



2017-18 & 2018-19

Law Clinic Report



LLM Access to Justice & the Ulster University Law Clinic

With a keen focus on addressing unmet legal need and providing routes to justice for a broad range of citizens, Ulster University's highly innovative LLM in Access to Justice has been a model of postgraduate legal education, unique in the UK and Ireland since it began in September 2012.

The Ulster University Law Clinic forms the core element of the LLM through which students provide advice and representation to members of the public, providing a distinctive grounding in clinical legal education. This gives effect to the Clinic's two core ambitions. First, to ensure that the Clinic is based on a sustainable model of legal education, one which is resilient to changing demands within higher education and responsive to the legal needs of the community. Second, to move beyond the 'work experience' model of exposing students to how the legal profession works, to training and empowering them to act within the legal system as specialist advisers focused on structural and strategic reform, while delivering access to justice for clients.

Full-time and part-time LLM students are drawn from a range of disciplines including law, social work, nursing and business. Many are mature students whose life and career experiences have driven their interest in social justice. The students take modules in social security law and policy, employment law, tribunal representation and alternative dispute resolution, before moving on to work placements in the Law Clinic. The Clinic takes cases directly from members of the public as well as on referral from statutory and voluntary organisations and advice agencies.

The clinic has developed from closing ten cases in its first year, to progressing 146 cases to various levels of hearings in social security, employment and family law by 2019. This means that Clinic students have now provided almost 6,000 hours of pro bono advice and representation. Since April 2018 alone, students have delivered the equivalent of over £100,000 of pro bono work.



Law Clinic staff & students at the Attorney General Pro Bono Student Awards ceremony

Recognising Excellence



Law Clinic students in London for the Attorney General Pro Bono Student Awards ceremony

The Law Clinic continues to be recognised in national awards across Ireland and the UK. In 2018 and 2019, the Clinic was shortlisted for the UK Attorney General Pro Bono Student Awards for Best Contribution by a Law School, and was highly commended in 2018 with judges particularly impressed by the volume and level of legal work conducted by our students.

The Law Clinic Derry was shortlisted for the Irish Education Awards in the category of Best Education Outreach Award. In acknowledging the calibre of the shortlisted submissions, the Judging Co-ordinator, Dr Jane O’Keeffe, noted that Ulster University was among the leading Irish Universities which “provide enhanced and creative learning environments in catering for the evolving needs of the student population, industry and the business community.”

In the Irish GradIreland Awards for Higher Education, sponsored by the Irish Higher Education Authority, the LLM Access to Justice was shortlisted for best PG Law Course of the Year 2018 and the associated PG Certificate in Employment Law and Practice was shortlisted for the Best New Postgraduate Law Course.

Beverly Coulter was awarded the University’s Distinguished Service Award in September 2017 in recognition of the fantastic support she has provided to clinic staff and students.

Last, but not least, student scholarships have been a consistent feature of the Clinic and we are delighted that the Department of Justice and Allen and Overy have both continued their generous scholarship awards programmes for our LLM students, providing full-fees scholarships for 17 students since the Clinic began.



Beverly Coulter, Clinic Administrator, receiving her Distinguished Service award from the Vice Chancellor, Professor Paddy Nixon

Real People, Real Problems, in Real Time

The work of staff and students in the Law Clinic makes a real difference to people's lives. Under supervision from the Clinic Director, Dr Esther McGuinness, the students work on complex employment, social security and family law cases for clients with limited financial resources who may not otherwise be able to pursue their cases.

In employment disputes, students represent clients at case management discussions and support them all the way through to final hearings. Most of the cases involve discrimination, often on grounds of disability, as well as sexual orientation and political opinion. In many cases, staff and students help clients to negotiate amicable solutions with their employers thus avoiding expensive tribunal proceedings.

In social security casework the work ranges from helping clients to prepare appeal submissions and obtain medical evidence, to representing clients at tribunal hearings and assisting with legal appeals to the Social Security Commissioner to challenge benefit entitlement decisions.

Clients face a range of challenging and interlinked problems that leave them vulnerable including debt, homelessness, domestic violence, mental ill health and severe financial hardship. Often, they are on the brink of giving up their cases, unable to cope financially and emotionally and the help that the Clinic provides has been acknowledged by clients as making a positive difference to their lives:

"Before I went to the Clinic I was considering withdrawing my case. However the help I received ... from the clinic enabled me to present my case."

