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Legal Education in Practice: An Initial Survey

Chris Ashford

Senior Lecturer in Law,
Department of Law,
University of Sunderland

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Summary

Inspired by the author's own experience of providing legal education in legal practice, this research seeks to explore legal education in UK law firms. Just as surveys have been completed that explore the extent and nature of legal education in UK law schools, this survey will seek to understand the extent and nature of legal education in legal practice. As such, it will be the first survey in the UK to do so.

The existing legal education survey data was largely born out of a desire to obtain "hard data" (Harris and Jones, 1997) as to the nature and extent of teaching and learning patterns within law schools. Anecdotally there appears to have been a growth during the last decade both in legal education offered by further education institutions and also by law firms, yet the absence of "hard data" has meant it has been impossible to say whether these are isolated incidents or part of a genuine shift.

The behaviour of law firms in this respect has been of particular importance given the potentially radical reforms that have been proposed for legal education in England and Wales during the last five years.

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Introduction

This article details some initial research findings from a short survey targeted at UK law firms during 2007. The survey sought to explore the extent and nature of legal education that takes place within UK law firms. This article will set out the rationale for such a survey and the context in which it takes place.

Much of the modern literature that has been produced on legal education in the UK focuses upon debates and ‘crises’ (for example Bradney 1995, 1999, 2008; Brownsword 1996; Burrige and Webb 2007, 2008; Pue 2008; Twining 1996; Wilson and Morris 1994) or upon potential future directions for law schools and legal education policy rather than the appearance and character of legal education within those law schools (Grodecki 1967). However, there have been, and continue to be, notable exceptions, in the form of empirical research, that have sought to determine the structure and appearance of law schools and their programmes.

These empirical studies reflect a long standing interest in the nature of the university law school and have been further supported by empirical examinations of particular areas such as curriculum content of specific courses (Bradney 1997; Holdsworth 1925; Stallybrass 1948; Wade; 1951; for specific course examples see, Barnett and Yach 1985; Bell et al 2002; Lynch et al 1992 and Snaith 1990).

A series of empirical studies sought to specifically examine the nature of the law school and although this was traditionally restricted to the ‘university law school’, it moved on to include polytechnics, colleges of higher education and more recently private colleges, as legal education became more prevalent in these areas. These large scale surveys began with the publication of a study in 1966 by Wilson. This was then followed by further surveys by Wilson and Marsh in 1975 and Wilson in 1993. In turn, these were followed by ‘new university’ focussed studies in 1993 (Harris et al) and 1995 (Leighton et al) with surveys examining both ‘new’ and ‘old’ university law schools in 1997 produced by Harris and Jones and most recently in 2005 by Harris and Beinhart.

The early Wilson studies focussed on student numbers in law schools and the rapid growth of the schools. He was also interested in discovering the state of facilities in law schools, detailing library provision and teaching accommodation together with collating information on the career destinations of law graduates. This contrasts significantly with the modern ‘united’ surveys conducted by Harris and others (1997, 2005) which focussed much more on the content of a law degree. They sought to catalogue the modules offered within programmes both as cores and options. They wanted to know what activities contributed to the broader academic programme together with identifying the learning resources available. The study of the academics that teach on these programmes is still considered in the Harris

survey but more detailed work has been undertaken by others, notably Collier (2002) and Cownie (2006).

The most recent empirical survey sought to obtain up to date information about key aspects of legal education within university law schools in order to inform the ongoing debates that dominate legal education. Whilst it is perfectly understandable that Harris focuses upon the 'university' law school, in doing so he falls into the very trap that he had earlier sought to rectify. Merely considering one aspect of legal education cannot give an accurate view as to what is happening as a whole, nor can we as an academic community have an informed debate as to the future of university law schools.

Just as excluding polytechnics or private institutions and colleges of higher education would today seem absurd in any study seeking to understand, empirically, the state of legal education in the UK, future scholars may look back at our present lack of reference to legal education in practice with similar puzzlement. If legal scholars are to engage with the current debates, whether it be those concerning the impact of policies generated by the Solicitors Regulation Authority (SRA) and Bar Council or, as Harris notes (2005), the role of the QAA, a study that considers the extent and nature of legal education in law firms is long overdue.

The gradual inclusion of polytechnics, colleges of higher education and private institutions was all possible because they became identified as 'law schools'. Any evidence of legal education in practice that has elements akin to those of a law school would once again require a re-assessment as to what we define as a law school.

