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THE RESOURCE IMPLICATIONS OF WORK INTEGRATED LEARNING AND LEGAL CLINICS IN AUSTRALIAN LEGAL SYSTEM: MANAGING WORKLOAD, SYSTEM SUPPORT AND RECOGNITION

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Abstract

Work integrated learning (WIL) has been embraced as a valuable pedagogy by many Australian law schools, which offer students the opportunity to engage in a variety of WIL including clinical legal education, placements in law firms and industry projects. However, there is widespread recognition that WIL pedagogies have unique resourcing requirements in terms of workload and infrastructure. In addition, there is evidence that academic contribution to WIL pedagogies is not positively regarded in the context of academic advancement. This article explores the resources required to deliver legal WIL and presents novel data about how this is being accommodated by Australian law schools.

This analysis informs the development of specific recommendations for Australian law schools on the resourcing of legal WIL.

Introduction: The many voices supporting work-integrated learning in our universities

Work integrated learning (**WIL**) is an umbrella term used to describe a variety of learning experiences unified by the fact "students engage with workplaces …as a formal part of their studies…".[3] For the purposes of this article, WIL is restricted to pedagogies which: (1) engage students in aspects of real work; and (2) are part of a university course of study, usually for academic credit.[4] In a legal context, the two typologies of WIL which will be examined are internship style placements, where students undertake work within legal workplaces, and clinical legal education.[5]

WIL has been endorsed by a range of stakeholders in the Australian tertiary education sector, including the Australian government (which in 2020 increased the availability

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[3] Jan Orrell, *Good Practice Report: Work-integrated Learning* (Australian Learning and Teaching Council, 2011) 5. See also Debra D Burke and Robert Carton, 'The Pedagogical, Legal, and Ethical Implications of Unpaid Internships' (2013) 30 *Journal of Legal Studies Education* 99, 101–7.

[4] This is similar to the definition proposed by Craig Cameron, who defined WIL as 'a tertiary program which combines and integrates learning with its workplace application in the workplace': Craig Cameron, 'The vulnerable worker? A labour law challenge for WIL and work experience' (2013) 14(3) *Asia Pacific Journal of Cooperative Education* 135, 136. However, the definition in this article differs in that it is restricted to WIL programs offered by universities, not all tertiary education providers.

[5] The nature of clinical legal education is considered below, in the text associated with fn 41.

of funding for WIL courses),[6] professional accreditation bodies,[7] industry and universities.[8] WIL is undertaken by a significant number of Australia's university students, as confirmed by a national Universities Australia survey conducted in 2017 of Australia's 39 self-accredited universities. The survey found that more than one third of students enrolled at Australian universities had undertaken a WIL activity, with some students undertaking more than one.[9]

There is evidence suggesting there are good reasons for this stakeholder support. Data from the national Graduate Outcomes Survey[10] (**GOS**) suggests undertaking WIL improves graduates' employability and employment outcomes. Thirty-one

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[6] In 2020, as a part of its Job Ready Graduates package, the Australian government encouraged the offering of WIL courses by enacting legislation to remove the broad exclusion of 'work experience in industry' units of study from Commonwealth Grant Scheme funding: *Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Act 2020* (Cth). This enabled universities to offer more WIL courses to commonwealth supported place students.

[7] The completion of periods of work experience is often required as a pre-requisite for professional accreditation. For example, to be admitted and enrolled as a barrister and solicitor of the Supreme Court of South Australia, individuals must have graduated with a recognised law degree and have completed 'a period of workplace experience at an appropriate workplace' sufficient to satisfy the requirements for admission prescribed in the Rules of the Legal Practitioners and Admissions Council 2018 (SA) Part 2; and the 2020 Australasian Veterinary Boards Council requires that 30% of the entire curriculum/coursework for the degree of Doctor of Veterinary Science must be 'practical, hands-on clinical instruction and experience' in order for the degree to receive accreditation: Australasian Veterinary Boards Council, 'Accreditation Standards' (2020) 32. Note, these Accreditation Standards are currently under review, see https://avbc.asn.au/accreditation- standards-review/ [accessed 2 February 2023].

[8] This is demonstrated by a national joint statement in support of WIL by peak bodies representing universities, business, and industry in Australia: Universities Australia, Australian Chamber of Commerce and Industry, Australian Industry Group, Business Council of Australia, Australian Collaborative Education Network, 'National Strategy on Work Integrated Learning in University Education' (2015).

[9] Universities Australia, *Work Integrated Learning in Universities* (Final Report, April 2019) 8.

[10] The GOS is a component of the Quality Indicators for Learning and Teaching suite of surveys which is commissioned by the Federal Department of Education, Skills and Employment. The GOS is intended to measure the short-term labour force outcomes of graduates approximately four to six months after completing their qualification.

universities opted to include five questions about WIL in the GOS survey administered in 2021, and 30 universities in 2020.[11] Graduates of universities that opted to include the five additional questions were asked to identify if they completed some form of WIL during their degree. Those respondents who had undertaken WIL were also asked the extent to which they agreed or disagreed that participation in WIL had improved their employability outcomes. Respondents strongly agreed that the WIL activities they completed had done so. In summary,

- More than eighty percent felt completing WIL enhanced their professional capabilities and improved their job prospects (eighty percent / 80.2%);

- Close to three quarters felt WIL increased their awareness of organisations where graduates could work (seventy three percent / 73.1%);

- Close to sixty three percent stated WIL improved their appeal in the labour market (62.9%) and almost sixty two percent that WIL broadened their professional contact network which improved job prospects (61.7%).[12]

In addition, the 2021 GOS data indicated a correlation between completing WIL and graduate employment, with participation in workplace-based WIL during their degree (as opposed to simulations of real work or completing industry projects on campus) increasing graduate employment. Within the same graduating cohort,

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[11] Australian Collaborative Education Network, *Australian Collaborative Education Network – 2021 Summary Report for Graduate Outcomes Survey Items* (Report, Social Research Centre, October 2021) (***2021 Summary Report for Graduate Outcomes Survey Items***); Australian Collaborative Education Network, *Australian Collaborative Education Network – Summary Report for Graduate Outcomes Survey Items* (Report, Social Research Centre, November 2020).

[12] Australian Collaborative Education Network, *2021 Summary Report for Graduate Outcomes Survey Items* 13.

graduates who completed workplace based WIL had a graduate employment rate of seventy-four percent (74.1%) while those who completed on campus or simulated WIL had a graduate employment rate of just sixty-four percent (63.7%).[13] This confirms data from the United Kingdom, where surveys of employers suggest that completing curricular work experience during higher education can improve employment outcomes after graduation,[14] and a 2021 analysis suggesting that completing a curricular internship in the United Kingdom tends to improve the employability of recent graduates.[15]

As well as having potential value for students, WIL has been warmly embraced by universities as a signifier of the 'real world' relevance and industry connection of degree programs.[16] This can become a tool to re-market a traditionally academic course with a 'vocational' aura that may make it more attractive to potential students

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[13] Ibid 15.

[14] Carys Roberts, *The Inbetweeners: The New Role of Internships in the Graduate Labour Market* (Report, Institute for Public Policy Research, April 2017); UK Commission for Employment and Skills, *Employer Skills Survey 2015 of 91,000 Employers* (2015).

