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Work Package Two Report

Models of Legal Advice Delivery

University-based law incubators (“**Law Clinics** or **Legal Clinics**”) provide legal advice to a number of clients. This advice is primarily delivered by students, under the supervision of qualified lawyers and is known as clinical legal education.

Clinical legal education, ‘learning by doing the types of things that lawyers do’¹ 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.

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

The law clinics, too are generally focussed 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. It has been relatively unheard of for clinics in the United Kingdom and Western Europe to provide legal services to start-up companies.

The iLINC project has been designed to address this lacuna in legal clinic provision.

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



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Introduction

This work package looks at the way legal services are provided to start-ups³. The work package concentrates on three main tasks:

1. Developing a full description of operational models for service delivery, focusing on client identification, project scoping, proposal development, project delivery and client management and retention;
2. Establishing a portfolio of tools and templates to support service delivery; and
3. Building a library of case studies for project and client engagement types.

Executive Summary

This Report details the findings from research that was undertaken by Queen Mary University of London between October 2013 and September 2015⁴.

The Report concentrates on eight themes and their respective observations that have emerged from the research:

1. Client focus

Client focus refers to where clinics are located, how they are structured and what areas of law, clinics provide advice on. From the responses, proximity to the target client group (in this case technology start-ups and entrepreneurs) is an important consideration for law clinics. The Report also details that clinics that provide advice to business clients

³ "A startup is a company working to solve a problem where the solution is not obvious and success is not guaranteed" Neil Blumenthal, cofounder and co-CEO of Warby Parker.

⁴ Thanks to John Cummins, Industry Fellow, Queen Mary University of London, Dr Ian Walden, Professor of Telecommunications Law, Queen Mary University of London, for their input in the writing of this report, and to those individuals that responded to requests for information in person and by e-mail.



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focuses on a mix of one or more of the following areas of law: corporate, commercial, regulatory, intellectual property, media and telecommunications law, and that advice is provided to both established entities (legal persons) and individuals, though the method of delivery to these groups varies.

2. Overall service delivery

Overall service delivery refers to the different ways in which clinics provide advice to clients. The Report details these. From the responses, the following observations can be made:

- The majority of law clinics provide single-client bespoke advice;
- The majority of law clinics provide multiple-client advice;
- A low number of clinics provide portal advice; and
- Where clinics provide single-client advice, they also provide multiple-client advice.

3. Single client model of advice delivery

The single client model of advice delivery refers to bespoke advice, provided to one client. The Report details that advice provided in single-client model is a mix of initial advice and casework, that students undertake practical legal training to provide advice and advice to clients in this model of advice delivery is written rather than provided by telephone or in an interview scenario. The Report also looks at how students are supervised at clinics and found that students are either supervised by internal lawyers (usually paid members of university clinic staff), external lawyers who volunteer their time on a pro bono basis or a mixture of both.

4. Multiple client model of advice delivery

The multiple client model of advice delivery refers to group presentations. The Report details that:



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- Multiple-client delivery is internal (at an institution) and external (at participating stakeholders);
- Advice provided in multiple-client model is more general in nature;
- Students work in groups to provide multiple-client advice delivery; and
- The average number of multiple client engagements was five per year.

5. Portal model of advice delivery

The portal client model of advice delivery refers to advice which is provided online, through a website or portal. The Report details that very few clinics provide advice in this way and that where clinics do provide advice, it is more general in nature. The advice provided via a portal model of advice delivery can also become outdated quickly.

6. Client selection, feedback and insurance

Client selection, feedback and insurance details how clinics select clients, how feedback is provided by clients and professional indemnity insurance cover. The Report found that clinics select clients on certain criteria which varies between institutions, all law clinics have capacity constraints, clinics do not adequately canvass, feedback or track clients and there are various ways that clinic work can be insured.

7. Charging clients

Charging clients is an issue which is debated at length when discussing legal clinics. The Report has found that the majority of clinics do not charge clients for advice, the majority of clinics have no plan to charge clients for advice and where a clinic does charge for advice the client is means-tested.