The Current Context

The legal profession is itself undergoing massive change. We have, for example, seen the transformation of the sector by technology (Susskind 2003). These technological changes have aided the growth in commoditization within the legal sector with law firms able to process high-volume, low and mid-value cases by employees who are not qualified solicitors (Ashford 2006, Wall 2000). Case management software allows less qualified employees within a law firm to run high case numbers. For instance, the LegisSQL system will prompt a fee earner as to what tasks they need to do that day and the fee earner will then fill in, electronically, standard forms or 'precedents'. The computer system can then generate the relevant correspondence and advise the fee earner on what to say to a client¹.

The Clementi Review (2004) led to the Legal Services Act 2007 which will further deregulate the sector. Such deregulation could allow for the growth of what has been popularly termed 'Tesco Law'. The public are increasingly able to access legal services outside the traditional limits of a solicitor's firm in much the same way as they did with opticians following deregulation in the 1980s allowing high street stores, such as Boots, to act as opticians. People will be able to undertake their weekly food shop, visit a pharmacy and obtain legal advice all during one visit to their local supermarket.

This is further compounded by ongoing governmental pressure for 'affordable and accessible legal services' which will see legal services delivered beyond the traditional solicitor's office (Moorhead et al 2003). A more 'affordable' legal service would also force law firms to be ever more vigilant regarding their profit margins. An 'affordable' legal service cannot be delivered by traditional highly qualified legal personnel alone and so the nature of the legal profession, those who work in it, and the skills and knowledge they require are also up for review.

¹ See more generally: <http://www.legis.co.uk/> (last viewed 21/6/09)

The current recession has seen law hit particularly badly with the number of posts for trainee solicitors down by 95% (The Sunday Times 2009). This survey was undertaken prior to the recession and it may be that the current economic climate presents additional challenges for legal education in practice, at least in the short term.

Qualification Pathways

Qualification as a Solicitor in England and Wales continues to involve a series of formal stages. Although most Solicitors continue to follow a LLB/Legal Practice Course (LPC) route, there are a growing number of divergent pathways. The CPE/GDL course is one such example. The course has traditionally been viewed with disdain by sections of academia for its lack of academic rigour (Birks 1993), but this more focussed approach is one preferred by the legal professions (Bermingham and Hodgson 2001). Nonetheless, most students continue to pursue the Qualifying Law Degree (QLD) route (Law Society 2001).

The training contract itself has no set structure and varies between types of legal practice (Boon and Whyte 2007). For example, the experience that a trainee obtains in a city firm dealing with high value corporate and commercial work is very different to that faced when dealing with Conditional Fee Arrangement funded personal injury work in a high street firm. The type of firm with which a student is able to obtain a training contract is therefore of huge importance as it is likely to define their future career. A trainee with experience only of corporate work focussing on multi-million pound mergers and acquisitions would not, without further training, be able to undertake clinical negligence cases dealing with, for instance, Creutzfeldt-Jakob disease or 'stolen' child organ multi-party actions and vice versa.

Recent years have seen the introduction of, first a 'City LPC' and then, a more fragmented firm-orientated LPC, such as the Clifford Chance LPC in conjunction with the College of Law. This is an LPC not only designed for a specific type of firm but also for a specific firm creating trainees who have, of necessity, particular loyalty to that firm (see more generally Johnson 2004, Knapp 2003 and Langdon-Down 2003). Whilst this course still must meet the requirements of the Law Society/Solicitors Regulation Authority in terms of core content, that content is taught from a firm-specific angle ensuring, for instance, that the 'Clifford Chance way' of approaching mergers and acquisitions is included. For academics, this atomisation of legal education presents new questions too, with Arthurs asking: 'we are supposed to make students knowledgeable about fundamental legal principles and the main ideas and institutions of law: what principles; which ideas; whose institutions?' (Arthurs 2001). For City LPC providers, those questions have been answered as being the clients' principles and the clients' institutions. For others, these remain unresolved questions. The City LPC is an important weather vane for academics. It offers us a potential insight into how a future of greater legal education in, and/or influenced by, legal practice might look. The introduction of a City LPC is also significant as evidence that firms are prepared to work with legal education providers to create their own bespoke legal education experience.

Paper Walls: Divisions in Legal Education

The traditional, and perhaps artificial division between the academic, vocational and apprenticeship stages has been criticised, notably by Twining (1988). He has argued that this division is as a result of 'political convenience' rather than 'on sound theoretical or educational grounds'. Bright goes further, arguing that the division is 'illusionary' (1991).

There are exceptions, however, to this general pattern of legal education. The University of Northumbria for example, offers a law degree that integrates the LPC into the LLB programme, creating a wholly vocational experience. This degree takes four years (the same time as doing both a QLD and LPC) and remains only one of two in the UK that take this approach (Kerrigan 2004).

