

# Establishing a Start-up Law Clinic in Law School

## A Practical Guide

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# Introduction

University law clinics provide legal advice to a number of clients. The advice is primarily provided by students, under the supervision of qualified lawyers and is known as clinical legal education.

Clinical legal education has been enshrined in the education of US law students for many years through the post-graduate quasi-professional qualification, Juris Doctor. However, in 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 corresponding 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.

Moreover, engaging postgraduate students from university-based law clinics has been relatively unheard of in Europe. Many law clinics in Europe are facilitated for undergraduate law students using different approaches and models in providing advice.

Law clinics too are generally focused on providing advice to clients with low incomes or those that do not have access to legal aid, primarily in housing, family, immigration and employment law. There is now a movement in Europe to provide legal services to start-up companies on commercial and corporate law.

This practical guide outlines the top ten things to consider when establishing a model for clinical legal education programme advising start-ups at a university.

# iLINC Network



iLINC was established as a project funded by the European Commission under the Seventh Framework Programme to establish a European network of law clinics that bridge ICT entrepreneurs and start-ups with law students. iLINC has four core partners who are responsible for establishing the network: Queen Mary University of London, the University of Amsterdam, KU Leuven University and the Hans Bredow Institute for Media Research. The Brooklyn Law Incubator and Policy

(BLIP) Clinic at Brooklyn Law School has also been an invaluable source of support as an associate partner in helping to establish iLINC as part of global network of law incubators together with EshipLaw in the USA.

A key aspect of iLINC's mission is to create an open network of law clinics. This means that iLINC has a growing number of active partners, some of which are already in a position to provide legal services to start-ups, and some of who are in the process of establishing their own legal clinics.

For more information on the iLINC Network visit [www.ilincnetwork.eu](http://www.ilincnetwork.eu)

# 1. Positioning a Clinic

From an educational point of view, the usual first step when considering setting up a law clinic is where to position the clinic within a law school. Thankfully, the range of workable options is quite broad, from having a clinic as an extracurricular activity, to fully incorporating a clinic in a bachelor programme. Indeed, a clinic can be positioned even at doctoral level, where doctoral candidates engage in clinical advice and research. The main factor in this choice is learning objectives, which are discussed next.

## Clinic in Focus



Startup Clinics are part of the research project 'Entrepreneurship and Innovation' at the Alexander von Humboldt-Institute for Internet and Society. The Clinics are a service offered to startups free of charge. Founders can attend individual sessions with PhD students who help solving specific challenges. Start-ups then receive support directly, via introductions to relevant mentors (including lawyers) from the clinic's network, or through online resources. The Clinics and PhD research are focused on innovative internet-enabled start-ups and the clinics provide a platform to closely follow current developments in the field. By connecting innovative start-up processes with relevant research, the clinic is able to identify, support and mediate between significant developments in the field. It shares knowledge with a local and global network of stakeholders who are interested in supporting and researching Internet-enabled start-ups. For more information please visit the Start-up Clinics website: [www.startup-clinics.com](http://www.startup-clinics.com)

## Positioning a Clinic in a Law School

<b>Extracurricular</b>	A clinic may be positioned as an extracurricular activity, along the lines of a moot court programme, where clinical experience is additional to an academic programme. The benefits of such an approach are that prospective students may be highly motivated, and clinic directors can avoid the pitfalls associated with incorporation within a programme.
<b>Bachelor Programme</b>	A clinic may be incorporated in a bachelor programme, where there may be a large student pool for clinics to draw from.
<b>Master Programme</b>	A clinic may be incorporated in a master programme, including specialised programme. A major benefit of such an approach is usually a strong demand from highly motivated students to engage in clinical work associated with their specialised master programme.
<b>Doctoral Programme</b>	Doctoral students can also engage in clinical work, either as clinical students themselves, or as supervising clinical directors.