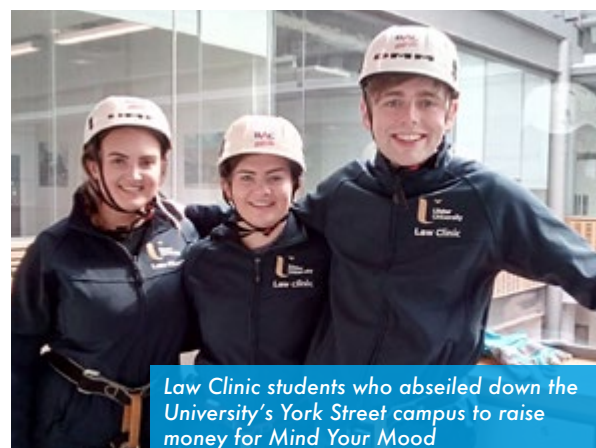
Ulster University Law Clinic Client

"Your Clinic is a lifeline for the ordinary person that has no-one to turn to. It provides exceptional advice and guidance to its clients in a manner that is easy to comprehend in simple layman's terms. Your whole staff are exceptional individuals who act as a team for the betterment of the public and I cannot emphasise enough how important they were to me when I needed them."

Ulster University Law Clinic Client



Students attending the House of Commons for the Attorney General Pro Bono Student Awards ceremony



Law Clinic students who abseiled down the University's York Street campus to raise money for Mind Your Mood

Case study: Ground-breaking Casework

Expansion of the Clinic to Magee

Students have been able to contribute to ground breaking casework that impacts directly on government policy. In 2018, Siobhan McLaughlin, a mother of four, won a landmark court case at the Supreme Court on Widowed Parent's Allowance. Ms McLaughlin was unmarried to her partner of 23 years, which meant she could not claim a Widowed Parent's Allowance when he died. The Supreme Court ruled this was incompatible with human rights law, putting pressure on the Government to change the rules, potentially benefiting thousands of families.

Laura Banks, the solicitor who represented Siobhan McLaughlin, described how one of the university's LLM students assisted in the Supreme Court case.

“One particular student, Maria Therese McCann, was involved in assistance with the application to the Supreme Court. Maria Therese helped with checking Supreme Court rules, enquiring with the Supreme Court Registry on procedural issues, assisted with research and the preparation of bundles. Her assistance in preparing this case was invaluable.”




The Supreme Court, London



Vice Chancellor, Professor Paddy Nixon, District Judge of Derry's Magistrate Court, Barney McElholm, Director of Foyle Women's Aid, Marie Brown, join Magee Provost Professor Malachy O'Neill, with Ulster Law staff & students to celebrate the launch of the Law Clinic at Magee in March 2018

In response to community demand, the Clinic has now expanded its services beyond Belfast. The Law Clinic Derry began its work in partnership with Foyle Women's Aid, offering an innovative, dedicated support structure, providing coordinated legal services to victims of domestic violence and their families. Working alongside highly experienced staff, students are involved in drafting court applications for domestic violence protection orders, and acting as "McKenzie Friends" (individuals who attend court with a litigant who does not have formal legal representation). The project was formally opened with Foyle Women's Aid in March 2018 and from May 2019 the Law Clinic Derry has been based at Ulster University's Social Justice Hub, which also houses the University Science Shop, with whom the Clinic works closely.

Funding secured by Dr McGuinness through the University's Provost Outreach Fund covers student travel expenses and vetting checks, required to ensure that students were permitted to work with vulnerable members of the community. A further £8,000 secured by Dr McGuinness through the University's Garfield Weston Trust allowed the Clinic to support a dedicated part-time Clinic supervisor on the campus and to engage an expert family law practitioner to develop bespoke and appropriate training for the law student volunteers and case worker staff from Foyle Women's Aid.

A photograph showing three people in a meeting. A woman on the left is looking down, a woman in the center is smiling, and a man on the right is looking at a laptop. The image has a blue tint.

