

# IDENTIFYING TEACHING AND LEARNING OPPORTUNITIES WITHIN PROFESSIONAL RELATIONSHIPS BETWEEN CLINIC SUPERVISORS

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## I INTRODUCTION

University student-operated legal clinics seek to balance competing objectives of effecting student learning, with both social and community justice goals, and providing professional and competent legal advice for clients.<sup>1</sup> Grounded in experiential learning pedagogy, clinics allow law students to explore and grow a personal sense of ethical, moral and professional identity while developing wide ranging skills: interviewing clients, collaborating in teams, maintaining client files and providing written legal advice. Working under the close supervision of their law teacher/supervisors, students interact with each other and with their supervisors in new ways, different from those they have previously encountered in their law studies.<sup>2</sup> Navigating the professional exchanges that occur between students, teacher/supervisors, the supporting institution, and other legal professionals in a clinic can be highly complex and demanding. This is particularly so for teacher/supervisors, where all interactions with students and, just as crucially, with each other, may be viewed by students as role modelling appropriate behaviour between legal professionals. Students benefit as they observe the positive professional relationships and teamwork integral to effective working environments. As Reilly has noted:

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<sup>1</sup> Jeff Giddings, 'Contemplating the Future of Legal Education' (2008) 17(1) *Griffith Law Review* 1; Adrian Evans et al, *Best Practices: Australian Clinical Legal Education* (Australian Government Office for Learning and Teaching, 2012).

<sup>2</sup> See Minna J Kotkin, 'Reconsidering Role Assumption in Clinical Legal Education' (1989) 19 *New Mexico Law Review* 185.

To become a more effective lawyer, negotiator or problem solver, one must learn how to *connect* with other people – how to build relationships of trust, respect and collaboration.<sup>3</sup>

Conversely, where those work relationships are poor, this may adversely impact both the staff involved and their students. Observing the work practices of, and interactions between, experienced practitioners is recognised as being of pedagogical value in ‘generat[ing] the kind of knowledge that makes explicit what was tacit and [in] generat[ing] a richer understanding about practice’.<sup>4</sup> The ontological value of this learning can pose challenges to supervisors as they recognise their responsibilities as teachers of and models for student interns. Regularly reflecting on and evaluating the nature of clinical supervision and operation of supervisory teams is particularly important in view of this multi-layered nature of clinical education.<sup>5</sup> Using a process that is affirming to those involved, bringing greater focus on positives and developing strengths, staff can be energised in pursuit of best practice outcomes. Appreciative Inquiry is an evaluation tool with this positive purpose, and a form of action research often used as a tool in evaluating the effectiveness of organisations and people.<sup>6</sup> By reflecting on past experiences, it seeks insight into positive events, identifies peak performance and explores possibilities for creating future successful practice.<sup>7</sup> An Appreciative Inquiry process undertaken at the Flinders Legal Advice Clinic identified a distinctive learning opportunity emerging within the relationships between supervising solicitors as a key strength. The observation of the rewarding and respectful relationships between supervisors was recognised as an opportunity to teach students legal professionalism by modelling collaboration, teamwork, self-reflective practice, self-management and professional courtesy. This article explores the pedagogic value in these relationships and of explicitly recognising interactions between law supervisors in a student legal clinic as unique occasions for learning from practice.<sup>8</sup>

<sup>3</sup> Peter Reilly, ‘Teaching Law Students How to Feel: Using Negotiations Training to Increase Emotional Intelligence’ (2005) 21(2) *Negotiation Journal* 301, 311.

<sup>4</sup> Gloria Dall’Alba and Jörgen Sandberg, ‘Learning Through and About Practice: A Lifeworld Perspective’ in Stephen Billett (ed), *Learning through Practice – Models, Traditions, Orientation and Approaches* (Springer, 2010), 104, 107.

<sup>5</sup> Giddings, above n 1; Evans et al, above n 1.

<sup>6</sup> David L. Cooperrider and Diana Whitney, ‘A Positive Revolution in Change: Appreciative Inquiry’ (undated) <<http://appreciativeinquiry.case.edu/intro/whatisai.cfm>>.

<sup>7</sup> David Giles and Susie Kung, ‘Using Appreciative Inquiry to Explore the Professional Practice of a Lecturer in Higher Education: Moving Towards Life-Centric Practice’ (2010) 50 (2) *Australian Journal of Adult Learning* 308.

<sup>8</sup> This article derives from a presentation given at the *11th International Journal of Clinical Legal Education Conference 12th Australian Clinical Legal Conference*, Griffith University, Brisbane, Australia 16 – 18 July 2013.

## II FLINDERS LEGAL ADVICE CLINIC

Flinders Legal Advice Clinic (FLAC) is a small, fledgling student-operated University legal service based in the southern suburbs of Adelaide, South Australia. FLAC was staffed initially by a member of the academic law staff who undertook the role of supervising solicitor, as well as the Director of Professional Programmes and a supporting professional staff administrator. These staff all worked part-time approximately one to two days per week in FLAC roles within their existing law school positions. Staffing was expanded after six months of operation to include a second supervising solicitor one day per week, who was also a member of academic staff. A further six months later, an additional solicitor (not a member of academic staff) was employed two days per week in the role of Practice Manager. FLAC now operates three days per week.

