

2019 NATIONAL TAX CLINIC PROJECT: JAMES COOK UNIVERSITY TAX CLINIC

VAN LE* AND TINA HOYER**

ABSTRACT

James Cook University (JCU) embraced the opportunity to establish and operate a Tax Clinic under the National Tax Clinic Program. As the only regional university to take up the challenge, JCU aimed to deliver a valuable service to the North and Far North Queensland community, provide work experience and work integrated learning for JCU taxation law students, as well as pro bono opportunities for local tax practitioners. The JCU Tax Clinic (the Clinic) was successfully launched and became operational by July 2019. Since becoming operational, the Clinic has assisted many North and Far North Queensland individuals and small businesses and has been described as an absolute godsend.¹

This article sets out what occurred in 2019 during the operation of the Clinic and specifically:

- *provides an outline of the design model of the Clinic, and details the involvement of the Clinic staff, students, industry and the Clinics clients;*
- *sets out some key observations of the Clinic experience in terms of key challenges and learnings from the operation of the Clinic; and*
- *outlines the future plans for the Clinic.*

Keywords: JCU Tax Clinic, National Tax Clinic Program

* BCom, LLB (Deakin University). Grad Dip Legal Practice (Leo Cussen Institute), Australian Lawyer (Supreme Court of Victoria), Lecturer in Law, School of Law, College Business, Law and Governance, James Cook University and Director of the JCU Tax Clinic.

** LLB, LLM (Commercial Law). Solicitor of the Supreme Court of Queensland, JCU Adjunct Lecturer. Dispute Resolution Manager, Royal Australian Air Force.

¹ Feedback received by email dated 29 October 2019 from a client referred to the JCU Tax Clinic by the Aboriginal & Torres Strait Islander Legal Service (Qld) Ltd, Townsville.

I INTRODUCTION

James Cook University ('JCU') was one of ten Australian universities² participating in the pilot of the National Tax Clinic Program. Located in North Queensland³, with campuses in Townsville and Cairns, JCU was the only regional university to take up the challenge to establish a Tax Clinic. JCU embraced the opportunity to be part of the national pilot program and recognised the potential for delivery of positive social impact at both a national and local level.⁴ The objectives of the JCU Tax Clinic (the 'Clinic') were to:

1. Provide tax advice and assistance to taxpayers who could not ordinarily afford specialised tax support in the North Queensland community;
2. Provide work experience for JCU students, through internships and student volunteer opportunities, in a real-life practice that supports students to be workforce ready upon graduation;
3. Provide pro bono opportunities for local tax practitioners and thereby foster a philanthropic mindset; and,
4. Deliver tax related educational seminars to educate and build the capability of, not only students, but also the community about tax related topics.

Despite many challenges, including the 2019 Townsville floods,⁵ the Clinic was successfully launched and operational by July 2019. In 2019, the Clinic assisted many North Queensland individuals and small businesses. The Clinics success is reflected in very positive feedback received from its clients, staff, students, tax practitioners and community members.

Due to the short period of operation in 2019 (4 months) resulting in only limited data being collected, this article does not present any empirical research conducted by the Clinic. It is

² The ten universities in the 2019 National Tax Clinic Program pilot were the Australian National University, Charles Darwin University, Curtin University, Melbourne University, James Cook University, University of New South Wales, University of South Australia, University of Tasmania and Western Sydney University.

³ Reference to 'North Queensland' is the northern part of Queensland from the Burdekin region of Queensland and includes Far North Queensland.

⁴ Ann Kyais-Kumar and Jack Noone, 'Measuring the Social Impact of University-based Pro Bono Tax Clinics: Co-creating a Framework for Evidence Based Evaluation' on *Austaxpolicy: Tax and Transfer Policy Blog* (3 October 2019) <<https://www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation/>>.

