

FAMILY REUNION IN A UNIVERSITY LAW CLINIC: A MODEL FOR LAW SCHOOLS?

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ABSTRACT

This paper outlines the establishing of a law clinic to assist individuals with their application under the refugee family reunion (RFR) provision. We consider that a significant gap exists in the scope of university law clinics to provide a dedicated RFR service, a gap which extends to service providers generally in many regions in the UK. The removal of legal aid for family reunion applications has negatively affected the efficacy of refugees and those with humanitarian protection status to be reunited with their families (a right provided under international law to which the UK is a signatory).⁴ Family reunion is a very current issue of concern given global developments and the political instability in many countries, and it is also a topic which is at the very heart of social justice, a philosophy which underpins many law clinics in universities. Law clinics allow universities and their students to use their talents and resources to positively change the lives of people in their local communities. Significantly, broadening the scope of law clinics to offer a RFR service will enrich the learning experience of staff and students involved in RFR clinics, help to produce the next generation of lawyers, policy and decision-makers with an awareness of the issues facing refugees and the human perspective of the crises affecting them, and facilitate research opportunities through effective data collection and analysis. Subsequent outputs can positively affect national policy on immigration, asylum, legal aid, and engagement with, and the education of, the public.

1. INTRODUCTION

It is quite common for university law schools to have, as a prominent feature of their offer, a suite of work-based learning modules operating from a law clinic. These range from simulated and live-client advice in a law clinic (with both civil and criminal components), assisting in international appeal cases, and universities are creating law firms in the form of Alternative Business Structures. These may operate from classrooms, dedicated suites on campus, and off-site specialist centres to better serve and offer accessibility to clients in the community. What is largely missing in these initiatives is guidance for individuals who have arrived in the UK as refugees⁵ or with humanitarian protection status and who wish to be reunited with their family members (whether the family is in-country or abroad).

Prior to enactment of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) applicants for refugee family reunion were (through solicitors' claims at least) eligible for legal aid (which continues to be accessible in Scotland and Northern Ireland).⁶ Under this scheme the individuals could retain the services of lawyers who would support the applicants in identifying and collating the required documentation, preparing supporting statements, and submitting the application. The public and private sectors worked together (not necessarily seamlessly but certainly with greater effectiveness than is presently observable) through a network of service providers. By removing legal aid,⁷ applicants have been left to undertake these tasks personally (with the resultant lack of success due to the inherent complexities involved in the family reunion claim process and the evident language barrier faced by many entrants to the UK), to hire lawyers at personal expense (which in many cases is not possible or leaves the applicant vulnerable to obtaining the necessary funds through loan-sharks or via exploitation), to rely on the not-for-profit (NfP) advice sector (which itself has been badly affected by the cuts in public funding), or to face not being reunited with their families. Certainly, the consequences of a lack of funding for the advice sector generally (even prior to LASPO) has negatively affected the NfP advice and information sector through a reduction in capacity to provide accessible services including general and specialist advice, and extending this to representation and casework.⁸

Faced with these issues, observing how the international humanitarian crisis occurring in countries including Afghanistan, Iraq, Kosovo, Pakistan, South Sudan and Syria was exacerbating the plight of refugees, and how this problem was manifesting itself in the local communities in the UK,⁹ we

established the 'Sheffield Hallam Refugee Family Reunion Clinic' based in the Helena Kennedy Centre for International Justice. There were numerous reasons for the creation of this project. First, it provided much needed support for refugees living in Sheffield and the surrounding areas by offering a free to access clinic service run by volunteer students and overseen by academics and practitioners.¹⁰ The students were exposed to a learning experience which developed their practical legal skills, they were provided with training to work with interpreters and how to cope with trauma, and their knowledge of regional and international issues was developed in accordance with the Department's internationalisation strategy. Further, it allowed much greater engagement with members of the local community and developed the social responsibility which lawyers should possess and to give a better understanding of the problems faced by individuals living in (but not necessarily from) the local community.¹¹

This paper has the following aims. 1) It identifies the rationale for the development of the RFR clinic; 2) it outlines the steps we took to establish the clinic. Here the intention is that following the publication of this paper we will disseminate a 'starter-pack' for any other university which wishes to develop a similar clinic at their institution; 3) the paper explains some of the practical problems / pitfalls that we encountered in establishing the clinic with the intention that these can be avoided by others following a similar model; and 4) we identify our next steps and the areas where we are extending the scope of the clinic.

2. THE NEED FOR FAMILY REUNION CLINICS IN THE UNIVERSITY SECTOR

Law Clinics and their Aims

Law clinics operating from universities are generally run with small numbers of academic staff and an equally, proportionally at least, small number of students acting as volunteer advisors. The students are frequently organised into 'firms' who provide a service in the form of a letter of advice to the client which has been authorised and overseen by the practising lawyer of the clinic (satisfying professional body requirements). Some clinics provide casework and representation services, and larger clinics may operate with greater numbers of staff and students, maintained by full-time or part-time administrative support, perhaps running a full-time service. The funding for these operations is primarily from the University itself, albeit some funds come through private donation, funding sourced from trusts or through government agencies.¹² Regardless of the source of the external funding, the pattern in recent history has been a decline in funding year on year.¹³

Law clinics operate through universities with volunteer students providing varying levels of legal advice and guidance under the supervision of qualified staff. This is generally known under the more broad heading of clinical legal education and, either through live client work in a real work-based learning environment, or through simulated cases, the students have the opportunity for experiential learning, critical reflection and an ability to develop their skills and to identify how their teaching and learning reflects directly in real-world situations. The students have the benefit of being active participants in the learning process which transcends the academic focus of conventional classroom teaching. It has traditionally been used to foster skills which are hard to duplicate in a classroom setting. The emotion of the client, managing their expectations, developing a professional distance from the client and his/her problems, and developing time management and organisational skills, whilst also employing professional ethics and recognising the part law plays in everyday life.¹⁴ Clinical legal education also enables the University itself to fulfil many of its wider obligations and objectives. It provides a much-needed service to members of the local community, it allows interaction between the University and individuals, local service providers and community groups, and it provides demonstrable impact on the work of members of the University undertaking teaching and research activities with those 'beyond academia.' This has resonance with the perception by some groups that universities operate in an ivory tower.¹⁵ This analogy has different connotations depending upon the source;¹⁶ however, we understand the term to mean that the University has a physical presence in the community, yet sometimes its activities are not known to the wider community or the research and outputs that are created do not necessarily appear to have any direct relationship with its members.¹⁷ Law clinics by their nature

allow for the interaction between the University and members of the community who may otherwise never have any direct relationship with the institution.

The focus of the majority of law clinics operating in the United Kingdom follow the path of the students' education being of paramount importance and of developing a series of practical legal skills upon which the student can build his/her 'employability'¹⁸ and increase the chance of training contracts and/or employment upon graduation. Recent research has identified that there are currently 102 law schools operating in the UK and of these, 64 have a law clinic type activity.¹⁹ It was also identified that these clinics were established between the years 1990 and 2015 with an acceleration of law clinic creation in universities being seen between the years 2011-2015.²⁰

Law clinics provide advice in a number of legal areas, although some appear to specialise to a greater extent and to provide their unique selling point - such as operating as a legal practice of an Alternative Business Structure. The most recent research on the composition and activities of law clinics in the UK, of Drummond and McKeever (2015), discovered that the most common area of advice was provided in housing law, and then in descending order were commercial law, consumer law, family law, employment, health and social care, immigration, criminal law, education, social security, asylum, human trafficking, property, probate and wills, and finally 'other' category which included matters such as criminal injuries compensation, environmental law, human rights and data protection (among others).²¹ Of these areas, family reunion was not identified specifically as a category of assistance within the law clinic. The specialism that is required to guide the individual through the application process, and the distinct feature of guiding the applicant, rather than simply issuing that individual with a letter of advice, provides tangible benefits for both the University students volunteering in a RFR Clinic, but much more significantly for the individual who is attempting to be reunited in safety with his/her family.

