

“In light of the current economic climate and the implementation of the Legal Services Act 2007, those entering the legal profession are facing a decrease in the availability of training contracts. Will this significantly impact upon the number of students who are prepared to embark on the journey to become a solicitor or will the Training Framework Review Work Based Learning Pilot provide the solution to the potential future problems facing the legal profession?”

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Abbreviations

LSA	Legal Services Act 2007
SRA	Solicitors Regulation Authority
ABS	Alternative Business Structure
LPC	Legal Practice Course
CPE	Common Professional Examination
BVC	Bar Vocational Course
GDL	Graduate Diploma in Law
MDP	Multi Disciplinary Partnership
ILEX	Institute of Legal Executives
CV	Curriculum Vitae
NUS	National Union of Students
TSG	Trainee Solicitors Group
CPD	Continuing Professional Development
QC	Queen's Counsel
PSC	Professional Skills Course

Preface, acknowledgement, and dedication

In a short dissertation the content can often seem superficial, failing to give the full appreciation of all the issues involved in such a topical and problematic subject area. In attempting to provide depth, however, comprehensiveness is usually sacrificed.

I have attempted a mix of overview and in-depth examination of the particular areas and I hope that I have given a clear indication of the subject matter surrounding the Training Framework Review and Work Based Learning Pilot scheme and whether it will provide the solution to the potential future problems facing the legal profession.

However at the time of writing this, the whole framework is in flux, the recession is hitting hard, not only in the United Kingdom, but globally. There are fewer jobs available as firms tighten their purse strings to weather the financial storm and finally a General election is about to take place in only a few days, with a strong possibility of a hung parliament; something the voters are very apprehensive about, as many people still remember when Britain's political stability hung in the balance during the dark days of 1974.

When I first put pen to paper for this dissertation, I was already on well on my way of embarking on the long and expensive journey to become Solicitor. Like everyone else who decides to follow this path, there are only so many routes available, it is just when and what stage you get on this journey (and get off in some cases) that differs for each person.

The route I took was possibly more difficult for me than most, as I had not been in any formal education since leaving Secondary school at fifteen and nine months, in May 1982, some 28 years ago.

At that time I had no idea what direction I wanted to take regarding employment or a career. For me, earning a higher wage from the outset was far more important than gaining a career (how your view changes as you mature). One thing I was sure of was that I liked to be around people. Even at such a young age, I blossomed on the energy of mixing with people from all walks of life; I seemed to thrive on this knowledge and interaction.

I was like a sponge soaking up all the life experience that others had to offer, mixing it with my own, which was now slowly developing and growing as a person, not just in size, but in people awareness.

With this in mind I wanted a career that I could earn money from immediately and continue with the two things at that time I like best, people and driving.

At the age of 19 I began my working life as a bus driver, a few years later I joined Nottinghamshire Fire and Rescue Service as a Retained Fire-fighter and in 1997, I Joined the Police Service gaining experience as a front line Officer, a qualified Detective, a Police Sergeant and an Acting Inspector.

I had not gained a degree during my initial schooling and therefore embarking on the path to become a solicitor seemed just a pipe dream. However a very close friend of

mine and a former colleague, Mick Miller, informed me that the Solicitors Regulatory Authority had a scheme in place that recognised additional skills gained both vocationally and from life experience. I forwarded them all the qualifications that I had ascertained during my working life and sure enough I was issued with a 'Certificate of Academic Standing', commenced my Graduate Diploma in Law and as they say, the rest is history.

Three years ago there were substantial events taking place all around me, all of them potentially life changing. At that time it would have been inconceivable that I would be at this point today, both academically and emotionally.

This composition would not have been possible without the full love and support of all my family and the select fellow Students and Lecturers who guided me along my rollercoaster journey, (you know who you are). But in particular the incredible love, devotion and support of my wife Loren, who's belief in me has never faltered.

I also would like to show my appreciation for Andrew Sidwell for his friendship and loyalty during this period and Janice Brien for her advice, faith in me and her encouragement during the dark times, of which we have both shared together.

Finally, I dedicate this work to my late friend Michael Leroy Miller for introducing me to law at this level. May you rest in peace in the knowledge that your work will carry on.

Chapter 1 – Introduction

The way of entry in to the legal profession is, for many prospective lawyers, arduous and undoubtedly expensive. This notion will be explored in greater depth, drawing on a number of external factors in an attempt to explain why the process is as difficult and problematic for potential lawyers. Whilst highlighting the core matter of this dissertation, it is necessary to explain how it ties in with the writer's objectives and as such intending to expose these objectives through the vast array of empirical research that has been collated.

From the initial impressions and observations of the "route to legal qualification", it does not go un-noticed that a great many external factors impinge on the prospects of success. One such factor that is examined is that of the economy. At the time of writing, the economic outlook for lawyers appears bleak, especially for those in the smaller high street and residential conveyancing practices¹. As will be explained and developed below, this factor has led to a halt on the recruitment opportunities and to all intents and purposes threatened the very development of legal services in England and Wales².

The second external factor, which will be explored in Chapter 2, resonates from the entry onto the statute books of the Legal Services Act 2007 ("LSA 2007"). With it's gradual implementation becoming more and more prominent for lawyers, it is suggested that its impact upon prospective lawyers is equally as stark. However, the full impact of the provisions at this time remains a topic for prediction, with many

¹ Recession puts small community law firms under threat. Afua Hirsch. The Guardian 2 March 2009

² Ibid 1

thoughts and publications based merely on educated suppositions rather than more concrete evidential findings. Nevertheless the legislative impact should not be ignored,³ leading to the aim of this paper to highlight how it may radicalise and in some ways invigorate the legal market.

While this paper will seek to explore these factors which are deemed to complicate the road to qualification, discussion will also centre around the potential solutions to the problem and how the legal profession, through the Solicitors' Regulation Authority ("SRA"), is adapting to such live issues. Preliminary research highlights how hope may be offered to aspiring lawyers in their quest for the academic and practical attributes required by employers.

An example of this adaptation can be viewed through reference to the SRA's Work Based Learning Pilot⁴. In essence, this pilot seeks to reform the more traditional training contract model of qualification by 'replacing the training contract with an assessed period of work based learning on a set of clearly defined competence standards'⁵. By implementing this strategy for reform, even through the initial consultation period, it is submitted that the SRA has recognised some dissatisfaction with the current system, especially for those embarking on what may be seen as the final stage through to qualification.

In any examination and discussion concerning the training and progressive nature of life as a solicitor, it can appear as if almost total scrutiny centres on the availability

³ Legal Services Reforms: Catalyst, Cataclysm Or Catastrophe? Professor Stephen Mayson

⁴ Moving forward with a new framework for work based learning. Solicitors Regulation Authority, Education and Training Unit. 25 October 2007

⁵ Ibid 4

and suitability of the training contract. Despite this, the paper will aim to delve into other such areas of difficulty. Examples of these areas include the obstacles created by the financial pressures, especially throughout the academic side of a trainee's development, and the problems associated with our society, whether it is as a result of race, age, sex discrimination or social background. Allied to this is the availability of legal courses; whether this is at degree level or postgraduate level, which increases the hurdles that must be cleared prior to even considering life under the much debated training contract, especially given the huge increase in the number of students and courses available.

The final aspect for consideration, which will aim to draw together the various elements of this paper, is the look towards the future. Whilst the future remains in a degree of uncertainty, research provides an insight in to the potential pitfalls the industry may experience should the current difficulties experienced by trainees continue unabated. This is particularly the case should potential trainees slip through the recruitment net, or in situations where the quality of supervision and training received falls below what may be deemed an 'acceptable' level. It is felt that these risks should be considered, particularly in light of the LSA 2007, as mentioned above. In many ways the risks may prove unavoidable, however, even outside of this legal context, it is the entire reputation of the industry which faces the criticism so feared amongst regulators and professionals alike.

Chapter 2 – The Current Economic Climate

The Impact of the Recession

This chapter will explore in greater detail the impact of external factors and how they have contributed towards the decline in the number of training contracts available and added to the difficulties experienced by those wishing to gain a foot on the ladder of the legal industry.

Perhaps the most current obstacle facing legal graduates in their path to qualification is the financial and economic climate of today. This suggestion is premised on the foundations of figures which highlight the difficulties faced by firms both in the public and private sectors of practice. As one such articles suggests, the recession has placed law firms ‘in the firing line’⁶ as it continues to undermine commercial activity and impact heavily on the willingness of private clients to venture out into the legal marketplace. The article continues to lay out all too common problems in the current climate, including the issues of bad debt amongst the client base, credit or financial problems or pressure from an increased regulatory burden⁷.