⁵ The original date for the launch of the Clinic was substantially delayed due to the 2019 floods which had a significant impact on the Townsville community, see <<http://www.townsville.qld.gov.au/community/2019weatherevent/>>.

planned to present such research in the future. Instead, this article sets out what occurred during the operation of the Clinic in 2019, especially the article:

1. Outlines the design model of the Clinic, including the involvement of the Clinics staff, students, tax practitioners and its clients;
2. Provides some key observations in terms of challenges and key learnings in the operation of the Clinic; and,
3. Sets out the plans for the future of the Clinic noting that government funding has been approved for a further four years.⁶

II THE CLINIC DESIGN

A *The Clinic*

The Clinic commenced operation on 4 July 2019 and over a four-month period provided advice and assistance to over 125 clients consisting of individuals and small businesses of North Queensland communities. The advice and assistance was provided by JCU Business and Law students under professional supervision provided by local tax practitioners on a pro bono basis. Significant effort was devoted to the design of the Clinics model to enable student participation in the Clinic, obtaining pro bono support from local tax practitioners, and the marketing of the Clinic and meeting the needs of the North Queensland community.

B *The Clinic Model*

In 2019, the Clinic was located at the JCU Douglas Campus in Townsville, with two offices provided by JCU on an ‘in kind’ basis: one office was for the purpose of conducting the Clinic client interviews; and the other office was for the use of the students when telephoning clients, undertaking research, preparing for client interviews and finalising case notes. The government funding enabled the offices to be refurbished and fully equipped to a standard expected of the professional fully functional office.

The Clinic operated five days per week from 9am to 5pm. During its operational hours, potential clients were able to make enquires, or request an appointment, in person, by

⁶ Josh Frydenberg and Mathias Cormann, Parliament of Australia, *Mid-Year Economic and Fiscal Outlook 2019-20* (2019) 283.

telephone, email or by completing an online application form on the Clinics website.⁷ Upon receipt of an application, the client would be contacted for further information, usually by the Clinic coordinator or a student. The applications were vetted to ensure eligibility for the Clinics services.⁸

The client interviews were scheduled to occur one afternoon per week. The client interviews were conducted or observed by students under the supervision of a qualified tax practitioner.⁹ This arrangement enabled clients to make enquiries and for preparation for the client interviews to be conducted during the week. The tax practitioners were only required to attend the Clinic in person for one afternoon per week. Further information about Clinic participants roles is discussed below.

In 2019, the Clinic also operated mobile ‘pop-up’ clinics in the North Queensland towns of Ayr¹⁰, Ingham¹¹ and Cairns¹². This initiative aimed to reach individuals and small businesses in more remote areas of North Queensland.

C *The Clinics Mobile Service*

The Clinic commenced its mobile pop-up clinics visiting Ayr, Ingham and Cairns in its first four months of operation. These first visits were pilot opportunities for the Clinic to test whether pop-up clinics in the regional towns would be viable, and sustainable, as well as to

⁷ James Cook University (Web Page) <www.jcu.edu.au/taxclinic>.

⁸ A client was eligible for assistance from the Clinic if unrepresented and an individual or small business entity. On application, consideration was given to whether the client had the means to afford professional tax advice.

⁹ A tax practitioner registered under the *Tax Agent Services Act 2009* (Cth) pt 2 div 20.

¹⁰ Located 100km south of Townsville. According to 2016 Census QuickStats, Ayr had a population of 8,281. Australian Bureau of Statistics, *2016 Census QuickStats* (2016) Australian Bureau of Statistics <https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/UCL314003?opendocument>.

¹¹ Located 100km north of Townsville. According to 2016 Census QuickStats, Ingham had a population of 4,357. Australian Bureau of Statistics, *2016 Census QuickStats* (2016) Australian Bureau of Statistics <https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/UCL315041?opendocument>.

¹² Located 350km north of Townsville. According to 2016 Census QuickStats, Cairns had a population of 240,190. Australian Bureau of Statistics, *2016 Census QuickStats* (2016) Australian Bureau of Statistics <https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/306?opendocument>.

learn from the experience and feed-forward any learnings for improvements for future pop-up clinics.

The students took a hands-on approach to arranging the mobile service. Contact was made with local community centres to discuss the possibility of the Clinic visiting the town. Client appointments were pre-arranged and preparation for the client interviews was completed prior to the visit. The students and supervising tax practitioners travelled from Townsville to conduct the client interviews.

Lessons learned from the visits essentially concerned the need to effectively market the pop-up clinics. The effectiveness of the marketing directly impacted the number of client interviews scheduled. For example, the first planned pop-up clinic in Ayr resulted in very few client appointments due to ineffective marketing. Whereas a more targeted approach to the marketing of the Cairns pop-up clinic ensured a full day of client appointments.