Case Study: Law Clinic Derry

Our client had moved from Azerbaijan to London where she lived with her husband and two children, and worked in a senior position in a high level profession. Her marriage broke down and, following ancillary relief proceedings in London, her husband issued a death threat against her. She was forced to leave London with her two children and move to the secure accommodation offered by Foyle Women's Aid in Derry/Londonderry, as this was the only place in the UK where she could secure both accommodation and employment in her existing profession. Our client's husband, acting as a Litigant in Person, appealed against the ancillary relief decision and the contact arrangements that had been made.

The Clinic advised her on the contact and ancillary relief disputes. We made arrangements for a solicitor in London to deal with the variations in the Contact Order while the Clinic student appeared as a McKenzie Friend with her, via video-link to Bromley Magistrates Court, to deal with the ancillary relief appeal. Her husband's contact was removed, reflecting the gravity of the threat against our client's life, and the matrimonial assets were transferred to her. She said this about the Clinic's services:

“Despite having more than 20 hearings and being emotionally and financially exhausted throughout the time period, I still had a hope that I could succeed. But I wouldn't have done so without the help and support I received from Law Clinic.

“My case was very complex. The law student and Clinic Co-Director both

supported me during my hearings and ensured that they had done everything they could to achieve the result I was aiming for.

“During the consultations they had a very organized, constructive, step by step approach to the management of my case, making sure all the strategies and plans were considered and discussed. I am very grateful for their assistance in my court cases, both of which were finalised with the best possible outcome.”

Ulster University Law Clinic Client



Forging Links

Building on this successful partnership, the Clinic and Foyle Women's Aid worked together on a two-day international conference, From Hurt to Hope, held at the university's Magee campus in June 2019, on the issues of violence against women and children in post-conflict regions. Dr McGuinness and Clinic PhD student Sasha Gillespie were involved in presenting their research as well as delivering a series of challenging, participative workshops during the event which was attended by delegates from the United States, Europe, the UK and Ireland.

This collaborative, interdepartmental approach will be expanded further with another initiative during 2019-20 when final year social work students will work alongside the Law Clinic Derry students in the new Social Justice Hub, with a specific focus on family law cases.

Denise MacDermott, a lecturer in social work at the university, explains the importance of the collaboration:

"Increasingly, the challenges social workers face in the community focus on risk and working to safeguard vulnerable individuals, families, groups and communities. Our involvement in the Social Justice Hub will offer people from the local communities access to wraparound support in a neutral, safe environment."

Denise MacDermott, Lecturer in Social Work at Ulster University

In Autumn 2018, working in collaboration with staff and students from the university's Legal Innovation Centre, Law Clinic staff

helped to develop two apps to provide an "online triage" function to deal with queries relating to overtime payments, employment law and legal aid availability in family law. The development of the apps took place using an innovative platform from an external specialist provider, Neotalogic. The final product was launched at a public event on Legal Technology and Access to Justice, co-sponsored by the Law Clinic and the Legal Innovation Centre, and attended by over eighty delegates drawn from the Courts and Tribunal Service, the Human Rights Commission, the Law Centre, the Law Society, various universities and numerous local law firms.



Vice Chancellor, Professor Paddy Nixon, District Judge of Derry's Magistrate Court, Barney McElholm, Director of Foyle Women's Aid, Marie Brown and Law Clinic student, Francis Russell



Collaborative art work from the Science Shop project displayed at Ulster's international conference, From Hope to Hate

External to the University, the Labour Relations Agency has been a firm friend and support for the Clinic since it opened in January 2013. The majority of the employment law cases taken by the Clinic have come through referrals by the LRA, and we have worked to negotiate settlements and appeared at tribunals for many former initial LRA referrals.

“The Ulster University Law Clinic has provided an essential service to assist many ordinary workers and employees to progress and conclude their employment disputes, from understanding the limits of their claim through to successful outcomes at Industrial Tribunal hearings. It has been extremely helpful in our dealings with potential claimants to refer them to Clinic while being confident of the high quality work that is done there.”

Mark McAllister, Senior Employment Relations Officer, LRA



Panel discussion with Professor Roger Smith at the Technology and Access to Justice launch

International Partnerships

The work of staff on international partnerships has continued to be a significant feature of the Clinic’s work.