It is also perhaps interesting to note that the ILEX qualification appears to break down these traditional barriers. Designed for paralegals and litigation assistants, this allows them to become recognised 'Legal Executives', enabling firms to charge their time at a higher rate (in contrast to someone who has a law degree but not an LPC). The full course takes four years with the first two comparable to A-level and the second two comparable to degree level. This pathway integrates more vocational subjects, such as civil litigation, along with those subjects one would expect on a QLD – contract, tort and so on. The ILEX qualification is then followed by an LPC and a training contract in the usual way.

In addition to Legal Executives, the 'paralegal' also forms part of a body of 'non-admitted' staff meaning they are not solicitors but undertake 'fee-earning' work, i.e. legal work that can be charged to a client. Nonetheless, paralegals increasingly undertake large amounts of fee earning work on behalf of law firms (Johnstone and Flood 1982). The National Association of Licensed Paralegals estimates that there are over 150,000 non-admitted staff who carry out direct 'fee earning' work. Out of this number, only some 7,300 are legal executives (ILEX qualified) and the rest are 'Paralegals'².

In recent years, a series of qualifications for paralegals has emerged; notably, the Higher Certificate in Paralegal Studies is perhaps the start of a formalised qualification and career route for paralegals who are in an increasingly commoditised legal market and likely to be in ever-greater demand. Despite this huge body of un-admitted staff, it is the admitted routes that have traditionally received the most academic attention along with the qualifications required (i.e. the Legal Practice Course, Professional Skills Course and Bar Vocational Course).

There is, therefore, a growing need for a form of legal training for paralegals and other non-admitted fee earners within legal practice. The City LPC has demonstrated that where legal education providers fail to meet such a need, the law firms will devise their own bespoke solution. What is clear however, is that a massive expansion of legal education funded by, and delivered within, law firms, is more likely post-recession than ever before (see more generally Macfarlane 1992).

Macfarlane has previously pointed to 'the proliferation of continuing legal education courses and the rise of the in-house trainer' yet since that assertion over a decade ago, there has been no empirical study to verify and assess the extent of that claim.

The massive changes already impacting on both the legal and academic professions, and those likely to do so in the near future, necessitate an empirical understanding of whether legal education is indeed taking place in practice, and the nature of any practice based legal education.

The Sample

Legal education is generally expensive. Even those activities that might appear "free" to a training department in the form of training sessions delivered by counsel or representatives of corporate organizations, such as forensic accountants, are based on the idea that the firm will

² http://www.nationalparalegals.com/what_is_a_paralegal.htm (last viewed 21/6/09).

ultimately purchase their services if they are not already doing so. Thus, the firms with greater financial resources can have greater access to those services.

Formalised courses such as undergraduate and postgraduate study in the form of the LLB, LLM or MBA have variable costs; £3,145 per annum for an LLB or undergraduate programme is the current capped fee amount for UK and EU students whilst figures of around £4,000 appear typical for LLM study. According to Law Careers Net (in co-operation with the Trainee Solicitors Group³), the cost of the CPE/GDL can vary from £1,085 to £5,900, whilst the LPC carries fees of between £5,300 and £9,000. The ILEX qualification, in comparison, is quite cheap with costs for four years amounting to £3,320⁴. Any involvement in legal education requires a significant financial contribution over a sustained period of years.

It is therefore reasonable to assume that if any evidence of legal education in practice is to be found, it would be amongst those firms with the highest profits. Each year *The Lawyer* publishes a list of the 'top 100' firms. The list is based on a questionnaire issued by *The Lawyer* to firms and barristers' chambers in early summer, after the majority of law firms' financial year has ended. This is then followed up by further interviews. According to *The Lawyer*, only a handful of firms did not provide headline financial figures and, where that was the case, the journal makes an estimate. The journal does not, however, indicate which firms have withheld the information. The figures for this survey are taken from the 2006 list. At the top of the list as that was the most recent set of figures at the time of this survey. Clifford Chance had a profit of £309.4 million, with each equity partner taking home a profit of £810,000. The firm coming in at 100 is Scottish firm Burness, which had a net profit of £7million and a profit per equity partner of £286,000⁵. It is clear that even within this elite band of firms, the financial differences between the top and bottom are considerable.

According to Flood (1996), these 'elite' firms are an important indicator as to the sector as a whole, projecting an image as to what a firm looks and feels like, giving a public indicator of the sector as a whole. These 'elite' firms are increasingly dominating legal services, with seemingly untouchable financial prowess as evidenced with the emergence of the 'City LPC' (see more generally Collier 2005).

Due to resource restrictions, this was a small scale survey designed to offer an initial indication of whether legal education was being undertaken in practice and to begin to explore the nature of that education. The 'top 50' firms rather than the full one hundred were surveyed based on the financial information and fees context discussed above. If legal education is likely to be found anywhere in practice it would be amongst this group. Nonetheless, it is important that this is seen as 'initial' work and much more detailed, fully funded work is needed to explore a greater number of firms.