Based on the experience, feedback from students, supervising tax practitioners and clients, it was determined there is a need for the mobile service and the pop-up clinics can operate effectively and in a sustainable way. The Cairns visit was particularly successful and as a result, plans were made to establish a permanent clinic in Cairns involving Cairns local tax practitioners and JCU students from the Cairns campus.

D *Marketing of the Clinic*

The Clinic recognised from the outset, the importance of effectively marketing its services. The Clinics marketing commenced with its launch event¹³ which was attended by over 70 guests including members of the Townsville community, various government departments, small business operators and JCU staff. The launch event was facilitated by the student volunteers and included presentations by the Clinic directors, a Deputy Commissioner of Taxation and Assistant Commissioner of Taxation. The launch event was reported in local newspapers and on social media as well as televised by local media. Following the launch event, the Clinics brochures were distributed, banners and posters displayed throughout the university campuses, the office of the Department of Human Services, local community centres

¹³ Julia Bradley, 'Freeing Up Tax Advice', *Townsville Bulletin* (Australia), 3 July 2019, 14. WIN Townsville, 'A Free Tax Clinic is Being Run in Townsville by James Cook University Law and Business Students', *WIN News*, 25 June 2019 (Melissa Russell).

and various other locations. There was also a social media and email campaign and radio advertising.

E JCU Tax Clinic Staff

The day to day operation of the Clinic was conducted by a part-time Clinic coordinator (25 hours per week) and overseen by two Clinic directors. The roles and responsibilities of the Clinic staff were as follows:

(i) Clinic Directors:

- establishment and overall strategic direction of the Clinic, operations, mobile visits, staff, tax professionals and student recruitments; and,
- liaison with JCU management, tax professionals, community and students.

(ii) Clinic Coordinator:

- management of the daily operations of the Clinic;
- recruitment and induction of student volunteers;
- organisation and coordination of student volunteers research projects;
- coordination, promotion and oversight of public seminars and events delivered by the Clinic to the Townsville and Cairns communities;
- development and implementation of marketing of the Clinic; and,
- liaison with JCU staffs and tax professionals, community and students.

The clinic coordinator was primarily responsible for managing student involvement.

F Student Involvement

The JCU student involvement was either as a student volunteer, or student professional intern.

1 Student Volunteers

The student volunteers were enrolled at JCU studying a Bachelor of Laws, Bachelor of Business (Accounting) or dual degrees and had either completed or were enrolled in Taxation Law. The student volunteers were required to undergo a recruitment process in which application was made by submitting a covering letter and curriculum vitae and then participating in an interview with a Clinic Director and the Clinic Coordinator. The recruitment process:

- provided the student volunteers with an authentic experience of applying for a job; and
- enabled the Clinic Director and Coordinator to screen for suitability and set out their expectations of the student volunteers.

Each student volunteer was required to attend a half-day induction in which training was provided on myGov, ATO debt collection procedures, and the JCU Tax Clinic policies and procedures. The student volunteers were required to sign a Student Participation Deed and commit at least five hours per week to volunteering at the Clinic.

The student volunteers key responsibilities under the direction and supervision of the Clinic coordinator and qualified tax practitioners were as follows:

- research and preparation of tax related advice;
- attendance at client interviews in person or via teleconference;
- preparation of client interview file notes and follow up if required;
- facilitation of discussions with clients and appropriate regulatory agencies;
- contribute to the knowledge bank of the Clinic and advancing tax awareness and education in the community; and,
- research and prepare tax related education material for distribution and presentation to the local community.

In 2019, the Clinic recruited 12 student volunteers; the majority of which remained engaged and committed to the clinic throughout the 2019 period. The retention of student volunteers and ensuring their consistent attendance was a key challenge for the Clinic. As participation was voluntary, some student volunteers found it difficult to commit to the minimum five hours per week particularly at times during the semester when assessment was due. A key learning for Clinic staff was to carefully manage client appointments during periods of assessment.