There is no doubt that such areas for concern, as highlighted above, are causing many firms problems. The article⁸ notes the findings of bad debt and poor client within a survey of the one hundred leading UK law firms. The problem is therefore magnified and possibly related to the recruitment of trainees. If it is the case that four out of five firms from a list of the UK’s top one hundred are finding the economic

⁶ Recession puts law firms in firing line. Continuity Insurance & Risk. 10 March 2009.

⁷ Ibid 6

⁸ Ibid 6

climate particularly uncomfortable, the question must be posed as to the impact it is having on the more traditional 'high street' practices which undoubtedly have far less in the way of financial resources.

However, as with all dilemmas, there will be those firms which, through effective risk management and sound commercial decision making, have experienced signs of positivity and hope. This encouraging notion was remarked upon within a recent article for the Law Society Gazette in which Polly Botsford highlights how firms have proposed alternatives to redundancies with a view to managing their staffing levels through the recession⁹. A further benefit for a number of practices, are as Botsford, remarks, due to the nature of their specialities. She notes that, 'some Manchester firms are protected from the worst of the downturn because of the nature of their practices – many of the insurance and litigation-based firms could be called fairly 'recession proof'¹⁰. Therefore, are there greater opportunities for graduates to realise their ambition of qualification in certain, more specialist firms, than others? Possibly, however there is the danger of overspecialisation, especially if trainees are not retained post qualification. In these circumstances the concern must be that where the training contract has been undertaken in a practice specialising in one area of law, the newly qualified solicitor's options for future employment are greatly reduced given their limited experience and expertise.

Having stated this, my point in light of the question above, is the influence this may have in relation to the quality of service received by clients in the future. Should it be the case that graduates are honing their skills in litigation practices or those

⁹ Manchester is making the most of the recession. Polly Botsford. Law Society Gazette Thursday 19 March 2009

¹⁰ Ibid 8

specialising in debt recovery work, how will this impact upon the service provided by the lawyers of tomorrow? Commentators have suggested that during such a period of economic instability, future lawyers should make an attempt to boost their levels of experience and 'legal know-how'. Ideas such as volunteering for the Citizens' Advice Bureau have been mooted, with many agencies suggesting that such experiences not only prove 'incredibly attractive' to potential employers but also add strength to the all round capabilities of legal graduates¹¹. Gaining experience in dealing with members of the public to resolve their legal issues in this way can only be positive in developing your communications skills, research and legal knowledge and surely must have noticeable benefits.

Despite such avenues, the worry must be that in many cases trainees aren't gaining experience the contract requires, or indeed a satisfactory quality of training. The issue of 'quality of training' inevitably emerges throughout subsequent chapters, as it would appear that with many firms reducing numbers and personnel, a consequence will be that supervising principal has far less time to dedicate to the department's trainee(s), therefore standards dwindle and it is argued affects future employability given the lack of disciplinary sanctions available to the SRA.

The Impact of the Legal Service Act 2007

While discussion of the current economic woes is prudent in the sense that it accounts in part for the current shortage of training contracts and legal opportunities, one must not overlook a potentially far greater issue that is effectively storming over

¹¹ <http://www.lawcareers.net/Information/News/Detail.aspx?r=2263> 04/09/09 @ 11:00

the legal horizon. The introduction of the LSA 2007 into the legal landscape has, to this day provided a huge amount of debate and scepticism amongst commentators and lawyers alike. As a direct consequence, I will attempt to address a number of the key provisions deriving from this controversial piece of legislation, in light of the main focus of this paper.

To provide a foundation and a background from which a discussion of this issue may be formulated, it is necessary to evaluate a number of the key reforms that the LSA 2007 is seeking to achieve. It has been stated by numerous commentators that the LSA 2007 will serve to 'revolutionise the way legal services are delivered'¹². The reforms themselves are revolutionary and undoubtedly radical. Essentially, the reforms will permit non legal organisations to form alternative business structures and go a step further by having the capability to float these on the Stock Market¹³. Whilst on the one hand, this may be seen in an opportunistic sense, the concern is amongst many that by allowing such organisations into the legal sector, this will lead to a decline in the more traditional high street 'family' practice.

From the research undertaken to write this paper, a perspective and argument is primarily one that adds favour to the proposed reforms. It is clear that by allowing new business models into the market, the most high profile of which appears to be Tesco, the market would subsequently open itself up to a huge investment potential. This may only be seen as a positive element, especially in light of the economic downturn discussed above. There is, however, a balance that needs to be struck. On the one hand there are large multi-national organisations infiltrating an industry, with

¹² Brave New World. Paul Marsh. 159 NLJ 633 1 May 2009.

¹³ Brave New World: Impact of the Legal Services Act. James Tuke, 2007

the ultimate aim of monopolising a market far beyond merely that of legal service. Conversely there is the concern for the traditionalist, in that the influx of these alternative business models will not only serve to undermine the position of the established high street practice, but in addition lead to a snowballing effect in terms of the quality of legal service that is available to the consumer population.

As alluded to above, there are very real fears amongst certain critics of the legislation that it will call an end to what has been termed the 'high street practice'. At first glance the definition of this term seems obvious. However, 'what makes a high street practice' should be examined. It is suggested that 'high street solicitors' may be embraced into the spectrum of 'local solicitors' and could in turn face similar problems to those experienced by bank branches, local shops, and post offices in market towns and suburbs¹⁴. This perspective was offered by commentators in 2006, highlighting the view that has always existed with regards the potential pitfalls of the Act. It is submitted that should this perspective replicate reality, a problem may arise, especially on consideration of the number of graduates who assume trainee roles within these traditional 'high street firms'. If the numbers of high street practices were to decline as rapidly and in such a widespread fashion as some commentators predict, then a huge burden would be placed on these new business models to recruit similar numbers of 'budding' lawyers.

To an extent, Mayson¹⁵ picks up on this area of uncertainty by commenting on the potential employment opportunities both for qualified solicitors and for trainees. He notes that despite these concerns, the provisions will 'exacerbate the effect the

¹⁴ Legal Reforms to Hurt High Street Solicitors. George Jones. Daily Telegraph 26 December 2006

¹⁵ Op cit no 3.

supermarkets have already had on the high street'¹⁶. It is important to note that by entering the 'legal arena' many new employment opportunities will arise, especially for those who are recently qualified and entering the profession. This 'redeployment' opportunity has not gone unnoticed, to the extent of Mayson commenting that 'I am not forecasting thousands of solicitors losing their jobs; what I envisage is the necessary and inevitable reconfiguration of thousands of solicitors into a smaller number of larger firms'¹⁷. It is the last few words of the aforementioned quotation which form the basis of any concerns. One of the main negative impacts, especially with large organisations taking on vast numbers of newly qualified solicitors and trainees, is the standard of supervision and training that is received. This fear may, to an extent, be allayed by the new work based learning pilot that will be explored in greater depth later in this paper, however, the standard of training must be closely scrutinised by regulators over the course of the coming months and years. It is noted that the Solicitors' Regulation Authority ("SRA") provides guidance in relation to the supervision of trainees¹⁸ although doubt is cast as to the efficacy of the measures in place to ensure that such guidelines are implemented correctly across the variety of firms and new business models. Conversely the situation could have analysed with regard to the position north of the border. Currently, Scotland finds itself embroiled in the same debate, namely whether or not "Tesco Law" would encourage development and a level playing field within the system. As has been commented upon in recent literature, lawyers want "the majority ownership of a legal business to remain with solicitors following the introduction of alternative business structures next year. The only exception would be where solicitors are in business with other regulated

¹⁶ Op.cit no 3. Pg 2

¹⁷ 'Consumers sceptical about 'Tesco Law'', Law Society Gazette, Page 9, 28th May 2009

¹⁸ Solicitors Regulation Authority. Training Trainee Solicitors. Education and Training Unit, Version 1.

professionals, such as surveyors or accountants”¹⁹. I would argue that such a compromise could encourage firms and provide them with the confidence to branch out into trainee recruitment once again. Whilst all financial burdens may not be dispelled, at the very least it would provide firms and therefore trainees with a fresh impetus to go forward.

As recently as July 2009²⁰, the SRA has continued on its drive to improve the standard of training, perhaps in light of the emergence of multi-national organisations, such as Tesco, as training contract providers. Indeed, one such objective of the paper clearly expresses this aim as it states, ‘to develop appropriate systems that enable a wider range of training establishments to be monitored’²¹. Expectations of how this can be achieved are far reaching, yet can be viewed as positive in the sense that, the principal regulator is looking to address the concerns of many by ensuring that quality standards do not slip in the final stage before qualification. By reviewing a firm’s regulatory history or by maintaining a similar number of random visits, it is hoped that trainees won’t feel lost should they embark upon a contract within a large alternative business structure. However, perhaps the most wide ranging reform discussed within this paper is the inauguration of the ‘Training Contract Handbook’. In covering aspects such as the induction, performance reviews, appraisals, supervision and skills standards, an argument may be put forward that highlights the positive way in which training contracts are being administered. This will of course, become reality in one hundred percent of cases.