About the Respondents

The first part of the questionnaire sought to obtain basic information pertaining to the respondents. The first question asked respondents to identify the nature of their firm: city, national, international, provincial, or high-street⁶. The second question asked the respondent to indicate approximately the total number of staff that they employed.

³ <http://www.lawcareers.net/Information/Features/Detail.aspx?r=1240> (last viewed 21/6/09).

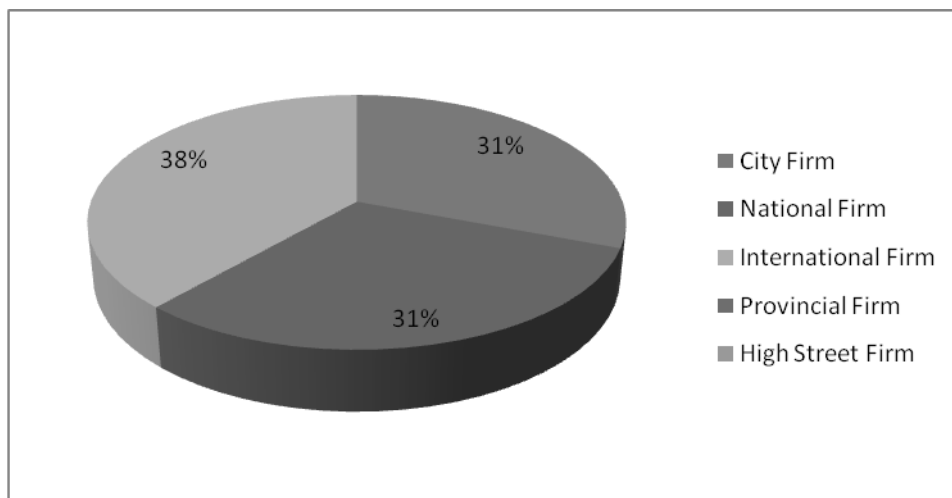
⁴ http://www.ilex.org.uk/howto_qualify/qualify4.asp (last viewed 21/6/09).

⁵ <http://www.thelawyer.com/uk100/> (accessed 29/10/07).

⁶ Whilst it was not expected that any firms would indicate 'High Street Firm' it was felt important to allow firms a full spread of categories for self identification.

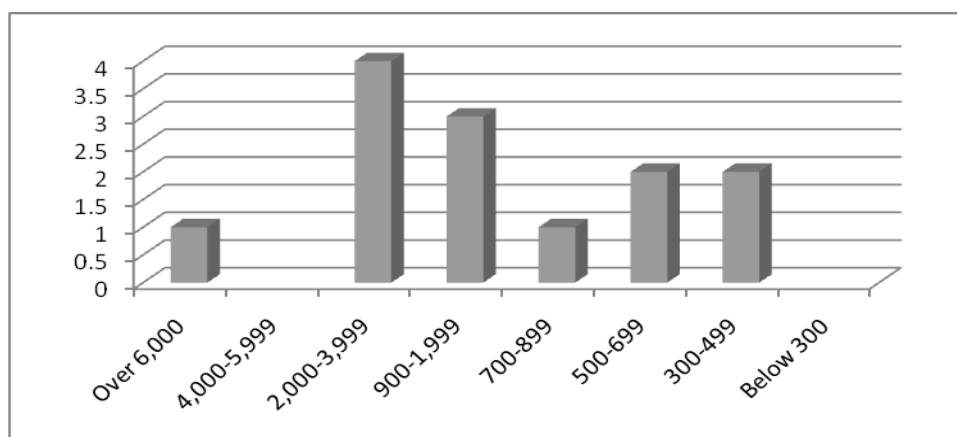
As can be seen in Figure 1, of the fifty firms that were invited to respond to this survey, thirteen firms responded, equating to a response rate of 26%. Of those that responded, four defined themselves as a 'city firm' and four as a 'national firm'. Interestingly, one added 'we have international presence in far east & Europe' suggesting that although they are technically 'international', they also want to project the image of a 'national' firm, perhaps suggesting that they have a presence beyond London. Five respondents identified themselves as an 'international firm' and none identified themselves as either a 'provincial firm' or 'high street firm'. It had not been expected that any firm would identify as either 'provincial' or 'high street' but it was desirable to give firms the broadest range of categories to express themselves rather than to build in presumptions.

Figure 1



As indicated in Figure 2, there was a spread of responses in reply to the question of approximately how many staff a firm employed, with one firm indicating it had over 6,000; four firms were between 2,000 and 3,999 employees; three were between 900 and 1,999; one was between 700 and 899; and two were between 500 and 699 and 300 and 499. None of the respondents had below 300 employees.