2 Clinic Student Professional Intern

Students at JCU studying a Bachelor of Laws, Bachelor of Business (Accounting) or dual degrees are required to complete a Work Integrated Learning ('WIL') program. The program is designed to develop and integrate employability skills into programs of study by increasing the interaction of industry and students. Each Intern must complete 100 hours placement.

For 2019, an interview process was conducted and the Clinic offered one student an internship. The decision to offer only one internship was for two reasons:

- at that stage, it was not known the extent of the demand for the Clinics services; and,
- there were concerns on whether the workload would be sufficient to provide the student intern with quality work.

In accordance with the learning outcomes agreed between the Clinic student intern and the Clinic, the key roles and activities of the Clinic student intern were to assist the Clinic Coordinator in the daily operation of the Clinic which included:

- processing Client enquiries by email, telephone or face to face interactions;
- organising client appointments with student volunteers and the tax practitioners;
- creating and maintaining client files and electronic databases;
- assisting and promoting public seminars delivered to the Townsville and Cairns communities; and,
- marketing the Clinic by developing and implementing marketing and advertising material.

The Clinic student interns learning and performance was assessed via progress reports prepared by the Clinic Coordinator and Director, as well as a final report at the end of term. The student intern was also required to complete self-assessment and reflection throughout the term of engagement. The 2019 student intern provided the following testimonial:

The JCU Tax Clinic internship was a fantastic learning experience from me, and I am truly grateful for it. Sitting in on client interviews as well as additional research strongly enhanced my understanding of tax law. I feel a lot more confident in talking about tax related matters.¹⁴

Based on the experience of the Clinic in 2019, it was determined it is viable and sustainable to offer more internships in the future.

G Tax Practitioner Involvement

One of the Clinics main objectives was to provide local tax practitioners with an opportunity to engage in pro bono service. A Townsville accounting firm, Coutts Redington Chartered

¹⁴ JCU Tax Clinic student intern, 19 November 2019.

Accountants ('the firm'), expressed keen interest in providing pro bono services to the Clinic. The firm recognised its involvement with the Clinic provided the following opportunities:

- to engage in a social justice project in the North Queensland community;
- development opportunities for the firms staff;
- to observe student volunteers and identify potential new recruits for the firm; and,
- marketing opportunities.¹⁵

The firms service to the Clinic included:

- supervising, supporting, and mentoring the Clinic student volunteers and student intern;
- reviewing file notes and written advice prepared by students prior to sending to clients; and,
- attending interviews with clients in the presence of students, to provide guidance, feedback, and professional reflection.

The relationship between the tax practitioners and the Clinic was recognised as vital to the JCU Tax Clinic model, and therefore carefully managed to maintain the professional connection. The commitment was only one afternoon per week plus the guidance provided over the phone or by email. Over the course of 2019, a number of tax practitioners from the firm were involved in the Clinic. The following is a testimonial from one of the tax practitioners supervising at the Clinic:

“My involvement with the JCU Tax Clinic has been an extremely positive and rewarding experience. I have enjoyed the opportunity to provide a pro bono service and engage with JCU students and the North Queensland community.”¹⁶

A challenge with the Clinic was reluctance by supervising tax practitioners to deal with the less complex tax matters such as basic lodgement of income tax returns. The tax practitioners expressed a reluctance to deal with these matters, as there were other alternative ways to assist clients, and recognising that the tax practitioners time was best spent on complex cases and providing opportunities for student learning and student support. The Clinic directors were of

¹⁵ The firm's logo was displayed on all the Clinic's marketing material, which included flyers, banners, and email campaigns.

¹⁶ Supervising Tax Practitioner JCU Tax Clinic, 19 September 2019.

the view that these less complex matters were an ideal training opportunity and confidence builder for the students. Recognising one of the main objectives of the Clinic was to educate the community, the Clinic took the approach of focusing on building the clients capabilities whenever possible when dealing with the less complex matters. For example, if a client was not registered with myGov, the student volunteers proved the client with instructions and guidance to attend to the myGov registration prior to the client interview.