8. Clinics and use of online resources



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The Report has found that having an online presence is important for law clinics advising technology start-ups and entrepreneurs and there are many different channels that are used to promote law clinics depending on the institution and aim(s) of using the online resource (advertising, student recruitment etc.).

Responses highlighted

The Report will highlight results from the following legal clinics:

- Queen Mary University of London, qLegal Clinic ("**qLegal**")
- Alexander von Humboldt Institute for Internet and Society, Berlin, Startup Clinic ("**HIIG**")
- Brooklyn Law School, Brooklyn Law Incubator and Policy Clinic ("**Brooklyn**")
- Harvard University, Transactional Law Clinic ("**Harvard**")
- University of Amsterdam, Clinic ("**Amsterdam**"); and
- Northumbria University, Student Law Office ("**Northumbria**").



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1. Client Focus

Observations

- Proximity to the target client group (in this case technology start-ups and entrepreneurs) is an important consideration for law clinics.
- Clinics that provide advice to business clients focus on a mix of one or more of the following areas of law: corporate, commercial, regulatory, intellectual property, media and telecommunications.
- Advice is provided to both established entities (legal persons) and individuals, though the method of delivery to these groups varies.

The legal clinics that populated the information structure were entrepreneurship, transactional or business clinics and they provided advice in one or more of the following areas of law: Corporate, commercial, regulatory and intellectual property law. As a result, the client group that the legal clinics serviced was a mix of individuals, groups of individuals ('collectives') and legal persons, as *Figure 1* demonstrates. Where individuals were the majority client group (e.g. University of Amsterdam: 79% of clients), the method of advice delivery was portal only.

Where legal persons were the majority client group (e.g. Harvard University: 100% of clients), the method of advice delivery was single-client or multiple-client and clients required advice on investment, finance and funding, IP and technology transactions and contracts.



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Legal Clinic and Client Group	Entities (legal persons) (%)		Individuals (%)	
qLegal	50		50	
HIIG	50		50	
Brooklyn	90		10	
Harvard	100		0	
Amsterdam	28		72	
Northumbria	50		50	
Legal Clinic and Type of Entity				
	Technology start-ups (%)	SMEs (%)	Corporates (%)	Not-for-profit/Social enterprises (%)
qLegal	95	2	0	3



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HIIG	100	0	0	0
Brooklyn	80	0	0	20 (NYC based only)
Harvard	5	25	50	20
Northumbria	0	90	0	10

Figure 1: Understanding the client base: Client type

Breaking down the type of entity demonstrates that the type of legal clinic and the advice it provides has an impact on the client group. For example, qLegal, HIIG and Brooklyn are legal clinics that provide advice directly to the technology start-up community and this is their target market given their proximity to ‘Tech-hubs⁵’. It is therefore not surprising to see from Figure 1 the majority of entities that those clinics provided advice to were technology start-ups. Northumbria for instance, based in Newcastle in North East England where there is a small start-up community, advised more small and medium enterprises which is indicative of the type of business that operates within the city.

The client focus is therefore dependent on a number of factors including: (i) the target client of the clinic; (ii) the location of the clinic; (ii) the location of clients; (iii) the services offered by the clinic; and (iv) the method by which advice is provided to clients.

⁵ The term ‘Tech-hub’ is an abbreviation of Technology Hub, usually an area where technology businesses at the early stage of development cluster together, usually within a city. Tech-hubs are supported by Governments and usually attract substantial investment from the public sector and multinational companies. An example of a Tech-Hub is Shoreditch, East London.



2. Overall Service Delivery

Observations

- The majority of law clinics provide single-client bespoke advice.
- The majority of law clinics provide multiple-client advice.
- Few clinics provide portal advice.
- Where clinics provide single-client advice, they also provide multiple-client advice.

As discussed above, legal clinics that populated the information structure were asked about the description of the single client model (i.e. one-to-one advice); the multiple client model (i.e. one-to-many advice); and the portal or online model (i.e. advice being provided over the internet). The results from clinics that populated the information structure are shown below.