Figure 2

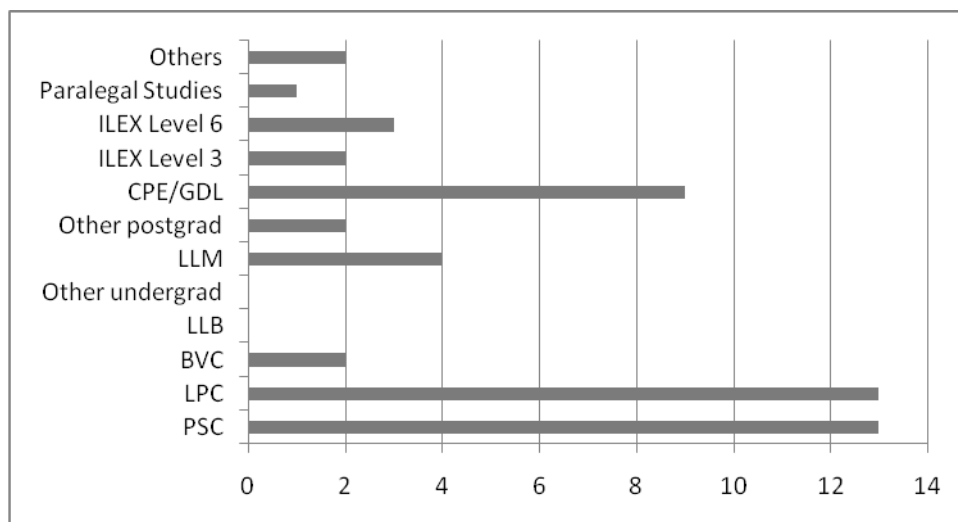


Course Funding

The second part of the questionnaire moved on to consider the funding of legal education and was divided into two questions. The first question asked respondents to indicate the courses they funded (Figure 3) and the second asked the respondents to indicate approximate numbers funded on courses (Figure 4)

All of the respondents indicated that they funded both the Professional Skills Course (PSC) and the LPC. None of the respondents funded a law degree (LLB) or other undergraduate provision. Nine respondents funded the CPE/GDL, whilst four firms funded postgraduate provision in the form of an LLM and a further two firms indicated they funded other postgraduate provision with one firm specifying an MBA and the other not specifying. Two firms indicated they funded ILEX at level 3 but three firms indicated they funded it at level 6. Two firms indicated that they funded the Bar Vocational Course (BVC) and one respondent indicated that they funded the Higher Certificate in Paralegal Studies.

Figure 3



The firms were then asked to indicate the approximate number of staff currently funded in the above activities. A range of responses were received (Figure 4). In one case, the figure “600” was given for the number funded for the PSC despite the firm having a total employee number of between 700 and 899. Furthermore, the number funded for the LPC (the stage needed prior to a PSC) was given as 24 per annum. This 600 does therefore appear to be erroneous but as the rationale behind this cannot be ascertained the figure remains within the results.

The PSC dominates the funding numbers across the respondents, followed closely by the LPC. As can be seen in Figure 4, in many cases the number of places funded on the LPC matches the number funded on the PSC. Some respondents did not give a single figure in response to the question but rather wrote ‘varies’ or gave a range in which to expect their figure to fall. Where this is the case the table includes those ranges or ‘varies’.

Figure 4

	F.1	F.2	F.3	F.4	F.5	F.6	F.7	F.8	F.9	F.10	F.11	F.12	F.13
PSC	12	35	100	30	60	20	60	90	25	80	70	90	600
LPC	12	35	varies	15	50	20	60	90	25	80	70	90	24
BVC			1 to 5			2							
LLB													
Other undergrad							4						
LLM				2						1		< 10	
Other postgrad			varies	2									
CPE/GDL	4 to 6	14	varies	15	15		30	45		30			24
ILEX Level 3			varies		3to4								
ILEX Level 6			varies		3to4					1			
Paralegal Studies			varies										
Others	1		varies										

All of the fifty firms in the sample were listed in *Chambers Student Guide* (2007). These are therefore firms seeking trainees, and as such one would expect them to pay for the PSC which must be undertaken during a trainee placement. This may explain the higher figures for some firms on PSC compared to the LPC. It may also reveal, rather interestingly, the gap between the number of legal practice courses some firms fund and the number of trainees taken on. Alternatively, it might simply indicate a shift in the number of trainees these firms are seeking to recruit.