[15] Charikleia Tzanakou, Luca Cattani, Daria Luchinskaya and Giulio Pedrini, 'How do Internships Undertaken During Higher Education Affect Graduates' Labour Market Outcomes in Italy and the United Kingdom?' in Andrew Stewart et al, *Internships, Employability and the Search for Decent Work Experience* (Edward Elgar, 2021) 55, 72.

[16] For example, The University of Wollongong (UOW) states: 'At UOW, we focus on teaching not just specialist knowledge, but also the skills needed to embrace change and solve tomorrow's challenges. That's why practical experience, like an internship, is incorporated into every degree': https://www.uow.edu.au/study/high-school/7-things-youll-learn-from-doing-an-internship/ [accessed 2 February 2023]. The University of Adelaide states: 'Internships are the perfect complement to your academic studies. They give you the chance to apply the principles and theories you learn in the classroom to real, meaningful work in a professional setting—and that's just the start': https://www.adelaide.edu.au/internships/students [accessed 2 February 2023].

seeking the highest future return for their investment in education.[17] This approach has been adopted by some Australian law Schools.[18]

Together, the many voices advocating for WIL risk creating a perfect storm, in which all WIL opportunities are extolled as beneficial, regardless of context or content. This is problematic, as there is evidence that not all workplace experiences convey equal benefits. In 2020 O'Higgins and Piñedo undertook a review of research into the impact of workplace learning on employment. Their study confirmed that completing curricular WIL (as opposed to non-curricular work experience) has a broadly positive impact on graduate employment in a wide range of jurisdictions and industries.[19] However, this positive employment correlation was often either only, or more, apparent when WIL was directly related to the student's study,[20] or was elective rather than mandatory.[21] It seems, therefore, that some WIL experiences have more positive employment outcomes for students than others.

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[17] Indra Abeysekera, 'Issues relating to designing a work-integrated learning program in an undergraduate accounting degree program and its implications for the curriculum' (2006) 7(1) *Asia-Pacific Journal of Cooperative Education* 7, 15.

[18] Some law schools promote themselves to prospective students by emphasising their employability rates and the starting salaries of their graduates. See Margaret Thornton and Lucinda Shannon, '"Selling the Dream": Law School Branding and the Illusion of Choice' (2013) 23 *Legal Education Review* 249, 257-65.

[19] Niall O'Higgins and Luis Piñedo Caro, 'What Makes for a "Good' Internship?' Andrew Stewart et al, *Internships, Employability and the Search for Decent Work Experience* (Edward Elgar, 2021) 35, 36-42.

[20] Niall O'Higgins and Luis Piñedo, citing Péter Róbert and Ella Saar, 'Learning and Working: The Impact of the "Double Status Position" on the Labour market Entry Process of Graduates in CEE Countries' (2012) 28 *European Sociology Review* 742.

[21] Niall O'Higgins and Luis Piñedo, citing Weiss et al 'The Effects of Work Experience During Higher Education on Labour Market Entry: Learning by Doping or An Entry Ticket?' (2014) 28 *Work Employment & Society* 788.

As well as research into the potentially differential outcomes of participating in different forms of WIL, others have examined the risks inherent in WIL.[22] For example, Hewitt et al considered the extent to which student WIL participants were covered by a variety of labour law protections, such as prohibitions of discrimination and harassment, and workplace rights, such as regulation of working hours.[23] They identified significant gaps in the legislative protections offered to students engaged in WIL, exposing these vulnerable workplace participants to a variety of risks. These risks included the absence of protections against being required to work excessive or unreasonable hours, the failure of prohibitions to regulate workplace discrimination and harassment directed towards student WIL participants, and potential failures in the educational regulation of WIL which meant some students may have sub-standard learning outcomes. They also identified a lack of regulatory knowledge by those developing and running WIL programs, and an absence of mechanisms to ensure regulatory compliance in the design and delivery of WIL by universities.[24]

In addition, it seems that students belonging to some equity groups face obstacles which limit their capacity to secure WIL placements, or impede their capacity to complete them.[25] For example, in 2019 First Nations students were less likely than their

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[22] Craig Cameron and Anne Hewitt (2021) *Facilitating student engagement with WIL: A risk management framework for studentships / Final Report* (ACEN) https://drive.google.com/file/d/1suBuuFSDVAgJU-14H4JBWJmvNnMM1xHa/view [accessed 2 February 2023].

[23] Anne Hewitt, Andrew Stewart, Rosemary Owens & Joanna Howe J (2021) *Protecting Students at Work: Australian Universities And Regulating For Quality Work Experience* (Adelaide) https://law.adelaide.edu.au/ua/media/1851/protecting%20students%20at%20work_0.pdf [accessed 2 February 2023].

[24] Ibid, 25-42.

[25] Universities Australia, n 6, 27–30.

non-Indigenous counterparts to participate in WIL (31.1% compared to 37.3% of domestic non-Indigenous students); as were those students from low Socio-Economic Status (**SES**) backgrounds (27.8% compared to 48.6% of students from high SES backgrounds); and students from regional (34.1%) and remote (27.2%) areas compared to those from metropolitan areas (37.7%).[26] To date, there is no research definitively identifying the reason/s for these differences in participation rates, however it is probable that they result from a variety of factors including: lack of opportunity; inability to cover the direct and indirect (for example, paid work foregone) expenses of completing WIL; absence of professional connections which could facilitate securing WIL positions; and discrimination in recruitment for WIL.[27]

Given the potential differential in the outcomes of various types of WIL, patchy extension of workplace protection for participants, and issues of equitable access, it is important that WIL courses offered in Australian universities are appropriately regulated and monitored. The Australian tertiary education regulator, Tertiary Education Quality and Standards Agency (**TEQSA**), provides guidance on the expectations for minimum standards of WIL in Australia. They include:

- There must be constructive alignment between the learning outcomes of a student's degree and the WIL placement;

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[26] Universities Australia, *2020 Higher Education Facts and Figures* (Report, October 2020), 52–3.

[27] These are canvassed in Hewitt, A., Grenfell, L., Abiyat, H., Hendry, M., Howe, J., & Whittaker, S. (2022). Weighing the Cost of Expectations that Students Complete Legal Work Experience. Legal Education Review, 32(1), 109-128 Part 2.

- WIL placements must be supported by adequate facilities and infrastructure to enable student success;

- Policies and procedures must be put in place to ensure WIL placements are of high quality and well supervised; and

- The WIL experience must be educationally sound.[28]

However, TEQSA's enforcement process for self-accrediting universities is risk based, and it may not rigorously check compliance with these principles, or only do so irregularly.[29] This means that universities themselves are largely responsible for ensuring these threshold expectations are met. However, ensuring this for WIL courses has resource implications, the nature of which have unique dynamics in some disciplines.[30] Rather than exploring the resourcing of WIL in Australia's higher education sector generally, this article seeks to explore the issue in a single professional discipline: law. In Part 1, the article canvasses some of the broad WIL resourcing issues identified in educational literature. In Part 2, it addresses resourcing issues specific to legal internships and clinical legal education. Part 3 considers qualitative data gathered from interviews conducted with 68 personnel at 15 universities around Australia about the resource implications of WIL in the Australian

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[28] TEQSA (2021) *Compliance Note: Work Integrated Learning* (version 2.0), 2. https://www.teqsa.gov.au/sites/default/files/compliance-guide-work-integrated-learning.pdf?v=1634017523 [accessed 2 February 2023].