Legal Clinic and Model of Delivery	Single client	Multiple client	Portal or online
qLegal	✓	✓	✓
HIIG	✓	✓ But this is online via Massive Open Online Courses (MOOCs)	✓
Brooklyn	✓	✓	
Harvard	✓	✓	
Amsterdam			✓
Northumbria	✓	✓	

Figure 2: Legal clinic and model of advice delivery



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From the results collected, there are a number of ways in which clinics engage with clients within each model which are worth highlighting in this Report briefly⁶.

Single client: qLegal services are provided by students under the supervision of qualified volunteer lawyers and the qLegal Manager (who is a lawyer). Clients attend a 45min- 1 hour appointment with two qLegal student advisers and a qualified lawyer. Students then research the advice with input from the qLegal Manager. The advice is checked by the supervising lawyer in the case and sent to the client within twenty-one days of the date of the appointment.

Multiple client: BLIP students deliver workshops and group lectures at various incubators, accelerators, co-working spaces, community groups and schools throughout New York City. After the workshops and lectures, students sit with prospective clients for single-client advice and draft the BLIP intake form with them. This is a method of not only providing one-to-many legal advice but also for recruiting clients for the legal clinic.

Portal or online advice: Amsterdam provides all advice via a web-based platform which has various sections including FAQs or standard reply letters (e.g. Response to copyright infringement) and 'first aid' booklets. The website also contains basic information in plain language about laws and regulations (e.g. on copyright exceptions and limitations, trademarks, contracts, including distance selling, privacy and cybercrime)

⁶ Further explanation of each model of advice delivery will be provided below.



3. Single client model of advice delivery

Observations

- Advice provided in single-client model is a mix of initial advice and casework.
- Students undertake practical legal training to provide advice.
- Advice to clients written rather than provided by telephone or in an interview.
- Advice is supervised by internal lawyers (usually paid members of clinic staff) and external lawyers who volunteer their time on a pro bono basis.

Figure 3: Legal clinics with a single-client model of service delivery

Legal Clinics with a single-client model of service delivery				
qLegal	HIIG	Northumbria	Harvard	BLIP

Single-client advice is provided by students to a legal person or individual. A case assessment and interview(s) is normally undertaken by a legal clinic in advance of providing advice in a single-client model and the advice is tailored to a legal person or individual’s specific legal issue(s). Those legal clinics that responded to the information structure provided written advice in a single-client model. Some examples are highlighted below.

BLIP clinic provides full service startup legal support (unless there are sophisticated tax, financing, employment, immigration, or other issue that requires more expert legal analysis). In deciding on whether to retain a client, students and clinic staff choose tasks that both best serve the client’s immediate needs and provide students with important routine and novel legal experience. In this single-client model, BLIP clinic students do all the research and drafting of memos and documents.

HIIG also provide a single-client method of delivery. PhD students consult for one hour with a startup and analyse their business model from a legal viewpoint. PhD students then provide advice if they have the requisite knowledge to do so, or if the client needs a legal expert, they put them in contact with one.



4. Multiple client model of advice delivery

Observations

- Advice provided in multiple-client model is more general in nature.
- Multiple-client delivery is internal (at an institution) and external.
- Students work in groups to provide multiple-client advice delivery.
- The average number of multiple client engagements was five per year.

Legal Clinics with a multiple-client model of service delivery			
qLegal	Northumbria	Harvard	BLIP

Figure 4: Legal clinics with a multiple-client model of service delivery

Clinics in the community (or Streetlaw) is a phrase used to describe when legal advice is delivered outside of an institution. Over half of the legal clinics that populated the information structure (see *Figure 4*) provided workshops in the start-up community of varying frequencies during the year. This type of advice can be described as multiple client as in a workshop or presentation and supplements the single client model of advice that is provided in-house at an institution.