Law Clinics and Applications for Family Reunion

Unlike traditional law clinics in the UK, the Sheffield Hallam RFR Clinic follows very much in the footsteps of the original incarnation of clinical legal education as developed in the United States in the 1960s and Australia in the 1970s. Law clinics in these jurisdictions were primarily developed to address the lack of accessible legal assistance for the poorest in communities.²² At their heart was the development of local clinics to deliver social justice. This is not to say that traditional law clinics in the UK do not deliver or intend for social justice to be a part of their offer, rather it is as a consequence of the underlying pedagogic²³ focus of the initiative rather than its principal aim.²⁴

The refugee crisis, with the consequent entry into the UK of individuals displaced from their families, established a problem with available resources and support systems to facilitate the application necessary for the claimant (known in the UK as the sponsor) to be reunited with his/her family. Central to the complexity of family reunion is its position between 'regular' permitted immigration, whereby an application for entry has been considered and a visa has been issued by an overseas mission, and asylum, where individuals are forced to flee and often enter the UK clandestinely and face the vagaries of the ever changing asylum system. The right to family reunion arises from the 1951 Refugee Convention²⁵ and is only a right given to recognised refugees who have been granted refugee status or, since October 2006, five-years limited leave to remain under the Humanitarian Protection mechanism. The right to family reunion is written into Part 8 and the relatively new FM section (Family Dependents) of the immigration rules (not under the Part 11 Asylum section). In fact, the right to family reunion is not at all alluded to in the asylum section and nor is it clearly mentioned in the current iteration of the Grant of Status letter given to newly recognised refugees. Therefore, refugees to the UK are treated under immigration rules and are subject to the completion, to the Home Office's satisfaction, of an application to have prescribed members of their family join them in the UK.

It would be incorrect to hold the view that every sponsor seeking to complete an application for family reunion is without the means/funds to obtain legal assistance in this venture. Many sponsors possess funds to facilitate their application and will be provided with assistance from whichever legal service they engage for this purpose. However, as with many law clinics, our clinic

recognised the needs of socially excluded groups, such as individuals who had very low incomes or disposable capital²⁶ (for our purposes this was sponsors who were either in receipt of state benefits and/or had less than £1050 in savings),²⁷ and these people were provided with guidance (if they met other criteria regarding the ability of our clinic to provide the help they required). Balmer et al²⁸ had identified divisions between socio-economic groups regarding their knowledge of their rights and the legal process and we considered this group would be in most need of assistance and vulnerable to not completing the application form (and doing so correctly). Our offer of a free guidance service, and the targeting of our advertising and work with referral agencies, concentrated on this group for help.

The process of family reunion involves the sponsor completing an on-line application form, along with the submission of (available) supporting documentation, which is considered by an Entry Clearance Officer (ECO) before a decision is passed to the applicant (the family member subject to the application by the sponsor). The application process is not simple,²⁹ and this process is made even more complex when refugees, who by their nature enter the country in non-ideal or even, in many instances, not in pre-arranged circumstances, may lack the written and oral English skills to complete the application to the satisfaction of the ECO. The law clinics of universities are almost uniquely placed to provide help to members of these communities. Universities have students from a variety of backgrounds with different language skills and experiences to assist with language and cultural issues that will inevitably arise, they may have access to linguistics departments who could contribute volunteers to be interpreters which is often a critical dimension to RFR clinics (this is a benefit for both sets of students), they have a visible presence in the community, and they have direct access to the members of communities to spread the word of initiatives such as RFR clinics and to facilitate the development of trust – such an essential feature when establishing a RFR clinic.

Further, by guiding members of the local community to successful applications (rather than doing the job for them), it not only provides a positive advertisement of the clinic, but it also empowers these successful sponsors with the skill and knowledge of how to complete the form and in turn may enable them to volunteer in local clinics, to establish self-help groups in the community, or to directly assist members of their community who would not seek help from an outside agency. We have anecdotal evidence from the sponsors using our Clinic and of local interpreters that assist from within communities, that help and guidance between members of communities is quite common. Many refugees to the region are unsure of whom they can trust, often their experiences of governments and officials in their home country may not have been positive, and there is a pride dimension where the sponsor (usually the patriarch of the family) may not feel comfortable in seeking help. By guiding the applicant through the application they can become empowered by understanding the dimensions to the process, what evidence is required and how to complete the form themselves (with the aid of an interpreter if necessary). They can therefore identify the legal and non-legal issues to their situation, gain knowledge of the appropriate and available mechanisms to deal with the situation, and to engage with the application process and more readily identify where outside help (for example from an RFR clinic) is needed.³⁰

3. ESTABLISHING THE CLINIC - STEP BY STEP

Sheffield Hallam University was approached by the British Red Cross (BRC), following conversations with Clare Tudor, regarding the need for a refugee family reunion service to be developed in Yorkshire, and that as the first City of Sanctuary,³¹ and following the collapse of the Northern Refugee Council, Sheffield was an obvious location. Further, based on the applied nature of research at the Department of Law and Criminology, its focus on social justice and building upon a very well established and flourishing suite of clinical education initiatives (the oldest having been in operation since the 1990s), the Department began establishing the necessary links and infrastructure to house and operate the RFR Clinic.

The servicing of RFR need in the region was a complex issue. Many refugees came to Yorkshire following various international conflicts around the world, and a high proportion of refugees were from the Middle East. They were located in various districts in Sheffield and the surrounding area,

so identifying where we would be most effective in our advertising was crucial. Here, not only was it necessary to liaise with organisations such as the BRC, but also local service providers including Citizens Advice Bureaux, law centres, local law firm practices, mosques and community groups/centres (about thirty so far).

Before you Start – University Approval, Ethics, Regulation and Insurance

Anyone who has established a law clinic at university will be aware of the regulatory requirements from professional bodies and, significantly, the necessity of approval from the University and its insurers before the doors may be opened to the public. For refugee family reunion, the Solicitors Regulation Authority (SRA) and the Office of the Immigration Services Commission (OISC) are the two main bodies overseeing and regulating the activities of those providing immigration guidance and advice. They work under a code of ethical standards, identify and test the competency of persons providing advice, and they seek to ensure that these services are fit for purpose. Section 84 (2) of the Immigration and Asylum Act (IAA) 1999 allows individuals to provide immigration advice and services without being regulated by the OISC where they are authorised to practise by a designated qualifying regulator. Solicitors satisfy this test as they are regulated by the SRA which is a designated qualifying regulator as it derives its regulatory authority from the Law Society. Hence, if a solicitor holds a current practising certificate and is working in a law firm or an SRA regulated Alternative Business Structure (ABS), both the individual solicitor and the organisation are regulated by the SRA. Here neither the organisation, nor the individual solicitor (or any non-solicitor advisers who are supervised by the solicitor), need apply to the OISC for regulation. On the basis that the law centre intends to provide immigration advice and services provided by volunteers or individuals who are not solicitors individually regulated by the SRA, then the individuals must apply for OISC registration. This is required as practising solicitors working in a law centre, while regulated by the SRA for the purposes of s. 84 (2) IAA 1999, are not permitted to supervise non-qualified individuals in such an organisation. Work undertaken by the non-solicitors is not being conducted on behalf of the solicitor but on behalf of the law centre. This applies not just to law centres but other charitable organisations and non-commercial advice services which have practising solicitors regulated by the SRA.³²

