

LETR Young Lawyers Forum

Background

As part of its investigations, the LETR research team have talked to a number of students and young lawyers. However, given the significance of involving young lawyers identified by Richard Susskind in his report – a further group of discussions was held with 18 volunteer early career lawyers representing the Bar, solicitors, CILEx and those working as paralegals. Members worked in a number of different organisations (including in-house practice) and were located across the country. Some were members of the Junior Lawyers Division, Young Barristers’ Committee and of Young Legal Aid Lawyers.

Constraints of travel and timing meant that the discussions took place in three separate events, and by a combination of face to face meeting and telephone conference. Some of the volunteers were not able to participate directly in any of the events but commented on and contributed to this document at a later stage. The notes were made by members of the research team and have been reorganised into themes, rather than representing the discussion at the three events separately. Since they seek to represent a wide range of opinions, they are not necessarily consistent and in some places opinions may even contradict. It is not to be assumed that the members of the forum reached a consensus. They did not, and the variety of views and experiences reflects the complexity of the issues.

Technology and the future

Technology

- This might involve a radical decline in use of desk-bound PCs, rise in tablets so work goes with you wherever you go.
- Whether email will evolve in some way and the extent to which it disrupts your work patterns.
- Delivery of “just in time” training by webinar. More education in and by technology at an earlier stage although there will always be a place for the face to face.
- It isn’t “how but not what” as “how” services are provided inevitably changes the “what”. Electronic delivery involves significant new issues of data protection and information management.
- The days of “static” documents, fixed for all time and exchanged in sequence are over.
- Surprise the major technology companies haven’t picked this up. Once a process is embedded in software and that becomes the industry standard, the software starts to dictate the roles that are needed.
- ODR – there might be utility in automated blind bidding processes where, for instance, both sides are insured.
- Having material electronically is easier to store, allows you to work remotely and avoids you having to carry files about. But even the current cohort of young lawyers was taught with paper resources and is not entirely comfortable with reading online (you can miss things on screen).
- Electronic resources are only as good as the people you deal with externally and there are problems if they won’t engage with things online.. So however much we want to move forwards, it will be a while before everyone does it (in law – other sectors may be more advanced).

- But technology isn't foolproof – there can be a power cut – and there is lots of “stuff behind the scenes” needed to make it reliable: data protection, not knowing if material in a cloud has been hacked into.

The NHS Direct kind of model

Initial legal advice on a website, followed by a call centre. Different kinds of jobs that keep costs low (i.e. paralegal/technician). The economies of scale are so great it will have a major impact. The key here would be in the lawyers who do the supervision (and the gearing of the supervision) : a broad based person can see other issues that the “person at the bottom of the food chain” wouldn't. Discussion about whether that is so different to what happens now when the call/email comes into the receptionist, who passes it to the relevant team. This filtering, for both private practice and in-house lawyers, could be a full-time job role.

ABSs

Will offer services cheap and on line and lawyers firms will have to respond. However, in the context of the funding reforms,, lawyers are scared of being made redundant. Lawyers will need to go over and above in terms of provisions of quality services and will be forced to work with one hand behind our backs. There will be no funding for us to do jobs to the best of our ability. At the moment clients come to us (rather than a paralegal firm or ABS) because we have a legal aid franchise and can offer funding. Once that is gone they will go to “dabblers” or to “any Tom, Dick or Harry”.

Hopes and fears for the future

- Fewer and fewer progression and qualification jobs.
- Over specialisation, e.g. if you are in a process based system and your job is to do claim forms, how do you get to move onto doing defences, or indeed any other work that is broader and/or in a different field?
- Automated processes being contracted out (e.g. for employment tribunal work) decreases the amount of knowledge a paralegal can get and keeps their knowledge base down. Automated processes set a standard as cheap, quick, and available 24/7.
- The very elite will be little affected. By contrast, the majority of the profession (outside of the elite) will feel a strong effect.
- There will be a much more literate consumer base who self-educate, possibly very effectively, to be self-represented litigants. Those who are not able to self-educate in this way (for example because of disability or monetary restrictions meaning they are unable to access information easily online) will not be able to access advice in the same way.
- Fear that the roles that are available are dictated by the piece of work to be done. This links with the points about technology above and increased use of process based software. There is also the possibility that if there is an increasing move to process based legal services, the ‘triage’ role may become self-limiting as if a potential matter does not ‘fit’ into a particular process, a client may find it increasingly difficult to access legal services.
- Some things will benefit from personal service but it will be a two tier market – those who can pay for personal face to face service will get it.
- If an entire generation is stuck in paralegal jobs supervised by a few supervisors, where will the supervisors come from in a few years time?
- What will be the effect of bought in investors and managers on how firms will operate (law firms are still unconsolidated even when you compare the really big ones to the really big accountancy firms)?
- But there is still a need for elite lawyers to do the complex stuff. It would be awful if people were using English law contracts on an international level but not coming to London for advice on them.