An initiative for the future to address this challenge are plans to establish a TaxHelp¹⁷ service at JCU. TaxHelp provides free assistance in the lodgement of simple income tax returns. The benefit of this is threefold because:

- the student volunteers can gain valuable experience interviewing and assisting clients thereby building their confidence and enhancing their interviewing skills;
- the Clinic can be a pathway to deal with the simple matters; and,
- the Townsville community would have access to a TaxHelp service.¹⁸

H Client Involvement

The target clients of the Clinic were North Queensland unrepresented individuals and small businesses.¹⁹ Broadly, the services offered by the Clinic were:

- free advice and assistance on taxation matters;
- representation in dealings with the Australian Taxation Office ('ATO'); and,
- education to students, clients and the community on current taxation issues.

The Clinic emphasised it had no intention of competing with professional tax advisors and accountants or community legal services. The Clinics aim was to provide services to unrepresented North Queensland individuals and small businesses who could not ordinarily afford tax advice and assistance. The eligibility for the Clinics services was determined by the Clinic staff following consideration of the clients application for advice and assistance.²⁰

¹⁷ Australian Taxation Office (Web Page) <www.ato.gov.au/individuals/lodging-your-tax-return/Tax-Help>.

¹⁸ There are currently only two TaxHelp services operating in the Townville region, but all services are in outlying suburbs.

¹⁹ A 'small business' is a sole trader, partnership, company or trust that has a turnover of less than \$10 million.

²⁰ Application was made by completion of an online application form, see: <www.jcu.edu.au/taxclinic>.

The types of matters dealt with by the Clinic in 2019 included:

- income tax return and business activity statement ('BAS') lodgements current and previous years;
- tax debt advice and debt negotiation; and,
- business setup, salary sacrifice, declaration of foreign income.

Many of the Clinic's clients had years of outstanding lodgements and tax debt. For some clients, there were many challenges in their lives over a number of years which meant that meeting their tax obligations were not a main priority. Drawing on the facts of a number of common issues presented by clients to the Clinic, the below paragraph presents a case study example.

The Clinic was approached by a community legal service (the referring service) seeking assistance for one of its clients. The client was a single mother who had years earlier attempted to start a cleaning business. She had been advised to register for GST which she did. However, the business did not progress any further. The client was not aware of her taxation obligations as a result of the GST registration. The client moved several times over a number of years and did not receive any notices from the ATO. Over a period of years, the client accumulated a substantial tax debt, consisting of non-lodgement penalties and interest, and eventually she was prosecuted and fined in excess of \$12,000 and ordered to attend to the outstanding lodgements. The client sought advice from the referring service which then applied to the Magistrates Court to have the hearing re-opened. The referring service referred the client to the Clinic. The Clinic contacted the ATO and arranged for the clients GST registration to be deregistered retrospectively. The referring service then appeared before the Magistrates Court on behalf of the client which resulted in the client receiving a 2-year recognisance. The client was amazed and relieved by the outcome. A lawyer employed by the referring service recognised the referring service could not have assisted the client without the Clinics advice and assistance and stated 'the help and support from the JCU tax clinic was an absolute godsend'.²¹

²¹ JCU Tax Clinic client, 29 October 2019.

III FUTURE RESEARCH PLANNED BY THE CLINIC

Recognising the positive social impact generated by the National Tax Clinic Program in the short term, there is grant funding to run the Clinics for a further four years. Ethics has been approved in order to collect data about the client and student experience, and once sufficient data is collected, the Clinic will be in a position to report empirically on client and student outcomes. The focus of the Clinics research will address the following questions:

- Does the Clinic contribute to a more socially just tax system?
- Does the Clinic build the capacity of clients, student volunteers and the profession?
- Does the Clinic support the development of a pro-bono mindset?
- Does the Clinic provide a platform for developing skills for students and tax professionals?
- Does the Clinic enable vulnerable groups to access valuable expertise they could not otherwise afford?

Working together with universities in the National Tax Clinic Program, JCU is looking forward to contributing to research on these topics in a meaningful way.

IV CONCLUSION

In 2019, the Clinic achieved its objectives in delivering a valuable service to North Queensland individuals and small businesses, providing work experience and work integrated learning for JCU taxation law students, as well as pro bono opportunities for local tax practitioners. The feedback from the Clinic staff, the students and tax practitioners involved with the Clinic as well as its clients was very positive. Moving forward, the learnings gained in 2019, has ensured the Clinic is well prepared for the future in terms of its plans to expand its services and contribute to research.