When establishing FLAC at Flinders Law School in 2011, staff intentionally sought to draw on best practice models from other leading Australian student legal clinics.<sup>9</sup> Due to the ‘enclosed village’ nature of the Flinders University Bedford Park campus in the southern suburbs of Adelaide, it was considered unlikely that any ‘shop-front’ legal clinic on-campus designed to address the needs of the public would be viable. FLAC was therefore designed to operate as a ‘spoke and hub’ model of legal service, with a legal office ‘hub’ established within the Law School, supervised by the clinic manager.<sup>10</sup> Each clinic day, the other staff supervisors travel to various ‘spoke’ outreach locations where they supervise clinic student interns who meet and interview clients and take client instructions. This model is intended to allow for projected future incremental growth in the number of outreach locations and to ensure flexibility due to possible changes in staff and student needs and resources.

FLAC currently operates at two ‘spoke’ outreach locations. The first clinic to be opened is at the nearest Magistrates’ Court at Christies Beach, approximately 20 kilometres south of the campus. The clinic focuses on minor civil claims, servicing the community with mainly debt, small business and neighbourhood dispute advice. This clinic operates one day per week. A second clinic operates on campus at the Student Centre at Flinders University, serving the student and staff population and predominantly seeing students referred by in-house counsellors or international students. This clinic operates two days per week. Due to client demand, the FLAC outreach clinic at Christies Beach operates all year round,

<sup>9</sup> Evans et al, above n 1.

<sup>10</sup> For a discussion of Australian models of in-house CLE see Jeff Giddings, ‘Clinical Legal Education in Australia: A Historical Perspective’ (2003) 3(1) *International Journal of Clinical Education* 7. For discussion of an international perspective see Becky L Jacobs, ‘A Lexical Examination and (Unscientific) Survey of Expanded Clinical Experiences in US Law Schools’ (2008) 75 *Tennessee Law Review* 343.

closing only when the Magistrates Court is closed, and interns are required to cover clinics during University non-teaching periods as well as during semester time. The Student Centre outreach clinic operates during semester times only.

FLAC interns are generally in at least the third year of their Bachelor of Laws and Legal Practice (LLBLP) studies, with the majority enrolled in the elective topic *Social Justice Internship* for which they receive academic credit for their participation. Students who are not enrolled in the topic may also volunteer, and a number of FLAC alumni have continued to volunteer after completing the topic or even after graduating. Those interns who are enrolled students are assessed via seminar participation, clinical placement and a reflective report. All assessment is graded on the scale of non-graded pass, to reflect the authenticity of the various assessment forms, to encourage a fully collaborative learning environment, and to allow students to develop an intrinsic motivation for learning, rather than the extrinsic grade driving their activities.<sup>11</sup>

Seminars are facilitated by the Law School's Director of Clinical Programmes, who does not supervise in the clinic. Topics include developing reflective learning skills, professionalism, client centred practice, ethics and access to justice. Seminars not only provide an academic framework within which clinical experience is grounded, they are also crucial in allowing students to debrief confidentially about matters encountered during clinic placement and to develop the skills necessary to build a reservoir of resources to sustain them in future professional life. Attendance is required for enrolled students and volunteer interns are encouraged to attend. Clinic placement is assessed through the lens of positive workplace performance support and management, using regular individual informal and formal conversations with interns proactively to address any concerns about whether or not their behaviour is meeting FLAC expectations. A final reflective report requires the student to draw together theoretical discussions from seminars with their individual clinical experiences. Reports are expected to display recognition of the learning that has taken place during the semester for that student – not just technical legal skills required for clinical practice, but also underlying skills such as collaboration, communication, etc. – in the wider context of professionalism and access to justice.

Eight interns are assigned to each day that a 'spoke' outreach location operates per clinic semester. They work in teams on a fortnightly rotating roster, spending one full day per fortnight at the office 'hub', and then half a day the following week at the outreach location to meet new clients before returning to the 'hub' to work on files.

<sup>11</sup> For a general overview of intrinsic motivations in the legal education context, see Rachael Field, James Duffy and Anna Huggins, *Lawyering and Positive Professional Identities* (LexisNexis, 2014) 23-24.

### III THE FRAMEWORK IN THE BEST PRACTICE: AUSTRALIAN CLINICAL LEGAL EDUCATION REPORT

FLAC was established with minimal financial resources at a time when Australian law schools were facing increasing budgetary pressures amidst dire warnings of an ongoing gloomy financial future.<sup>12</sup> Although perhaps a financially inopportune period, the choice to establish a provider of high quality clinical legal education (CLE) in Australia was timely. With a deliberate vision from the outset to use the limited resources available efficiently and effectively to create the highest quality model of CLE possible, FLAC sought to learn from other successful University student legal clinics around Australia. The decisions and process surrounding the establishment of FLAC were informed by research into best practice in the Australian context subsequently published in *Best Practice: Australian Clinical Legal Education* (the 'Report').<sup>13</sup> They drew intentionally on its theoretical and philosophical framework, which brought together the experiences of the most established and successful University legal clinics, distilling their knowledge of what methods produced the best outcomes across a range of measures. These guidelines from the Report, its earlier draft iterations and other legal clinic evaluation publications<sup>14</sup> provided key aspirational goals for FLAC and served to inform many significant decisions about supervision and intern procedures and practices at FLAC during the start-up phase.