Some current thoughts and issues

Entry

There needs to be a real focus on lack of information before entering into different stages. Information needed as to: options of different routes to qualification, the REAL costs of doing so, what the REAL prospects are for employment once this is completed as a lawyer or in other roles – simply how many people are getting jobs after they complete the courses? More information for 16-18 year olds and anyone BEFORE they pay for a course. We didn't even know about CILEx. Educate the careers advisors. Not just information but how practically useful it is to do a sandwich degree and/or other types of options that are available.

Risks and bottlenecks

You can't create more jobs (unless there are in-house jobs where employers would be happy to allow people to qualify if the regulations permitted). So the problem is about who gets the jobs that there are. Different socio economic groups have different attitudes to risk – if you change the bottlenecks, do it to increase the social mix of those who can go into it not to try create more jobs.

The “you can't restrict numbers because it's anti-competitive” argument goes away if legal education ceases to be a consumer market. It's the open consumer market which creates the glut of places. If training organisations (e.g. inns, COMBAR) could bespeak a commercial bar course for the number of people they want to take on as a matter of procurement – paid for by the employer - the risk is transferred to the training organisation.

The jobs situation is having a knock on effect higher up and newly qualified lawyers are having to drop down to take paralegal jobs. This is another cause for lack of qualified 'supervisors' of the future (see above).

Most lawyers don't earn a City wage. There aren't the jobs after qualifying either. The areas of law you chose to “specialise” in at the beginning of your career might not exist later. In light of the increasing move to early specialisation (see above) this is a particular worry.

Vocational courses

There seemed to be a consensus that all three courses (LPC/BPTC/ CILEx) could involve being taught something artificial (possibly insufficiently electronic?) which is explicitly not what happens in practice. There is no utility to the BPTC/LPC if you don't qualify (and doubt about their utility even if you do) – they are not transferable and they are only good for 5 years. There was some consensus that “application” is critical and could be missing from a sequential LPC/BPTC model – better to apply as you go along and to consolidate.

LPC

There seemed to be two main issues;

- Making it more transferable: the skill set was not seen to be transferable (by contrast with, say accountants). Allowing greater variation in achievement (e.g. moving away from a blanket competent/not yet competent model) to allow individuals to market their strengths. On the other hand, levels of teaching within the LPC can be varied and the competence threshold is very basic and it is therefore arguable that this approach is appropriate. However some electives and other elements are arguably more advanced and therefore suitable for a greater variation in marking. If there was a move towards more vocational training, the issue might fall away as some of the more basic elements might be covered at an earlier stage with the LPC equivalent looking at more comprehensive and detailed legal training.
- Its relationship with practice. For example: you forget what you did on the LPC whilst doing tightly constrained paralegal work for a few years in the hope of getting a training contract. Then when you do (and you take what you can get) you're expected to go to breadth again

BPTC

On the one hand: This could be a voluntary course. It should be paid for by chambers and only after you get pupillage – then it could be a specialised BPTC and not represent “practice 40 years ago”. It is designed as a generalist course to be taught to a general cohort, so to what extent does, for example, requiring both civil and criminal content now represent the realities of practice?

On the other: the length of time the BPTC takes should be reduced (by making it more intensive) and thereby the cost, or by combining it with pupillage so that professional training happens simultaneously in the classroom and the workplace. [The BPTC should be updated so that barristers automatically undertake training in direct access.](#)

CILEx

CILEX –you might start in a non-legal workplace with only a “hint of law” so doing the *CILEx* exams does give you more breadth and you start to realise that you need to do more in the job than just processing. There are complexities around transfer from *CILEx* into the solicitors’ profession including having done the LPC and *CILEx* assessments “in the wrong order”.

A combined BPTC/LPC?

On the one hand: there is not one cohesive Bar anymore. You don’t need to call them separate courses – a single vocational course could have more permutations in it so you could in effect do a litigation based course. It might be useful to an intending barrister to know about the bits of litigation usually done by solicitors. Why not something like the PCLL in Hong Kong (first part of course joint, then it splits for the two professions)?.

On the other: it is not appropriate (or possible) to provide effective combined training for such different professions.

On yet another: the training system for barristers and solicitors should be fused together, so that the opportunity of training contracts/ pupillages is by work placement modular assessments; whilst studying a qualifying law degree and LPC/BPTC as a combined course qualification. A sensible approach would be a national Bar Admission Examination after completing law school.

Periods of supervised practice

- Assessment on the training contract should be strengthened and training principals and supervisors specifically trained.
- There should be greater and more accessible guidance to trainees / potential trainees so that they are aware of their own responsibilities and the regulatory requirements.
- Much discussion of accountancy model/*CILEx*/parallel systems: comment about the fact that accountants deliberately get a lower salary when in the parallel training phase as they aren’t in the office all the time, when contrasted with the solicitor sequential model. But is it a good time in the market/LSA situation to go about imposing greater burdens on firms about the quality of the training contract?
- Firms fear the regulation and extra burden of taking a trainee under existing regulations.
- The PSC (and management course stage 1) were not, at least if delivered publicly, thought helpful. Particular issues for solicitors were the depth and relevance and timing) of any preparation for running a practice. A suggestion that, for solicitors, there should either be more advocacy training overall or that it should be cut out completely (or dealt with during the LPC stage). On the other hand, the idea of having PSC and MSC1 was good – the courses themselves need to be overhauled as current content is not effective or efficient.