Insurance cover is another essential factor for any clinic when providing physical access to University premises to the public, and when providing a service where negligent instruction may lead to the client suffering loss. Existing public liability cover for the premises where the activity is taking place, which clearly involves clients coming to the University for meetings and consultations, will protect against costs arising from damage caused by a fault with the premises/facilities. This cover will generally apply to visitors as well as staff and students. With regards to the advice/guidance provided to a client, it is essential that those operating within the clinic are correctly and adequately insured in the event of harm/damage suffered (even though in refugee family reunion cases this would be unlikely). From the outset it is important that pedagogic principles, fundamental to the ethos of universities, are central to aims and objectives of the clinic. Universities will require that law clinics comprise 'a University activity,' the primary object of which is for university staff and student involvement to advance knowledge (e.g. furthering the education of the students or conducting research). Where the clinic does satisfy the definition of a University activity, the University's professional indemnity insurance will normally cover the activities of a RFR Clinic.³³

It is unwise to proceed on the basis of assuming that professional indemnity insurance held by another law clinic operating in the University will act as an umbrella cover for a family reunion clinic, and conversations with the institution's procurement department (or equivalent) are prudent to ensure insurers are clear as to the activities, personnel responsible for activities, and the potential consequences that negligent assistance may have. Therefore, preparing for questions such as 'What are the possible ramifications of the application not being dealt with correctly?';³⁴ 'Would it be correct that the applicant would be deported or would they have the ability to reapply?';³⁵ and 'Is there a financial angle to this i.e. is there a cost associated to the application?';³⁶ will assist when mapping the clinic to learning and teaching activities, but also in explaining the project to individuals who may have little initial appreciation of what a family reunion clinic entails.

Identifying the Need and working with Referral Agencies

The BRC hold a unique position within the immigration and asylum field through their long standing undertaking of International Family Tracing and Messaging work and the provision of Travel Assistance for refugees reuniting with their family members. In preparation for the implementation of LASPO in April 2013, the BRC sought to plug the impending gap in advice provision for refugees seeking reunification with their pre-flight family. Whilst lobbying for the reinstatement of legal aid for family reunion matters,³⁷ it decided to test various models of advice and advocacy provision across the UK. It was through the testing of a partnership model in Leeds that it became apparent that there was a need for a satellite style service in Sheffield. This was intimated by the number of enquiries the Sheffield team received around RFR and the known demographics in the city. The Regional Refugee Manager of the BRC asked the Project Evaluator to investigate the possibility of a referral relationship being established with academics in Sheffield, in a similar manner to other partnerships BRC had brokered with Higher Education institutions in the South (Bedfordshire and Plymouth).

The Sheffield Hallam RFR Clinic

The law clinic is a service primarily provided by ten volunteer students³⁸ who operate (in firms of two persons per client) under the direct supervision of a qualified specialist immigration solicitor, a case worker with substantial practical experience in the sector and in producing and contributing to a raft of key texts for practitioner and policy audiences, an in-house interpreter (and interpreters available by telephone) and the departmental Head of Research for Law liaising with the team and outside agencies. The students were brought into the project just after its inception so they could influence the design and direction of the clinic, its aims and scope, and were able to contribute to the initial service provision and were able to identify areas for expansion of the Clinic's offer (to be operationalized within the first year of the life of the Clinic).

The students were instrumental in developing an existing suite of documents to ensure a bespoke and fit for purpose range of materials were available to assist at each stage of the clinic's offer. Clients contact the RFR Clinic or are referred to us by local and national organisations with whom we have developed links, and from there we arrange meetings following the issuing of an invitation and identifying the documents which they should bring to this initial meeting (to speed up the process between interview, identification of the needs of the client and the suitability of the RFR Clinic to help) and the formal application and presentation of documents to the Home Office. The students are responsible for the initial screening of the clients³⁹ to identify if the nature of their application is within the remit of the Clinic, and in the event that this is not, they signpost the client to a range of providers who may be able to assist with the client's need. Where we can provide guidance, the students open the file, conduct interviews and ascertain the documentation available, and they assist the sponsor in compiling the documents, preparing a written statement if necessary,⁴⁰ and collating this package of materials to assist the sponsor in completing the online application stage and finally in sending the original documents to the Home Office. At every stage of the process the students are assisted by the RFR Clinic team, and they have access to the in-house and external interpretation team as necessary.

Significantly, the students provide guidance to the client, not advice, and any guidance they provide is under the direct supervision of the specialist solicitor. This goes beyond the traditional law clinic experience where students perform many of the above tasks and complete their work by providing a letter of advice following a period of legal research. This is not intended to decry or to negate our admiration for the traditional law clinic experience, rather, it is to espouse the benefits we provide to clients in providing practical assistance to them completing their applications, empowering them, and to offer a service which is underpinned by advancement of, and access to, social justice.

The Clinic runs on Tuesdays between 4-7pm. The expansion of the clinic (see below) is likely to see a second and perhaps third day of operation being offered.

Identifying the Personnel from the University - Advisors and Lawyers

Careful selection of the advisors / supervising lawyers, members of academic staff and the student volunteers is essential to the success of the clinic. Commitment to the clinic, understanding of the issues affecting refugees and belief in projects of this nature are essential attributes, as are working with people who share the values of the university and the norms of the clinic (e.g. a solicitor who works on RFR projects must be committed to assisting sponsors to be reunited with the family and recognise that in working at a university clinic, any remuneration is likely to be small and the work will be almost provided on a pro bono basis; for students, the willingness to commit to clinical sessions outside of term, to attend the sessions regularly and adopt a professional approach to their contribution). The lawyer / advisory team must be committed to the development of the student volunteers and to enable and develop the application of legal and professional skills. The personnel in the University funding the initiative must also have a commitment to the long-term development of the clinic and to support it in its fledging weeks and months, and beyond. They must also have the desire to engage with public opinion regarding the plight of refugees and the issues faced by the refugees and other members of the community following an influx of families. The refugee crisis and its consequences for Europe are a topic of contention and a strong belief in social justice, the rights of displaced persons, and of honouring international obligations is particularly important.

Developing a Sponsor Support Mechanism - Advice v Guidance

Given the reduction in legal aid, support agencies in the sector (including advice agencies, solicitors' practices and charitable funders) have been considering the available options to extend the assistance from the NfP sector. The concern, as a consequence of this investigation, is that whilst there is a growing movement towards volunteer organisations, CABx, Law Centres and University Law Clinics offering assistance of legal services, in relation to immigration a particular problem surfaces. There is currently confusion as to the extent to which voluntary bodies can offer advice and to what extent even a practising lawyer can supervise non-lawyers (e.g. students). The IAA 1999 s. 84(2) provides the grounds under which a person will be 'qualified' to provide services. The OISC appears to hold that solicitors providing immigration advice are regulated according to the SRA, yet this may not extend to those operating under that solicitor's supervision. As such, student volunteers (and indeed those unqualified solicitors working in the NfP sector generally) may be acting in breach of the IAA 1999. There is a dearth of positive guidance from the SRA as 'supervision', under its Practice Framework Rules 2011 (Rule 4) fails to provide a complete answer to the issue of qualified person for the purposes of IAA 1999 s. 84(2)(e).

It is beyond the scope of this paper to offer a critique of the consequences of the qualification and insurance implications of the debate. Where we are confident is in the position that where guidance is provided by the law clinic, and this does not stray into the realms of advice, the activities of the clinic will not be in breach of the IAA 1999. This is quite apt in relation to RFR applications as they are predominated by compiling documentary evidence and completing an on-line form (hence this is by its nature non-legal advice). Therefore, there is little 'advice' being provided to the client and insofar as the RFR clinic endeavour is directly related to the learning activities of the student volunteers, this will in most parts address potential queries from the university insurers (particularly where the university already operates a regulated law clinic). The distinction between advice and guidance forms part of the student training activities and close supervision of the students ensures that this separation is maintained.