In September 2018, Dr McGuinness took up a Visiting Professorship at Guelph Humber University Toronto, Canada, exploring options for Canadian JD students to complete part of their programme with the Clinic as well as working on research and teaching exchange opportunities.



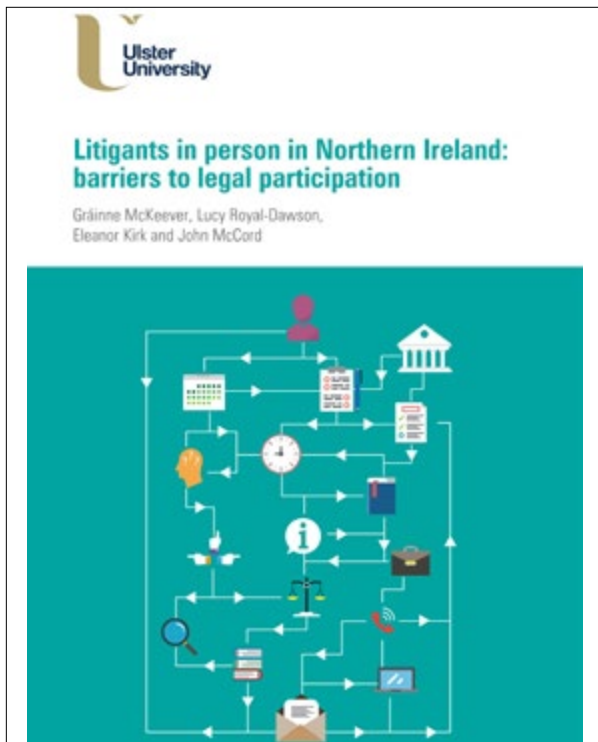
Dr McGuinness’s lecture at Guelph Humber University Toronto, Canada

Professor Gráinne McKeever was a Visiting Scholar at the University of Queensland during November 2018, delivering a keynote lecture on welfare conditionality, as part of a two-day international workshop on The Nexus Between Conditional Welfare and Homelessness. Visits to the Clinic have also enabled further international connections including a presentation to staff and students on legal innovation in access to justice by Professor Gary Cazalet, University of Melbourne, in April 2018. Staff from University College Cork will also be visiting the Clinic during 2019 as part of its benchmarking exercise for teaching quality.



Professor McKeever at University of Queensland

Research



The research profile of the Law Clinic has continued to focus on issues of social justice.

Professor Gráinne McKeever, Dr Lucy Royal-Dawson, Dr Eleanor Kirk and Dr John McCord, completed a two year Nuffield Foundation project on Litigants in Person, in partnership with the Northern Ireland Human Rights Commission. The Lord Chief Justice launched the final report at a conference in September 2018. The research evidenced the challenges faced by litigants in person involved in civil or family proceedings. One of the main research recommendations was that there was a need for future reforms to be inclusive of multiple perspectives, including court users who should be facilitated to contribute to the development of reform. Following the publication of that research, the Department of Justice, in consultation with Professor McKeever and the Northern Ireland Human Rights Commission, established the Litigants in Person Reference Group, with a view to

identifying ways to improve the experience of personal litigants in the courts system. The focus for the Litigants in Person Reference Group is on examining the information and support needs of litigants in person to identify potential reforms required.



Professor McKeever with the Lord Chief Justice, Sir Declan Morgan, the Deputy Vice Chancellor, Professor Cathy Gormley-Heenan, Les Allamby and speakers from the conference on Litigants in Person

The Nuffield Foundation has now awarded £360,000 in additional funding to Professor McKeever and Dr McCord to take the research forward. From October 2019, the project team, including Dr Lucy Royal-Dawson and Mark Potkewitz, Research Fellow at the Legal Innovation Centre, will work with a diverse range of stakeholders on a human-centred design approach to develop support materials for unrepresented litigants in the family courts. In addition, the research will also create a tool-kit for identifying legal participation in family courts, in line with the right to a fair trial under Article 6 of the European Convention on Human Rights.

Additional research on access to justice has been completed by Professor McKeever, Dr Mark Simpson and Dr Ciara Fitzpatrick, commissioned by the Legal Education Foundation and Joseph Rowntree Foundation, on Destitution and Paths to Justice. The research explores the links between access to legal advice and representation (or lack thereof) and

Destitution and paths to justice

Executive Summary

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pathways into and out of destitution.