It is also interesting to note that some of the more ‘academic’ qualifications are not funded within practice, with none of the respondents indicating a provision of funding for either the LLB or other undergraduate provision. This would suggest, perhaps unsurprisingly, that any extension of legal education taking place in practice would be characterised by a greater vocational element. It also seems to highlight, once again, the gap between a professional expectation of legal education as vocational preparation and a “liberal education” (Ashford 2004; Dewey 1916; Johnstone 1999; Macfarlane et al 1987; Pring 1993, 1995). For the

practitioners funding this legal education it seems clear that they are funding courses that explicitly prepare people for practice in the form of the CPE/GDL, ILEX and Paralegal awards. This may also suggest that undergraduate provision does not meet practitioner expectations as adequate vocational preparation. In turn, this may also ease concerns amongst academics about what firms that have university style education programmes, as under current governmental requirements, they would need to offer either a foundation degree leading to an honours degree or an honours degree. These initial findings show no appetite for firms in funding those activities. The Clifford Chance University would appear a prediction too far at present.

Law schools are therefore faced primarily with two options. They can seek to be increasingly vocational and thus compete with other programmes, although they might still struggle to compete on costs grounds against courses such as ILEX provided by FE institutions. Alternatively, universities can decide to play to their more traditional strengths and become increasingly 'academic' and espousing a more liberal approach.

That being said, it is interesting to note that firms are prepared to financially support LLM and other postgraduate provision. Across all responses, around 7 funded postgraduate places are available. Against total figures for the LPC for example (almost 600), it is a tiny number but as an indicator of firm intent, it is significant. A limitation of the survey was that it was impossible to seek further clarification from the respondents. It would at this juncture have been useful to discover the LLM and masters programmes upon which employees had been enrolled. For example, Nottingham Law School offers an LLM in Advanced Litigation and Dispute Resolution focussed at the professional market. Similarly, Northumbria Law School offers an LLM in Advanced Legal Practice. In both instances, an academic qualification has a distinctly vocational feel. The two firms that indicated they did fund LLM programmes varied both in the self-identification and their employee numbers. One identified themselves as a city firm with 900-1,999 employees whilst the other indicated they were a national firm with 500-699 employees.

Whilst none of the respondents funded undergraduate degrees, 9 firms said they were funding CPE/GDL programmes. The question may be asked as to why firms would ever contemplate financing a three year programme when they can finance a one year programme that does the same. This should re-raise for academics the question of what a law degree does beyond foundation requirements. It is not necessarily a bad thing that the law degree is seen as less preferable to a CPE for vocational preference. Rather, this should re-enforce greater academic freedom over the content and form of the LLB. Between the respondents, around 180 individual CPE/GDL places were funded. This may also offer support to Bermingham and Hodgson's findings (2001) that law firms prefer people with a CPE/GDL background than an undergraduate law degree background.

In-House Courses

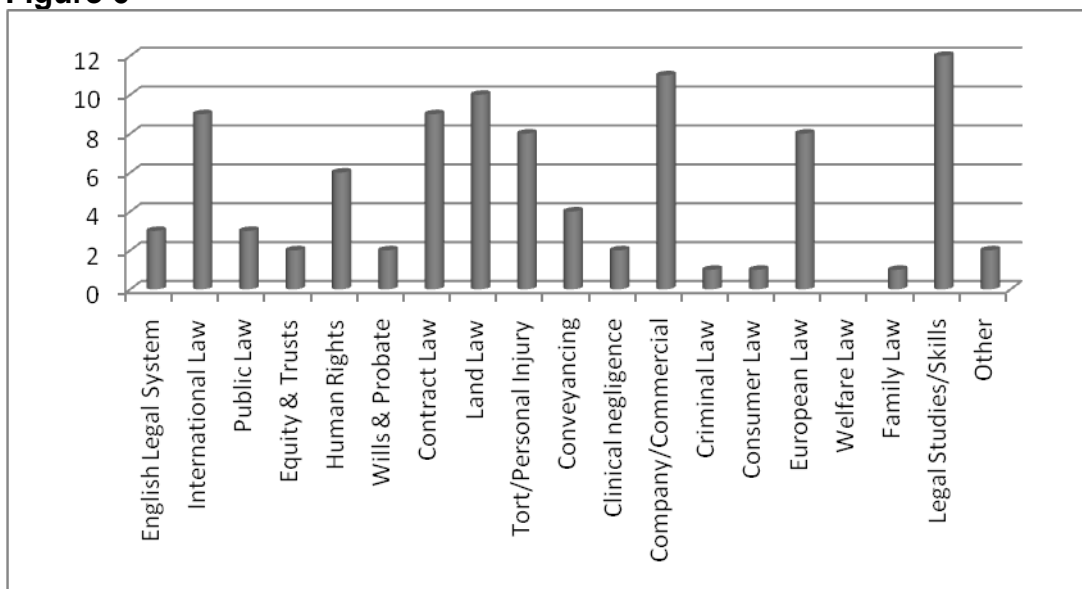
The third part of the questionnaire turned to the subject of in-house courses offered by firms and the results are outlined in Figure 5. All but one firm indicated that they had an in-house course that addressed legal skills such as drafting or advocacy. This was followed by eleven firms offering courses in company/commercial law and ten offering courses on land law. In contrast, none of the firms surveyed included any in-house training on welfare law and, in the instances of criminal law and consumer law, just one firm responded for each category.