Selecting Students

We were interested in selecting committed, interested and effective students to the clinic. As we were not offering legal advice we did not feel restricted to seeking students simply from a law background. The issues and complexities of refugee and humanitarian protection, along with family reunion in this area, lent itself to seeking students with a range of backgrounds and adopting a multidisciplinary approach to the clinical team.⁴¹ We sent an invitation to law, criminology, politics,

psychology and sociology students (undergraduates) and requested that they prepare a 300-word outline of why they were interested in the clinic and what they could contribute. Responses were received from approximately twenty students and we selected nine initially to work at the clinic (one more was added to provide equal teams of volunteers). These students were very clear on their passion for the topic, how they wished to interact with members of the local community and 'give something back,' and in some cases, they had knowledge of the communities where the refugees and people with humanitarian protection status lived and/or had language skills which would be particularly useful with clients from this background.

The students were ambitious, wanted to develop their skills to become the best graduates they could be, recognised the opportunity that working in an RFR clinic could provide, had researched the area and surrounding issues well, and wished to develop a career in the area of immigration / asylum / politics and/or litigation.

Training - Scope and Sources

The students were provided with three training sessions (3 hours each) prior to clients being seen, and training continues throughout their time with the clinic (addressing issues that surface through the students' interaction with clients or where the case worker/solicitor respond to problem-areas and solutions/mechanisms). The students were given a background on immigration issues internationally and then nationally, and they were exposed to common problems faced by refugees entering the UK and the internal system of immigration processes. They were provided with interactive and group-based activities regarding interpretation; issues they are likely to face with vulnerable (possibly hostile) clients; how to provide guidance and what would constitute advice; how to maintain a professional distance from the clients (such as professionalism, not sharing private contact details, not making promises of success or outcomes etc.); and the need for an empathetic approach (and the distinction between empathy and sympathy). Our students also spent time with a recent migrant to the UK from Syria to learn from a first hand account of the differences between life in the UK and that in Syria, to understand the nature of communities and how trust can be developed between the students, the clinic and the members of communities who would be our clients. It was also valuable to dispel myths about the role of women, of education, and the nature of the conflict in the communities from where clients resided prior to their entry to the UK with refugee and humanitarian protection status.

Practical training and support regarding the preparation of the physical file and the on-line form that sponsors complete on behalf of their family (the applicant), and the requirement for close contact with the supervising specialist solicitor and caseworker to ensure the students could assist the sponsor if his/her application is anticipated to fail (referrals / signposting / appeals process / additional sources of help etc.) formed part of each of the training sessions.⁴² The practical training continued with students working with an interpreter to understand the potential difficulties of interpretation - trained interpreters provide a verbatim translation (where possible) of the question asked by the student. If the question is not understood, the interpreter does not provide additional information or explanation and often frustration is apparent on all sides. This exercise was very effective in developing the students' thinking carefully about the wording used, how to try alternative explanations if the first failed, and how to respond to client questions / answers.

The RFR Clinic team considered it important to secure (external) specialist training for the students in addition to that provided by the specialist lawyer and caseworker. This, it was hoped, would increase the students' confidence, ability to cope with the demands of RFR work, and to enhance their skills. Two courses that BRC regularly deliver have been identified as particularly suitable for the student volunteers. 'Working with Interpreters' is a well-established course which seeks to provide caseworkers with greater confidence and awareness when working with interpreters. Students are guided through best practice principles and asked to reflect on the role of the interpreter in depth and to identify obstacles to communication and the importance of monitoring interpreters' and their own performance. This may also develop useful and transferable skills in the students' future work experience and employability. The second course involved the students' management of the stress exhibited by clients and that affecting themselves.

Supporting refugees who are seeking to be reunited with their families is fascinating, rewarding and challenging work but can also be emotionally draining.⁴³ Refugees can suffer from 'survivor guilt' and be unable to settle and integrate without their family members. Clients may present as anxious, withdrawn and tearful and could have manifest mental as well as physical health issues. They may be traumatised and the continued separation from their families and their lack of understanding around how long the process may take to a decision of reunion may well exacerbate their anxiety. It is important for those supporting refugees in this and other processes to recognise their own stress levels and understand how to properly debrief and not be adversely affected by their involvement. It is imperative that, particularly those new to this field of work understand parameters, safeguarding and protection issues and how to manage their clients' and indeed their own expectations. The BRC offers an excellent course about working with traumatised clients and how caseworkers can be in danger of absorbing clients' stress and the detrimental affect this may have on their colleagues and themselves. The course provides a comprehensive understanding of how individuals can recognise stress and anxiety indicators and alleviate them through stress reduction exercises. Our relationship with the BRC has resulted in our students being provided with access to both courses. As a further practical training opportunity, our specialist supervising solicitor has arranged for the students to visit the Immigration Asylum Chamber (IAC) in Manchester, Bradford and Stoke to give the students an oversight of the application and appeal processes and gain insight into the structure and powers of the Tribunal.

Finally, beyond the very important practical training and information that the student volunteers require, as this area of guidance operates under strict legal rules, individuals working with those claiming family reunion should familiarise themselves with the Immigration Directorate Instructions (published instructions written for UK Visas and Immigration (UKVI) case owners and decision makers), particularly sections 1, 1a, 6, 8, 9, 19, and 22. They should attempt to be conversant with the relevant European Convention of Human Rights Articles 3 and 8. Student volunteers (essentially the caseworkers) should familiarise themselves with specific international instruments – most notably Article 3 of the United National Convention for the Rights of the Child 1989, domestic instruments, including the Borders and Immigration Act 2009, s. 5 (the duty the Home Office placed itself under safeguarding and promoting the welfare of children in the UK). It is also useful for caseworkers to be regularly using specialist databases such as the Electronic Immigration Network (EIN)⁴⁴ and postings on Refugee Legal Group,⁴⁵ the Immigration Law Practitioners' Association⁴⁶ and Freemovement⁴⁷ to keep abreast of all relevant case law.

Supervision

Developing an appropriate supervision model is essential to provide guidance to the students and to enable them to undertake the necessary skills provided in their training and their education at university. This could be legal education for the law students but also general skills such as working collaboratively and clearly articulating ideas / questions (particularly for the non-law student volunteers). The students are guided on key issues such as focusing on the sponsor's needs, their ability to deal with unanticipated outcomes,⁴⁸ the ability and availability of assistance and support by the academic / legal team overseeing the clinic, and their responsibilities to their clients (the sponsors), the project as a whole, and their supervisors and colleagues.

The supervisors also have to clearly identify their role in the clinic. They will be available to provide assistance at every stage of the clinic and guidance/application process, they will help the students to use their skills to cope with the pressures and requirements of assisting an application, they will offer feedback to the students to help them develop personally and professionally, they will communicate ideas and instructions clearly and professionally, and they will be available to the students for ancillary matters when needed.⁴⁹ As supervision of an RFR clinic might be provided by an external supervisor (for example a qualified immigration lawyer / OISC Level 2/3 qualified advisor – unless the university has such a qualified person presently on staff) this process is even more significant. Not being a member of academic staff can place a distance between the students and the supervisor, and the students need reassurance of what function the supervisor is fulfilling, their commitment to the project / clinic and, preferably, having such a supervisor involved in the

creation of the clinic. The supervising lawyer should also be provided with a contract of sufficient length and at a level (although it is highly unlikely university funds will match those available through private practice) of remuneration or given a status within the university to facilitate a commitment from them (and contingency plans where they may/will become unavailable).

