The Evidence of Employer Preferences for and Engagement in UK Legal Education

Overview
Evidence of employer preferences for the range of skills and knowledge delivered by undergraduate legal education in the UK and of direct employer participation in undergraduate legal education through work experience, work-based learning and other initiatives.

Explanatory Context

The move towards a more demand-led system of higher education, as pre-figured in the Leitch Report (2007), raises important planning and development issues for higher education institutions at the discipline level. Central amongst these are:

(1) Whether we can identify the higher level skills and knowledge areas that employers (including recent graduates) want from a particular discipline, and whether there is any clear ‘employer’ consensus on what these are.

(2) What existing forms of delivery, such as work-based learning and internship programmes, are currently being deployed that demonstrate evidence of direct, effective, employer engagement in the student learning experience, and might provide examplars that would support the development of more employer-led provision.

This study seeks to answer these questions in the context of UK undergraduate legal education by undertaking a review and meta-analysis of existing legal education research literature.

Key Research Reports


The survey particularly explored whether recruiters in the legal profession had different perceptions of the knowledge, skills and attributes of law graduates and non-law graduates who had completed the law conversion course (CPE/GDL) to satisfy the academic stage of legal training. The survey did not find anything which would clearly account for the perceived bias among recruiters for non-law graduates; though CPE/GDL students, on balance, did possess slightly more of the required qualities, recruiters also valued the attributes of a “full” legal education. Rather, recruitment biases tended to reflect simply a perception that good (2:1 or better) students from Oxbridge or traditional redbrick universities, regardless of
their first degree subject, were more eligible than law graduates from less favoured institutions.

**Boon and Whyte (2002): a research study funded by the UK Centre for Legal Education.**

Using qualitative interviews with 22 qualified solicitors across a range of law firms, the study confirms the importance for legal education of challenges posed by increasing employment specialisation, the problematic nature of the educational continuum, or lack of continuum, between academic and vocational education and the training contract; the importance of effective careers advice, and concerns at the absence of more extensive education in legal ethics. It suggests qualified solicitors have a deep and nuanced understanding of the processes of professional education and are often highly critical of aspects of the process of vocational preparation.

**Fancourt (2004): a qualitative study, funded by the UK Centre for Legal Education, using questionnaires and interviews with members of 14 legal training establishments located mainly in the Midlands and London.**

The sample included small general and legal aid practices, a local authority, medium sized firms, and large commercial firms. The study identified the kinds of tasks normally undertaken by trainee solicitors, their desirable skills and attributes, views on the Legal Practice Course, and suggestions for change. The required skills most commonly identified by both trainers and trainees related to written and verbal communication, analytical thinking, and organisation (including time management and prioritising). IT skills were expected, and generally trainees’ standards of IT literacy were regarded as very good. Written skills tended to receive quite a high level of criticism from firms. Trainees’ standards of written English were considered to be poor, though it was recognised that this was not a problem exclusive to law. Trainees were also felt to be poor at producing documents that meet the clients’ needs, and, when using precedents, at creating internally coherent documents. Research ability and commercial awareness were also quite widely mentioned as areas of concern.

**LawWorks (2006):** a questionnaire survey of 95 law schools in the UK conducted in 2005-06. It asked a range of questions about the extent to which each is involved in “pro bono” activity, which it defined as, “legal services carried out without charge, delivered or supported by law school staff and/or students of the law school with the law school’s knowledge and consent. This may include inhouse advice and/or representation units, placements with other legal service providers or public legal education programmes (Street law) and may take place within the law school or in the wider community.”
The survey examined the volume and type of work engaged in and a variety of operational issues surrounding such activity. It reported a wide range of in-house and external activities being undertaken, with some institutions having more than one. There was also a substantial increase in actual and planned pro bono activity since the previous LawWorks survey in 2003, and the data suggested that, in about half of the reporting institutions, student demand exceeded institutions’ capacity to provide it. Moreover, some or all of the students’ pro bono work counted towards their academic assessment in a substantial minority (41%) of institutions, indicating the extent to which such activity is being integrated into the formal curriculum.