[29] Anne Hewitt (2022) 'Is Legislation Governing Tertiary Work Experience Effective? Exploring the Regulatory Role Played by Australian Universities' *Federal Law Review* 50(1) 62.

[30] Issues associated with meeting these resourcing demands are examined in Hewitt et al *Protecting Students at Work* (n 21 above) pp 39-41.

tertiary education sector generally. In Part 4, it sets out novel qualitative data gathered from a survey of the Associate Deans, Learning and Teaching (or equivalent) in Australia's law schools about the WIL courses they offer and how the workload and resourcing of those courses is managed. This data is discussed in Part 5, which informs the development of a series of recommendations for Australian law schools, put forward in Part 6.

Part 1: The resource implications of WIL pedagogies

As discussed above, there is evidence that participating in WIL can assist students gain practical skills, develop professional connections, and showcase their worthiness to secure graduate positions, all of which can translate into positive employment outcomes.[31] However, evidence suggests not all WIL courses deliver equal benefits. Overseas data suggests that paid WIL positions are 'associated with better post-programme outcomes than unpaid' placements.[32] It has been suggested that the remuneration itself is not the reason for this, but that the improved outcomes are rather linked to the more 'structured and formalized approach' in paid experiences.[33] In contrast, poor quality placements, with inadequate supervision or training (which

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[31] Niall O'Higgins and Luis Piñedo, 'Interns and Outcomes: Just How Effective are Internships as a Bridge to Stable Employment?', (Employment Working Paper No 241, International Labour Organization, 9 August 2018); Universities Australia et al, *National Strategy on Work Integrated Learning in University Education* (2015).

[32] O'Higgins and Piñedo Caro, n 16, 45.

[33] O'Higgins and Piñedo Caro, n 16, 53. It is notable that in the Australian context completing work experience is associated with better employment outcomes, and that workplace learning undertaken as a part of study is even more effective than extra- or co-curricular arrangements: Australian Collaborative Education Network, *Australian Collaborative Education Network – 2021 Summary Report for Graduate Outcomes Survey Items* (Report, Social Research Centre, October 2021), 15

may also constitute exploitative or illegal unpaid work[34]) have limited impact on graduates' employment prospects.

It can be presumed, therefore, that WIL experiences with the best outcomes are those that are well structured and well supervised. This is consistent with the TEQSA guidance regarding expectations of WIL discussed above.[35] Developing and delivering high quality and effective WIL courses is time intensive and requires developing in students a particular skill set. As McNamara has noted in the legal education context:

> In addition to feedback from the workplace supervisor, students should also be provided with support from the academic supervisor to assist the development of professional competence. This might include preparation for the placement, identification of skills or competencies able to be developed during the placement and the ability to self-evaluate and learn from experience. In addition students need clear guidance as to what the learning expectations from the placement are and how to achieve them and the distinction between work and what is learned at work. Students should also be supported in preparing for the commencement of their internship which may be their first experience of a professional workplace. Young and Blanco (2007–2008) suggest students are often unprepared for the workplace in that they do not know how to dress and

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[34] In 2018 it was estimated that at least 10% of unpaid work in Australia might be illegal: Andrew Stewart et al, 'The Nature and Prevalence of Unlawful Unpaid Work Experience in Australia' (2018) 31(2) *Australian Journal of Labour Law* 156, 171.

[35] See n 24.

communicate appropriately; and how to take instructions on assignments. This lack of preparedness can inhibit students from attaining the most from their placement experience and may even embarrass the university which has placed the student.[36]

A well-designed WIL placement with adequate supervision often requires more than just effort on the part of a single academic or placement host working in isolation. Delivering high quality WIL requires a range of other institutional supports. For example, Hewitt et al suggest that ensuring delivery of effective WIL programs requires:

- appropriate information technology and administrative systems to support WIL;

- adequate provision for, and recognition of, academic and professional staff workload in relation to WIL;

- professional development for university staff involved in WIL; and

- frameworks, procedures and processes to ensure regulatory compliance and risk management, in recognition of the fact there are unique regulatory requirements for WIL and specific risks.[37]

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[36] Judith McNamara, 'The challenge of assessing professional competence in work integrated learning' (2013) 38(2) *Assessment & Evaluation in Higher Education* 183, 187-8 (internal references omitted).

[37] For example, labour law issues such as compliance with the *Fair Work Act 2009* (Cth) arise in the context of WIL which are not relevant to non-WIL courses. In addition, students undertaking a work-based placement are exposed to a variety of risks the University cannot control, for instance the risk of workplace injury, harassment or discrimination. The regulation of and risks inherent in WIL are considered in Hewitt et al, n 20, 41-3.

Many of these factors were also recognised in the Queensland University of Technology project on Institutional Quality Assurance of WIL.[38] That project developed a framework that recognises that institutional resources are a critical domain of quality assurance with regards to WIL.

It is important to note that, in many discipline areas, these additional resourcing requirements do not arise or arise to a lesser extent, in the design and delivery of non-WIL courses.[39] While such courses inevitably involve labour costs associated with the teachers designing and delivering the course and general facility and administrative support costs, there is limited (if any) need for legal advice or drafting of placement contracts, or the education of, or guidance for, host supervisors needed, or the expense of off-site visits or inspections required for many non-WIL courses. In addition, most traditional courses utilise fairly generic information technology tools, whereas WIL courses may require placement management systems.

In the context of law, WIL often also gives rise to specific additional resourcing issues. These are canvassed in Part 2.

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[38] Matthew Campbell, Leoni Russell, Lindy McAllister, Lorraine Smith, Ricky Tunny, Kate Thomson and Maria Barrett, (2019) *A framework to support assurance of institution-wide quality in work integrated learning.* https://research.qut.edu.au/wilquality/wp-content/uploads/sites/261/2019/12/FINAL-FRAMEWORK-DEC-2019.pdf [accessed 2 February 2023].

[39] In some subject areas other costs, such as fieldwork, laboratory or material costs may be incurred.

Part 2: Resourcing WIL in law

There are a number of WIL typologies in law, two of which will be canvassed here: (1) 'legal placement WIL'; and (2) 'clinical legal education'. Each has discrete resourcing implications.

Legal placement WIL

Legal placement WIL replicates the WIL experiences common in other disciplines: work-based placements within the industry in which students engage in supervised professional tasks. The resource requirements of such placements are significant. McNamara details the various administrative burdens required to facilitate a law student undertaking a legal internship, including:

- administrative processes to ensure the host supervisor's qualifications are checked;

- provision of detailed resources to host supervisors regarding the requirements of supervision, provision of feedback, and assessment; and

- moderation of marks awarded by diverse host supervisors.[40]

In addition, academics involved in delivering legal placement WIL are often required to locate positions for students, which requires the development and maintenance of

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[40] Moderation of marks awarded by host supervisors may be more onerous that other moderation requirements because many are not experienced markers, and each may only be supervising/marking a very limited number of students, increasing the potential for marking differences. Judith McNamara, 'Internships: effective work integrated learning for law students' (2009) 10(3) *Asia-Pacific Journal of Cooperative Education* 229, 235-6.

relationships with host firms and lawyers, and (in some instances) compliance with significant university administrative requirements.[41] As Joubert observes:

> The lecturer responsible for the WIL-components … is burdened with a huge responsibility of taking care of the logistical challenges of this process and playing an active role with the various practicing attorneys and advocates throughout.[42]

In addition to these time-consuming administrative tasks, academic staff involved with legal placement WIL also need to work with students prior to and during the placement to ensure they have the necessary academic, personal, professional and ethical skills expected by their hosts. For example, students need to be aware of critical issues relating to client confidentiality and conflicts of interest.[43]

Clinical Legal Education

The second significant WIL typology prevalent in law is clinical legal education (**CLE**). Although CLE takes a variety of forms and is not amenable to a single precise definition, Giddings provides a general description of CLE as academic activity:

> [I]n which each student takes responsibility for legal or law-related work for a client (whether real or simulated) in collaboration with a supervisor. Structures enable each student to receive feedback on their contributions and to take the

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[41] The extent to which placements are vetted by universities, and the paperwork required for placements, varies hugely: Hewitt et al (2021) n 20.