Given the initial reliance on the Report, it was again consulted when seeking a measure to evaluate FLAC's program around the two year anniversary in early 2013. However, while FLAC had been modelled on the Report, in reality, due to factors beyond staff control, many of the key best practice indicators still remained aspirational. Like most start-ups, the early implementation of FLAC was mired in a myriad of minor complications, including negotiating University, Faculty and School policies, guidelines and needs.<sup>15</sup> For supervisors, these included the struggle of managing the competing demands of clinic while also carrying academic

<sup>12</sup> For a useful discussion on the issue of financial changes in higher education in an international CLE context see Lydia Bleasdale-Hill and Paul Wragg, 'Models of Clinic and Their Value to Students, Universities and the Community in the post-2012 Fees Era' (2003) 19 *International Journal of Clinical Legal Education* 257.

<sup>13</sup> Evans et al, above n 1. The authors gratefully note that while officially published in 2012, various drafts of this Report were generously made available to FLAC for use from early 2011.

<sup>14</sup> See for example Adrian Evans and Ross Hyams, 'Independent Evaluations of Clinical Legal Education Programs: Appropriate Objectives and Processes in an Australian Setting' (2008) 17(1) *Griffith Law Review* 52.

<sup>15</sup> For an overview of the international literature concerning the start-up phase of CLE and context of complex factors such as the support of the law school, university and broader legal profession see Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (Justice Press, 2013) 115-147.

teaching and research workloads.<sup>16</sup> Interestingly however, despite these and other significant challenges, FLAC supervisors reflected they nevertheless felt a sense of confidence and pride in relation to their efforts in the face of the various impediments in the way of striving towards best practice.

The Report confirms that the strength of supervision provided is a key indicator of the success of a clinic:

The effectiveness of a clinic will depend on the strength and sensitivity of the supervision provided. Clinical supervisors require a combination of legal practice backgrounds, a concern for improving access to justice and a deep interest in student learning.<sup>17</sup>

The Report highlights three key areas of proficiency that clinic supervisors need to maintain to not only ensure the best teaching outcomes for students and the highest standards for clients, but also safeguard the supervisor's own ongoing well-being in the demanding CLE context. Clinic supervisors must have extensive current general technical legal skills and knowledge of legal practice, expertise across the access to justice and social justice landscapes and a working knowledge of the large and complex body of higher education teaching and learning practice and research, locally, nationally and internationally. Each of the supervisors at FLAC felt confident in their level of performance in their roles at the clinic, but were concerned that only an extremely rare and exceptional individual lawyer could possibly meet such high standards of competency in all three quite disparate areas simultaneously. This notion is supported by Giddings:

Clinical programs are unlikely to find and retain individuals who, on their own, possess the full range of skills and the inclination to effectively advance the multiple facets of their program... This suggests the importance of developing programs of sufficient size to enable responsibilities to be shared and that are effectively integrated within the law school so as to enable a group of academics to collectively take responsibility and provide leadership for the clinical program.<sup>18</sup>

The FLAC supervisors believed that only as a team, collaboratively bringing together all of the individual strengths of each supervisor, could they collectively maintain all three proficiencies sustainably and at best practice levels. Implicit in this, however, is that supervisors will also be highly skilled in effective teamwork and collaboration and know how to develop and maintain positive workplace relationships. The Report also identifies that a specific learning outcome for students participating in a clinic should be to 'work collaboratively' and recommends that:

<sup>16</sup> Ibid 157 for discussion about clinical supervisor workloads.

<sup>17</sup> Evans et al, above n 1, 26.

<sup>18</sup> Giddings, above n 15, 340.

[s]upervisors model constructive work relationships, self-evaluate and accept evaluation by supervisees and peers.<sup>19</sup>

Although not specifically mentioned, the work relationships referred to here would include those between clinic supervisors. A need for relationship and collaboration by way of mentoring clinical supervisors is acknowledged in the Report, which recommends that:

Law schools and their clinical courses provide to supervisors – access to other clinical supervisors for mentoring purposes.<sup>20</sup>

While access to mentoring is important for the professional development of all lawyers, the Report's recommendation here recognises the unique skills of the clinical supervisor as opposed to mentoring simply by any other lawyer.<sup>21</sup>

Given its lack of detail about relationships, the Report was not considered to be a useful yard-stick for evaluation purposes in this key area of strength. In other areas, FLAC staff felt that the opportunities for remedying or improving CLE practice to bring it further in line with the Report were likely to be severely restricted by limited resources and bureaucratic requirements. A traditional critique of identifying, minimising and eliminating weaknesses or problems therefore risked being a negative experience that would simply add to the quandary of ongoing challenges. Although acutely aware of these limitations since its establishment, FLAC had nevertheless always been committed to effecting 'continuous improvement',<sup>22</sup> with a focus on identifying and maximising the assets of FLAC wherever possible. The objective was therefore instead to seek to undertake an evaluation process that would affirm the FLAC team and energise them to continue to pursue best practice outcomes by focusing on developing strengths.

