

Professional Practice (LAW4328) (First/Second/Third Clinical Period) Unit Information

This unit is an elective which carries 12 points and is available in all three clinical periods.

Objectives

Students completing this unit will be able to:

1. Independently undertake complex legal research and, using such research:
 - a. Assess and articulate adversarial and non-adversarial options for clients, including the strengths and weaknesses of available legal options;
 - b. Pro-actively develop solutions to complex legal problems; and
 - c. Demonstrate a capacity for recognising and appropriately responding to the strategic and ethical implications of different legal approaches.
2. Effectively communicate (both orally and in writing) legal advice, information, options for litigious and non-litigious pathways, arguments and strategies with a wide range of audiences involved in the justice system.
3. Demonstrate practical legal skills of interviewing, advocacy and drafting; and appropriate use of non-adversarial methods and principles for the resolution of client disputes (mediation, negotiation, collaboration, arbitration).
4. Assess their own capabilities and performance as future legal practitioners by having developed skills of self-reflection and self-management, with the ability to independently synthesise this information to aid in the exercise of sound professional and ethical decisions.
5. Independently identify a law reform or policy problem of relevance to the clinic, isolate and critically analyse the relevant legal principles that underpin that problem, and articulate recommendations for reform through an advanced theoretical and technical knowledge of the designated problem.

Prerequisites and selection procedure

In order to be given a place in Professional Practice, students must have passed, as a minimum, Prerequisites:

For students who commenced their LLB (Hons) course in 2015 or later:

[LAW1111](#); [LAW1114](#); [LAW1112](#); [LAW1113](#); [LAW2101](#); [LAW2102](#); [LAW2112](#); [LAW2111](#)

For students who commenced their LLB course prior to 2015: LAW1100 OR [LAW1101](#) and LAW1102 or [LAW1104](#); LAW2100 OR [LAW2101](#) and [LAW2102](#); LAW2200 OR [LAW2201](#) and [LAW2202](#); LAW3300 or [LAW3301](#) and [LAW3302](#). Please see <http://www.law.monash.edu.au/cle.html> for an application form and more information

Co-requisites

For students who commenced their LLB (Hons) course in 2015 or later: [LAW3111](#); [LAW3112](#)

Places are subject to a quota. In granting places the following factors are taken into account:

- a) How close the student is to completing their degree. Preference is given to students who would be completing Professional Practice towards the end of their degree.
- b) How many hours of paid work the student is doing. If a student is doing more than 20 hours per week of paid work, then it normally they would not be accepted into the unit. Students may be contacted to discuss this further regarding flexibility.
- c) How many other units would be taken with Professional Practice. If the student is doing more than three other units as well as Professional Practice, normally they would not be accepted into the unit. It may be necessary to look at enrolments in more than one semester if the clinical period overlaps two semesters.
- d) Less importantly –
 - i. if a student speaks languages other than English;
 - ii. if a student has had relevant community sector experience.

The Convenor of Legal Practice Programs makes the ultimate decision of whether a student is offered a place in the program, subject to the above factors and his/her discretion.

Components

The student joins one of the two Legal Services with which the Faculty of Law is associated and attends a half-day client-intake session each week, plus additional time for follow-up work and discussion with their supervisor. In addition a two-hour seminar is conducted each week. Additional activities include a reflective journal, law reform and community engagement projects.

Period and value

The unit is offered on a clinical period basis, that is, three times a year for 19 weeks. Please note that **clinical period** start and finish dates are different to those of normal **semesters**. While University holidays and lecture breaks are observed in relation to seminars, attendance at the Legal Services is continuous except for public holidays. The unit carries 12 points value in each clinical period.

Introductory Program

In the week prior to the first week of the clinical period, a two day orientation is run at the Faculty and the Legal Services. For Clinical Period 3, 2016 the orientation will take place on 7 and 8 July 2015. Attendance is compulsory.

Workload

The workload in Professional Practice is substantial. In addition to the formal components of the unit described above, the follow-up work required varies according to particular files and individual students, but on average will require a minimum of 1-2 additional days per week. Once you have been given a place in the unit, you will be given the opportunity to nominate your preferred Legal Service session time. In choosing your preferred time, note that it is necessary to be able to spend time at the Legal Service after client interviews have finished, to do the necessary follow-up work and to meet with supervisors.

Note: that it is not always possible to allocate you to a particular Legal Service session which suits you and it may be necessary for you to adjust your other weekly commitments in order to work on the session allocated.

Legal Services

Springvale Monash Legal Service is one of Australia's largest. It is open five days and four evenings per week. Four morning sessions, one afternoon session and one evening session are staffed by students. Volunteers assist the Service on a regular basis. The Legal Service operates in close co-operation with the Springvale Community Aid and Advice Bureau.

Monash-Oakleigh Legal Service is open five days and some evenings per week to serve the University and the surrounding communities. The full range of University services can be accessed to assist clients.

Each Legal Service has its own management and its own responsibility to the community. Students are invited to participate in discussion of policy and administration. The legal work of each Legal Service is under the supervision of professionally qualified lawyers.

It is the philosophy of the Legal Services that legal advice should be accessible to the public and that self-help should be encouraged.