The report, launched in London in June 2018, highlights the critical overlap between reductions in social support that trigger destitution and the inability of those individuals most badly affected to resolve the justice issues that arise from this. Key elements of the report - relating to the need to increase awareness of the availability of legal aid and the priority areas for early legal advice - are reflected in the published Ministry of Justice report, *Legal Support: The Way Ahead*, as well as forming part of the findings by the UN Special Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston, in his report on poverty in the UK.

Significant research on social security has been led by Dr Simpson working with Professor McKeever and Professor Ann Marie Gray, through a major report funded by the UK Equality and Human Rights Commission. Dr Simpson's research has focused on developing the principles of dignity and respect in the new devolved social security system in Scotland. Professor McKeever gave evidence on this and other research to the Scottish Parliament's Social Security Committee in September 2017, which resulted in the Scottish Parliament agreeing to establish a new scrutiny body for Scotland. Further participative action research by Dr Simpson with Dr Ruth Patrick, University of York, on Universal Credit in Northern Ireland, has been funded by Joseph Rowntree Foundation.

The research of the Clinic is also informed by the work of our PhD students, including Dr Ciara Fitzpatrick, who graduated in June 2019, and whose thesis focused on the development of conditional welfare for those claiming unemployment benefits. Sasha Gillespie's research on the gendered impact of caring has been presented at the annual SLSA conference, and our new PhD student, Danielle Gallagher, who joins the Clinic in October 2019, will be examining the access to justice issues facing victims of sex trafficking.



Dr Ciara Fitzpatrick at graduation with her baby, Finian

Dr Fitzpatrick, Dr Simpson and Dr Jed Meers, University of York, have continued to convene the Social Rights stream at the annual SLSA conference, which in 2019 included a presentation by Professor Philip Alston on his UN report on poverty in the UK. At the 2019 SPA annual conference, Dr Simpson also led a symposium on Universal Credit, with Rita Griffiths, University of Bath.



UN Special Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston, presenting his report at the SLSA conference

Selected Publications

C Fitzpatrick, G McKeever and M Simpson, 'Conditionality, discretion and TH Marshall's "right to welfare"' (2019) 42(2) *Journal of Social Welfare and Family Law*

M Simpson, 'Assessing the compliance of the UK social security system with the state's obligations under the European Social Charter' (2018) 18(4) *Human Rights Law Review*

R Patrick and M Simpson, 'Conceptualising dignity in the context of social security: bottom-up and top-down perspectives' (2019) *Social Policy and Administration*

G McKeever, "Brexit, the Irish border and social security rights" (2018) *Journal of Social Security Law*

E McGuinness, 'Human Rights in Northern Ireland 2018' (2018-19) *The Irish Yearbook of International Law*

G McKeever, L Royal-Dawson, E Kirk & J McCord, *Litigants in person in Northern Ireland: Barriers to legal participation* (2018)

G McKeever, M Simpson and C Fitzpatrick, *Destitution and paths to justice* (London: Legal Education Foundation/York: Joseph Rowntree Foundation, 2018)

M Simpson, G McKeever and AM Gray, *Social security systems based on dignity and respect* (Glasgow: Equality and Human Rights Commission, 2017)

E McGuinness, "Human Rights in Northern Ireland 2016 and 2017", (2016-17) *The Irish Yearbook of International Law 2016-17*

Staff

We are delighted to welcome Jennifer Knappe as our new lecturer in Clinical Legal Education. Jennifer has over nineteen years experience in employee relations. She is a registered nurse, practising barrister and a ADR Group civil and commercial mediator. She has a background in criminal defence and prosecution, civil, professional disciplinary and regulatory and employment law. In addition, Jennifer was part of our first cohort of LLM students in September 2012, when the programme was first launched.

Congratulations also to Dr Simpson who was appointed by the Scottish Government to the Scottish Commission on Social Security, and to Professor McKeever who has been reappointed by the UK Government to the Social Security Advisory Committee for a further four years. In addition, Dr McCord

and Prof McKeever were also appointed to the Northern Ireland Advisory Groups for the Family Justice Board and Civil Justice Board.



Jennifer Knappe, Lecturer in Clinical Legal Education