#### IV RELATIONSHIPS AND APPRECIATIVE INQUIRY

During the first 18 months of FLAC's operation, the positive personal relationships between staff and students, and, unexpectedly, between the staff themselves, emerged as a key feature of the operation of FLAC: professionally, pedagogically,

<sup>19</sup> Evans et al, above n 1, 48.

<sup>20</sup> Ibid, 57.

<sup>21</sup> This issue has also been reflected in US literature about how to train clinical supervisors: see, eg, Justine A Dunlap and Peter Joy, 'Reflection-in-action: Designing New Clinical Teacher Training by Using Lessons Learned from New Clinicians' (2004-2005) 11 *Clinical Law Review* 49.

<sup>22</sup> See, eg, Alan J Peterson and R Dan Reid, *Continuous Improvement: Methods and Madness* (American Society for Quality 53<sup>rd</sup> Annual Congress Proceedings, undated) <<http://rube.asq.org/world-conference/1999/innovation/continuous-improvement-methods-and-madness.pdf>>; Robert E Cole, 'From Continuous Improvement to Continuous Innovation' (2001) 8 (4) *Quality Management Journal* 7.

and personally.<sup>23</sup> Staff were interested in the reasons why these relationships had developed in a positive way and in reflecting upon the ways in which the beneficial aspects of these relationships could be magnified, replicated and sustained. By doing this it was hoped that the strength of these relationships could continue even if staff changed, and be linked to and developed in other teaching contexts.

Giles' notion that 'relationships matter' in the learning experience<sup>24</sup> provided the catalyst for deciding to evaluate FLAC's operation using Appreciative Inquiry (AI). AI is a lens through which to reflect on past experiences, seek insight into positive events, identify peak performance, and explore possibilities for creating future successful practice.<sup>25</sup> According to its author, David Cooperrider, AI

involves systematic discovery of what gives "life" to a living system when it is most alive, most effective, and most constructively capable in economic, ecological, and human terms. [It] involves ... the art and practice of asking questions that strengthen ... capacity to apprehend, anticipate, and heighten positive potential.<sup>26</sup>

The process involves four steps. The first step is participants discovering or describing the best of 'what has been' and 'what is',<sup>27</sup> identifying 'what gives life to this process'<sup>28</sup> in relation to the activity they are seeking to evaluate. Using this discovery, the second step asks participants to 'dream' or consider 'what our practice could look like if we were fully aligned around our strengths and aspirations'.<sup>29</sup> Sharing the essence of positive stories acts as a vehicle 'for bringing out the positive core of the organization' and for then identifying 'broad themes' that 'contribute to the organization's success'.<sup>30</sup> 'By building energy, excitement, and synergy and by extracting the common themes or

<sup>23</sup> It may be worth noting that the quality of these relationships between supervisors did not appear to rely on similarities between the supervisors such as their personal or professional backgrounds, practice areas, experience, ages or values.

<sup>24</sup> David Giles, 'Relationships Always Matter: Findings from a Phenomenological Research Inquiry' (2011) 36(6) *Australian Journal of Teacher Education* 80-90; David Giles, Presentation for the Centre of University Teaching, Flinders University, 14 September 2012.

<sup>25</sup> Giles and Kung, above n 7.

<sup>26</sup> Cooperrider and Whitney, above n 6; David Cooperrider, Diana Whitney and Jacqueline M Stavros, *Appreciative Inquiry Handbook: For Leaders of Change* (Berrett-Koehler Publishers, 2<sup>nd</sup> ed, 2007) 8. AI is grounded in five principles: the constructionist principle, the principle of simultaneity, the poetic principle, the anticipatory principle, and the positive principle. See also Russell K Elleven, 'Appreciative Inquiry: A Model for Organizational Development and Performance Improvement in Student Affairs' (2007) 127(4) *Education* 451. Elleven explains that '[i]nstead of examining issues in the 3D world, AI views the world in ... four dimensions ... comprised of four phases'. These phases are Discovery, Dream, Design and Destiny.

<sup>27</sup> Giles and Kung, above n 7, 311.

<sup>28</sup> Cooperrider, Whitney and Stavros, above n 26.

<sup>29</sup> Giles and Kung, above n 7, 311.