¹⁹ Scots to debate compromise plan that would derail ‘Tesco Law’. Paul Rogerson. Law Gazette. 8th April 2010.

²⁰ Solicitors’ Regulation Authority. Strengthening the Training Contract. 1 July 2009.

²¹ Ibid 17

However, should it raise the bar by even a few percent, I would submit that the legal service will raise the bar in terms of the standard of representation on offer.

After having concluded a review of some of the more negative sides to the LSA 2007, attention can suitably shift and expand on a number of the more positive elements mentioned above. As was underlined in the opening chapter, the availability of training contracts is arguably at one of the lowest levels in recent memory. Discussion has already touched on the employment potential that may be created by these 'non-legal organisations' entering the profession. Such organisations, which operate in some cases on an international basis are not only more financially sound than many firms, but also have far greater opportunities for career development. One concern in respect of this could be that the situation may provide a surfeit of new qualified solicitors, due to that fact that trainees are essentially cheaper to employ and as such provide much cheaper labour, although this can also be seen in most professions at present.

Examined above are the concerns surrounding the quality of training that may be received by law graduates, and how to an extent such fears have been allayed by innovations such as the work based learning pilot and the 'Training Contract Handbook'. These fears were very much founded on the basis of life within such large organisations; however, there is a paradox which emerges with an undoubtedly more positive outlook. One of the major benefits of the 'ABS' is its advertising potential. Williamson (2009) has viewed such advertising opportunities in a mainly negative light, even by going as far to comment on the protests by lawyers as handing out cans of baked beans labelled 'Legal services by supermarkets is as

ridiculous as lawyers selling beans'²². This is expanded upon further by Mayson who remarks that the so called 'new entrants' will be in a position to extend and exploit their brands in way in which fragmented high street practices cannot²³.

However, despite such respected views, when considering the advertising potential on the back of the paper's main notion, it is submitted that as a result of such advertising, trainees would be aware from the outset of just 'what they were getting'. In essence, the difficulties associated with entering the profession would be more widely publicised at an earlier stage, enabling students to make an informed decision as regards their chosen career path. The marketing and advertising avenues for firms have been explored by a number of authors. Commentators such as Lucy Adam²⁴ advocate an ideology involving the profiling of a firm and how to analyse competitors in the market. In any event, the entrance of the 'ABS' models into the legal picture will undoubtedly create a flurry of new employment opportunities, both for trainees and indeed for more experienced practitioners.

Conclusion

Having explored and expanded upon the impact of the recession and the LSA 2007, an essential element of any discussion should focus upon how they have collectively affected the availability of training contracts and indeed what the future may hold for prospective law students. It is undeniable and evident from even the scarcest of recent research that the availability of training contracts has plummeted since the economic crisis gripped the profession. From the above critique and discussions, it is

²² By the Book: Supermarket Sweep? Peter Williamson. 11 June 2009.

²³ After Clementi: the impending legal landscape. Stephen Mayson. Pg 8.

²⁴ Marketing Your Law Firm. A Solicitors' Manual. Lucy Adam. Law Society publishing 2002.

submitted that this decrease in availability could level to a degree, with the changes forthcoming by way of the LSA 2007.

In any event, recent signs of recovery in the legal sector as a whole are apparent, even on the most superficial of inspections of the sector's reporting network. For example, Catherine Baksi²⁵ has commented to such a recovery, which although tentative will surely breed confidence in firms as potential employers. Such improvements may bring returns to the availability shown in formative years, but how this will deal with the so called "backlog" of applicants is yet to be seen. The revival may, in addition, allow a stronger foothold in the market for the more niche areas of practice, where expertise is crucial, and which, it is argued, may be one of the few survivors of the LSA 2007.

At a later stage, the potential developments and changes to the process of attaining qualification within the profession will be explored; the principal change in the pipeline being the Work Based Learning Pilot. This may serve on the one hand to radicalise entry into the profession, and on the other to assist with the battle against the current economic climate. In light of the discussion covered above, the influences of this pilot may prove huge, but firstly, I shall focus upon and evaluate the traditionalist mode of entry.

²⁵ Banks predict M&A recovery in 2010. Catherine Baksi. Law Society Gazette. Tuesday 9th February 2010.

Chapter 3 – Routes to Qualification

Where to Start?

The paths to qualification along with the ultimate rewards of success which are potentially on offer are undoubtedly visions aspired to by many. However, the means and ends of achieving this aim are often varied and time consuming. A useful starting point for any discussion is a perusal of the national website www.lawcareers.net²⁶. This website, produced in conjunction with the Law Society provides a plethora of information for budding lawyers. When allied with the SRA's own website there is undeniably a vast amount of information available at the touch of a button. Before embarking on a discussion with regard to the various paths and means of attaining qualification, the point must be raised as to the likelihood of students actually clicking on the aforementioned sources and therefore accessing the available information.

The first point to note and one which is particularly pertinent to personal experiences is the diverse background and experiences of potential entrants to the legal profession. Lawcareers.net advocates a very traditional approach in this regard²⁷, namely the progression from school through university and onto traineeships. However, to take this view would arguably be to take a very narrow perspective of the actual circumstances. Research shows that there are “more than 68,000 students taking undergraduate law degrees, with 15,500 graduating each year”²⁸.

The accompanying argument to these figures is a bleak one, namely that “law

²⁶ www.lawcareers.net 10/05/10 @ 20:00

²⁷ <http://www.lawcareers.net/Solicitors/CareerPath.aspx> 10/05/10 @ 20:00

²⁸ Are our law schools gatekeepers or cash cows? Times Online. 21st January 2010.

faculties used to be powerful centres in university administration. Today they have been absorbed into huge mega-faculties and resources are fought for at a low level”²⁹. This is clearly a worrying statistic and comment; however, when progressing from undergraduate level one must evaluate a closer breakdown of the student intake. Clearly some will have followed the “traditional” path; however others will be mature students; those who have decided on a change of career path³⁰, or those who may be foreign students or professionals from other jurisdictions.

In light of this, one can see a wide range of individuals emerging from the all encompassing statistics produced year on year. Experience levels will undoubtedly differ, life skills will vary, although it is submitted that this will inevitably increase the choice to law firms when plucking potential trainees out of the ever expanding pool of graduates. Having made such a statement, regard should be had to the influences portrayed in “Chapter 2” of this paper. The recession and the consequent economic landscape has, whatever your background, altered legal thinking. As the Chief Executive of the College of Law, a major legal studies provider, notes in the previously referenced article, “Law schools are being left exposed. When the universities have to make cuts of £2.5 billion, legal education will suffer a disproportionate share of the grief — as it did in the last recession”³¹. Despite this grim prediction, there remain a number of avenues available to those determined to pursue their aspirations. It is therefore the aim for the rest of this chapter to delve into these avenues, evaluating possibly the most cost effective and ultimately a route to qualification.

²⁹ Ibid 25.

³⁰ <http://www.acareerchange.co.uk/changing-career-becoming-lawyer-solicitor.html> 06/05/10 @ 13:15

³¹ Op Cit 25.

The Traditional Route

Perhaps the stereotyped view when considering such a notion would be to class the majority of graduates within a particular age range and within a particular class. Regardless of any potential discriminatory and biased figures, what cannot be denied is the financial burden which comes with starting out on this so termed “traditional route”. To this extent, Nicola Laver outlines this very pressure at the outset of her text on “Becoming a Solicitor”³². Laver notes that “it is very important that you do your research properly before you make the choices which will affect your future career and before you commit yourself to the large debts which are so much now a part of student lawyers’ life”³³. This stark warning immediately evidences the potential pitfalls of embarking upon a career without the clear guarantee of paid reimbursement at the end of the journey. Even the Junior Lawyers Division, within its Law Society website³⁴ and especially in light of their much publicised campaign have attempted to gauge students opinion as to whether or not they would have embarked on the Legal Practice Course had they known the meagre availability of training contracts.

Nevertheless, statistics suggest that students do commence their studies with an ill conceived view of ‘all conquering success’. Traditionally, this commences with the undergraduate degree phase. Whether students have made a career change from alternative professions or began legal studies in the confines of school or college, the undergraduate phase is arguably the grounding upon which basic legal skills are developed. At this juncture one may think that the progression to a law degree is

³² Blackstone’s Guide to Becoming a Solicitor. Nicola Laver. Blackstone Press Limited 2000.

³³ Ibid 29 at page vii.