[42] Deidre Joubert, 'Innovative Work Integrated Learning for Law Students in South Africa' (2011) 4(21) *International Journal of Arts & Sciences* 231, 234.

[43] Law Council of Australia (2015) *Australian Solicitor's Conduct Rules* rr 9 and 12.

opportunity to learn from their experiences through reflecting on matters including their interactions with the client, their colleagues and their supervisor as well as the ethical dimensions of the issues raised and the impact of the law and legal processes.[44]

As with legal placement WIL, there is a growing awareness of the resource implications of developing and maintaining high quality CLE. For example, in 2008 Giddings stated '[t]he key challenge to greater use of clinical teaching remains its resource intensive nature'.[45] McNamara identifies some of the specific resources required for CLE programs, including: 'intensive academic supervision, partnerships with community legal organizations and government funding'.[46] Supervision of students undertaking real legal work in a CLE context, often on behalf of underprivileged members of the community, can also require a significant element of pastoral care, more perhaps, than in other legal education contexts. As Evans et al state, this 'demands major emotional and energy commitments from clinical supervisors year after year'.[47] In addition, CLE requires investment in specialised technology, such as case management software.[48]

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[44] Jeff Giddings, *Promoting justice through clinical legal education* (Justice Press, 2013), 14.

[45] Jeff Giddings, 'Contemplating the Future of Clinical Legal Education (2008) 17(1) *Griffith Law Review* 1, 2.

[46] Judith McNamara, 'Internships: effective work integrated learning for law students, (2009) 10(3) *Asia-Pacific Journal of Cooperative Education* 229, 230.

[47] Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Peter Joy, Mary Anne Noone and Simon Rice, 'Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school' in Adrian Evans et al, *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press, 2017) ch 9, 213.

[48] Martin J Katz, 'Understanding the Costs of Experiential Legal Education' (2015) 1 *Journal of Experiential Learning* 28.

Conclusion

As this brief overview demonstrates, the resource demands of legal placement WIL and CLE (collectively, legal WIL) are broadly understood to be significant. This, of course, would not be an issue if Australian universities were consistently able to meet those demands. However, a review of the literature regarding the resource implications of legal WIL suggests that this is not always the case. Instead, a number of common concerns regarding resourcing emerge.

First, is the issue of appropriate workload allocation and recognition, and the second is the challenges posed by specific information technology requirements.

Workload allocation and recognition

There is a long history of clinical supervision being regarded as a distraction from research and scholarship, and not in itself worthy of commendation. For example, it is reported that in 1984 the Director of Research in the Monash Law Faculty, Professor Richard Fox, wrote to the Dean stating:

> [A]cademic staff who devote their time whole-heartedly to the clinical programme may later find themselves at a disadvantage in securing promotion because of their reduced productivity during their time in the programme. Their contribution to the teaching, community service and administrative sides of the

legal service are not seen by those who place prime value on research as compensating for an apparent weakness in the publication record… [49]

This was also recognised by Shirley et al, who state:

The potential drawbacks [of work-integrated learning opportunities] include: … the lack of career development opportunities for the academic staff members involved in such programs as distinct from research based opportunities.[50]

In some instances, the resource implications have been perceived as leading to a conflict between in-house clinics and cheaper external placements.

[T]he cost concern often pits in-house clinical courses against externships because the externship structure usually allows higher student-to-faculty ratios, and therefore, lower costs per student. The cost advantage of externship programs has consistently led commentators to predict that law schools will shift resources into externships as the primary form of clinical education.[51]

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[49] Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Clinical Legal Education* 7, 24.

[50] Melinda Shirley, Iyla Davies, Tina Cockburn and Tracey Carver, 'The Challenge of Providing Work-Integrated Learning for Law Students – the QUT Experience' (2006) 10 *International Journal of Clinical Legal Education* 134, 137.

[51] Peter A Joy, 'The Cost of Clinical Legal Education' (2012) 32 *Boston College Journal of Law & Social Justice* 309, 328.

Information technology requirements

There is also significant consideration in the literature of the technology required to support WIL, especially CLE.[52] The resource implication of technology is recognised as being twofold: involving both investment and training.

> Furthermore, students cannot be expected to receive any educational benefit from using case management software when they are unable to be adequately trained, due to supervisors' lack of commitment to the software or understanding of it.[53]

Part 3: Australian data regarding resourcing WIL

During 2017 and 2018, as a part of an ARC Discovery Project (**2017/18 study**),[54] a series of 68 semi-structured interviews were conducted with Australian university staff working in WIL in a variety of roles.[55] The interviews were conducted at 15 diverse Australian universities located in five Australian states,[56] including universities with multi-state campuses, those located in the outer suburbs of a city, rural/regional universities and providers of distance education.[57] The four participant cohorts were

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[52] See, eg, Ross Hyams, 'Clinical Legal Education Management and Assessment Software (2004) 6 *International Journal of Clinical Legal Education* 177.

[53] Ibid, 191

[54] Australian Research Council's Discovery Project Grant DP150104516.

[55] The University of Adelaide Human Research Ethics Committee, Ethics Approval H-2016-254.

[56] New South Wales, Queensland, South Australia, Victoria and Western Australia. Excluded were Tasmania and all Australian territories. Our rationale for the exclusions was time, cost and particularity (accounts in excluded regions would be *sui generis*).

[57] These categories overlapped in some institutions; for example, a university could be both regional and have campuses in outer suburbs of cities in that region.

university staff working in: a) policy, legal and risk; b) education; c) careers and volunteering; and d) international service. The interviews shed light on a number of the WIL resourcing issues discussed above. The interviews were cross disciplinary and were useful in confirming the continued relevance of many of the issues, including resourcing issues, identified in the WIL literature. Some of the relevant content from the interviews is summarised here, both to provide context and because it inspired the law specific study described below.

As discussed, the literature suggests that clinical supervision in the context of law is undervalued in terms of workload and promotion. The evidence from the interviews conducted in the 2017/18 study suggests that across Australia there is a consistent perception that the development and supervision of work experience placements is under-recognised. There are two components to this, the first being that in many universities insufficient workload recognition is awarded compared to the time commitment required to develop and supervise WIL properly, with the result that supervisors are poorly resourced or overwhelmed by their supervision responsibilities. One interview participant summarised the problem as follows:

> It's massive, it's massive and I don't think – well everyone has this rhetoric around work-integrated learning and work placements and industry partnerships – actually, we don't take it seriously enough because we don't, no-one gets workload though. [58]

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[58] Interviewee A.