The organisation, themes and delivery of workshops or presentations in the community centred on the following:

- The workshop usually involved a partner organisation who worked closely with the target client group (e.g. Northumbria and Newcastle British Library and Intellectual Property Centre);
- The advertising and recruitment of clients to attend was managed by the university and the partner organisation (e.g. qLegal and School for Start-ups);



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- The average number of multiple client engagements was five per year;
- The content of multiple client engagements was broader to appeal to a wide variety of clients with differing legal requirements (e.g. BLIP and “*Legal Issues for Start-ups Workshop*”); and
- Some multiple client engagements may result in clients becoming single clients who receive more tailored, bespoke advice from the respective legal clinic.



5. Portal model of advice delivery

Observations

- Very few clinics provided advice via a portal model.
- Where universities did provide advice via a portal, the type of advice varied considerably.
- The advice provided via a portal model of advice delivery can become outdated quickly.

Legal Clinics with a portal model of service delivery		
qLegal	Amsterdam	HIIG

Figure 5: Legal clinics with a portal model of service delivery

Portal method of advice delivery describes when advice is provided using technology without human interaction. For example, if a clinic client is interviewed by Skype, this would not constitute as portal advice. However, if a clinic client accesses online information via a clinic’s website, this would constitute portal advice. A minority of the legal clinics that populated the information structure (see *Figure 5*) provided portal advice to clients. Those that did provide portal advice did so in a number of ways two of which are highlighted below.

Amsterdam: Students provide legal advice on questions that are submitted by the clinic website form. If required, students collect additional information to establish the exact legal question. At weekly lunch meetings the students discuss their draft responses with practising lawyers. The clinic has built up a network of more than twenty reputable law firms who assist students in drafting advice. The students then prepare final responses and give advice by telephone to clients.

However, a portal is also created by students. Questions are entered into a CMS with functionality to monitor and report progress. If there are many repeat questions, the



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students prepare FAQs, standard reply letters (e.g. response to copyright infringement notices) and 'first aid' legal booklets. The website also contains basic information in plain language about laws and regulations (e.g. on copyright exceptions and limitations, trademarks, privacy and cybercrime).

qLegal: The qLegal website contains toolkits (online information leaflets) which summarise legal principles and information in easy-to-understand language. Toolkits range from an overview of intellectual property rights, to clauses to consider in a non-disclosure agreement.

A toolkit outline is prepared by clinic staff, which provides students with direction in their research. Students then work in three groups of six per semester to draft a toolkit. The students meet regularly with clinic staff to discuss their progress and are provided with assistance and direction if required.

Toolkit drafting and approval is managed by qLegal clinic staff and external supervisors who are qualified lawyers. The supervisors in this particular model are usually located outside of London (where the clinic is based) and so supervise remotely. This supervision works well for both students and supervisors as there is no direct client and therefore little or no requirement to meet.

Toolkits operate as a triage, as clients are able to acquire knowledge of a legal area before attending a single-client appointment. In some cases, the information provided on toolkits is sufficient that a client does not require a single-client appointment.

Toolkits are fully accessible to the public and are free, but are required to be updated regularly as the legal landscape and advice can change rapidly⁷.

⁷ It is recommended that a disclaimer and the date of when advice was produced is clearly indicated on any portal advice.



5. Client selection, feedback and insurance

Observations

- Clinics select clients on certain criteria which varies between institutions.
- All law clinics have capacity constraints.
- Clinics do not adequately canvass feedback or track clients.
- There are various ways that clinic work can be insured.

Client selection

Access⁸ for clients to legal clinics is extremely important. However, from the results collected some clinics restrict access to a certain number of clients. The reasons for this are:

- The client's legal issue is not of educational benefit⁹ to the students;
- The clinic does not have capacity¹⁰ to deal with all enquiries and therefore some clients have to be signposted elsewhere;
- There isn't the requisite expertise in-house (by supervision)¹¹ or from students to deal with the client's legal issue adequately;

⁸ Access is not necessarily limited to capacity constraints of the clinic, but can also be client constrained. For example, if a client does not live near a clinic which operates a catchment area, the client may not be able to receive free legal advice.