Both Legal Services handle a wide range of problems. The major categories are family, crime including traffic offences, consumer and debt problems, motor accidents, tenancy problems and social security problems. Every person seeking assistance is interviewed, and may be satisfied with advice only (between one third and one half of interviews result in advice only). If not, the Service then recommends to the client whether the matter should be handled by the student under supervision of the relevant member of staff or whether the matter should be referred to a local solicitor, under legal aid or otherwise. If the matter goes to court, counsel may be instructed and the student is given the opportunity to attend the hearing.

While the nature and extent of student workload varies according to a number of factors and the student experience at each Legal Service may appear superficially to be different, the fundamental learning experience available to every student is the same. Every student is exposed to the operation of the law and the legal process in their social context and learns the essential skills of communication, analysis and judgment and the demands of professional ethics.

Seminars

Once a week, all students attend a session designed to provide a wider legal and/or social perspective and experience in skills such as interviewing, negotiation and advocacy. Professional ethics, their relevance to the practice of law and the consequences of breaches of codes of conduct are examined. Student participation, critical discussion and analysis are central. These seminars take place between 9.30-11.30 am on Thursday mornings for the first ten weeks of the clinical period.

Advocacy program

The Professional Practice Advocacy program has been developed to provide students with training and experience in Magistrates' Court, Federal Magistrates Court and Family Court appearances and tribunal experiences. All students participate in one Advocacy seminar within the Professional Practice seminar program.

A highlight of the program in all clinical periods is the possibility of appearing on behalf of a Legal Service client before the Magistrates' Court, Federal Circuit Court or Family Court. The Judges and Magistrates have agreed to give leave to Professional Practice students to appear (under supervision) on behalf of Legal Service clients in certain categories of cases. This is an opportunity unique to Professional Practice.

Full details of the Advocacy program are contained in the unit guide distributed at the beginning of each clinical period.

Community Engagement projects

At both Legal Services, all students are involved in ongoing community engagement projects. This component of the course is valued at 20 marks.

Commitment

As the unit is integrated with public Legal Services which are operated continuously, regular attendance is essential, from the taking-over of clients' files at the beginning of the unit to the hand-over at the end. 'Change-over' weeks are the two additional weeks at the end of each clinical period and overlap with the first two weeks of the next clinical period. Attendance at seminars is compulsory. Reliability and punctuality are essential.

Assessment (see attached pages)

Throughout each clinical period, emphasis is placed on the development by each student of (i) understanding of the legal process in its social context, and (ii) analytical and decision-making skills. Halfway through the clinical period there is an informal 'mid-term' assessment when teachers discuss strengths and weaknesses with each student individually.

Details of the assessment regime are attached. Please note that this unit is subject to the same grading guidelines (presumptive quotas) as all other units in the Law Faculty.

Advanced Professional Practice

Completion of Professional Practice enables students to apply for a place in *Advanced Professional Practice*. This is a 6 point unit which enables students to develop expertise in a specialised area of legal practice. Further information is available from the Advanced Professional Practice Unit Information (available from the Law Student Services Office) and online on the clinical legal education web page.

Prescribed Material

Hyams *et al*, *Practical Legal Skills* 4th Edition, (Oxford University Press, 2014)

A large-format diary (to plan client consultations and follow-up work).

Recommended Reading

The Law Handbook, Fitzroy Legal Service

Lawyers Practice Manual (Vic) published by SMLS and Thomson (can be accessed at the legal services in hard copy or through the law library database)

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Professional Practice (LAW4328) Assessment

1. Legal Service work

- a) Casework at the Legal Service may be broken down into a number of aspects or processes. These are set out on a separate sheet, available on request = 80%
- b) Involvement in a community engagement activity – The aim of this work is to enable you to understand the impact of laws and legal processes on the clients of the Legal Service and to analyse possible avenues for reform. Your involvement may take the form of research on a particular area of injustice or the preparation of educative materials. This will be decided upon with discussion with your supervisor who will assess your input = 20%

2. Written work required to be completed: Ungraded, but requires an SFR.

Reflective Journal: The journal is written and submitted every three weeks to your supervisor. The purposes of the journal are to enhance your experience at the Legal Service, develop your reflective practice, to encourage analysis reflection and growth as a student and practitioner. Full details of the aim of the reflective journal are contained in the unit guide. This task is not graded, but you must receive an “SFR” (Satisfied Faculty Requirements) from your supervisor in order to obtain a pass in this unit.

Students are encouraged to do student appearances (as described above) for clients. Students must have a court supervisor (usually a barrister or solicitor) oversee their appearance and the supervisor will provide feedback for the appearance. It is expected that the student appearance would provide material for inclusion into a reflective journal.

Notes

1. Three minimum requirements for passing the unit are:

- i/ attendance at the Legal Service, client in-take sessions and seminars, as prescribed;
- ii/ obtaining a pass mark for Legal Service work as well as a pass in the unit as a whole; and
- iii/ completing the requirements of a reflective journal.

There is no formal examination.

2. Half way through the clinical period there is an informal ‘mid-clinical period’ assessment when teachers discuss strengths and weaknesses with each student.

3. If, at the end of the unit, further work is required of an unsatisfactory student, or if a supplementary or special examination is awarded, it will not usually be possible for the student to carry on at the Legal Service as before. Incoming students must take over. Instead, the student will be set revision work consisting, for example, of the preparation of detailed summaries and critiques of selected Legal Service files.

4. If a student fails the unit, the opportunity to repeat it will depend on the Convenor’s decision as to the availability of a place in a subsequent unit.

5. This unit is subject to the same grading guidelines (presumptive quotas) as all other units in the Law Faculty.

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