External supervisors to the university should be offered similar support and training that is available to academic members of staff, including an induction and relevant health and safety directions. They should invest their time to advance the pedagogical aims of a law clinic experience, mentor the student volunteers with regards to their preparation for working in either legal practice or the broader immigration and asylum sector, instil professional values, rules, ethics, and morality, and encourage a reflective practice⁵⁰ amongst the students to ensure the students not only act professionally and offer a professional service, but also have the time and ability to reflect on issues which may affect them.⁵¹

Interpreters - Functions

Along with costs of housing the clinic, its administrative and stationery costs, and those associated with the academic staff and (where necessary) the external members of the team (specialist solicitor / qualified caseworker), the other potentially significant cost will be with ensuring appropriate interpretative skills are available. The nature of RFR is that individuals from a diverse range of backgrounds and with differing language needs will have to be accommodated. This can be achieved relatively easily with effective planning, referral forms and liaison with any referral bodies with whom the clinic is working.

A practical issue which should be addressed is the need for the clinic staff to work closely with the interpreter and to discuss issues which cause difficulties prior to the client visiting the clinic. It may seem an obvious point, but issues such as the terms: DNA, indefinite leave to remain, the EU Uniform Format Form, a biometric residence permit, and even less technical terms, but fundamental to the process including barrister, solicitor, tribunal, the Home Office etc can cause significant problems. The interpreter will translate in a literal form what the caseworker / student volunteer asks them to ask the client. They are trained not to re-interpret the question or to provide further information (even if they could) and this can be the cause of significant frustration between the parties to the conversation (the student, the client and the interpreter). Establishing a way of communicating what these terms mean is essential. For example, in the UK most people will have, to varying degrees at least, an understanding of what the Home Office is - even if their understanding may be far from complete. This is not necessarily true of a client from (for example) Syria where the government agency which is the equivalent of the Home Office will likely be known by a different name, be subject to a different hierarchy, and may mean something quite different in their own language. In order to avoid confusion, the establishment of a glossary of key terms and an explanation of what these mean which can be read or given to the interpreter can save time, expense and avoid the problems that may otherwise surface.

The RFR Clinic has a volunteer interpreter who is fluent in Arabic (one of the most common community languages used in the clinic) as a member of the RFR Clinic team and they have not only translated our leaflets, advertising materials and guidance documents into two commonly used languages, but also taken these materials directly into the community, distributing these through faith organisations, key community groups and so on.

Advertising the Clinic - Community Engagement and Use of Social Media

The adage 'If you build it, they will come'⁵² proves to be wrong when applied to RFR law clinics. There are many people in communities who require assistance with their family reunion applications but may fear an unknown provider of help, they may be reluctant to accept help from, for example, female advisors, or may simply be unaware that help from the new clinic is available. Clients are the primary reason (when social justice is the aim) for a clinic's existence and without regular cases, and the impact of the help being provided to clients, it can be difficult to maintain the interest of the student volunteers, or the commitment from the university/institution which is funding

the (often expensive) operation of a law clinic. Establishing where the clients live, community groups who can advertise the clinic and vouch for its authenticity and can help establish trust, and engaging with discussions with other NfP advice centres and (even) law firms who are unable to provide the pro bono work sought from clients in need, can all ensure a healthy flow of clients. This facilitates the aid to members of the local community and the learning experience of the students, and it justifies the existence of the clinic and its worth. Details of the RFR Clinic were made available electronically, they were disseminated among many of the personal contacts known to the team, via advertisements placed in local shops and businesses, and through public libraries. Word of mouth advertisement was also very important and relates directly to the issue of trust which is fundamental to the success of RFR clinics.

We also worked with the students to develop flyers for the local community groups and referral agencies to pass amongst interested individuals, and the students were tasked with establishing our web presence and our social media strategy. They produced details of the clinic's location, opening hours, eligibility requirements and links to the referral document to be completed and submitted (where possible) by the prospective client. There was also a dedicated email address and telephone number so we could manage the clinic away from the distractions of the other initiatives run through our clinical suite (and the other responsibilities of the RFR Clinic team). This ensured that management of the clinic was more effective and was not lost in the sea of email and telephone communications that is part of an academic's/practitioner's life.

Developing Trust in the Sector and Community

Barber has defined trust as a set of '... socially learned and socially confirmed expectations that people have of each other, of the organizations and institutions in which they live, and of the natural and moral social orders that set the fundamental understandings for their lives.'⁵³

Trust is a concept which has received attention extensively in social sciences generally and from specific perspectives – sociology, economics, psychology etc. Worche⁵⁴ identified that, despite the varying perspectives, it is possible to aggregate these into three groups – personality theorists, sociological and economist views, and the views of social psychologists. It is this latter group which we argue is most pertinent to an RFR clinical experience. Here trust involves the expectations of the other party in the relationship, the risks present in addressing those expectations, and contextual factors that affect, positively or negatively, the development of trust. Trust in a law clinic/potential client relationship is not founded upon a romantic model – it is important for a student volunteer to inform the client that, for instance, the clinic is unable to assist with his/her claim or the client has little chance of succeeding with his/her pursuit than it would be for the student to provide the client with an unrealistic view of the likely success (beyond ethical implications that exist in the relationship).

Initially trust has to be created between the clinic and members of the community. The clients have to trust in the abilities of the clinic to provide effective and reliable assistance. We had anecdotal evidence at the outset of the operation of the RFR Clinic that refugees in the community were prepared to pay approximately £400 to a solicitor to complete the RFR application rather than 'taking a chance' on using a university law clinic. It is by helping clients to successfully apply for family reunion and for these good news stories to be disseminated that the initial trust is demonstrated with the community. Of course, trust on this basis is a dynamic phenomenon and develops at varying stages in the relationship. Essentially, having identified the desire and intention of the client to succeed in their reunion claim, and the client understands that the clinic wishes to assist in his/her application to the best of its ability, a mutual understanding is developed where each can act for the other. This is furthered through the development of empathy exhibited by the volunteers. Having developed trust at a community/institutional level, it is important to advance this on a personal level. That empathy which the students demonstrate, their appreciation of the significance of the application process and the desire and need for the family to be reunited, avoids a 'can't be trusted' dimension to the relationship. Our procedures have also enabled the RFR Clinic to develop identification-based trust.⁵⁵ Our logo (the Helena Kennedy Centre for International Justice) creates a collective identity; we are located in Sheffield where the majority of our clients

are based (founding colocation); we established common goals and we as a team made a commitment to commonly shared values relating to social justice, internationalization, and working with and within the community for the betterment of individuals and the lives of those people in the community. Trust continues to be developed between the RFR Clinic and our community.

Availability and Student Vacations

Given that undergraduates students may have completed teaching and assessments by May/June, and teaching will not resume until September/October, when deciding our opening hours we had to pragmatically determine when or if we should suspend the service during the vacations - Christmas, Easter and the summer. Beyond not taking referrals or operating the clinic when the University would physically close, we decided to remain open until July in each year and then reopen in the final week of September. These arrangements are subject to change, but they provide a level of certainty to our plans, they ensure we manage the expectations of members of the RFR Clinic team and the community, and they ensure the student volunteers have the chance to explore other opportunities during their summer vacation (an important aspect of their personal development).

4. A PATHWAY TO JUSTICE: NEXT STEPS

The RFR Clinic was initially created to facilitate family reunion applications. At the outset, few individuals in the community knew of the existence of the clinic and there were trust issues to contend with. The student volunteers had to become comfortable with screening individuals, identifying the availability of the client's supporting documentation, determining whether the clinic could offer guidance in the specific circumstances of each case, and guiding individuals through a complex claim process. We began with 30-minute to two-hour appointment schedules for each client but as the students became increasingly confident with the format of the referral and screening documents, and other practical issues became commonplace, these appointments were reduced to 15-minute (for the initial meeting and establishing follow-on meetings where the claim form would be completed and the bundle of evidence was prepared – see figure 1 for the claim process we initially developed when running the RFR Clinic).

Despite its obvious importance and centrality to the clinic, family reunion applications was, however, only one aspect of the process we wished to offer. As the students gain greater confidence and the clinic begins to grow, we have the following aims which we hope to operationalise for the next academic year (2016-17).

