

How to Start-Up

A

Legal Clinic:

Key

Considerations



iLINC
ICT Law Incubators
Network

University-based law incubators (“Law Clinics or Legal Clinics”) are university hubs in which law students provide (free) legal advice to digital start-ups. Legal clinics serve a twofold purpose. First, they provide law students with much needed practical experience during the education phase. Second, they provide start-ups with much needed legal advice, which start-ups wouldn’t be able to afford otherwise. Indeed, iLINC research indicates that digital start-ups often have insufficient funds to access professional legal counselling. Legal clinics can offer them a low-cost alternative. This policy brief is aimed at those universities who plan to set up their own legal clinic. There is no one, ‘ultimate’ incubator model. Therefore and rather than providing target recommendations, universities may want to take into account the key considerations formulated within this brief. Each point described hereunder relates to an important aspect of the well-functioning of the legal incubator. iLINC recommends this document to be read in conjunction with the iLINC WP2 Service Model Deliverable. This deliverable elaborates further upon the points discussed within this brief.

I. The Legal Clinic

Clinical legal education, ‘learning by doing the types of things that lawyers do¹’ is a concept which has been enshrined in the education of US law students for many years² through the post-graduate quasi-professional qualification, *Juris Doctor*. However, in the United Kingdom and Western Europe, legal education has historically centred on traditional lectures, with lecturers presenting theoretical legal concepts to students. Institutions have therefore placed less emphasis on students developing important legal skills such as communicating with clients, interviewing clients, counselling clients, professional conduct and ethics within the legal profession, negotiation, litigation, practical legal research and management of legal work. Skills which have been identified as fundamental lawyering skills.

Legal clinics enable law students to develop these skills during their education. Moreover, clinics also serve a societal purpose. Start-ups often do not have the necessary funds to acquire professional legal counselling. Legal clinics offer them a low-cost alternative.

II. Client Selection

Access for clients to legal clinics is extremely important. However, clinics often choose to restrict access to a certain number of clients. The reasons for this are:

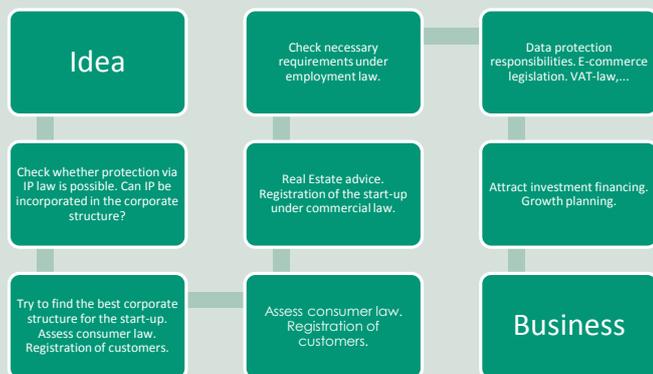
- The client’s legal issue is not of educational benefit to the students;
- The clinic does not have capacity to deal with all enquiries and therefore some clients have to be signposted elsewhere;
- There isn’t the requisite expertise in-house (by supervision) or from students to deal with the client’s legal issue adequately;
- The legal clinic is conflicted and therefore cannot act in line with professional obligations;
- Indemnity insurance provides that the legal clinic works with clients of a particular size (either in monetary or life-cycle terms);
- The client is out of the catchment area of the legal clinic;
- The legal clinic is only operates during certain hours during a week and/or times during the year (e.g. term-time), which limits availability.

Most clinics within the iLINC network indicate that they are oversubscribed with clients, which demonstrates the need for legal clinics providing commercial, intellectual property and regulatory advice.

III. Choosing the right service delivery model

One of the first elements that will need to be determined, is the service delivery model the clinic will employ. Legal clinic experience shows that start-ups tend to prefer a more personal approach, especially during the early stages of development. Therefore, one-to-one consultations are to be preferred. Additionally, continuity is key. On-going legal counselling, specifically catered towards the start-up, not only seems to benefit the advice received, it also serves the start-up business ethos. Digital start-ups often experiment with new ideas and business models. Consequently, their legal questions will most likely evolve during the early stages of development. Therefore, they are more appreciative of service delivery systems that follow this evolution.

Still, this shouldn’t discourage clinics from experimenting with other service delivery models. For instance, some universities are located in remote areas, which may make it difficult for start-ups to travel. One alternative is to provide advice through an online portal or website. However, bear in mind that advice can become outdated quickly and requires frequent updating.



The 'Idea to Business' model may be one of the various ways to provide incoming start-ups with advice. Starting from an idea, continuous one-on-one advice throughout the development stage may eventually end in the start-up being a fully-fledged business.

IV. The Legal Environment

There is no one, ultimate clinic model. The iLINC Network houses a wide variety of legal clinics, all having different service delivery models. The service model does not only depend upon the accessibility to start-ups or start-ups' demands. Much will be determined by the university's legal tradition and the Member States' legal framework.