³⁴ <http://juniorlawyers.lawsociety.org.uk/>. Poll Conducted 22nd February 2010. 06/01/10 @ 09:30

essential. This, it is submitted, is a misconceived view, especially with the availability of the Common Professional Examination (“CPE”) or Graduate Diploma in Law (“GDL”) as it is known by some institutions. This allows students of other degree disciplines to effectively convert for the purposes of enrolling on the Legal Practice Course (“LPC”). In some cases no previous degree is required. However, even for those who have embarked upon and successfully obtained a law degree, Lever (2000) remarks upon the wide range of alternative careers³⁵ and opportunities that become available to students without the compelling need to press on with the aim of becoming a solicitor. For example, avenues within accountancy, finance, the civil service or journalism are all promoted by Lever, who clearly advocates the success of the law degree in opening up such a range of opportunities.

Whilst these alternative careers do present an array of opportunities, it is worth noting that there are many subtleties in terms of life as a legal professional. Within the Law Society’s printed guide to becoming a solicitor³⁶ this versatility is noted. For example, the guide highlights the possibilities of practising in local government, or within a more commercial rather than private sphere. In addition, the route that has until now been overlooked is that of ILEX (“Institute of Legal Executives”). To this extent, the ILEX website promotes itself as “your best route for a successful law career”³⁷. Even having considered this so called “traditional” route, it is clear that many avenues exist following its completion. Whilst many may think that the undergraduate, to postgraduate, to legal employment route, leads to life as a

³⁵ Op Cit 29 at page 2.

³⁶ *Becoming A Solicitor. Start Planning Yours Future Today. Careers Information. The Law Society 2008.*

³⁷ www.ilex.org.uk 08/05/10 @ 19:00

solicitor, it can be shown that many alternative careers exist not just outside of the legal sphere, but actually within it.

The “Non-Traditional” Routes

As was submitted and highlighted above, there are stereotyped perceptions in terms of age, race, class and background which impinge upon the view of those who pursue a legal career through what this paper has termed the “traditional” avenues. Hopefully by highlighting the subtleties even of this much weathered approach, many of these perceptions may have been dismissed. However, as with the “traditional” method of qualification, it is submitted that stereotyped perceptions linger with those who have completed and pursued this “non-traditional” path.

By highlighting this so termed “non-traditional” path, it is, at this juncture, necessary to expand upon what is included within this term. Clearly, it takes us outside the previously defined undergraduate, post graduate, practical training route and into a world of life experiences from previous roles or professions. For many, and as advocated by [www. Lawcareers.net](http://www.lawcareers.net)³⁸ those with non law degrees can still pursue a legal career by virtue of the previously mentioned CPE/GDL. However, even for those without a degree, there is the possibility of obtaining what is known as a Certificate of Professional Exemption from the Solicitors’ Regulation Authority (“SRA”). This exemption is reinforced by a previous period of good standing and experience in other vocations and walks of life. By this very nature it therefore lends

³⁸ <http://www.lawcareers.net/Courses/GDL.aspx>. 06/05/10 @ 14:15

itself to the mature student, however, regardless of this applies to those from all backgrounds and from all areas.

A further aspect which in many ways removes certain barriers on the path to qualification is the importance of previous work experience, whether it be legal or within another discipline. Many HR managers would surely argue that there is simply no substitute for experience. However, this can be particularly difficult criteria to fill when one has pursued a relentless path in education without a break to gain such experience in these sectors. As Lever comments, “the importance of legal work experience should not be underestimated”³⁹. It therefore follows that those with this Certificate of Professional Standing bring with them this all important and much valued previous life experience that surely every other student is trying so valiantly to gain and promote. It is further submitted that whilst this previous experience can offer “time to count” in terms of the length of practical training, it can regardless of the discipline prove the difference on a “CV” or the difference when it comes to the interview and legal selection process.

ILEX

Whilst this paper has noticed the more traditional and indeed the less traditional routes available to students, the option presented by the ILEX must not be overlooked. From the outset it may be said that this option may appeal to the more mature student who either has these family commitments as earlier mentioned, or simply who has further to travel. Equally, a student with a greater range of previous

³⁹ Op Cit 29 at Page 5.

life experience or one who feels more comfortable entering the profession through a part time mode of study may prefer this option, as they can earn whilst they learn.

So how does it work in principle? As explained in much greater depth by www.lawcareers.net⁴⁰, the initial phase is to qualify as a legal executive through undertaking to levels of examination to attain full ILEX membership. Secondly, as perhaps most relevant to the more mature student is the criteria to become a fellow⁴¹. The fact that one must be over 25 years of age and have completed five years qualifying legal experience, demonstrates the appropriateness of the route to student's who haven't followed the more 'traditional' route. By way of the final stages to becoming a solicitor, students must follow both the academic and vocational stages⁴². Clearly this does have drawbacks in terms of time taken, however, it does seem to draw parallels with the SRA's work based learning pilot, especially with the emphasis of the practical based training. Is there some copying going on?

As such the paper would go a stage further, by suggesting that the SRA may be moving towards the ILEX approach of training. This would certainly assist in sidestepping the criticisms that the two year training contract is too long and rigid. In addition, it adds more variety and opportunities both to students of all ages and for firms when looking to recruit.

⁴⁰ <http://www.lawcareers.net/Information/Features/Detail.aspx?r=947> 08/05/10 @ 19:00

⁴¹ Ibid.

⁴² Ibid.

Conclusion

This chapter has explored the more “traditional” routes to qualification along with those which are perhaps less publicised and therefore less well known to either students or current professionals. Further, there are undoubtedly pros and cons of each route, which is an aspect this paper shall further delve into below. However, especially in light of the contents of chapter 2, neither route is particularly straightforward. To this degree, Harry Mount has rather amusingly written on this subject within his account of the trials of a young lawyer⁴³. Mount intricately details a year in the life of a trainee within his first year of his contract, and whilst overdoing the hellish state of his education, does nevertheless highlight a number of potential barriers which still face those even during the latter stages of their legal journey.

Having remarked and discussed these various routes through to qualification in light of the economic barriers and LSA 2007, it follows that one should now turn to the major advantages and disadvantages of these routes, especially with regard to the all new Work Based Learning Pilot that has been advocated by the SRA⁴⁴. Whether this pilot will serve to revolutionise the profession or whether it will prove a significant improvement on the training contract model discussed above is a question which this paper will address and a subject which will undoubtedly form the topic of much detailed research and debate.

⁴³ My Brief Career. The trials of a young lawyer. Harry Mount. First published by Short Books in 2004.

⁴⁴ Work-Based Learning Pilot Handbook for all Participants. Solicitors’ Regulation Authority Education and Training Unit. 15th September 2009, Version 1.4.

Chapter 4 - Advantages v Disadvantages of the Various Routes

By virtue of an introduction to this chapter the aim of this paper is to evaluate some of the major advantages and disadvantages behind the various routes available to those wishing to enter the legal profession. This will be tempered by an overview of the SRA's Work Based Learning Pilot which it is hoped may revolutionise the way in which the lawyers of the future are trained and developed.

The Advantages

Starting on an openly positive note, it has been shown that the availability of legal candidates to firms and chambers is not in short supply. This is primarily due to the vastly increased numbers of students who are progressing onto higher education⁴⁵. It therefore surely follows that from this greater talent pool, firms and chambers can pick and choose the best candidates with the best credentials in order to mould them in to the successful lawyers of the future. In order for such advantages to be gained and the rewards to be reaped, it is submitted that firms must possess a strong planning and recruitment process allied to a well founded performance review scheme⁴⁶. As Pannett suggests within his handbook first published in 1992, such principles are essential for the future development of a firm⁴⁷. Whilst this was recognised in 1992, it could be said that the very same principles and methods apply even in the fast changing eco legal climate of today.

⁴⁵ Op Cit 25

⁴⁶ Managing the Law Firm. Alan Pannett. Legal Practice Handbook. Blackstone Press Limited. Second Edition 1995.

⁴⁷ Ibid 40.

Despite having not yet witnessed the full impact of the LSA 2007, Mayson⁴⁸ notices that there are a far greater number of law firms around today than in previous years. Nevertheless it is the case that with all these varied routes through the legal training system, there are many potential employers around at the end of the line. Especially with the increase and boom of internet advertising through such avenues as lawcareers.net⁴⁹ and the Law Society Gazette⁵⁰ ILEX members, LPC graduates and returning professionals do have the tools with which to succeed in their ultimate careers goals.