The second component is that engaging with WIL is undervalued in terms of academic advancement:

> [T]here's usually just a subject coordinator who runs the show and that is very isolating and non-recognised female activity. So the labour force issues are ginormous because people aren't committed to this area because it's career suicide… [59]

While it seems that some institutions are increasing funding and support to address this problem: '[w]e are better resourced in the employability space than we used to be', this is not a common theme. Instead, while institutional enthusiasm for work experience is growing almost uniformly, resourcing is not.

In this context, many interviewees indicated that cumbersome administrative requirements associated with WIL are often overlooked: '[b]asically the staff feel they're overworked, and this is just another thing they have to worry about'.[60] Some universities are seeking to address the workload implications of WIL by developing systems and processes to streamline the workload. However, where they exist, these systems and processes are focussed on risk management and accountability, rather than on academic content or the time required to manage and supervise effectively. In addition, there is some explicit recognition that the workload falling on academic and

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[59] Interviewee B.
[60] Interviewee C.

professional staff is not adequately recognised in workload allocation systems, and

staff are not properly trained or supported:

> A part of the problem, if I can add that in now, is that negotiating partnerships
>
> with our host organisations, which are fundamental to quality work
>
> experiences or work placements for our students, is a real problem for us for a
>
> number of reasons – staff are not resourced to do that; there is no workload
>
> allocated to it; staff don't know how to do it; staff feel intimidated. I have done
>
> a lot of research on that actually, so I know that that is absolutely a fact. [61]

The interviewees in the 2017/18 project also touched on the importance of investing in

data management systems for WIL. In some instances, interviewees recognised that

the cost of such infrastructure is a barrier to investment or a cause of delay.

> I sponsored a project which hasn't really again got off the ground yet but it has
>
> been, you know, it has been approved, looking at an enterprise solution for the
>
> recording and tracking of placements. So we don't have such a thing at the
>
> moment. [62]

> The University has also recently, this year, invested in a system that will create
>
> some common templates across reporting and how programs are managed ...
>
> So it's been quite a large investment[63]

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[61] Interviewee D.
[62] Interviewee E.
[63] Interviewee F.

Based on this data, we considered the resourcing of WIL in the context of legal education.

Part 4: Law specific data regarding resourcing WIL

In 2021 and 2022 we undertook an empirical Australia-wide study to understand better the resourcing constraints and other challenges facing Australian law schools offering legal WIL and how they manage, recognise and reward the workload associated with WIL in law (**2021/22 law study**).

Method

The 2021/22 law study involved a survey of the Associate Deans, Learning and Teaching (or equivalent) in Australian law schools. The invitation to undertake the survey was distributed to participants via email, through the Council of Australian Law Deans, and through the Law Education Associate Deans network. Survey participants had the option of completing the survey online on the Qualtrics survey platform or via a telephone interview with one of the project team members.

Participants

Representatives from twenty-six law schools completed the survey. Twenty-three completed the survey online and three via telephone interview. One representative indicated they did not complete the survey as their law school does not offer a WIL course. As there are 39 law schools in Australia, this represents a response rate of over 68%.

Survey

Using a self-designed survey in Qualtrics the survey questions canvassed the following six broad areas relating to legal WIL:

- Whether the law school offers WIL courses and, if so, how many;

- Number of students participating in the WIL courses;

- Number of staff involved in delivering WIL courses and their roles;

- Recognition in workload and promotions for academic staff involved in delivering WIL;

- Data management systems in place for administering WIL; and

- Staff training, regulation, and compliance.

The survey comprised 20 questions and took approximately 15 minutes to complete.[64] Eight of the survey questions were open-ended and the remaining twelve gave participants a range of answer options from a drop-down menu. The responses to the eight open-ended questions provided much of the qualitative data used in this article.

Procedure and Method of Analysis

The online survey was voluntary and anonymous, and participants could withdraw at any time. It contained no unique personal or institutional identifiers. The participants who elected to complete the survey via telephone interview were not

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[64] The survey is attached as an appendix.

anonymous, but all unique identifiers were removed from their responses when it was entered into the survey.

After the time window for completing the survey closed, the data was collated and analysed using Qualtrics to compile and present the demographic and descriptive data and NVivo qualitative analysis software to thematically codify and analyse the open-ended question responses.

Limitations

The data collected in the 2021/22 law study was limited by the knowledge of the survey participants. To ensure accuracy of information collected, we distributed copies of the survey topics with the invitation to complete the survey, so the Associate Dean, Learning and Teaching (or equivalent) for each law school could inform themselves of any information required which they may not have otherwise had easily to hand when completing the survey. However, we did not evaluate whether participants availed themselves of this opportunity.

As the 2021/22 law study progressed it become apparent that nomenclature was not consistent across institutions. This was particularly true with regard to the designation of staff roles (permanent, full time, sessional, academic, professional etc.) and types of WIL. It is possible different interpretations by participants of the terms used in the survey may have affected results.

Finally, in the three surveys completed during or after a telephone interview, it was possible for the researcher to interrogate responses and seek further information. This

may have elicited more or different details than if the participant had completed the survey online independently.

Cumulatively, these factors may constitute minor limitations on the integrity of the data collected.

Results

WIL offerings and student participation

The majority of participants reported that their law school offers between one and five WIL courses. Six reported having between six and ten and two have up to 15. No Australian law school that participated in the study offers more than 15 WIL courses. Included in these WIL numbers were CLE programs, internship courses, and industry projects. CLE programs ranged in offering from one to ten per law school and internship courses between one and six. In addition, 15 participating law schools reported providing students with the opportunity to participate in industry projects.
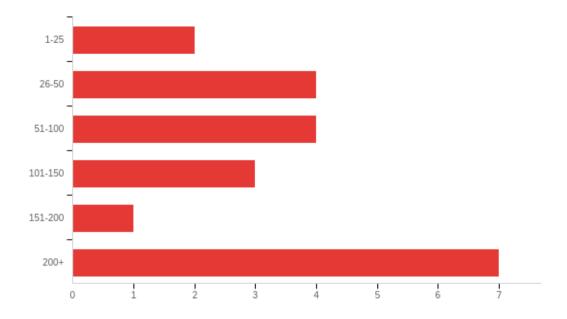
As reflected in Figure 1, the number of students participating in WIL courses range from one to 25 to over 200. Most of these students participate in internships in which they attend at a real workplace.

Figure 1: number of students participating in WIL courses each academic year

Staff involved in WIL

In contrast to the 2017/18 study, participants in the 2021/22 law study reported that, generally, the WIL courses in their law schools are well-staffed, with a few exceptions.

Participants were asked how many staff are involved in WIL course coordination, organising placements, marking assessments, supervising students, and data entry and management. One participant reported having only one academic staff member being responsible for the course coordination, teaching, and administration of WIL. Another had two and another three academic staff undertaking this work. At the other end of the workload spectrum, three law schools reported having over 20 academic staff involved in course coordination, organising placements, assessment, supervision, and data management relating to WIL. In all cases, at least some tenured/tenurable academics were involved in the WIL courses. However, 60% of respondents indicated additional reliance on sessional teachers.