The type of advice that can be provided may be limited by statutory acts. Some Member States only allow members of the bar to provide legal advice. A legal clinic should thus be reflective of what will be considered 'legal advice' under national laws.

V. Insurance

All legal advice that is provided through each delivery model requires some form of professional indemnity insurance, as students are generally not qualified lawyers and therefore do not hold a practising certificate (or equivalent) or professional indemnity insurance.

There are multiple ways in which a legal clinic can be insured:

- Indemnity insurance under an existing (university) policy;
- A separate (university) indemnity insurance policy for the legal clinic
- Indemnity insurance of a law firm that supervises legal clinic work (i.e. lawyers draft clinic advice on law firm headed paper); or
- Insurance provided by a third sector pro bono organisation

Most legal clinics that provide bespoke legal advice have their own professional indemnity insurance coverage. Nevertheless, insurance for

clinic activities could also be secured through other means. For instance, some clinics work closely together with law firms, who read and revise the students' advice. Participating clinic students could be registered as a trainee or intern at the law firm. The students would then effectively fall under the indemnity and liability regime of the involved law firm.

VI. Payment for Advice?

Even though most start-ups would be willing to pay for the services of law clinics, most legal clinics provide their services for free. Indeed, the budget of start-ups is often quite limited and extra costs are a deterring factor. Especially during the first years of building a clinic, ensuring a steady influx of start-ups is crucial. Keeping costs low is one way to guarantee this.

The willingness to pay is related to the annual revenue of the start-up. Therefore, law clinics could implement a gradual cost structure, taking into account the current revenue stream of start-ups. An interesting alternative is to put a donate button on the start-up clinic's website.

VII. Promotion of Clinic Services

Although clinics serve a real, societal purpose, the iLINC survey shows that start-ups are rather unfamiliar with both the meaning and the philosophy of legal clinics. Considering that little is known about legal incubators, it is necessary to provide adequate information to the outside world. The online world provides ample opportunities to raise awareness concerning legal incubators' activities.

Social media are important in this regard as they provide an excellent means to keep in touch with your target audience. Promotion via start-up channels can be quite useful as well. The start-up community is generally very enthusiastic about the services offered by legal clinics. Start-up hubs and incubators are more than willing to promote clinics through their network. Moreover, teaming up with these players provides the start-ups with added value.

VIII. Improving the Clinic

As is the case with start-ups, legal clinics also have to go through an evolution process. Although there is often no difficulty in recruiting and retaining clients during the advising process, this doesn't mean the services provided cannot be improved. Asking all partners involved for their feedback is a direct means to know where service delivery can be improved or adjusted.

Feedback from Start-Ups

- Measure the impact that the legal clinic's advice has had on the start-up or entrepreneur in terms of growth, revenue and stability;
- Contact clients to invite them to future legal events and appointments;
- Receive feedback on the legal clinic's performance;
- Receive feedback on the students' performance.

Feedback from Students

- Measure the work load of the students that provide start-up advice;
- How do students perceive the interaction with start-ups, law firms?
- Receive feedback on the legal clinic's performance.

Although students and start-ups are the most integral components of a legal clinic, other parties, such as faculty staff or partnering law firms may be involved in a clinic's operations. Their feedback could be valuable as well – this of course depends on their level of participation.

IX. Make Use of the University Environment

The university environment allows legal clinics to play a pro-active role in stimulating interdisciplinary thinking. Legal clinics should create a synergy between law and technology. Due to their position, most universities have a vast knowledge data-base: this knowledge can directly feed into the provision of advice. Moreover, close interaction with other faculties and departments allows legal clinics bridging the gap between law and technology through close interaction.

This interaction may furthermore be necessary: law students will not be able to predict or anticipate future change without general knowledge of future ICT developments. If advice is to be given in a pro-active manner, an understanding of how technology can impact the legal framework is important. Laws will be ill-equipped when certain future technologies arise and it will not always be easy to translate traditional legal principles to the digital environment.

However current law students are the law makers of the future. Make use of the interaction that is possible between the different faculties. Scientists,

philosophers, engineers, etc. All these parties can have valuable input on how the legal framework might look like in the future. Interdisciplinary thinking will become necessary in a setting where laws are increasingly outdated due to technological progress.

References

1. Byrne et al, 1998, pg. Xiii
2. See William V. Rowe, Legal Clinics and Better Trained Lawyers- A Necessity, 11 ILL L. Rev. 591 (1917) and John H. Wigmore, THE LEGAL CLINIC, 12 Illinois Law Review (1917), 35-38

ILINC is the European Network of Law Incubators. Its main objective is to facilitate the provision of free legal support to start-ups while, at the same time, offering postgraduate law students the opportunity to engage in professional practice in the fast-moving and highly exciting world of technology start-ups.

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