A further benefit to the varied modes of entry in to the profession can potentially be seen in relation to the cost involved. It is undeniable that undertaking the “traditional” route is not cheap, however, if one were to pursue an ILEX based qualification or equally to attain paralegal employment with a view to pursuing the LPC qualification on a part time basis, money could be managed better or even saved. This would arguably have a knock on effect in that it would relieve pressure on student finances and therefore the number of students embroiled in unsociable or excessive working hours just to meet the cost of their education. Secondly they could concentrate on their studying more during their working day and not be too tired after all the extra hours working to fund their course.

Pointing out such advantages may appear churlish in the grand scheme of things and especially on the back of the paper’s observations within chapter 2. However, from personal experience and without having undertaken any empirical research on the topic, one major advantage is the enjoyment and privileges which can be gained

⁴⁸ Op Cit 3.

⁴⁹ Op Cit 23

⁵⁰ <http://www.lawgazette.co.uk/> 04/05/10 @ 12:45

from learning and developing one's knowledge within what is undoubtedly a fascinating and hugely influential subject, which can be drawn upon every day.

The Disadvantages

Conversely, and possibly more in line with the very tone and feeling of this paper, there does appear at the outset a far greater number of barriers facing the law students of today. Above, the discussion noted there are potential monetary savings to be made from pursuing part time legal studies or following a route by virtue of a Certificate of Professional Standing. However, this aside one should not underestimate the huge cost associated with embarking on such a career path, whichever route that may take. As the National Union of Students remarks, the cost of a degree on average is £20,000. When this is coupled with the range of CPE/GDL costs from £1,085 to £5,900 and further the cost of an LPC course being anywhere from £8,000 to £12,000, the true financial undertaking is surely evident⁵¹. This burden has not gone unnoticed by the profession, and as Catherine Baksi states within her recent article⁵² with reference to the survey conducted by traineesolicitor.co.uk⁵³, "more than half of trainee solicitors have racked up debts of more than £10,000 before qualifying"⁵⁴. Coupled with this, Baksi comments on the perceptions in that "some 86% of trainees questioned thought too many people graduated from the Legal Practice Course (LPC) each year, increasing competition for training contracts"⁵⁵. On the back of this, a submission can be made in relation to

⁵¹ <http://www.lawcareers.net/Information/Features/Detail.aspx?r=1240> 08/05/10 @ 22:00

⁵² Trainee solicitors face debts of more than £10,000. Catherine Baksi. Law Society Gazette. 4th January 2010.

⁵³ http://www.traineesolicitor.co.uk/survey_02/02/10 @ 14:15

⁵⁴ Op Cit 46.

⁵⁵ Ibid 48.

the argument that steps need to be taken to seriously overhaul this “traditional” yet expensive legal career path.

Another such perceived disadvantage depending on one’s outlook yet evident since the economic downturn, is the number of firms who have taken on voluntary paralegals and taken advantage of the situation. The author has deliberately taken this paradoxical view as for many firms, a voluntary paralegal in today’s climate may very well represent a “cheap trainee”. However, after having detailed and established the average debt of a law student, to be offered a voluntary position seems scant consolation verging on the point of sheer exploitation. When this is allied with the later review concerning the actual quality of training that can be on offer, the true down side to the present situation becomes patently clear.

After having debated and in many ways roundly criticised certain aspects concerning the current state of legal training, the discussion is led to the SRA’s current stance; how they perceive the current “crisis” and how they in turn view the way forward. The author would state, at least in the interim, that such disadvantages have the potential to dissuade potential solicitors from embarking upon a legal career. It follows that by placing such barriers and obstacles repeatedly in the way of students, the profession as a whole will deter entrants and ultimately loses those who could have ordinarily forged such promising legal careers.

Looking to the Future and the Training Framework Review

As far back as August 2006, the SRA has been reviewing and piloting modernisation changes to the current qualification framework⁵⁶. What appears pleasing even from the very earliest of consultations is the acceptance of the regulatory body in that the profession is now “attracting individuals with a much broader range of backgrounds and experiences”⁵⁷. Further, the SRA acknowledge that students are learning “in different ways as new types of qualifications are developed e.g. foundation degrees that integrate study with work based learning”⁵⁸. All this, along with an acknowledgment of the financial burdens, apparently points to the fact that the regulator appreciates the need for change in order to counter the miss-match between the number of LPC graduates and the number of training contract places available⁵⁹.

It is therefore hoped, as noted by Jonathan Spencer, the Chair of Education and Training Committee at the SRA that work based learning will form an essential part of pre-qualification experience for trainees and students⁶⁰. Spencer further remarks on the fact that the present training contract arrangements have been in place since 1994⁶¹. Whilst this may be the case the very notion reinforces the paper’s hypothesis for the shortage problem, as these training contract arrangements are still in place

⁵⁶ A New Framework for Work Based Learning. Consultation Paper. Version 1. August 2006. SRA Education and Training Unit.

⁵⁷ Ibid. Page 2.

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ Consultation – A new framework for work based learning. Jonathan Spencer. Statement from the Chair of the Education and Training Committee. October 2006.

⁶¹ Ibid. Page 1.

yet are being forced to accommodate a much higher number of graduates in today's climate, which is akin to the excesses witnessed in and around 1994.

Another major motivation behind the training framework review appears to be the argument concerning the quality of training. Whilst this is a notion which the paper shall endeavour to explore in greater detail below, the proposals do seem initially focused on a more vigorously exercised accreditation procedure.

The Work Based Learning Pilot

Although the motivations for this pilot appear noble and realistic, before drawing any such conclusions, it is pertinent to examine the nature of the proposals and how exactly the pilot would be implemented and operate. The pilot itself focuses on reflecting and improving on performance, dealing with practical and ethical issues in a supportive working environment and exposing trainees to a wide range of contentious and non-contentious practice⁶². Such principles are to be supported by the view that there should be one route to qualification and one set of outcomes for the period of the work based learning⁶³. These outcomes will be achieved by regular quality assessment and monitoring procedures, along with the provision of flexibility for trainees and training mentors, to both internally and externally reflect on progress⁶⁴. The Handbook⁶⁵ itself does appear detailed and certainly outlines the SRA's vision for the future development of lawyers. The paper's immediate concern, and without delving in to an analytical perspective, is the open statement of the

⁶² Work Based Learning Pilot Handbook for all Participants. Solicitors' Regulation Authority. Education and Training Unit version 1.3. 23rd February 2009.

⁶³ Ibid. Page 3.

⁶⁴ Ibid. Page 4.

⁶⁵ Ibid

desire to have one route to qualification with one set of outcomes. It is submitted that this is a concern especially when one has previously advocated the need for flexibility in light of the vast range of diverse candidates who seek to enter the profession. If limiting this to one route, putting to one side the ILEX route, then effectively the proposal is mainstreaming students from all backgrounds despite their different experiences, skill sets and financial muscle. This therefore, it is submitted, proves to be a negative aspect and would in all probability pave the way for even further problems should an economic climate similar to the one seen today surface again. This is potentially because one would be failing to take into account the benefits of diversification, for example, the varying skills, life experiences and knowledge bases of such students. Instead one would be pooling all these candidates into one bracket regardless of their different skills sets and abilities.

Responses to these proposals have been obtained with interesting results culminating from those already in the profession, to those hoping to enter the profession as well as academics. A leading survey⁶⁶ questioned whether or not people should qualify without being in such a formal agreement. The results, as detailed below remain split with many advocating the need for flexibility to allow a more diverse range of entrants. Further supporting comments against the avocation of the work based learning pilot come in the form of the appreciation to recognise that “there are many ways to gain necessary relevant experience without working in an accredited organisation and these should be recognised”⁶⁷.

⁶⁶ Analysis of responses to the initial consultation on a new framework for work based learning. December 2006. Available via www.sra.org.

⁶⁷ Ibid. Page 10.

fig 5 Q2 - should people qualify without being in a formal agreement?⁶⁸

<u>Response</u>	<u>No.</u>	<u>% of answers to this question</u>	<u>% of all responses</u>
Yes	18	32.7%	25.4%
No	18	32.7%	25.4%
Yes in principle, but there may be risks/problems	9	16.4%	12.7%
Yes, with conditions	8	14.5%	11.3%
Depends	2	3.6%	2.8%
No response	16		22.5%

Such scepticism, in light of these figures does appear to come to the forefront. What the changes and proposals don't seem to appreciate is the need for flexibility. Whilst the motivation to increase availability appears sound, the closure of other routes, for example through time to count, i.e. time off the training contract by virtue of gaining prior legal experience, and police station accreditation experience, is surely a negative factor and one which will remove more of the niche skills within the professions.

Ultimately the proof of how the pilot will revolutionise the legal training landscape will be evident in time to come. To this degree the Trainee Solicitors Group ("TSG"), now the JLD, have, on behalf of those they represent, evaluated the proposals⁶⁹ and reviewed their potential rise to prominence. The TSG cite concerns in relation to the standard of training and are explicit in the desire to avoid exploitation⁷⁰. Whilst these

⁶⁸ Ibid. Fig 5 page 10.