Overview of Research Findings

(1) Knowledge and skills
Despite the fact that less than 50% of law graduates nationally enter the legal profession, there is apparently no research that indicates whether any particular skills and attributes contribute to law students’ employability within the general graduate employment market. Research data on recruitment specifically into legal practice indicates that the process relies substantially on tacit and ascriptive criteria, reflecting the extent to which law firms (and possibly chambers) are sites “already constituted at the point of entry by reference to the making of certain assumptions about social, economic and cultural capital” (Collier, 2005:75). In short, what employers continue to want are “good students from good universities” (Bermingham and Hodgson, 2001; see also Rolfe and Anderson, 2003; Sommerlad, 2007). Within this context knowledge and skills represent therefore a very partial representation of employability. Nevertheless, they are an aspect over which law schools have some control.

Substantive knowledge
Research has found little consistent criticism of the content of law degrees by employers. In England and Wales there continues to be generally strong support amongst professional employers for the so-called Foundations of Legal Knowledge that are prescribed by the Law Society and Bar: contract, tort, criminal law, public law, European Union law, property law and trusts (Bermingham and Hodgson, 2001; Fancourt, 2004; Goriely and Williams, 1996). Beyond these, recruiters indicate a wide range of preferences among optional courses, reflecting the segmented and increasingly specialised nature of legal work (Bermingham and Hodgson, 2001). Concern has been noted at trainees’ lack of understanding of substantive legal ethics (Boon & Whyte, 2002; Fancourt, 2004), though the question of whether this gap should be closed at the academic and/or vocational stage was not explored.

Skills
What do legal practitioners see as the key intellectual, transferable and ‘legal’ skills developed by a law degree? In Bermingham and Hodgson
(2001) employers identified the following ranking of skills (adapted from their original table at p.22). The first column ranks their sample’s perception of the extent to which certain skills were found in the LLB. The second column indicates the relative importance of each skill to practice: Item LLB Importance to practice

<table>
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<tr>
<th>Item</th>
<th>LLB</th>
<th>Importance to practice</th>
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<tbody>
<tr>
<td>Research</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Communication/literacy</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>IT</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Analysis/synthesis</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Evaluation</td>
<td>5</td>
<td>3</td>
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<tr>
<td>Problem solving</td>
<td>6</td>
<td>4</td>
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<tr>
<td>Numeracy</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>Team work</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Drafting</td>
<td>9</td>
<td>5</td>
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<tr>
<td>Autonomy</td>
<td>10</td>
<td>15</td>
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<tr>
<td>Critiquing</td>
<td>11</td>
<td>14</td>
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<tr>
<td>Advocacy</td>
<td>12=</td>
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<tr>
<td>Creativity</td>
<td>12=</td>
<td>16</td>
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<tr>
<td>Time management</td>
<td>14</td>
<td>9</td>
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<tr>
<td>Interviewing</td>
<td>15</td>
<td>11</td>
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<tr>
<td>Negotiation</td>
<td>16</td>
<td>6=</td>
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These data have to be interpreted with care. The labels were generated by the researchers, not respondents, and some of them are possibly rather opaque. Those in the first column do not constitute a wish list, but a description. There may be important gaps therefore – e.g. other studies have identified the need for a broader range of “office skills” (Boon and Whyte, 2002; Fancourt, 2004; Shapland and Sorsby, 1995) and other attributes such as “commercial awareness” or business “nous”. Others have also stressed the composite nature of the higher level skills exhibited in professional work – e.g. Economides and Smallcombe (1991) identified what they called the skill of “break-in” – the capacity to read one’s way into a new legal topic, a brief, or case file, quickly and absorb the necessary information as an important composite skill that involves a mix of information-handling and problem solving skills. Nevertheless, Bermingham and Hodgson’s data demonstrates that there are at least a number of broad skills that are deemed critical to practice and that are commonly developed at the degree stage. Not surprisingly, these tend to be the more general intellectual and transferable skills – analysis and synthesis; communication/literacy, evaluation and problem solving. Of these, legal research has been consistently seen as a, if not the, fundamental skill developed at the degree stage, and these data suggest firms have a high expectation of the role of law schools in this regard, even though they do not rank it as the most important skill trainees need in practice. There is also some concern among practitioners that legal research is not taken sufficiently seriously in law degrees, either by lecturers or students (Boon and Whyte, 2002).
Research on skills in the LPC also raises important questions for skills at the LLB stage. There is evidence that practitioners want more emphasis on 'hard skills' such as document drafting and problem-solving, and less on the “soft skills” that could more readily be learned “on the job” (Boon and Whyte, 2002, Fancourt, 2004). A growing number of LLB programmes seek to develop the soft skills of their students, in the expectation that this makes them more employable. This may be debatable from the legal profession’s perspective – more (commercial) law and/or greater awareness of the business world could be at least equally marketable.