All law schools reported having some professional staff support for their WIL courses. However, this support varies markedly across law schools, with most receiving minimal support. Although one participant indicated receiving support from seven professional staff, including five staff members supporting all aspects of WIL, nine (or over 42%) received support from one member of professional staff. For five of these the support is limited to data entry or data management relating to WIL courses. Another six law schools (or over 28%) are supported by two or three professional staff.

Almost 60% of professional staff support and 95% of academic staff support for WIL is provided from within law schools, with 22% of professional support provided centrally and 18% professional support and 5% academic support provided by a mix of central and school staff.

Participants were asked to identify any other tasks related to WIL courses that were not included in the list of tasks identified above (organising placements, marking assessments, supervising students, and data entry and management). Several respondents identified more nuanced roles or specific role titles. For example, relating to the general task of 'organising placements', one participant commented:

> There is [a] significant amount of relationship management and stakeholder engagement undertaken by academic staff setting up projects, placements etc which is not captured above. This is largely undertaken by academic staff.

And in relation to the general task of 'data entry/management', another participant noted:

> For [the] XXX program, [a] professional staff member assists in... maintaining and administering files between semesters.

Other WIL roles not captured in the list provided were: 1) an overarching "WIL Director" role to develop WIL throughout the law program and to implement the university's WIL strategic priorities; and 2) facilitating student enrolment in WIL courses.

Academic recognition for work associated with WIL

<u>Workload allocation</u>

Sixty-two per cent of participants reported that the allocation of academic workload for WIL courses was the same as for other traditional law courses:

> The unit convenor gets same workload as for any other course.

> For Industry project courses, this is given an identical workload allocation to any other course.

> Clinics and internship subjects considered the same as electives.

> Coordination of any course regardless of enrolments or type is given identical academic workload credit.

Relatedly, some participants stated that academic staff were allocated to WIL-units based on teaching load capacity in the course of normal workload allocation:

Teaching of each unit has a prescribed allocation that is considered as part of the academic staff workload. Staff are allocated to various WIL units according to teaching load capacity.

Clinical teaching is calculated as part of the workload allocation according to the policy. For most of the clinical supervisors the clinical subject forms only part of their regular teaching workload.

However, several participants noted the difference between delivering WIL and more traditional law courses. For example, one participant commented:

In a more traditionally oriented faculty there is sometimes limited awareness of just how much time goes into organising and maintaining partner relationships, supervising students. The relatively individualised nature of the programs, at least compared to traditional courses is not always well-understood.

This comment suggests that, in some contexts, allocating WIL workload on the same basis as for other courses may not, in fact, be equitable. Consistently with this, of the 38% of participants who reported that the workload allocation for WIL courses differed from that for other traditional courses, the difference related for the most part to additional workload recognition being given for the high-level coordination, supervision, arranging placements, and 'significant relationship management and [external] stakeholder engagement'. As one participant noted:

Given that much of the workload is administrative it does not translate to coordination and teaching function. However the CLE clinics are legal practices so require senior solicitor management, risk management, staff management and support, liaison with stakeholders such as the law society, insurers, partner organisations, quality assurance, practice oversight and support, training, process management and reporting as per legal practice management. Other than allowing admin functions to be dedicated to the clinics, there is no separate recognition of the role as practice manager. It is a significant outward looking role and requires annual accreditation, professional development of myself and supervisors, and meeting professional reporting obligations. The WIL workload recognition seeks to take into account all the time spent on arranging placements.

Several participants indicated, however, that this additional workload for WIL-specific duties was recognised in their workload allocations:

Normal co-ordination hours and seminar delivery hours and extra hours for supervision.

Co-ordination is the same but extra hours allocated for supervision.

Standard workload for lectures and tutorial hours, additional 20 hour for convening to account for organising placements.

The high level course coordination role is regarded the same, but the workload for supervising the projects is calculated differently.

Greater recognition is given to the engagement and relationship management requirements of a clinical/WIL course.

An addition 50 workload points is allocated for coordination of WIL units as they are categorised as 'High Student Contact Units'. We work on the basis of 1000 annual workload points for a full-time academic in an academic year.

The WIL workload recognition seeks to take into account all the time spent on arranging placements.

In contrast to the results from the 2017/18 study, generally, participants considered the workload allocation for WIL courses to be appropriate:

The current recognition seems to strike a good balance. … the work is very different involving a more sustained relationship with fewer students and is more flexible. There is a lot less work involved than in a non internship course and so the recognition has seemed adequate.

There is no specific credit for administrative workload, however it is assigned as an administrative task in the law school. Credit for the teaching component is the same as in other courses. The current workload seems fair and reasonable in my view. Fewer hours workload credit given despite need for individual guidance and supervision of students throughout course is adequate but not generous. If I had to facilitate placements, run orientations, check on student

welfare etc then it would be vastly inadequate. Because those things are done externally it is ok.

The workload recognition is commensurate with the role of crafting and running an industry project course or a speciality WIL experience course (ie overseas WIL engagement).

Academic promotion

While the vast majority of participants (over 84%) reported that academic staff receive recognition in the academic promotion process for their work in designing, implementing and running WIL courses, only 53% considered that this recognition was proportionate to the importance of the work and the time and expertise it requires. It is concerning that 16% of participants reported not receiving any such recognition and 47% considered that, where such recognition is given, it is not adequate. Some commented on the reasons for this:

The workload recognition is commensurate with the role of crafting and running an industry project course or a specialty WIL experience course (i.e., overseas WIL engagement). It can be included in a promotion application as evidence of pursuing the university goal of a WIL experience for every student, but there is no clear indication of its impact.

The university has a strong focus on stakeholder engagement, and for that reason does give promotion credit to the relationships developed through creating,

supervising WIL project opportunities for students. This has improved as the institutional focus on engagement and WIL has been embedded. However, there is still a mismatch between the recognition it receives, the real work commitment, and the work required to be invested by staff.

One theme to emerge from the open-ended responses was the undervaluing of work associated with WIL in academic promotions, compared to research and traditional teaching:

It should be more integrated with academic work, Uni's see the cost as per student but the enrolments are typically low but the workload is just as high regardless of enrolments; it is very difficult to find time for research because the work continues beyond the teaching semesters and the cases have to continue to be managed (clinical staff)- BUT still assessed for promotion against traditional academic measures, including research output, so it is difficult to keep up research performance.

Research academics get most recognition.

The view of central administration is that WIL does not contribute to student learning, ERA, or community engagement.

WIL data management and information technology systems

Participant responses to the question 'What data management system/s does your school use relating to WIL? (i.e. what system/s record/s where placements are located, duration of placements, where do you store associated paperwork, etc.)' revealed a range of practices, most of which are inadequate. Five law schools use "InPlace" which one participant described as a 'terrible system', three use Sonia and two CareerHub. A further three participants reported using a centralised system, the details of which were not provided. Remarkably, seven participants indicated they maintain their own records on their own device or in a shared drive using Excel, Word, email, and a Learning Management System. Regardless of the system used, in 90% of instances, all those involved in delivering WIL either in the law school or centrally have access to the WIL data on the system.

Staff training, regulation, and compliance.

The final suite of survey questions related to staff training, regulation, and compliance. Although 80% of participants reported that the course approval process for WIL courses in their institution explicitly or implicitly ensures compliance with external regulatory requirements for WIL, more than 85% of participants indicated that they receive no training in relation to the external regulation of, and compliance requirements for, WIL courses. Only three participants indicated they did receive relevant training.