Figure 5

English Legal System	3
International Law	9
Public Law	3
Equity & Trusts	2
Human Rights	6
Wills & Probate	2
Contract Law	9
Land Law	10
Tort/Personal Injury	8
Conveyancing	4
Clinical negligence	2
Company/Commercial	11
Criminal Law	1
Consumer Law	1
European Law	8
Welfare Law	0
Family Law	1
Legal Skills	12
Other	2

Viewed in graphical form (Figure 6), the broad spread of subjects is clearer. Across the respondents, an eclectic range of in-house legal education courses are offered, albeit to varying degrees.

Figure 6



The in-house courses listed in the questionnaire were generally reflective of those modules, both core and options, offered by law schools as part of their programmes but which may also be applicable to law firms. For example, welfare law may be of use to a personal injury lawyer seeking to offer interim advice to someone ultimately pursuing for example, a Mesothelioma claim after exposure to asbestos and requiring some immediate financial support. Interestingly, no respondents indicated they offered courses in welfare law which may reflect the more commercial work bias in the most profitable law firms. This may also

raise questions about the external validity of this research. Clearly, a much greater survey is needed to obtain a clearer picture and it would be interesting to see if there are changes in the internal courses offered in those firms that are less commercially focused.

A broad range of other categories were also indicated. It was very interesting to note that three firms offered in-house courses on the English legal system. This is training that anyone undertaking an LPC, PSC, BVC, LLM, ILEX or paralegal course would not require as all encompass, or assume knowledge of, the English legal system. This would therefore suggest that an introduction to legal knowledge is being offered in these firms. At this point, the limits of a quantitative survey are once more apparent. A qualitative study could have allowed further probing on these issues. Nonetheless, these responses do suggest that legal training of non-qualified staff is taking place, perhaps paralegals or support staff. On one response, in reply to the final question asking who receives legal training, the respondent ticked support staff but wrote in ‘legal system only’ which indicates one instance of support staff being taught the basics of the English legal system and equally that, at this point in time, they are not receiving further legal training. Whether this is a deliberate policy of providing support staff with some introductory legal knowledge or an indication that this firm is starting a programme is unclear. It highlights the need for further work to examine these questions and to see if we do indeed see a development of support staff training in this firm beyond merely the English legal system.

The questionnaire also sought to discover who delivered these in-house courses. In all but one firm, fee earners themselves deliver legal training. In eleven instances, external counsel were used and/or an external training organisation. In all instances where an external and internal option existed, the internal option dominates. In online training, five firms indicated they utilised internal bespoke training, whilst three indicated they used external online training. In video and DVD usage, six firms indicated they utilised internally produced video/DVDs, whilst four respondents indicated that they used external video/DVDs.

Figure 8

In House Dedicated Trainer	8
In House Fee Earner(s)	12
External Counsel	11
External Training Organisation	11
Via External Online Training System	3
Via Internal Bespoke Online Training System	5
Via External Video/DVD	4
Via Internally Produced Video/DVD	6
Other	0

It was interesting to note that two returns mentioned ‘PSLs’ or Professional Support Lawyers. One response was from a self-identifying city firm and the other a national firm. Both were in response to a question which asked how many staff were employed as ‘in-house dedicated trainers’. In the case of the city firm, the response was 17 full/part time PSLs and in the case of the national firm the response was 1 plus PSLs. It was an oversight of the questionnaire to neglect the inclusion of PSLs in the list though the inclusion of a PSL would have created its own problems. A PSL is by definition a lawyer, whereas a dedicated legal trainer need not be. This means that a PSL could undertake fee earning work and therefore may have appeared in other questionnaire responses in the category ‘in-house fee earner’. Humphries

and Carter (2006) have noted that the role of a PSL has been around for about fifteen years and typically forms part of 'know-how services' within a law firm which might include library services, online databases and so on. They also note the changing nature of the PSL, away from traditional 'back room' activities, such as writing precedents for example, and towards being more visible members of client teams. The emphasis for the PSL therefore, is one of supporting surface learning, of creating 'crib sheets' that streamline the working lives of fee earners. That the number of PSLs appears set to continue to rise is testimony to their increasing importance within firms but the precise nature of the role continues to be uncertain and is still being defined (Boardman-Weston 2003; Hoult 2003; Jabbari 2002; The Lawyer 2006).