⁶⁹ The TSG Response and Proposals concerning the Law Society Consultation Paper "A New Framework for Work-based Learning". The Trainee Solicitors' Group. 2006.

⁷⁰ Ibid. Page 36.

aims are undoubtedly supportive, it is argued that exploitation is in any event rife on a voluntary basis just to get a foothold on the industry's ladder.

Conclusion

In any event, whilst even the most cynical of observers may critique both the current regime and the proposed pilot, one can surely not dispute the need for a well structured, regularly assessed, merit- based system of training. Whether this will come as a result of the work based learning pilot remains to be seen, however it is submitted that the first point for address, quality standards aside, is the need to deal with the dire shortage of traineeships and legal vacancies. To this extent, it would appear that Northumbria University Law School have already taken steps to promote and revolutionise legal training⁷¹. The Law school has taken the initiative of joining forces with leading city firm Irwin Mitchell to pilot the groundbreaking work based learning pilot. Whether this has taken the guise that the SRA intended is another matter, however, as Baksi notices, the scheme certainly breaks from tradition. In essence the law school is offering a full time five year course with a view to students obtaining what they term a Master of Law (Solicitor)⁷². The Law School state that the course will take students through the education stage of learning, through the Legal Practice Course stage and into a form of work based learning which would, it is envisaged, replace the much derided training contract. Within Baksi's article is a quote taken from Angela Kirtley, a clinical negligence associate at Irwin Mitchell. She remarks, "It will mean that, for the first time, students will complete part of their training to be a solicitor while based at university and continue their academic

⁷¹ Groundbreaking college scheme sidesteps training contract. Catherine Baksi. Law Society Gazette. Wednesday 24th February 2010.

⁷² Ibid

studies while on placement. We believe this holistic approach will prove to be of enormous benefit to the profession in the future”⁷³. The reflection of this view is mirrored in the writer’s own perspective, principally due to the fact that the course/degree has been “developed in consultation with the legal profession and is intended to meet the training needs of future lawyers, as well as the business needs of law firms”⁷⁴. Surely, students entering a more placement based system will be of such enormous benefit, and when coupled with close supervision and training students will mould into more than worthy successors to the lawyers of today. Conversely, the paper does have certain reservations despite the potential of the scheme. The main and perhaps principle downfall is that candidates/students are selected at such an early age. In selecting students at the age of only seventeen, the question arises as to how their potential as solicitors can be seen at that stage, or even their ability to study without a break for five years. Surely only time will tell, as this seems it is a maturity issue and therefore by effectively enrolling seventeen year olds, it will be almost impossible to predict both their future prospects and academic abilities. It could prove to be very risky and expensive if it fails.

⁷³ Ibid

⁷⁴ End of the training contract. Catherine Baksi. Law Society Gazette. Wednesday 24th February 2010.

Chapter 5 - The Major Hurdles

Earlier this paper has explored the various means of entry into the profession and delved into the potential reforms which aim to open up avenues and opportunities for students and lawyers alike. However, what should not be overlooked are the hurdles that still provide an impasse to many whose aim it is to qualify within their chosen career and in turn may arguably deter many from even embarking upon the qualification path. The aim of this chapter is therefore to evaluate these hurdles and how they impact not only budding lawyers but also those already engrained in the fabric of the system.

The Old School Approach

As many commentators would corroborate, the legal profession through the ages has traditionally been a male dominated organisation with a certain class stigma attached to it. Even as recently as May last year, Dudman⁷⁵, remarked on the glass ceiling that still exists within our criminal justice system. As at that time, Dudman makes further note of the Engendering Justice Report⁷⁶ which highlights the worrying fact that “only three of the 37 lord justices of appeal are women and only just over 10% of the 109 high court judges are female”⁷⁷. In addition Dudman brings even more worrying statistics to the fore, “for example, last year, only 15.9% of partners in the UK's 10 largest law firms were women and there were only 42 female compared to 479 male silks. The number of female applicants for Queen's Counsel was at its

⁷⁵ Legal System's Criminal Treatment of Women. Jane Dudman. Guardian Public. Wednesday 13th May 2009.

⁷⁶ Engendering Justice – from policy to practice. Final Report of the Commission on Women and the Criminal Justice System. Fawcett, May 2009.

⁷⁷ Ibid

lowest level for 10 years”⁷⁸. It is these very statistics that surely strikes the greatest chord of discontent that one could possibly have with the profession to date. While advances like the Equality & HR Commission is undoubtedly helpful to the cause, one cannot escape the worrying trend that has plagued the profession over the decades. Surely this discriminatory approach is undermining our system and reducing effectiveness? There can be no credible argument for its support, other than the age old “well.....this is how it has always been”. Times change, just as the law develops, so must the concepts which surround its very core.

When evaluating such an old school approach it would appear that the discrimination issue focuses on the concept of sex discrimination. This would in turn appear to be the single biggest detractor from the successes of the system over the ages, and would further appear still in evidence today. To this degree, Legal Week, through a recent article⁷⁹ written by Alex Novarese, brings to the fore this problematic stance with large city firms. The writer would suggest that the opening statement of the article reflects the discriminatory view that has been taken of the profession through this “old school” time. Women and law, eh? Same old, same old! Loads enter the profession but most fall off the career track of large City law firms by the time it comes to handing out partnerships”⁸⁰.

If this statement has been or still is true of the large, supposedly highly regulated city firms, then one shudders when contemplating the previous state of play within those firms that are further “outside the limelight”. Whether the partnership dilemma is impacted upon by such aspects as maternity leave and hence the lack of availability of part time partners is a moot point, however, the writer does not agree with the so

⁷⁸ Op Cit 80.

⁷⁹ Worth another crack at the glass ceiling. www.legalweek.com 21/01/10 @ 11:30. Alex Novarese. 21st January 2010.

⁸⁰ Ibid

termed attitude that “many would privately say that it's a problem rendered unsolvable by the conflict of biology and the brutal realities of City life”⁸¹. The disagreement is based on that fact that the quote implies a degree of acceptance that the conflict is unsolvable or in every way insurmountable. This surely cannot be the case, and if one is to accept this state quo then one is merely prolonging the much derived “old school” ways.

The Current Hurdles for Entrants

Having depicted and criticised the old school traditionalist perspective of anti feminist law, the focus of this chapter will now shift and build upon the current hurdles which face those hoping to enter the profession. At the outset it must be noted that these hurdles aren't, in the writer's view, kept to the confines of sex discrimination. Sadly, discrimination may be seen to have branched out into the means of race, class and ethnicity. Equally the financial burdens which are placed on students today regardless of their background, is another major factor in deterring them from the pursuit of qualification as a solicitor. Further, one must consider the everyday drawbacks for 'older' candidates, for example, travelling arrangements and childcare issues. Whilst these may seem rather trivial at first glance, it is undeniable that either with other dependants or with family ties/commitments alongside the burden of the daily commute, many candidates do suffer from drawbacks in their education and training.

⁸¹ Ibid

The first such point to notice, with regard to the SRA's 2007 Code of Conduct⁸² is that the regulator has attempted to address issues of equality and diversity⁸³. This therefore arguably provides a benchmark for legal practice with the hope that others will follow the view of the regulatory body. Nevertheless, financial discrimination does still plague the training contract route. As Rothwell notes in her recent article⁸⁴, there is a pay difference between female trainee solicitors and male trainee solicitors. Even at this stage, when one has managed to attain an all too lucrative training contract, the financial rewards still manage to differentiate themselves. Rothwell highlights to this effect that male trainees are being offered starting salaries which are on average 8% higher than those of their female counterparts⁸⁵. When this pay discrepancy is therefore viewed in the round, i.e., in light of the fact that fewer partnerships are statistically on offer to women, the overall picture does appear much graver. Regardless, Rothwell goes on to note that "women trainees, it seems, were much more likely to be placed in smaller firms, where they will begin their careers on a lower salary than many of the men they sat in class with on the training course. And so, it seems, the disparity will continue"⁸⁶. Whilst this trend is of even further concern, the fact that commentators have brought the very subject to light within such highly debated legal articles does provide some scope for optimism. Perhaps with the introduction of the idea of the work based learning pilot will one see the decrease in such a discriminatory regime? In any event, whilst these trends in

⁸² Solicitors Regulation Authority. Code of Conduct 2007. Available via: <http://www.sra.org.uk/rules/> and in hard copy. 15/12/09 @ 17:50

⁸³ Ibid at Rule 6.