<sup>30</sup> Cooperrider, Whitney and Stavros, above n 26, 130.

life-giving forces, participants can begin to envision an organisation of the future'.<sup>31</sup>

In the third step,

attention turns to creating the ideal organization so that it might achieve its dream... The design starts by crafting provocative propositions... [which] bridge “the best of what is” (identified in Discovery) with “what might be” (imagined in Dream)... They ... [present] compelling pictures of how things will be when the positive core is fully effective in all of its strategies, processes, systems, decisions and collaborations.<sup>32</sup>

The final step in the AI process asks participants to articulate a destiny or goal ‘to ensure that the dream can be realised’ by creating ‘convergence zone[s] for people to empower one another to connect cooperate and co-create’.<sup>33</sup> As Leering notes when discussing her use of AI in a Canadian legal context,

an affirmative and strengths based approach is much more likely to result in positive organizational change and transformation, as compared to a problem solving or deficit-based approach. AI is considering generative, creating new energy for change through helping to shift organizational culture by encouraging appreciative mindsets, by aligning inherent motivations for change, by fostering new ideas, and by helping people to choose new actions [footnotes omitted].<sup>34</sup>

## V THE FLAC AI ENQUIRY

FLAC staff chose the action research method of AI as it appeared able to be designed to investigate which of the everyday practices occurring in the clinic were particularly effective. AI had the potential to consider not only why a practice was recognised as valuable by supervisors and interns but also whether more of this constructive practice could be created and used intentionally. As the research process did not rely on analysing shortcomings or problems, it could be explicitly aimed at sustaining the Clinic’s successes.<sup>35</sup>

<sup>31</sup> Ibid 131.

<sup>32</sup> Ibid 162.

<sup>33</sup> Ibid 204.

<sup>34</sup> Michele Leering, ‘Conceptualizing Reflective Practice for Legal Professionals’ (2014) 23 *Journal of Law and Social Policy* 83, 92.

<sup>35</sup> Lois Watt, ‘Appraising Professional Practice in a Tertiary Environment Using Appreciative Inquiry’ in *Enhancing Higher Education, Theory and Scholarship, Proceedings of the 30<sup>th</sup> HERDSA Annual Conference* [CD-ROM] (2007).

In 2012, a questionnaire designed using the AI process was administered to the staff involved in the FLAC.<sup>36</sup> Three staff participated: both of the supervising solicitors and the Director of Professional Programs. The clinic manager did not engage in the research as their employment contract concluded prior to the research being carried out in 2012. Although interns were invited to participate in a similar (but not identical) AI process, this article focuses solely on the process undergone by staff participants. Staff were invited to reflect on and describe their best experiences at the clinic, what they particularly enjoyed or what they thought had worked especially well. Staff were asked to outline what they believed they had contributed to and gained from their work in the clinic and what they valued most deeply about being involved. Staff were asked to name the key ingredients, both internal and external, or the enabling factors needed for them to work at their best. Finally, they were asked to detail their specific hopes and dreams for FLAC in the future.

Each of the three lengthy written responses were shared and analysed to identify key themes and commonalities. Four themes emerged. The first two reflect the literature concerning the fundamental social justice ideals and the rich pedagogic opportunities in CLE. These themes were as follows:

- Theme 1 A shared vision of the potential for future expansion of FLAC to maximise the opportunities for CLE at Flinders for both teaching and social justice aims.<sup>37</sup>
- Theme 2 The importance of teaching intentionally in the clinical context, and the transferability of lessons learned as supervisors to teaching in more theoretical traditional law contexts.<sup>38</sup>

Notably, in relation to teaching, one of the supervisors said:

Working in a team with more experienced law teachers has added enormously to my personal learning by participating in the clinic ... [supervisor]'s input to the clinic greatly enhanced my conceptions of how the intentional application of teaching ideals within the clinical context could help develop my teaching more generally ... By developing the teaching opportunities with the team myself [at clinic] and developing my teaching practices at clinic, this then translated to me developing broader teaching capacities in my other more traditional law teaching. This has been of great value in my personal professional development as a teacher.<sup>39</sup>

<sup>36</sup> The questions were designed using material from Cooperrider, Whitney and Stavros, above n 26. A separate questionnaire was also administered to students who had completed their internship in the previous semester and who volunteered to participate in the research, the results of which are not the subject of this paper.

<sup>37</sup> See an overview on CLE and commitment to social justice in Giddings, above n 15, 61-67.

<sup>38</sup> See Kathy Mack 'Bringing Clinic Learning into a Conventional Classroom' (1993) 4 *Legal Education Review* 89.

<sup>39</sup> Extract from written response from AI research participant.

The third theme highlighted the significance overall of relationships:

Theme 3 The significance of intimate working relationships that developed between students and clinic supervisors; the positive impact for all being part of the process as students' progress from anxious novices to newly emergent 'beginning' lawyers.

Interestingly in this context, this parallels comments in the Report, which notes that CLE has the potential to:

... sensitise students to the importance of all relationships – including with clients, students, professionals... [CLE] is collaborative between supervisors, other staff and students and among students themselves. [CLE] breaks down existing knowledge boundaries, strengthening cooperation and challenging traditional and limited understandings of teacher and student relations.<sup>40</sup>

The fourth theme specifically addressed the relationship between supervisors:

Theme 4 The value of collaborative team work and strong relationships between FLAC supervisors to provide a safe, diverse and complementary environment which in turn produces unexpected learning opportunities for both staff and students.