Part 5: Discussion

While there are many potential benefits associated with WIL for law students, there are also a variety of risks for participants, hosts, and law schools.[65] Risk management demands we adequately resource WIL, to maximise the learning outcomes and safety of participants, and minimise the legal and reputational risks for other stakeholders. As the pressure on the tertiary sector to produce 'work ready graduates'[66] increases, risk management through adequate resourcing is likely to become even more important. This is particularly true for WIL in law, as the awareness of the risks of engagement in legal workplaces (especially for the young and vulnerable) increases.[67] For proof of the potential risks to junior participants in Australian legal workplaces we need only consider the June 2020 revelations that while he was a member of the High Court, the Hon Dyson Heydon AC QC harassed six Judge's Associates.[68]

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[65] See, for example, Craig Cameron, 'The student as inadvertent employee in work-integrated learning: A risk assessment by university lawyers' (2018) 19(4) *International Journal of Work-Integrated Learning* 337; Anne Hewitt, Rosemary Owens and Andrew Stewart, 'Mind the gap: Is the regulation of work-integrated learning in higher education working?' (2018) 44(1) *Monash University Law Review* 234.

[66] In the Ministerial Foreword to the 2019 *Career-Ready Graduates* report by Universities Australia, then Minister for Education Dan Tehan stated 'Work integrated learning at Australian universities is a win-win for students and employers. … It is essential that students are exposed to how contemporary workplaces operate so they can hit the ground running from day one of the job'.

[67] Anne Hewitt and Laura Grenfell, 'A call for regulatory reform to make work experience accessible rather than an obstacle' (2022) 47(4) *Alternative Law Journal* 301.

[68] On 22 June 2020 the Chief Justice of the Australian High Court, the jurisdiction's ultimate court of appeal, released a public statement that multiple former associates had made accusations of sexual harassment against former High Court Justice, Dyson Heydon. An independent investigation found Heydon sexually harassed six junior court staff during his time on the High Court. The findings illustrate the vast power imbalances which can operate in a legal context, and the vulnerability of junior lawyers to inappropriate behaviour. Susan Kiefel, 'Statement By The Hon Susan Kiefel AC, Chief Justice Of The High Court Of Australia', 22 June 2020 https://cdn.hcourt.gov.au/assets/news/Statement%20by%20Chief%20Justice%20Susan%20Kiefel%20AC.pdf [accessed 9 February 2023].

The 2017/2018 study suggested that, overall, WIL was not adequately resourced in Australia's 39 self-accrediting universities.[69] Of particular concern was the limited recognition of the workload involved in creating and delivering high quality WIL experiences for students. However, the discipline specific 2021/2022 law study presents a slightly different picture. Positively, the data emerging from participant law schools suggests that while the methodologies for calculating workload associated with "teaching" legal WIL vary, they generally offer far greater workload recognition than was reported in the earlier study. The reasons for this change are not clear. It may be that the sector's approach to WIL workload has changed between the two phases of data collection. Alternatively, instead of being reflective of a broader change, it may be that this phenomenon is specific to the discipline of law. The current analysis does not shed light on this, but it would be a fruitful area for future research.

While the workload allocation for legal WIL supervision and teaching was considered relatively good, there were issues reported regarding the adequacy of workload recognition of some of the unique work associated with WIL. These included the creation and management of relationships with external stakeholders, including WIL hosts, provision of stakeholder training, and managing workplace and legal issues,

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[69] Registered higher education providers can either be authorised as self-accrediting or have each of the courses of study the institution offers accredited by TEQSA. At the time of the 2017/2018 study all 39 Universities in Australia were self-accrediting. There are currently 41 self-accrediting universities plus the University of Divinity which is recognised as partially self-accrediting: https://www.teqsa.gov.au/national-register [accessed 9 February 2023].

such as creating placement contracts and ensuring insurance coverage for WIL participants.

While the 2021/2022 law study revealed more appropriate workload recognition for WIL than we anticipated based on the results of the 2017/18 study, it also disclosed ongoing issues regarding recognition of engagement with WIL in academic promotions. The data strongly suggested that contribution to legal WIL does not receive recognition in academic promotion processes proportionate to either the work involved, nor its value to students, the community, the legal profession, and the reputation of schools and universities.[70]

There is a real risk that failing to recognise contributions to WIL programs in academic promotions will make it more challenging to attract and retain academics into these roles. This has the potential to undermine the synergies between research, supervision and professional engagement which are facilitated by having academic faculty engaged with WIL programs and CLE clinics. It this context, it should also be noted that the 2021/2022 law study suggests that a considerable amount of legal WIL work is being performed by individuals employed in non-teaching capacities. For example, solicitors hired to supervise legal clinics, or professional staff managing placements. Whether outsourcing legal WIL from academics in this way is positive or

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[70] The Educating Lawyers report, published in 2007 by the Carnegie Foundation for the Advancement of Teaching, emphasised the importance of clinical experiences to effective legal education: William Sullivan, Anne Colby, Judith Wegner, Lloyd Bond and Lee Shulman (2007) *Educating Lawyers: Preparation for the Profession of Law,* Jossey-Bass. chs 2 and 3.

negative remains to be explored. It is, however, consistent with the general trend of reducing academic faculties and increasingly relying on contract and casual staff, which raises a variety of issues for the tertiary education sector.[71]

Two other areas of resource concern identified in the 2021/2022 law study were infrastructure support, and training. Managing legal WIL courses (whether CLE or placement based) requires use of an appropriate data management system with shared access. It was concerning that the law study revealed some WIL programs were being administered using an excel spreadsheet on one academic's computer. The risks associated with this, in terms of ensuring information about placements and placement related issues are accessible to all those who need it, are clear.

A final, significant resourcing issue is the lack of training for WIL staff (whether sessional, contract, tenured academic or others) on applicable regulation and compliance. This is a clear risk management imperative. The 2021/2022 law study suggests this is not well accommodated even in law, where it appears WIL may be better resourced than in other disciplines. The reasons for this are unclear. It may be that those associated with legal WIL are not offered relevant training based on a

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[71] See, for example, Hamish Coates, Ian Richard Dobson, L Goedegebuure and Lynn Meek, 'Australia's casual approach to its academic teaching workforce' (2009) 17(4) *People and Place* 47; Anne Junor 'Casual university work: choice, risk, inequity and the case for regulation' (2004) 1 (2) *The Economic and Labour Relations Review* 276; Suzanne Ryan, John Burgess, Julia Connell and Egbert Groen, 'Casual academic staff in an Australian university: marginalised and excluded' (2013) 19(2) *Tertiary Education and Management* 161; Jill Cowley, 'Confronting the reality of casualisation in Australia: valuing sessional staff in law schools' (2010) 10(1) *Queensland University of Technology Law and Justice Journal* 27; John Ross, 'Attempts to tackle casualisation in Australia "have failed"' 15 February 2022 https://www.timeshighereducation.com/news/attempts-tackle-casualisation-australia-have-failed [accessed 9 February 2023]; Archie Thomas, Hannah Forsyth and Andrew Bonnell 'The dice are loaded': History, solidarity and precarity in Australian universities' (2020) 17(1) *History Australia* 21.

presumption that they are already aware of the regulatory issues and able to manage compliance. However, given the plethora of specialist issues that may arise, including compliance with TEQSA and Education Services for Overseas Students legislation, Australian Qualifications Framework requirements, issues of confidentiality, intellectual property and workplace laws, such a presumption is likely to be unfounded.