⁸⁴ Why are women trainees paid less than men? Rachel Rothwell. Law Society Gazette. Thursday 14th January 2010.

⁸⁵ Ibid

⁸⁶ Ibid

the solicitors' profession⁸⁷ remain a concern, at least those already within the profession have made it that far. There are surely those who suffer from equally abhorrent discrimination and who ultimately don't even make it onto the roll of solicitors despite their efforts.

Having highlighted the problems within the makeup of the profession, one must not swerve from the fact that problems exist before this point. As the paper has touched upon, the financial burdens of education make training difficult, as does the meagre availability of training contracts in the current economic climate. The scramble for university places each year, especially in relation to the most sought after places at Oxbridge or Russell Group Universities, means that students from the "wrong" regions or from the "wrong" social background suffer mercilessly in this respect. The question as to whether Oxbridge is an elitist organisation has been scrutinised for many years⁸⁸. The acceptance of students purely from the private school system remains a point of much contention and debate and in many ways has poured further scorn of the UK's "class system culture". Turning back to the debate from a more legalistic approach, it is submitted that if such elitist principles exist in the academic sphere, what chances do budding lawyers of the future have if their educational opportunities are limited at the very outset, merely because they have grown up or been schooled in a particular society or region? It is argued that there should be a marketing arm, possibly of the SRA or The Law Society, which potentially through the lawcareers.net, should highlight the potential pitfalls and difficulties with entering the system. At the very least students would be aware of the financial pressures that would be placed on them and would come equipped with a certain degree of

⁸⁷ Trends in the solicitors' profession. Annual Statistical Report 2009. Prepared by Bill Cole, Nina Fletcher, Tara Chittenden and Joanne Cox. The Law Society Research Unit.

⁸⁸ Is Oxbridge Elitist? Talking Point. Wednesday 31st May 2000.
http://news.bbc.co.uk/1/hi/talking_point/764767.stm. 09/05/10 @07:15

understanding of the path that they were undertaking and the risks, pitfalls and benefits.

Conclusion and Looking to the Future

Amongst all the readily available criticism and bleak pictures of equality within the legal sector, any analysis of this would remain incomplete without an evaluation of the future and how one may impact upon the current status quo. In addition to this, Rothwell comments upon the more positive aspects of recent developments within the profession. She notices that “of all new admissions to the roll in 2009, including transfers from the bar or from overseas, 60% were women, while 62% of trainees who qualified this year were female”⁸⁹. Further to this, recent new headlines have seen the coming to the fore of Britain’s first Asian judge, Sir Mota Singh QC, who has spoken out most recently concerning the carrying of knives⁹⁰. With such prominent figures, who serve to represent diverse cultures within the profession, coming to the fore and into the headlines, it is argued that this can bring with it an end to the stigma surrounding the equality debate. Through the promotion of female QCs or Asian members of the judiciary, barriers can be broken and awareness can be raised of the undoubted opportunities out there for those whom are merely underrepresented in society. It is this very theme which leads this paper to the view that positive discrimination is potentially the answer to the law’s previously “unsolvable” dilemma, especially in light of the more recent equality legislation. So what lies ahead for the future? If one has deemed that positive discrimination is the answer, what further elements/impacts will support this trend? One such answer

⁸⁹ Op Cit 89.

⁹⁰ Should religion be an excuse for carrying daggers? Tuesday 9th February 2010.
<http://news.bbc.co.uk/1/hi/magazine/8506074.stm> 03/02/10 @ 08:45

is the expansion of the European Union. With Turkey currently on the verge of entry and with the already lax nature of immigration and border control, surely the future holds a legal training system with members from different cultures and backgrounds rather than just from different classes. Through the advocacy of free movement of workers, it is argued that it is only a matter of time before we witness an openly diverse judiciary with all that entails. Further, such changes will surely impact upon the everyday operations of chambers and legal firms. Potentially allied to the work based learning pilot, as evidenced by Northumbria Law School's initiative⁹¹, firms will begin to open the doors and access routes to students who might ordinarily and in today's climate may not otherwise have the chances to succeed. This is nevertheless the hope and should certainly be the ultimate goal. For if the profession moulds in this way, it can only then open up and promote a better standard of legal service and representation for all.

⁹¹ Op Cit 65.

Chapter 6 - The Quality of Training Argument

Leaving to one side the availability of training contracts, one fundamental element that must be addressed whether it is through the current system or through the work based learning pilot is the quality of the training received. As touched on previously⁹², there are always going to be horror stories to be told, however, in order to maintain the longevity of the profession and assure a pool of quality lawyers for the future, surely the training base is the place to start.

At the outset it is evident that the work based learning pilot attempts to address this issue. The emphasis placed on the assessment of trainees is significant, as is the avocation of “Assessment Organisations”⁹³ designed to facilitate this aim. The handbook⁹⁴ outlines in some detail the role of the assessment organisation, with the two key elements being:

“A reviewer who will meet the candidate on a regular basis to steer the candidate towards the Outcomes throughout the period of Work Based Learning”⁹⁵

“An assessor, who makes a summative assessment of whether achievement of the Outcomes has been demonstrated”⁹⁶.

From these key roles as highlighted by the SRA a number of points occur for discussion. On the face of it there appears to be a huge expectation being placed on

⁹² Op Cit 37.

⁹³ Op Cit 56. Page 4.

⁹⁴ Ibid

⁹⁵ Ibid. Page 5.

⁹⁶ Ibid

these organisations, of which we know little about. In turn one could argue that these organisations are taking the burden or emphasis off the employers. By introducing these organisations, is too much of the blame being shifted and are they merely going to offer firms an escape route from poor training and supervision? This is clearly a moot point; however, this paper would suggest that the proposals should form no substitute for diversification from sound practice management.

A further area for research in this regard is whether certain types of law will be affected more than others. For example will commercial law which is practiced in the larger firms maintain the same quality standard as a small niche family law practice which has nurtured a trainee according to the proposals and directions? Conversely what impact will “Tesco Law” through the LSA 2007 have to play? In this regard, Mayson (1997)⁹⁷ notes the importance of merely getting the training right. Mayson remarks that “training people without providing them with opportunities for the use and development of the knowledge or skills they acquire is a waste of time and money”⁹⁸. With this in mind, the applicability of such a notion should apply across the board. However, it is submitted that the smaller or more niche a firm is, the greater the likelihood of closer supervision and consequently greater development. It is further argued that this will be even more evident with the coming into being of the LSA 2007. As noted in chapter 1, while the legislative reforms may create a whole host of opportunities far greater than those on offer for students currently, this does not necessarily ensure quality training and ultimately a quality of legal service for the consumer client. Surely therefore, the burden on the assessment organisations will unnervingly increase, possibly to an unmanageable level, taking into account the

⁹⁷ Making Sense of Law Firms. Strategy, Structure & Ownership. Stephen Mayson. Blackstone Press Limited 1997. ISBN: 1 85431 700 8.

⁹⁸ Ibid. Page 380.

sheer number of graduates and hence the lack of potential trainee vacancies on offer. It is noted that there are Solicitors firms that have the opportunity to take on trainees, have the support from the SRA, but are still choosing not to do so.

Risks for the Future

The main risk to the future must surely be the potential for the reputation of the profession to suffer. Above the paper noted the introduction of the LSA 2007 and the work based learning pilot. Whilst these in many respects represent the opportunities for development, they do at the same time present difficulties which, it is suggested, must be addressed sooner rather than later.

When on the subject of training, Mayson does vitally mention the need for “continuing professional development”⁹⁹ (“CPD”) and the need to ensure that even qualified lawyers maintain the same levels of quality as those entering the profession. CPD has always been a key element, to the extent that one can now complete such courses/tutorials/lectures in a virtual/online environment¹⁰⁰. This development of qualified fee earners is arguably just as important, whether it be through “institutional support”, “individual supervision” or “individual mentoring”¹⁰¹. Mayson continues by noting that “in such larger firms, such elements tend to be more formal, structured and sophisticated. This does not always add to their value. To make the most of it’s’ investment in lawyers (and tomorrow’s partners), every firm should take a rounded approach to personal development”¹⁰². This perception is

⁹⁹ Ibid

¹⁰⁰ <http://www.cipd.co.uk/cpd/06/01/10> @ 10:00

¹⁰¹ Op Cit 70. Page 381.

¹⁰² Ibid

arguably crucial. For by arguing that bigger doesn't necessarily mean better, even from 1997, this should be regarded as a warning to the larger organisations, even ABS, which are developed as a consequence of the LSA 2007 legislation. Therefore, through the years, one should appreciate the development not just of trainees, but of those already qualified, when producing a quality end legal product that meets the needs of the consumer.