⁹ From the research conducted to date, this is the primary reason why clients are not selected for legal clinics at universities. A client's issue may be too complicated, too urgent, out of scope of the area of law that students advise on, be too lengthy (over many years) or out of scope of the supervisors area of law which would impact on the students learning experience.

¹⁰ Legal clinics at universities are often capacity constrained due to number of staff. For instance, qLegal operates 54 single client appointments, 6 multi-client workshops, 6 portal toolkits and 15 legal seminars over the academic year. These are all facilitated by 36 students. The staffing ratio is 36 student to 1 staff member.

¹¹ Most legal clinics cannot provide advice on all areas of law and supervisors may themselves be capacity constrained.



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- The legal clinic is conflicted¹² and therefore cannot act in line with professional obligations;
- Indemnity insurance¹³ or means-testing provides that the legal clinic works with clients of a particular size (either in monetary or life-cycle terms)¹⁴;
- The client is out of the catchment area of the legal clinic¹⁵; or
- 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.

All clinics that responded to the information structure indicated that they were oversubscribed with clients, which demonstrates the need for legal clinics providing commercial, intellectual property and regulatory advice.

There also appears to be a referral system between legal clinics in each jurisdiction (and beyond), which the iLINC Network is a catalyst for. An example being between qLegal and Northumbria. When qLegal does not have any appointments for clients, clients are informed of alternative providers including Northumbria. Northumbria then may retain the client and advise them should it be appropriate.

University term

One of the issues facing clients and indeed undergraduate legal clinics (where students are not in attendance for the full year) is the 'seasonality' of advice provision. During the summer months, many legal clinics close and prepare for the New Year with supervisors taking the bulk of their holiday allowance as well as to write articles. It raises the question

¹² Conflicts do not happen often when a legal clinic is operating without the assistance of outside law firms (counsel). When outside counsel assist with the work of a legal clinic, conflicts may arise. For example, if a start-up would like advice on a term sheet from 'ABC Bank' and the supervising law firm's client is 'ABC Bank' then there may be limitations on whether the legal clinic can assist the startup client. Legal clinics should have an adequate conflict of interest policy in place to deal with such issues.

¹³ See further information on insurance, below.

¹⁴ For example, qLegal restricts enquiries to the clinic to non-profit making social enterprise with a turnover of less than £1 million per annum; a profit making organisation with a turnover of £25 000 or less per annum; a small business with a turnover of less than £10 000 or less per annum; or a start-up business.

¹⁵ For example, Harvard and Northumbria give preference to prospective clients located within their catchment areas but do service clients throughout Massachusetts, and England and Wales, respectively.



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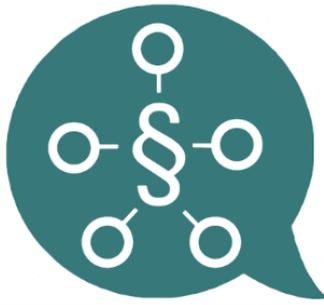
why legal clinics exist. Are they purely for the educational benefit of students, as a public engagement or service, or a mixture of both?

Feedback

As discussed in Part 5. above, legal clinics have no difficulty in recruiting and retaining clients during the advising process. However, *Figure 6* below demonstrates that once the client relationship ends, clinics do little to:

- 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 the client to invite them to future legal events and appointments;
- Receive feedback on the legal clinic’s performance; or
- Receive feedback on the students’ performance.

Legal Clinic	Client feedback
qLegal	Clients are sent an online questionnaire after the advice session and workshops. However, the return rate is low.
HIIG	Clients are sent a feedback survey after the advice session and workshops. However, the return rate is low.
Brooklyn	Minimal client involvement or feedback after the service delivered.
Harvard	Clients are provided with an opportunity to feedback.



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Amsterdam	Client feedback is incidental and client initiated.
Northumbria	Clients are sent a paper questionnaire after the advice session.