Part 6: Conclusion and Recommendations

In conclusion, our assessment of the resourcing of WIL in Australia's law schools is mixed. It seems there are some positive aspects to the way in which workload for WIL programs is allocated and recognised, however there remain some concerns about the level of recognition of the external engagement and unique administration required. We also query whether reliance on non-tenured academic staff is an appropriate resourcing choice, given its potential to affect WIL quality, risk management, or regulatory compliance. In this context, we note that the general lack of commensurate recognition of WIL in academic promotions is an obstacle to encouraging tenured academics to commit to WIL programs. However, regardless of who is designing and delivering legal WIL, it is imperative those individuals receive appropriate training on applicable regulation to ensure compliance.

The analysis above informs our development of specific recommendations for Australian law schools on the resourcing of legal WIL. We have framed the

recommendations at a high level so that they can be tailored to each law school's courses, staff and student cohort, and administrative context. Nonetheless, we suggest they constitute an important threshold commitment to appropriate resourcing to ensure the sustainability, quality and success of legal WIL programs, and facilitate regulatory compliance and risk minimisation.

Recommendation 1: Provision of training

Individuals involved in designing, delivering, administering and assessing WIL courses should receive training in relevant internal (university policy) and external (state and federal legislation) regulation.

Recommendation 2: University policies and processes

University policies and processes applicable to WIL (including those regarding development and approval of WIL courses, assessments, supervision, intellectual property and data management) should be tailored to ensure regulatory compliance and excellent learning outcomes in WIL courses.

Recommendation 3: Appropriate data management systems

Law schools should adopt and utilise an appropriate data management system for WIL courses.

Recommendation 4: Workload recognition

Law schools should ensure the time and effort associated with WIL is appropriately recognised in workload models and teaching allocations. Workload allocations for WIL need to acknowledge not just supervision time but also other activities associated with WIL including:

- building and maintaining relationships with external partners;

- administration (including facilitating placements and putting placement contracts in place);

- delivery of preparatory training for students relating to ethical and professional conduct; and

- upskilling in the use of technology and specialist data management software.

Recommendation 5: Recognition in Academic Promotion

Involvement in the development and delivery of WIL courses should be valued and given due recognition in the assessment of promotion applications commensurate with the specialist and skilled nature of the work, and its value to students, the community and law schools.

APPENDIX

2020/2021 law study survey instrument

Thank you for participating in this survey about Work Integrated Learning in your

Law School. We are interested in those courses/units in which students attend a real

workplace OR do real work remotely and for which they receive academic credit. This

could be described as a clinical placement, an internship, an industry project etc.

We are not interested in simulated work, or work experience done without academic

credit.

In reporting the results of the survey, all results will be presented in aggregated form,

and no individual or individual Law School will be identified with any specific data.

1. Approximately many WIL courses are offered in your Law School?

    a. 1-5

    b. 5-10

    c. 10-15

    d. 15-20

    e. 20+

2. Please provide some additional information about the WIL courses offered in

    your Law School.

	Drop down menu

Number of clinical legal education courses	1
	2
	3
	4
	5
	6
	7
	8
	9
	10
	10+
Number of internship courses (where students attend a real workplace)	1
	2
	3
	4
	5
	6
	7
	8
	9
	10
	10+
Number of remote internship courses (where students work remotely from the workplace but do real legal work)	1
	2
	3
	4
	5
	6
	7
	8
	9
	10
	10+
Number of industry projects	1
	2
	3

	4
	5
	6
	7
	8
	9
	10
	10+

3. Approximately how many students participate in the various WIL courses in each academic year? If a student participates in two courses, please count them twice.

	Drop down
Number of students completing clinical legal education	1-19
	20-39
	40-59
	60-79
	80-99
	100-119
	120-139
	140-159
	160-179
	180-200
	200+
Number of students completing internships (where students attend a real workplace)	1-19
	20-39
	40-59
	60-79
	80-99
	100-119
	120-139
	140-159
	160-179
	180-200

	200+
Number of students completing remote internship courses (where students work remotely from the workplace but do real legal work)	1-19
	20-39
	40-59
	60-79
	80-99
	100-119
	120-139
	140-159
	160-179
	180-200
	200+
Number of students undertaking industry projects	1-19
	20-39
	40-59
	60-79
	80-99
	100-119
	120-139
	140-159
	160-179
	180-200
	200+

4. How many staff are involved in delivering those courses, and are they professional or academic staff?

   If one staff member completes all these roles, please use the "General WIL course coordination/teaching/admin" category. However, if roles are divided between individual staff, please use the category which best fits the role undertaken by each staff member.

ROLE	Number of academic staff	Number of professional staff
General WIL course coordination/teaching/admin		
Course coordination		
Organising placements		
Marking WIL assessments		
Supervising students		
Data entry/management re WIL		

5. If staff members undertake additional roles re WIL courses that are not included above, could you briefly describe their role and whether they are academic or professional below.

   FREE TEXT

6. Are the professional staff members involved in delivering WIL courses located within Law School or central or a mixture?

   a. Law School

   b. Central/faculty

   c. Mixture

7. Are the academic staff members involved in delivering WIL courses located within Law School or central or a mixture?

   a. Law School

   b. Central/faculty

    c. Mixture

8. Are they tenured/able academics or sessional staff?

FREE TEXT

9. What workload recognition do academic staff get for that work? If possible, please explain the workload credit in hours/student or hours/course and what percentage of academic staff member's overall workload this represents.

FREE TEXT

10. If there is a workload document or policy that explains how the workload is determined, could you please provide us with a copy OR extract a copy of the relevant part below:

FREE TEXT

11. How does that workload recognition compare to the workload recognition for designing, coordinating and teaching in "traditional" law courses?

    a. The same per course or per student

    b. Different per course or per student

12. If you indicated the workload credit is different from traditional courses, please explain how.

FREE TEXT

13. Do academic staff receive recognition for work designing, implementing and running WIL courses in academic promotion applications?

    a. Yes

    b. No

14. Do you think the academic workload and promotion recognition given is proportionate to the importance of the work and the time and expertise it requires, or not?

    a. Yes

    b. No

15. If you indicated the academic workload and promotion recognition for WIL is not proportionate to the importance of the work and the time and expertise it requires, please explain why you hold that view.

    FREE TEXT

16. What data management system/s does your school use relating to WIL? (i.e. what system/s record where placements are located, duration of placements, stores placement associated paperwork, etc.)

    FREE TEXT

17. Who has access to data on that system?

    a. All staff involved in WIL in all areas of the university

    b. All staff involved in WIL in the Law School

    c. Only the individual/s who entered the data

    d. A small pool of people with access to a shared file

18. Do staff involved in WIL courses get any specific training re external regulation i.e., the Fair Work Act, TEQSA Guidelines etc?

    a. Yes

    b. No

19. If yes, could you please provide details.

    FREE TEXT

20. Do course approval processes for WIL courses explicitly or implicitly ensure compliance with external regulation i.e., the Fair Work Act, TEQSA Guidelines etc?

    a. Explicit

    b. Implicit

    c. Not ensured