## 2. Learning Objectives

Many clinical directors agree that having clear learning objectives helps in deciding how to position a clinic within a law school, and what type of clinical model to adopt. An example of an important learning objective would be demonstrating to students that the practice of law very much depends a lawyer's ability to communicate effectively with a client. Students need to learn how to earn the trust of their clients, discover their true goals, and ultimately help their clients. But when attempting to translate this learning objective into a clinic model, it may be that students

should be given as much autonomy as possible with clients, so as to earn their trust. Facilitating this may mean less direct supervision of students from a clinical director, and placing trust in students.

*clinical legal education is not simply "skills training". It teach students the true relation between the law in books and the work of practising lawyers.*

Learning Objectives	
<b>Teach students about actual practice of law</b>	Purpose of clinical legal education is to teach students the 'true relation' between the law in books and the work of practising lawyers. This was because 'only a slight part' of the art of lawyering can be learned from books
<b>Real world of the law depends on imponderables</b>	Clinical legal education teaches students need to learn that the real world of the law depends on imponderables such as commercial viability of parties, the wealth of parties, and parties appetite for litigation.
<b>How to interact with clients</b>	Students need to learn how to interact with clients, such as how lawyers try to translate the wishes of a client into things such as contracts, or corporate instruments. Students need to learn how to earn the trust of their clients, discover their true goals, and ultimately help their clients.
<b>Reflection and theorising</b>	A final possible objective is that of reflection and theorising. Students reflecting about their work in a clinic is so important, because it is only when students reflect, that they realise how the real world of the law depends upon so many imponderables and circumstances.

### 3. Recruiting students

Once it has been decided where to position a clinic, whether as part of a formal programme or not, the next question is how to attract and select students.

Many clinics consider that the most valuable recruiting tool is word-of-mouth from former clinicians, and testimonials from former clinicians to prospective students ‘can prove a strong inducement to other students’. It’s also suggested that photographs of students ‘in the students that they will not simply be sitting in a classroom. Recruitment events where clinicians ‘sell’ their clinic to prospective students is also an excellent method of recruitment.



Recruiting Students	
<b>Website, blog, social media</b>	Clinics usually maintain a dedicated website, and a blog commenting on recent developments. Promotion through word of mouth, normal university campaign, and social media of current students are all used. It is also very help to have a clinic profiled in the press.
<b>Promoted as part of academic programme</b>	Clinics may also be promoted as part of a master’s degree, or bachelor’s degree. Many students specialising in information and technology law have cited the offering of clinical programmes as a motivation for choosing a particular programme.
<b>Clinic events</b>	Clinic directors regularly find that interested students benefit greatly from attending clinic events, where current clinical students describe their experiences on the clinical programme.

## 4. Selecting Students

Once it has been decided where to position to a clinic, whether as part of a formal programme or not, the next question is how to attract and select students. Clinics vary considerably with respect to how much they want to know about their applicants and how they choose among them. Methods of selection vary and include lotteries, select students based on short papers the applicants write about themselves and the reasons they want to take part in the clinic,

and personal interviews to see whether a student has the ‘maturity, commitment and creativity necessary for good clinic work’. However, some note that interviewing is a time-consuming process for instructors if the student pool is large.



Setting entry requirements	
<b>No formal prerequisites</b>	Many university clinical programmes have no formal prerequisites, such as grades or course taken. Selection is primarily based on motivation letter, extracurricular activity, enthusiasm and potential.
<b>Grades</b>	Requiring an average grade point ensures students are academically strong. However, strong performance in exams does not necessarily mean a student will excel in clinical work.
<b>Priority for selected programmes</b>	It may make sense to give priority to students from specific academic programmes. Many clinics give selection priority to students enrolled in programmes for information, technology and business law.



## 5. Clinic Models

Similar to positioning a clinic within a law school, the clinic model adopted also depends somewhat on the learning objectives chosen. There is a broad range of clinic models available, depending upon the clinic's resources and learning objectives. For example, should a clinic decided that face-to-face interaction with clients, with a high degree of autonomy for students in providing advice, the bespoke advice model would seem highly suitable.

But at the same time, there are models available for an early-stage clinic, such as simulated-advice clinics, engaging in policy advocacy, or producing handbooks. These latter models place less emphasis on live interaction with clients, but achieve other learning objectives.