(2) Work experience
Not surprisingly a number of studies emphasise that work experience – whether in another (prior) career, or via paralegal or pro bono work, or vacation placements – is an attribute which can significantly enhance employability (Fancourt, 2004; Rolfe and Anderson, 2003; Shiner and Newburn, 1995). There is, however, no research specifically on the impact on employability of work experience undertaken as part of law degree courses. This constitutes a significant gap in the literature. From a learning perspective, pro bono and other workplace learning activities, and the conventional short vacation placement scheme are potentially very different creatures. Boon and Whyte (2002) reported that many participants’ actual experience of legal work placements was not positive, and it is likely that, at least in some companies, firms and chambers, the value for employers and students alike of conventional vacation placements lies more in their function as part of a trainee recruitment process, than as any kind of genuine learning experience (Rolfe and Anderson, 2003).

A growing number of law schools are building work experience into the formal or informal curriculum. The latest LawWorks survey (2006) identifies a substantial growth in pro bono activity in law schools since 2000. Fifty-three per cent of 84 responding law schools indicated a current involvement in pro bono work, while a further 12% intended to get involved within the next academic year (2006/07). Such activity takes a wide variety of forms, including in-house live client advice and representation, internships in a variety of work settings and community or ‘Street law’ projects (for UK-based case studies, see, eg, Grimes and Brayne, 2004; Johnson, 1998; Kibble, 1998; Nicolson, 2006). Though most of these activities will not have been designed for that purpose, pro bono activity provides a potential mechanism for employer engagement in legal education. Is that opportunity being exploited? The answer is, inevitably perhaps, rather mixed. Twenty six respondents to the LawWorks survey indicated that they ran external placement schemes. Twenty-six (not necessarily the same 26 as this might involve external participation in in-house activities) also indicated that they involved external staff in student training, At the same time, however, rather confusingly, only 13 institutions defined external staff as “participating” in the School’s pro bono activity. This would suggest that significantly more
than half of all institutions offering pro bono already are demonstrating, or have the potential to demonstrate, some degree of employer engagement through that activity. However, how much of this activity constitutes employer engagement in the sense used by current policy initiatives is more of a moot point. Very few of the external staff identified by LawWorks were from organisations that would be significant employers of law graduates. This tendency is reflected too in the more qualitative work by Grimes and Brayne (2004) – external engagement tends to be predominantly with public sector legal service providers and funders – Law Centres, CABx, UNHRC, local Trading Standards, etc. There is also little evidence at present of direct, inward investment by (private) employers into supporting such activity within law schools. In 2006 less than a third of those law schools undertaking pro bono activity received any external financial support (LawWorks, 2006). Most of the funding that is received comes from charitable or public sources, including legal aid fees generated by some clinics in their own right (id.). Though the Law Society of England and Wales has asserted that it seeks to encourage solicitors to support clinical legal education initiatives (CRG Research Ltd, 2005), it is also questionable as to what incentives, if any, exist for practitioners to engage systematically and “institutionally” (rather than purely personally) with HEIs.

Select Bibliography


Fancourt, A. (2004) “Hitting the ground running? Does the Legal Practice Course prepare students adequately for the training contract?” (89pp)