First, to register the Clinic's activities with the OISC and to enable the volunteer students to gain accreditation at Level 1. Secondly, to expand the assistance to sponsors and to develop innovative solutions in the face of costs and funding issues, our aim is to offer group guidance sessions. Rather than, as of present, two student volunteers working with a sponsor to work through the online application process (following the collation of the appropriate documents), we envisage a group session (of perhaps 8-12 sponsors) where the students use an IT equipped classroom to take the sponsors through the form, ensuring the sponsors use the paper-based file they will have produced prior to the session with the student volunteers, to complete the on-line application. This, we feel, will provide a more cost and time effective system of guidance, the group of sponsors will be able to support each other (emotionally at least), and the numbers of sponsors the clinic will be able to help will grow significantly. As maintained throughout this paper, our principal aim is to enhance the social justice of RFR claims in the region, but we also are mindful that as a university initiative, we wish to assist the students' personal and professional development. The use of technology (and the enhancements it can bring when used creatively and appropriately), and the successful engagement of the students with people and agencies in the community, along with exposing them to legal and non-legal issues and encouraging them to think of ways in which we can use our collective talents for the benefit of the regional and global communities, is to serve the social justice and employability aims which modern incarnations of law clinics must provide.

A further aim is to extend the Clinic to provide ECF,⁵⁶ British nationality, and travel documentation applications - offering a more complete package (figure 2 outlines our plan for expansion to ECF applications). There is much interest in the possibility of the Clinic undertaking ECF applications in the future. It is felt that learning how to compile compelling ECF applications may be a very worthwhile exercise for students wishing to gain employment in the legal field, and it would be extremely useful to clients. This is particularly relevant in RFR applications where making a successful submission for ECF would enable payment for crucial evidence including translations and DNA testing. This also will assist in furthering arguments to influence social and public policy issues. The award of funding through ECF is relatively small, but it acts to highlight that clients are in need, and qualify for, legal aid in this area. In assisting successful claims, we will establish greater empirical evidence of the necessity for the reinstatement of legal aid for RFR claims and this evidence will, when created by other university law clinics offering similar services and through the collation of evidence currently held by service providers generally, produce a more compelling case for funding and support of refugees.

Both British nationality and travel documentation streams are pivotal to refugees' integration but neither attract legal aid and refugees can easily fall prey to unscrupulous advisors when seeking assistance with these claims. They and their families can lose substantial sums of money and time if they make mistakes on the form; omit evidence; use out of date forms that are still circulating, or misunderstand a question on the form. Not having a travel document can lead to a child not being able to take part in a school trip and families being ostensibly trapped in the UK. There continues to be misunderstandings⁵⁷ around British nationality⁵⁸ and it is a dynamic area of immigration law that has been subject to significant change and may well be subject to further amendment in the impending Immigration Act. This will undoubtedly lead to confusion in the refugee community and greater need for accurate, structured information and support. A law clinic in this area would contribute to redressing a substantial gap in available services.

Expansion of a law clinic, particularly with a specialist component, is fraught with danger and a possibility that the entire clinic may suffer or collapse due to a desire to reach and help as many people as possible, and/or to enable more students to participate. The issue of most concern is the intensive administration exercise that surrounds the running of a law clinic. It is traditional that a member of academic staff either of their own volition or through an approach by an outside organisation, personally takes up the mantle of running the law clinic. This approach works at the outset because of careful control over the cases taken and the students who volunteer their time. As with any expansion, effective management and administration of the clinic becomes more time-consuming, more expensive and a further encroachment on individuals' goodwill. Having spoken with our RFR Clinic team and the small group of committed volunteer students, we agreed from the outset that the expansion of the clinic to ECF, British nationality, and travel documentation would provide a more holistic package of assistance to the individuals who are our clients. We were able to secure the 'buy in' from the team and the Head of our Department as to the merits of a secure expansion in these precise areas. We also specifically sought volunteers who were in the second year of their study and who will continue into their third year as volunteers, but also who will act as mentors to the new recruits to the clinic in the following academic year.

CONCLUSIONS

Our RFR Clinic is in its infancy and the purpose of this paper is to offer an insight into our experiences of establishing a clinic based on guiding individuals through the family reunion application process. We are very proud of the work of our dedicated group of students, the support we have received from Sheffield Hallam University, and the support and guidance we have received from local and national agencies and community bodies.

We have prepared this paper also to offer our assistance to any other university which wishes to use our model (and to develop it according to the needs of their particular institution) and our resources to create their own RFR Clinic. Whilst a mapping exercise is necessary to join up the advice/guidance services provided regionally and nationally, we believe that the need for guidance for family reunion services is immense. As stated from the outset, we have established our clinic

with the aim of providing social justice to the most needy in our community. The development of a broader set of skills for our students and their personal and professional growth in the few months of running the project has been incredible. We believe similar projects could be of benefit and significance to communities across the country and if we can assist in helping others to set up clinics in this area then our work will have greater significance in the field of social justice than we could have hoped.

Aligned with our work is the possibilities for collaboration on future research which is fundamental if policy change at governmental level is to be effective. Organisations on an international scale (such as the BRC) and local community groups working regionally can all contribute to forcing the government to rethink its strategy on legal aid for refugees and those with humanitarian protection status. Article 8 ECHR determines as fundamental the right to a family life. The current process of making this effective in the UK is unnecessarily difficult but RFR clinics can aid this process and developing family reunion projects to include ECF references will establish and reassert the need and right of individuals to financial assistance to secure their family reunion. Clinics such as ours, in concert with others developed across the country, then will no longer be the sticking plaster to alleviate the damage generated by removal of legal aid. Rather, they will act as a spotlight highlighting that deficiency, compelling the state to change its policies.

Figure 1: Mechanism for Processing Claims

PLEASE REMEMBER: DO NOT AT ANY TIME PROVIDE ADVICE, DISCUSS THE MERITS OF THE CASE OR SUGGEST MEANS OF ENTRY OTHER THAN REFUGEE FAMILY REUNION

Pre-appointment stage:

- Identify, as far as possible, that this is a Refugee Family Reunion case.
- Identify any language difficulties / interpretation requirements.
- Identify any obvious mental / physical vulnerabilities.

**Appointment 1
Screening / Triage**

30 mins

Introduce yourself to the client.
Take instructions from the client and assess whether the clinic can offer help.
Inform the client whether the clinic can take the case only after confirming with the supervisor.

If we can take on the case:

- Go through the 'Terms and Conditions' document with the client and ask client to sign the separate acknowledgment, retain one copy and give the client the other copy.
- Briefly give guidance on the family reunion process using the BRC self help guide.
- Show the client an unmade file and discuss evidence collation.
- Give the client a copy of the self help guide and give them an action sheet with details of agreed schedules.
- Tell the client that you will phone them with three weeks to find out how they are getting on and to arrange the next appointment.
- Draft the client care letter and post this (email / hard copy).

**Appointment 2
Progressing the application**

Up to 2 hrs

- Review all the evidence collated so far with the client.
- Complete as much of the hard copy application form with the client as possible.
- Ask questions where there is missing or conflicting evidence.
- Begin drafting a statement with the client using the statement template.
- Begin drafting a covering letter to go with the application with the client.
- Complete an action plan form with the client detailing further evidence they need to collate.
- Consider whether the application is ready, if not, why not.
- Discuss the case with the supervisor and make sure she is fully apprised of any complexities.

