Act for property division was explained to the client.

Guardianship
Mr P requested assistance from the Service to obtain information about the management of his financial affairs by the State Trustee of Victoria. He had attempted to obtain such information previously from the Trustee without success. The service wrote to the Trustee requesting specific information in accordance with our client’s instructions. A number of letters were sent, and ultimately our client received full details of his financial affairs spanning a period of 7 years.
4. Community engagement

The Law School has a representative on the South Australian Legal Aid Forum. As part of this consultative body we participate in regular meetings concerning practice and policy legal aid issues arising nationally and locally. We are also able to work collaboratively with other legal services to monitor and promote justice access in South Australia. The work of students at the various clinics and placement agencies contribute many hundreds of hours pro bono legal work to the community each year.

We also maintain close links with the Law Society of South Australia via membership of the Justice Access Committee, annual (or more frequent) CPLD presentations on matters of practice and ethics, and professional liaison on broader matters of pro bono policy and practice. We are particularly well placed, through our students and clinics, to contribute with research and critical evaluation of policy issues.

The partnership between Lipman Karas and MCLAS has developed strongly. Lipman Karas solicitors now participate in the MCLAS service every fortnight. We have held three CPD sessions at Lipman Karas' offices, which have been very successful.

We were honoured to have Professor Jeff Giddings from Griffith University visit Adelaide in August. Professor Giddings has a large research grant to investigate supervision practices. He ran a clinical supervision work shop at Adelaide Law School, attended by supervisors from Adelaide, Flinders, and UniSA, and followed up with a CPD for the profession which was attended by a number of community legal centre and legal services solicitors, members of the private profession, and the judiciary.

In November 2014 the MCLAS in partnership with the Magistrates Court offered a CPD session on the new processes for mediation in the Magistrates Court. Students were largely responsible for organising, presenting a paper, and preparing handouts and information brochures for this session.
5. Student Project Work

During each semester students complete a major community engagement project. This project may be completed individually or in groups, and is assessable.

Projects are all focused on justice access issues. The program presently has ongoing projects on the needs of Self Represented Litigants, community understanding of mediation as an alternative to litigation, and developing client focussed resources for use in the community legal sector.

Some of the projects completed by students in 2014 include:

- Four instructional videos to support litigants completing forms in the Magistrates Court
- Research into community understanding and use of mediation in minor civil claims - presented at a CPD session for the legal profession
- Production of information pamphlets for litigants concerning mediation options in the Magistrates Court
- Production of package of materials for clients with supporting information for community advisors concerning charging orders in debt disputes
- Video on rights and obligations in rental agreements for overseas students.

Many of these resources are available on the Clinics web page at:
6. Initiatives for 2015

Credit and Consumer Legal Advice Service

The CLE program has cemented a partnership with the Uniting Care in operating a Consumer Credit legal advice service. This service is managed by Adelaide Central Legal Service, and supervised by ACCLS solicitors. It is located at MCLAS premises in the Magistrates Court. Students on the CLE program are placed at this service which works closely with the MCLAS.

Remote Communities Outreach

The CLE program is working with the Welfare Rights Agency, one of the organisations where our externship students are placed, to implement an outreach program to the Pitjantjara lands in second semester 2015. CLE students placed at WRC will devise, prepare for, and operate the outreach, under the supervision of WRC solicitors and staff. As part of this initiative CPD training in cultural awareness and consumer credit issues will be offered to participants and the legal community.

Unbundled Legal Services

The concept of unbundled legal services is receiving increased attention, following the release of the Productivity Commission Report on Justice Access in December 2014. The CLE program, in partnership with the Justice Access Committee of the Law Society, will be running a half day CPD forum on the risks and possibilities of unbundled legal services in May 2015.

Magistrates Court Mediation Information Sessions

In 2015 the MCLAS will be convene monthly information sessions for court users to meet with mediators and find out about mediation. This initiative arises out of the perceived need to heighten community awareness of the process and potential for mediation of civil disputes.

For inquiries about the CLE program or the Adelaide Law School Clinics please contact margaret.castles@adelaide.edu.au or visit https://law.adelaide.edu.au/connect/free-legal-clinics/