Specialist accreditations/licensure

- Pro: some kind of publicly available standard. Some kind of control to maintain expertise. As a consumer with not a lot of money to spend I look for formal accreditation in, say, a builder, so why not a lawyer.
- Con (more or less) But we already have so many hoops to go through. Extra cost. Our reputation should stand for itself. Conclusion: accredit the entity rather than making individual lawyers seek certification/licensure.
- Would this be likely to create more confusion for consumers in an already complex and growing market for legal services (see link with technology above – how are consumers going

to receive legal services in the future and will increased confusion create barriers to accessing these services?)

Diversity

Are the people for whom diversity initiatives (eg apprenticeships) actually the people making use of them? Diversity is complex – the Bar, for example, might be ethnically diverse but not socially diverse. The people who are put off by costs of courses will be from those socio-economic groups who have particular attitudes to debt and to risk

There needs to be information about a) paralegals and b) internships and scholarships etc and from education providers about employment destinations. Education providers may be thought to be focussed on profit rather than transparency of information.

A hope for the whole review is that it provides more opportunity for diversity. Not just education to get into the profession but a more diverse profession at the higher levels (and means to keep women in rather than dropping out) . Fewer bars to access for BME people. Get away from the “redbrick mentality”.

Notwithstanding the huge amount of work that is already being undertaken to improve diversity (ethnic, social and gender) at the Bar, more can still be done, as it can across the entire legal profession.

What could the review get right or wrong? These are individual responses, some of which were controversial

- The question is not about more or less regulation, it’s about more effective regulation.
- One of the best things would be obtaining data on how regulation is working and how that affects the market. One of the most difficult things in challenging the effectiveness of current system is that the data isn’t kept. More information on entry – firms, regulators, providers should all take responsibility for monitoring who comes in and what information they have.
- The best thing would be to abolish the generic Bar course in favour of specialist ones paid for by consortia of chambers. But don’t cut the academic stage.
- All courses could be much more flexible.
- A clearing house for paralegals/internship etc.
- More recognition in courses about how practice is changing – solicitor advocates, barrister public access etc.
- CILEx – some sort of training contract provision would be useful – those who get the qualifications whilst not working in legal services then have to find the 5 years qualifying experience.
- Integrate the training contract and degree. Merge LPC and LLB into a single qualification
- Or keep the LPC separate: not everyone knows what they want to do this early on. But if there are more options, maintain the standards.
- Include management skills – more than just drafting documents.
- The worst thing you could do would be to say diversity is a bad thing. It is wrong to ignore the value of diversity. A broad range is needed in every sense. Also ensure diversity in the learning model to fit students for areas of practice (e.g. WBL and CILEx model). We had a debate about whether the regulators/professions should combine as a matter of principle to create parity of cost in each of the routes
- The worst thing that could come out of the review is the status quo. The whole system at present is unjust and unfair.
- What’s the worst thing the review could do: a) retain the status quo; b) make the process longer and more rigid.
- The review should Integrate “the real world” with the education. Students need to find out early what the real world is like (in enough time to get out!) – include time recording, billing etc. in LPC. The key to this is what the redbricks do as people look to them as the place to

study law and if they don't provide work experience etc., people won't do the courses elsewhere that do include it.

- A hope for the whole review: that the regulators take heed of its recommendations for a more transparent and fair system.
- A diversity of options both for ways to become a lawyer and other careers within law would be optimum, provided that these are accessible (to avoid reducing diversity) and equivalent (to avoid creating a tiered system with resulting restrictions in qualification and access to legal services).

Conclusion (provided by a participant)

Whilst there are criticisms of the existing system, it seems that the focus of comments was on constructive improvement, rather than complete overhaul. In particular, two themes seem to stand out and encapsulate participants' thoughts:

1. Diversity:

- (a) of routes into the profession - paralegal, CILEx, barristers clerk - and adequate information for students about these options.
- (b) of funding models - who pays for the courses, who bear the risk, when is education undertaken (i.e. before commencing work or on the job)?
- (c) of those who are attracted to the profession - in particular respondents seemed to single out those who do not have the financial means to access the profession and those who might not naturally view the profession as an option (e.g. BME students).
- (d) of training, so that they are able to pick up transferable skills that will serve them well both in and out of the legal profession.

2. Transparency: This seemed to underscore the first theme. It seemed that by and large participants were realistic that the profession is and will remain competitive but were keen for as much transparency as possible to ensure that students are able to make informed decisions. Thus, transparency in terms of opportunities, the challenges involved in securing work, the nature of the work (remuneration, working hours, patterns of work) and future prospects.