#### VI A KEY THEME CONCERNING THE RELATIONSHIPS BETWEEN SUPERVISORS

Of the four themes, the theme concerning the relationships between supervisors was expressed most strongly by the participants. One supervisor said:

... a key ingredient has been that [the supervisors] have all explicitly recognised that we bring different experiences and skills, and have identified this together right from our earliest meetings. This has helped me to overcome any lack of confidence ... because I realised that I didn't need to know it all, and it was OK to learn as I went. I think we have worked together well because we have expressed this to each other and to the students. We seem to spark off creativity in each other – by feeling that it is safe to share and reflect on challenges and experiences. I feel we have been honest/genuine/real in the way we relate to each other, to students, and with each other in front of students.<sup>41</sup>

Although possibly the initial catalyst for commencing the AI process, the reflections about the relationships between supervisors were at the same time the most unexpected result of the AI enquiry and the most useful in terms of developing the direction of the evaluation outcomes. Identifying this fourth theme was significant

<sup>40</sup> Evans et al, above n 1, 12.

<sup>41</sup> Extract from written response from AI research participant.

in that it suggested that a key to the success of FLAC was the supportive collaboration between staff.

While the literature does not necessarily articulate the centrality of the supervisors' relationship, issues such as teaching professionalism, collaboration and modelling have been recognised as key strengths of CLE.<sup>42</sup> Implicit in much of the research produced on legal clinics is that staff teams are highly functional and professional clinicians have good teamwork and self-reflective skills.<sup>43</sup> When multiple supervisors, from differing backgrounds, ages and personalities model varying approaches to practical legal problem solving and collaboration, students can experience how differences may be robustly, yet positively, explored and tested to the ultimate benefit of the client. Students may also recognise the ongoing learning and development taking place for the lawyers involved, encouraging them to be open to new challenges.

Modelling positive professional practice allows students to 'take over ways of being from others, embodying and making [these] ways of being [their] own'.<sup>44</sup> Students are enabled to gain 'self-understanding' of what it may mean for them to be a lawyer in this specific professional context<sup>45</sup> and what they learn is 'intertwined' with who they are becoming.<sup>46</sup> Parallels may also be drawn with clinical medical and nursing education, where the significance of role modelling in professional training is well recognised. Similar characteristics as those identified in the Best Practice in CLE Report as present in good supervisors<sup>47</sup> are recognised as important qualities in clinical teacher role models in the health sciences: 'clinical competence', 'teaching skills', and 'personal qualities' including 'effective interpersonal relationships' and 'enthusiasm for practice and teaching'.<sup>48</sup> As a role model 'knowingly or unknowingly, [supervisors'] words and actions become living lessons'.<sup>49</sup> As Falender and Shafranske note in the context of psychology,

<sup>42</sup> See Giddings, above n 15; Tony Foley et al, 'Teaching Professionalism in Legal Clinic: What New Practitioners Say is Important' (2012) 17 *International Journal of Clinical Legal Education* 5; Harriet Katz, 'Reconsidering Collaboration and Modelling: Enriching Clinical Pedagogy' (2005-2006) 41 *Gonzaga Law Review* 315.

<sup>43</sup> See Giddings, above n 15, 164. In Part 4, Giddings provides four case studies of CLE and in each of these the teamwork qualities of the particular supervisors involved are discussed.

<sup>44</sup> Dall'Alba and Sandberg, above n 5, 104, 107.

<sup>45</sup> Ibid 108. See also Giddings, above n 15, 56.

<sup>46</sup> Ibid 113.

<sup>47</sup> Evans et al, above n 1.

<sup>48</sup> See Sylvia R Cruess, Richard L Cruess and Yvonne Steinert, 'Role Modelling: Making the Most of a Powerful Teaching Strategy' (2008) 336 *British Medical Journal* 718, 718; Scott M Wright et al, 'Attributes of Excellent Attending-Physician Role Models' (1998) 339 (27) *The New England Journal of Medicine* 1986, 1991.

<sup>49</sup> Beth Perry, 'Role Modelling Excellence in Clinical Nursing Practice' (2009) 9 *Nurse Education in Practice* 36, 36.