**Appointment 3
Progressing the application**

Up to 2 hrs

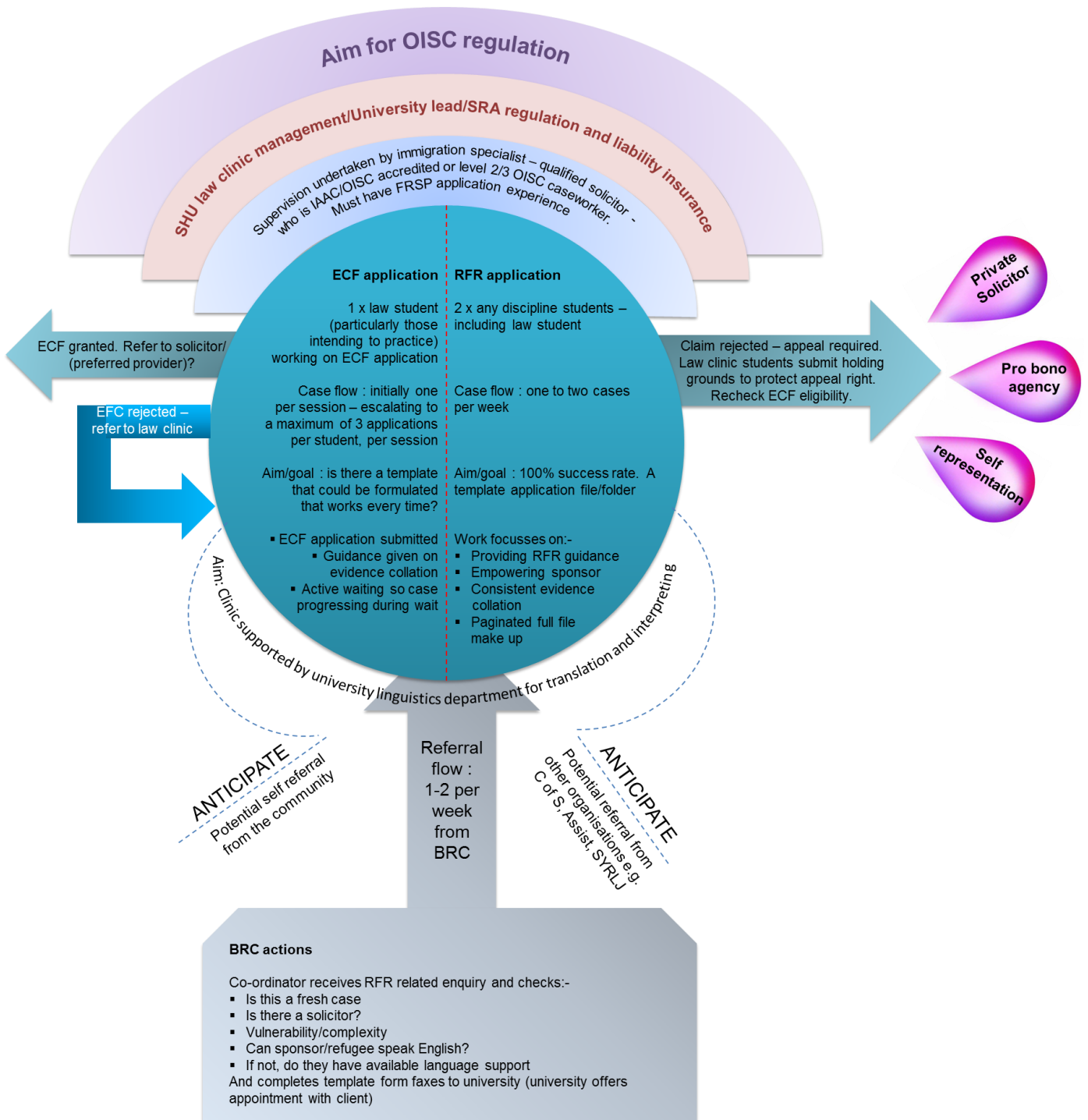
At this appointment you are aiming to have:

- The hard copy application form finished.
- All the evidence paginated and ordered, and bundled up.
- Statement drafted using the clinic template.
- Covering letter drafted using the clinic template.
- Be ready to confirm this bundle with the supervisor.
- Once the supervisor is satisfied that everything is ready you may start the online application, using the sponsors log-in registration and contact details.
- Complete an action plan sheet.
- Arrange a further, hopefully final, appointment if necessary.

Final Stages
Closing the file

- Signpost sponsor to pre-arrival and post-arrival specialist help services (such as BRC).
- Ensure all copies of notes are stored according to clinic rules (hard copies and electronic).
- All case file documents to be stored and maintained for six years).

Figure 2: A Roadmap for the Sheffield Hallam RFR Clinic



Eligibility criteria for cases to be referred to clinic
To be reviewed after 6 months

- Has to be a fresh application
- Family members have to be broadly eligible within immigration rules
- Sponsor has to be able to speak English or have available English support
- Has to be available within clinic operating hours
- Has to live within Sheffield or XX miles of clinic

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⁴ The central ethos and justification for the right of RFR is established in the principle of family unity in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, Geneva, December 2011.

⁵ The terms migrant / refugee are often used interchangeably which is both interesting and infuriating. We are specifically assisting individuals with refugee / humanitarian protection status.

⁶ Reductions in funding for legal aid has been concentrated in the criminal rather than civil sector in Northern Ireland; Dickson, B. (2013) *Law in Northern Ireland*. Hart, Oxford.

⁷ It removed legal aid from all immigration cases apart from asylum, but removed any funding from any human rights components of asylum cases.

⁸ Sommerlad, H. and Sanderson, P. 2013. Social justice on the margins: The future of the not for profit sector as providers of legal advice in England and Wales. *Journal of Social Welfare and Family Law* 35(3), pp.305-327.

⁹ For instance, the government has committed itself to resettle 20,000 Syrian refugees in the UK before the end of the current Parliament in 2020 -

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06805> [last accessed 16 March 2016].

¹⁰ Especially following the collapse of Refugee Migrant Justice, Immigration Advice Service and the Northern Refugee Council.

¹¹ Wizner, S. 2001. Beyond skills training. *Clinical Law Review*. 7, pp.327-340.

¹² Drummond, O., and McKeever, G. 2015. *Access to Justice through University Law Clinics*. Ulster University Law Clinics, p. 17.

¹³ Carney, D., Dignan, F., Grimes, R., Kelly, G., and Parker, R. 2014. *Law Works, Law School and Pro Bono Clinic Report 2014*. LexisNexis).

¹⁴ This follows closely with the development of 'desk-side manner' skills and articulated in therapeutic jurisprudence literature – psychological sensitivity in the advisor/client relationship, enhanced interpersonal skills, interviewing and counseling techniques, and approaches for handling (possibly significant) emotional issues likely to come up in the legal encounter. See Winick, B. J., and Wexler, D. B. 2006. The use of therapeutic jurisprudence in law school clinical education: transforming the criminal law clinic *Clinical Law Review*, Vol. 13, p. 605-632.

¹⁵ Bok, D. (1982) *Beyond the Ivory Tower: Social Responsibilities of the Modern University*. Harvard University Press.

¹⁶ For instance, it may be considered to refer to the commercialization of research outputs (see <http://www.cam.ac.uk/research/news/exploding-the-ivory-tower-myth> [last accessed 16 March 2016]). For discussion of the history and development of the term see Shapin, S. 2012. The ivory tower: The history of a figure of speech and its cultural uses. *British Journal for the History of Science*. 45(1), pp.1-27.

¹⁷ The university does of course host students who contribute to the welfare of the community through renting housing and make a significant contribution to the local economy.

¹⁸ Drummond, O., and McKeever, G. 2015. *Access to Justice through University Law Clinics*. Ulster University Law Clinics, p. 12. And, of course, employability can also dominate the areas of practice offered by the clinic - focusing on aspects of legal practice where the students are likely to find themselves employed (such as in commercial (in its broadest sense) and housing-related legal activities).

¹⁹ *ibid*, p. 16.