Clinic Models	
<b>Bespoke advice</b>	Students engage in giving legal advice to clients. For example, students can work in teams and deal with one start-up at a time. They may do a monitored intake interview with a start-up to assess its legal needs. Afterwards, they would draft letters of advice, including memos, terms and conditions, or privacy policies, which would be supervised by lawyers from an outside law firm.
<b>Telephone and internet advice</b>	Students provide telephone advice to clients on the basis of queries submitted to a law clinic website. Students can be responsible for the initial selection / assignment of queries.
<b>Seminar and workshop advice</b>	Student can organise seminars and workshops for start-up clients, which can be termed face-to-face advice, where students meet start-ups and discuss their legal issues.
<b>Handbooks and toolkits</b>	Writing legal handbooks and toolkits, where students organise advice in the form of online content, such as self-help guides, blogs or fact sheets.
<b>Policy advocacy</b>	Where students identify legal issues affecting clients, and propose law reform, or produce policy briefs.
<b>Simulated advice</b>	Similar to the idea of a moot court, a fictitious problem exists for a fictitious client, with role playing, and students drafting advice in this situation.

## 6. Assessment and Rewards

Similar to the other aspects of start-up law clinics, assessment models will depend upon the position of the clinic within, or outside a programme. Extracurricular clinics can provide a range of non-academic rewards, such as certificates of participation, which students very much value, as do employers. As for clinics incorporated within academic programmes, at first blush assessment may seem a difficult task. But law schools may make assessment an easier process by first adopting a one-semester clinic module,

and a pass/fail grading system. Importantly, the experience of many established clinics is that students are very willing to invest more time and effort in a clinic, even where the credit awarded may not reflect the full time invested. In addition ensuring students engage in ongoing self-assessment (e.g. personal portfolios) makes assessment easier.

<b>Assessment and Rewards</b>	
<b>Academic credits</b>	Clinics may be a one-semester or two-semester module within an academic programme. Most clinics award pass/fail grades, instead of specific grades, but usually takes account of university rules.
<b>Evaluation</b>	Although evaluation may be difficult, ongoing self-assessment (e.g. personal portfolios) by students aids the process. Clinics may also choose to adopt individual or team assessment. Outside partners, such as law firms, can also assist with evaluation, again depending on university rules.
<b>Participation certificates</b>	Extracurricular clinics may provide participation certificates to students. Students value such certificates as it enables them to distinguish themselves on the job market. Clinic directors can also provide letters of reference, which students value highly.
<b>Law firm internships</b>	Where law firms work with law schools in the running of start-up clinics, these firms may also seek out graduates of the clinic programme. In addition, research suggests clinic experience provides students with a complete advantage for admission to law firm internship programmes.

# Establishing a Start-up Law Clinic in Law School

## [10 Practical Tips]

1. Set at most three primary **learning objectives** and build a clinic around these objectives.
2. Weigh the costs and benefits of **positioning** a clinic within, or outside, a programme.
3. Remember the **broad range** for positioning clinics, from extracurricular to doctoral programmes.
4. Student **recruitment** is a smooth process: students will be enthusiastic and motivated about joining a start-up law clinic.
5. Remember the **broad range** of advice-delivery models, from face-to-face advice with clients to producing policy documents.
6. **Assessment** and **evaluation** is not a major headache. Ensuring students engage in **ongoing self-assessment** (e.g. personal portfolios) makes assessment easier.
7. Academic **credit** and **grading** can be simple: students are enthusiastic about working in clinics, even for less credits, and many clinics adopt a simple pass/fail award.
8. Involve **external partners**, such as law firms, in a range of learning activities, tailored to their expertise and resources.
9. Nothing wrong with **niche**: research shows start-ups have to deal with a range of issues, but there are staple ones (e.g. data protection, intellectual property rights, consumer law). Consider which domains fit your students best and focus on those.
10. Try and not let **risk-aversion** dominate: students can do more than we think.