[s]ocialization to the profession goes hand in hand with the development of clinical competence. Supervision provides a relationship in which professional values, commitments and identity are formed and career goals are formulated.<sup>50</sup>

The importance of the relationships between supervisors as a pedagogical tool for modelling legal professionalism had not previously been consciously identified at FLAC. Working closely together in a physically small office space produces an enforced sense of intimacy between all involved (supervisors and interns) that does need to be intentionally managed by supervisors. In this intense and often time-pressured environment, perceptions of hierarchy between students and supervisors do emerge. Supervisors may disagree and debate both with interns and each other about possible legal interpretations or courses of action. Supervisors also exercise their authority by changing or editing each other's or interns' written work, confirming final letters of advice or settling the final drafts of documents. In all of these interactions, respectful communication and professional courtesies are required and modelled by the supervisor.<sup>51</sup> The manner and delivery in giving and receiving of (even constructive) criticism may have significant effects, both positive and negative, on both students' and supervisors' learning and overall wellbeing.<sup>52</sup>

The choice at FLAC to make the interactions between the supervisors transparent and explicit to participating interns also often meant acknowledging deficiencies in individual supervisors' expertise and exposing supervisors' vulnerabilities as well as their professional strengths. The overall benefit to the team of using these inevitable strengths and weaknesses to advantage is thereby normalised and students gain a valuable and distinctive window into their future real world workplace where such judgments within teams are likely to occur. By conducting client matter handovers between supervisors and the clinic practice manager in front of the interns, where interns can also contribute their experiences of clients just interviewed, interns observe supervisors' varied styles of practical legal problem solving. Interns can therefore see first-hand how a team approach to these

<sup>50</sup> Carol A Falender and Edward P Shafranske, *Clinical Supervision: A Competency Based Approach* (American Psychological Association, 2004) 6.

<sup>51</sup> See Nathaniel C Nichols, 'Modelling Professionalism: The Process from a Clinical Perspective' (2004-2005) 14 *Widener Law Journal* 441. See also discussion about student perceptions of professionalism in the CLE context in Melissa L Breger, Gina M Calabrese and Theresa A Hughes, 'Teaching Professionalism in Context' (2003-2004) 55 *South Carolina Law Review* 303, 315.

<sup>52</sup> See eg Peter Cantillon and Joan Sargeant, 'Giving Feedback in Clinical Settings' (2008) *British Medical Journal* 337. For discussion of the centrality of constructive criticism in the CLE context, see Evans et al, above n 1,19-20. For identification of best practice for giving and receiving feedback in legal workplace, see Tristan Jepson Memorial Foundation, *TJMF Psychological Wellbeing: Best Practice Guidelines for the Legal Profession* (2014). <<http://www.tjmf.org.au/raise-the-standard/13-psychological-factors/>>.

differences can greatly benefit outcomes for the client. They also observe the supervisor's ongoing learning and well-being enhanced by working collaboratively with others.<sup>53</sup> Reflective reports submitted by interns at the conclusion of their internship regularly confirm that having the openness of these relationships modelled in this way was important for them. More research is currently underway exploring these reflective reports.

While the focus of the AI responses was on the positive, once identified, participants were also able to consider the centrality of these relationships to minimising problems arising in practice and dealing with ethical dilemmas arising during their work with FLAC.<sup>54</sup> By doing so, supervisors have been enabled to recognise more clearly both an 'ethics of care' and a 'virtue ethics' approach exemplified in their collaborative legal practice leadership.<sup>55</sup> Errors and mistakes arising during clinic practice are routinely workshopped by multiple supervisors jointly in an open supportive manner in front of interns, reducing stress on individual supervisors<sup>56</sup> and ensuring the best possible problem-solving approach is adopted. Identifying the significance of these interactions and relationships at FLAC has allowed the relationship between supervisors to be conceptualised in pedagogical terms as opportunities to intentionally teach legal practice professionalism embodied in the CLE context.

## VII EMBEDDING THE PEDAGOGY

The challenge for FLAC staff emerging from the AI process was how to practically embed the key learning interactions and opportunities that had been identified as part of the CLE pedagogy adopted by FLAC into the future. Recognising the value and unexpected richness attaching to relationships and interactions between supervisors must lead to them being fostered, nurtured, and maximised for both the staff involved and the interns observing them. A first important response was therefore to intentionally design opportunities to ensure the relationships continue to be given time to be built, interactions occur and be witnessed. Secondly, a need to teach and model for interns more

<sup>53</sup> The role of CLE to promote 'lifelong learning' is discussed in Deborah Maranville et al, 'Re-visioning Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering' (2011) 56 *New York Law School Law Review* 517, 533; Leering, above n 34, 98-99.

<sup>54</sup> See discussion of the clinic as a model law practice for teaching ethics in Peter Joy, 'The Law School Clinic as a Model Ethical Law Office' (2003) 30(1) *William Mitchell Law Review* 35.

<sup>55</sup> Christine Parker and Adrian Evans, *Inside Lawyers Ethics* (Cambridge University Press, 2nd ed, 2014) 9. See also Joy, above n 54.

<sup>56</sup> See Falendar and Shrafanske, above n 50, 12-14 for an interesting discussion of developmental approaches to supervision and an overview of the stages of supervisee and supervisor development. Those who are new to supervision may have 'entry-role' insecurity, and as experience is gained, confidence and role-security grows.

explicitly the skill of how to develop positive professional relationships in the legal practice context was clearly recognised.