²⁰ *ibid*, p. 16. Here the research identifies that 16 clinics were developed during this period - with only 5 being newly established in the 1990s, and 11 between 2000-2010.

²¹ *ibid*, p. 17.

²² Dickson, J. 2000. Clinical legal education in the 21st century: Still educating for service? *International Journal of Clinical Legal Education*. 1, pp.33-46.

²³ The value of which is broadly recognised in terms of the students' education and development. See Giddings, J. 2010 Why no clinic is an island: The merits and challenges of integrating clinical insights across the law curriculum. *Journal of Law and Policy*. 34, pp.261-289 at 262.

²⁴ Dignan, T. 2011. Bridging the academic/vocational divide: The creation of a law clinic in an academic law school. *International Journal of Clinical Legal Education*. 16, pp.75-84.

²⁵ See *R (Gudanaviciene and Others) v Director of Legal Aid Casework; the Lord Chancellor* [2014] EWHC 1840 (Admin).

²⁶ As identified by Pleasence, P. (2006). *Causes of Action: Civil Law and Social Justice*. 2nd Ed. Legal Services Commission, p. 154.

²⁷ This figure is used by the British Red Cross and has been adopted in our clinic for consistency due to the volume of referrals from that organisation.

²⁸ Balmer, N. J., Buck, A., Patel, A., Denvir, C. and Pleasence, P. (2010). *Knowledge, Capability and the Experience of Rights Problems*. Legal Services Research Centre.

²⁹ For commentary on this point see Beswick, J. 2015. *Not So Straightforward: The Need for Qualified Legal Support in Refugee Family Reunion*. British Red Cross ISBN 978-0-900228-20-9.

³⁰ Following the creation of a legally capable individual as identified by Collard, S., Deeming, C., Wintersteiger, L., Jones, M., and Seargeant, J. 2011. *Public Legal Education Evaluation Framework*. University of Bristol Personal Finance Research Centre, p.3.

³¹ <https://sheffield.cityofsanctuary.org>.

³² See <https://www.gov.uk/government/publications/oisc-regulation-and-solicitors/oisc-regulation-and-solicitors>.

³³ Save for specific exclusions around medical malpractice that are not applicable here.

³⁴ An answer to this type of question could include: 'If the family do not get family reunion, they may complain to the regulatory bodies - OISC or SRA. Essentially, if the family are deemed not to be credible for reunion they would need to reapply or appeal the decision. However, we are not providing advice, rather the students and the OISC advisor will assist the applicant (the sponsor) in collating and submitting their paperwork and application. If a student went rogue, the university could be investigated and fined by one or more regulator, but for this reason the students are going through an extensive training programme and will be monitored at every stage (hence the rationale for limiting the number of applicants the clinic will have referred and will agree to assist).

³⁵ Despite the nature of such a question, it was put to us in our contact with the University insurers. It is included here to demonstrate that there continues to be a significant lack of knowledge of the process and extent of refugee family reunion. Our response was as follows: 'No, the applicant already has refugee status in the UK. The clinic is a system to assist the applicant to have their family join them in the UK (under the Family Reunification Programme).'

³⁶ An answer to this type of question could include: 'There is a court fee now for lodging appeals but no charge at all for application because it is asylum related and the 1951 convention obliges member states to not charge for anything asylum related.'

³⁷ Beswick, J. 2015. *Not So Straightforward: The Need for Qualified Legal Support in Refugee Family Reunion*. British Red Cross ISBN 978-0-900228-20-9.

³⁸ Many of whom had language skills which were common to those of the sponsors – including Arabic, Farsi, French and Urdu.

³⁹ At the outset of the RFR Clinic's operation these were performed by the client visiting the University. This continues, however clients are now provided with an option for an initial meeting via Skype/FaceTime to improve accessibility and to broaden access to the Clinic for those with mobility issues.

⁴⁰ This may occur where irregularities exist between official documentation submitted (for example the incorrect spellings of names) or where official documents may not exist (for example there is no wedding certificate and the sponsor is submitting other evidence as proof – photos, testimonies, receipts from venues etc).

⁴¹ Hyams, R. and Gertner, F. 2012. *Multidisciplinary clinics - broadening the outlook of clinical learning*. *International Journal of Clinical Legal Education*. 17, p.23.

⁴² Care is necessary when dealing with the consequence of any failed application and a referral to another provider. The student volunteers and the case workers at the RFR Clinic need to ensure clients are 'in a position to make informed decisions as to how to pursue their matter' (complying with Mandatory Outcome 9.3 of the SRA Code of Conduct). They would need to be expressly told that if the Clinic cannot assist in their application or where such an application is unsuccessful and he/she intends to appeal the decision, the individual is free to instruct any solicitor of their choosing (this is particularly important where local firms of solicitors may be providing the supervision of the Clinic).

⁴³ Such strong negative emotions can interfere in the relationship between the student/client – the details presented by the client may be distorted, the ability for the student to convey important information in an understandable form may be adversely affected, and the solution to the client's issue may be more difficult to reach. This may also manifest itself in psychological resistance and in each of the aforementioned circumstances the student needs to be taught preventative and coping strategies to avoid them.

⁴⁴ www.ein.org.uk

⁴⁵ <http://www.asylumaid.org.uk/refugee-legal-group/>

⁴⁶ www.ilpa.org.uk.

⁴⁷ www.freemovement.org.uk.

⁴⁸ A very common issue with newly established RFR clinics include - non-attendance from individuals, uncertainty of how to deal with individuals demonstrating strong emotional reactions, problems in interpretation and communication, and unexpected information being presented at various times through the application process.

⁴⁹ See Evans, A., Cody, A., Copeland, A., Giddings, J., Noone, M. A., and Rice, S. 2013. *Best Practices: Australian Clinical Legal Education*. Canberra: Australian Government.

⁵⁰ This is often performed through use of a reflective journal. See Hyams, R. 2010. Assessing insight: Grading reflective journals in clinical legal education. *James Cook University Law Review*. 17, p.25.

⁵¹ What Winick and Wexler (2006) refer to as the 'rewind exercise.' The students are encouraged to reflect on the problems that clients have presented to the clinic and, adopting a preventive perspective, to examine how any controversies may be ended and their reoccurrence prevented. The reflective student may then consider the features of the particular problem and the acts or omission that led to the situation, and attempt to identify mechanisms to avoid a repetition. Any mistakes (for example inconsistencies in applications for RFR and their treatment by the ECO or deficiencies in the hard copy file of materials submitted) which may have led to a rejection of the RFR application can assist in the student thinking preventatively. Students may then approach their interviewing, counselling, guidance as to file-building and presentation, and preparation of covering letter in a more strategic and improved manner for future clients.

⁵² An oft misquoted sentence from the 1989 film 'Field of Dreams.' The actual quote from the film is 'If you build it, he will come.'

⁵³ Barber, B. (1983). *The Logic and Limits of Trust*, New Brunswick. New Jersey: Rutgers University Press, p. 164.

⁵⁴ Worchel, S. 1998. A Developmental View of the Search for Group Identity. In Worchel, S., Morales, J., Paez, D., and Deschamps, J. (Eds.) *International Perspectives on Social Identity*. London: Sage.

⁵⁵ Shapiro, D. L., Blair H. S. and Charaskin, L. 1992. Business on a handshake. *Negotiation Journal*. 8 (October), pp.365-77.

⁵⁶ Exceptional case funding for refugee family reunion work remains available under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 s. 10.

⁵⁷ See, for instance, Osman, J. (2014) 'I am a British citizen – not a second-class citizen' *The Guardian* <https://www.theguardian.com/commentisfree/2014/may/26/british-citizen-passport-control> (accessed 10 November 2016).

⁵⁸ For example, see Brooks, T. (2016) *Becoming British: UK Citizenship Examined* London: Biteback Publishing.