Figure 6: *Feedback from clients in legal clinics*

There may be a number of reasons for this finding including:

- The time and resource implications in following up with each client and assessing the impact of the legal advice that they have received;
- Difficulties in clients responding to requests for feedback;
- The structure of some feedback forms being long and difficult to complete;
- What the need and use of feedback is for a law clinic;
- Clients only give negative feedback, if at all; or
- Feedback hasn't been given much consideration by legal clinics.

Insurance

All legal advice that is provided through each delivery model requires 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 four ways in which a legal clinic can be insured:

1. Indemnity insurance under an existing (university) policy;
2. A separate (university) indemnity insurance policy for the legal clinic;
3. Indemnity insurance of a law firm that supervises legal clinic work (i.e. lawyers draft clinic advice on law firm headed paper); or



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4. Insurance provided by a third sector pro bono organisation (such as LawWorks¹⁶ in the United Kingdom).

All legal clinics that provided bespoke¹⁷ legal advice had their own professional indemnity insurance coverage.

¹⁶ www.lawworks.org.uk

¹⁷ All clinics, aside from HBI provide bespoke advice. HBI only frames and points our legal issues, it does not provide bespoke advice. However, the writer would recommend professional indemnity insurance should a legal clinic provide advice through any of the three main service delivery models.



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6. Charging clients

Observations

- The majority of clinics do not charge clients for advice.
- The majority of clinics have no plan to charge clients for advice.
- Where a clinic does charge for advice, the client is means-tested.

As discussed above, legal clinics have historically served clients with limited means or those without access to legal aid. Therefore, lawyers and universities provided advice on a pro bono (*“for the public good”*) basis.

Given that the universities that responded to the information structure advise small businesses, there has been debate on whether universities should charge for undertaking legal work.

Harvard¹⁸ was the only legal clinic that charged for its services. Its rationale for doing so was that fees paid by clients enable Harvard to assist more clients who might not otherwise be able to obtain legal assistance. Harvard has a fee schedule that is reviewed annually, with fees subject to change from year to year. If a client’s household income is less than \$35,000 (or higher in some cases, depending upon household size) and the client lacks other financial resources, Harvard may offer to provide the services pro bono.

All other legal clinics that populated the information structure do not charge for legal advice in any form or had any plans to do so

¹⁸ When referring to Harvard, you are reminded that this criteria only relates to Harvard Transactional Law Clinics, not other clinics that are part of Harvard’s clinical programme.



7. Clinics use of internet resources

Observations

- Using internet resources is important for law clinics advising technology start-ups and entrepreneurs.
- Different resources are used to promote law clinics depending on the institution.

The legal clinics that populated the information structure all used internet resources. What was clear from responses was the importance of clients being aware of the services that are offered by legal clinics, how they can access those services and what they can expect from the clinic. Clinics tend to ‘advertise’ and raise awareness of their services via different online resources.

Online resource	Use of online resource
Technology meet-up groups	<ul style="list-style-type: none"> • To advertise multiple-client engagements. • To promote the other services (single-client/portal) offered by the law clinic. • To recruit potential clients.
Legal clinic website	<ul style="list-style-type: none"> • To inform students of the law clinic opportunity. • To inform potential clients of the services offered by the law clinic. • To provide portal advice. • To advertise multiple-client engagements.
Facebook and Twitter	<ul style="list-style-type: none"> • To advertise single, multiple and portal client engagements. • To recruit and retain potential clients. • To inform potential and retained clients of interesting



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	news stories and development in the sector.
Partner websites	<ul style="list-style-type: none"> • To advertise multiple-client engagements. • To advertise the clinic.
Online advertising	<ul style="list-style-type: none"> • To advertise single, multiple and portal client engagements.
E-mail	<ul style="list-style-type: none"> • To inform students of the law clinic opportunity. • To advertise single, multiple and portal client engagements.
Events	<ul style="list-style-type: none"> • To recruit clients for single-client engagements. • To advertise the clinic.

Figure 7: Online resource and use of online resource.