A number of changes have occurred as a result of undertaking the AI process. The first of these has been to modify the compulsory intern induction training program. Training now includes an explicit discussion about the diversity of professional experience of each supervisor and how this complements that of the other supervisors for the benefit of the team as a whole. It is explained to interns that they will find supervisors have differing approaches to dispute resolution, settling written documents, and giving and receiving feedback as interns at FLAC. Interns are encouraged to view managing these differences as an experience that will prepare them to work with and for a variety of supervisors when they graduate. By discussing these issues openly, interns are encouraged to think about how they regard the 'ownership' of client files or of written drafts they have prepared. Supervisors also demonstrate that seeking opinion and advice from colleagues is a normal and expected part of working in a professional team, rather than being a weakness or displaying a lack of knowledge or confidence. Supervisors model how respectful professional 'disagreements' require practitioners to communicate about why they have chosen to take a particular approach and to explain clearly to a colleague why they believe the strategy they prefer would or would not be better for the client. The 'spoke and hub' model of FLAC operation necessitates regular liaison between the supervisor attending at the outreach location and the Practice Manager.

The second change at FLAC resulting from the AI process was to ensure that a meeting style 'hand over' occurs with the Practice Manager when supervisors and interns return to the 'hub' office from the 'spoke' outreach clinic. Although often more convenient for such a hand over to occur simply between staff members immediately upon return, the importance of modelling this interaction between staff to interns has been recognised. Interns are now included in this conversation allowing them to see supervisors' varying approaches to similar legal matters or disputes. The hand-over concept therefore operates in a similar way to 'case rounds' and is an open discussion between all supervisors and interns about the various options or strategies relevant to approaching the client's case.<sup>57</sup> Where supervisors later disagree about the advice to be given, wherever possible the subsequent discussions are also conducted in the presence of the interns. Both formalising and deconstructing these interactions explicitly identifies them to interns as an important learning moment, providing an opportunity to discuss why and how disagreements can and should be managed in positive professional relationships. While these meetings highlight the supervisor's

<sup>57</sup> See Susan Bryant and Elliott S Milstein, 'Rounds: A "Signature Pedagogy" for Clinical Education?' (2007) 14 *Clinical Law Review* 195.

expertise, they also expose their potential to make human errors of judgement and therefore model the acceptance of constructive feedback and the importance of critical self-reflection. While this exposure could make supervisors feel vulnerable, overall FLAC supervisors have enjoyed the sense of intimacy amongst the clinic team (both staff and interns) and felt this practice relieves the obligation or pressure for any one supervisor to feel they need to be an expert on everything.

Another change to FLAC that occurred following the AI process in response to identifying the importance of modelling professional behaviour, was the method adopted by the team to travel to 'spoke' outreach locations. In order to capture the importance of the informal interactions between supervisor and interns during the 30 minute drive to and from campus, where previously interns had a choice about transport, now they must all travel in a minivan with the supervisor. Supervisors have found these unguarded conversations create space to embed any implicit expectations about the tasks ahead and allow interns to be honest about any anxieties or concerns they may have regarding meeting clients. Similarly, the natural and unstructured conversations on the return journey allow for a discussion that can include which supervisors may have expertise to assist with the matter. It allows for debriefing about what can sometimes be emotionally challenging interview interactions. Interns have appeared more comfortable to canvas some of the personal, ethical and moral challenges that may have arisen with supervisors and feel encouraged within the confines of the mini-van to explore appropriate personal responses.<sup>58</sup> In addition, supervisors find this time to be a non-confronting opportunity to proactively raise their own perspectives on lawyer wellbeing and self-care, signposting for interns that emotional and mental health is a vital component of developing a fulfilling and sustainable professional identity.<sup>59</sup>

## VIII CONCLUSION

University student-operated legal clinics are environments where there are often significant tensions between the competing objectives for which they are established. Financial sustainability and the resource limitations are stressors on both teacher, supervisors and student interns, as are negotiating the new professional relationships involved, where those relationships are significantly different from those previously developed at law school. These complex interpersonal interactions provide fertile ground for explicit clinical education learning and teaching

<sup>58</sup> For discussion of the approach to personal and intercultural issues from US perspective, see Antoinette Sedillo Lopez 'Making and Breaking Habits: Teaching, (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic' (2008) 28 *Washington University Journal of Law & Policy* 37.

<sup>59</sup> See generally Field, Duffy and Huggins, above n 11.

opportunities, particularly where those relationships are identified as key strengths of a clinic. Using Appreciative Inquiry as a tool enabled the Flinders Legal Advice Clinic to review clinic operations from a positive perspective and seek to implement improvement wherever possible. The process was effective in empowering clinic staff to reflect on past experiences, gain insight into positive events, and identify moments of peak performance. It also acted as an energising catalyst to explore further possibilities for creating future successful practice. The Appreciative Inquiry has allowed FLAC staff to reconceptualise the relationships between supervisors as a key to the success of the clinic, and to by recognise its pedagogical importance in teaching professionalism to law students. The intentional modelling of respectful and rewarding professional relationships between legal practitioners encourages students to learn collaboration, teamwork, self-reflective practice, self-management and professional courtesy. By identifying the rich pedagogical value in the relationships between supervisors, staff can support each other for the benefit of the clinic while also enriching interns' experience of learning from practice.