Chapter 7 - An Alternative view

This paper has above examined the various routes into the profession, whether these are through the more mainstream mediums or through the less conventional means of leaving another profession to pursue the CPE/GDL. With these most varied options available to students from all backgrounds and of all ages, time has been taken to consider personal views as to the future possibilities for students and firms alike. Consideration has been given to both the current regime of the training contract and the proposal linked to the work based learning. However, personal proposals fall somewhere between the two.

In relation to the dilemma of the training contract shortage, the whole system should become much more incentivised. At the present moment and even with regard to the Work Based Learning Pilot, there are simply not enough incentives for firms as employers. Whilst firms may benefit from the cynical old adage of “cheap labour”, and in turn has the opportunity to mould students into trainees and ultimately into lawyers, there is aside from this very few noticeable incentives or benefits.

Even by way of a stimulus to the current regime of training arguably the regulator could provide incentives such as a reduction in the cost of practising certificates for qualified members or possibly by way of taxation allowances, although admittedly this may prove ultra vires. Nevertheless, the SRA or Law Society could seek to supplement trainee salaries as an additional draw, and which may seek to encourage firms into developing lawyers of the future. Such benefits and stimuli it is

submitted would be very simple to implement, yet these would arguably have a huge impact upon the way trainee recruitment is viewed.

With these stimuli in mind, it is submitted that a blend of the two regimes may prove the most appropriate certainly with regard to the student perspective. Without wishing to delve into a paragraph of repetition, clearly the current training contract does not appeal to employers and leaves students lacking experience and know how. Conversely the Work Based Learning Pilot may reach the other extreme. However, it would be good to see a blend of both, possibly moving the proposals nearer to those offered by Northumbria University¹⁰³. If there was a compulsory sandwich year in any degree course or a period of compulsory work experience, akin to that seen within the route to medical qualification, perhaps students would not be left with the shortage of experience that all employers crave? Equally it is appreciated that by introducing such compulsory steps one is removing the opportunities for differentiation. On the plus side, these measures would potentially serve to raise the standard in terms of the quality of trainees in the “employment pool”, however, they may lead to an all too similar, standardised form of CV.

Despite the above arguments, it could be championed for a mandatory period of work experience. This would be reminiscent of a training contract seat and would allow for a filtering process, in that those who didn't suit could save them the undoubted expense of ploughing on with a legal career. Firms taking students in this role would in turn be rewarded, with reference to the aforementioned stimuli. This would, it is hoped, create an initial platform with which students could progress,

¹⁰³ <http://www.northumbria.ac.uk/sd/academic/law/whystudy/?view=Standard> 01/03/10 @ 09:30

rather than leaving them in a state of abandonment following the conclusion of the LPC. It could be advocated that the LPC stays as it is, thereby allowing students, who have completed the extended degree to take time out to further their experiences both in life and within the legal profession. It is therefore submitted that when reaching the end of the LPC course, students would be much better equipped. This could then lead into the incentivised work based learning scheme proposed by the SRA, with the emphasis being on practical training.

However, even with such diversifications of proposals, one should not overlook the hurdles which must be overcome by many. Regardless of the incentives or the route through academic/practical life, there are sadly still obstacles which are holding back some of the most influential lawyers of tomorrow.

Conclusion

From the outset of this paper, the aim has always been to evaluate the access to training contracts in light of both the LSA 2007 and the current economic climate. This aim was to be tempered by an in depth analysis of the SRA's work based learning pilot and in turn have regard to a number of other factors which affect the aforementioned availability, for example the various different routes into the profession and the various hurdles which must be surmounted on route. Even from this very outset, what has become strikingly apparent is the dire shortage of training vacancies for law students who are wishing to qualify with the system in its current guise. This situation has certainly not been helped by the deep recession that the country has found itself entrenched within, however, regardless of this, the training contract has always been at a premium and much sought after.

The paper made an early analysis of the impact of the LSA 2007 and the current state of the economy. Ultimately the impact of the LSA 2007 and the so termed "Tesco Law" remains uncertain, although has been the subject of much academic discussion. Having evaluated its strengths and the potential pitfalls attached to its weaknesses, the conclusion drawn by the paper is that there is inevitability in terms of the opportunities that are going to open up. This is made so on consideration of the integration of the ABS into the market place. Whilst commentators such as Mayson¹⁰⁴ highlight the possibility of the number of law firms decreasing, the paper would nevertheless promote the view that a plethora of new job and vacancies will come to life. One qualification to this is the number of potential trainee positions

¹⁰⁴ Op Cit 3.

which will occur in the so called “high street” practices. It is submitted that these numbers will decline, but at the same time will be counter balanced by numbers existing in more niche firms and in the large ABS supported organisations (MDPs).

An argument which may be lost in this highly numerical conclusion is the standard of service debate. It has been seen that some consumers remain sceptical¹⁰⁵ about the provisions, living in the fear that we may see in a worrying increase in the number of conveyancing factory style organisations, which in themselves create a whole new range of service issues. This is therefore a point of efficient regulation, as promoted by the report of Lord Hunt¹⁰⁶. One may still consider though, that the LSA 2007 in all its potentially glory may serve and prove to be the catalyst behind the decrease in the availability of training contracts.

In terms of the current economic situation that we find ourselves embroiled within, it is submitted that the effects and consequences will, despite being negative, will cover a relatively short time span. In other words, the situation requires an element of survival and in many ways a need to “see out the storm”. It is quite apparent that there have been recessions in the past; however the profession has braved these and come through them without any major disasters. There is no reason why this shouldn’t be the case again, and with sound financial management, firms can and surely will emerge still willing to provide a sound basis for trainee development.

Having sought to evaluate the current factors affecting entry into the profession and commented upon the possible way forward, the paper also sought to analyse the

¹⁰⁵ Op Cit 15.

¹⁰⁶ The Hunt Review of the Regulation of Legal Services. October 2009.

various routes into the profession and provide qualification to this by examining the SRAs work based learning pilot¹⁰⁷. As suggested above, many students and observers alike would, in all probability, highlight the traditional and in some senses stereotypical route into the profession, i.e. through obtaining a degree, before proceeding with postgraduate study before assuming a training contract role. However, as this paper notices, and certainly in light of the SRAs pilot scheme¹⁰⁸, there are many diverse ways of progressing through the system and ultimately qualifying as a solicitor.

As evaluated, one can now convert another degree by completing the Common Professional Examination, with a certificate of professional standing, or proceed down the ILEX route which is already established in it's work based learning. What remains key, is the need for flexibility within a training scheme. It is for this very reason that such favour is found with the SRA's work based learning scheme¹⁰⁹. This paper would strongly propose that such a pilot, should it become common practice, would revolutionise the current market. The paper has reviewed the vast problems with redundancies and the shortages of training opportunities, and therefore would argue that such changes are vital. It is further submitted that the changes would, regardless of their popularity, cure the old adage of a trainee lacking in vital practice experience. This would arguably be the case by virtue of the emphasis placed on work based learning, and the need to adapt to legal practice whilst learning and building on the fundamentals of legal study.

¹⁰⁷ Op Cit 38.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid

Despite such an evaluation of the potential changes afoot to the way trainees are developed, later analysis delved into the hurdles that candidates still face on entry into the system. It would appear that the very fabric of these hurdles develops from previously held stereotypical views of the law and the way solicitors and the judiciary operate. For example, the paper highlights the pay differentiation between male and female trainees¹¹⁰. Surely even from this evidence, one can see the lack of incentives that face certain categories of student and lawyer. It is therefore submitted that more must be done to combat such obstacles. This may be through the development of the Junior Lawyers Division or the Black Solicitors Network. Not only must these hurdles be highlighting further in the public domain, but they must be addressed within the industry and by those who regulate its operations. This paper would further submit that regulatory changes need to be made, effectively to promote positive discrimination, with a view to breaking down the barriers noted above.

The final point of notable comment is to look forward and assess the longer term prospects for both lawyers and clients alike. The paper has already remarked upon the current economic and legislative challenges that face the profession and which promise to affect both the consumer and the student. Essentially this paper asserts that it is how these challenges are tackled, which will ultimately determine the future and its prospects. On the one hand one may argue that such changes will ultimately make no notable difference, regardless of their radical nature. After all, the profession has faced changes and testing time in the past, but has come through relatively unchanged. Nevertheless, and perhaps more realistically, changes will become evident. It is submitted that this will be through the coming to the fore of the

¹¹⁰ Op Cit 89.

LSA 2007 and the avenues that this opens for firms in terms of investment and the increased range of services they will be permitted to offer. Should this notion be combined with the more practical based training system, it is proposed that more jobs will be created and along with increased competition for clients, this will result in a higher standard of service and better career prospects for all those who pursue their ambitions with the necessary levels of diligence and perseverance.

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