Whilst academics seek solace behind the shield of academic freedom, the PSL is, by nature, a victim of the ebb and flow of market pressures (see more generally Barnett 1988 and Russell 1993). Of course, such a polarised view of academics versus law firms is over simplified. The debate about the extent of the market and enterprise continues within the Academy. The PSL therefore perhaps offers a totemic example of the gulf between what Trow (1975) has termed 'the private life of the university' and what might be termed 'the private life of the law firm'; that is to say, 'the moment-by-moment, day-to-day activities and interactions of teachers and students engaged in teaching and learning'.

Whilst numerous studies exist as to the 'every day behaviour' of the university and academic, there is a shortage of material that seeks to understand the private life of the law firm and consequently the day to day operation of PSLs (see for example Becher and Trowler 2001; Evans 1988, 1993; Trowler 1998). Nonetheless, some examples do exist. For instance, Eccleston (2004) has classed some PSLs as 'neo-academic types' who focus on the knowledge base of a firm's department whilst other PSLs take upon the more administrative side of traditional PSL activities. For Eccleston, there is therefore no single idea of a PSL even within a law firm, let alone between law firms.

Jackson (2006) has suggested that the role of a legal trainer will also become more significant in a law firm and will carry with it greater rewards. That said, he argues that the pay will remain typically 10% lower for a lawyer in this role than the same lawyer in a fee earning role. This contrasts with Eccleston (2004) who has suggested that the pay gap has largely disappeared. The interaction of function and form between the PSLs and legal trainers is an area for further work, but this survey would suggest that the delivery of legal education is far more complex than initially thought.

More generally, there is evidence of in-house dedicated trainers in eight firms. In light of the above discussion regarding PSLs, it would be interesting to know whether dedicated in-house legal trainers are in addition to, instead of, or actually are PSLs.

It was also interesting to note the role of e-learning within law firms. There was evidence that both bespoke internal systems and external online training mechanisms are being used. For example, Practical Law Company offers a range of online courses that allow participants to work through 'real life' scenarios and in a range of legal areas.

Of those firms that responded, 23% (n=3) indicated that they offered in-house legal training via an external online training system whilst 38% (n=5) offered legal training via a bespoke online training system. Two firms that responded only used an external online training system whilst three utilised a bespoke online training system and two used both. Given such fragmented figures, it is difficult to reach any conclusions as there does not appear to be an obvious preference amongst responding law firms. However, it is very significant in itself to note that firms are using e-learning.

By way of contrast, Harris and Beinhart (2005) considered VLE use within law schools. They found that forty eight institutions (84%) made use of a VLE, most commonly Blackboard (twenty four law schools) and Web CT (thirteen law schools). In addition, numerous other scholars have analysed the impact of ICT on law teaching including Ashford (2007), Cartwright and Migdal (2001), Hanlon (2004), Paliwala (2005) and McKeller & Maharg (2005). There is further work needed in this area to discover the nature of e-learning that is taking place within practice and whether the bespoke systems are anything akin to those VLEs used by law schools.

More than e-learning, firms also used videos and DVDs. In fact, 31% of those firms that responded (n=4) used external videos/DVDs whilst 46% (n=6) utilised internally produced videos/DVDs. It would be interesting to explore both areas in more detail. The use of external videos for example may be products such as LNTV produced by the Law Society. The use of internal video is perhaps more interesting. This may be as part of an induction programme or to explain a regulatory issue, such as money laundering, which requires all staff to be trained and also necessitates all staff knowing the specific procedures of their employing firm. As with e-learning, this use of multimedia is an area requiring further exploration.

Who Receives Legal Training

The final section of the questionnaire sought to discover who was receiving the legal training. All firms that responded indicated that fee earners received legal training either through funded courses or in-house training. These were divided over the categories of ‘partners’, ‘other qualified staff’, ‘other fee earners’ and ‘trainees’. 54% (7 firms) indicated that support staff received legal training.

These are individuals who are not fee earners and who therefore do not undertake practical legal work. This category would be made up of support staff, technicians, information assistants and others who, together, support fee earners. These are, therefore, individuals who do not need legal training to perform their task but who may be enhanced by receiving such training.

Any resource commitment to the support staff category is clearly outside any CPD requirements. It represents a move away from being purely ‘vocational’. In one instance, a questionnaire had “legal system only” written after ticking the support staff box. This highlights the fact that we do not know from our other responses what aspect(s) of legal education support staff are receiving.

Figure 9

Partners	13
Other Qualified Staff	13
Other Fee Earners	13
Trainees	13
Support Staff	7

Conclusion

This survey suggests that traditional characterisations of practice as ‘vocational’ may be over-simplistic, just as a debate continues as to the nature of law schools and whether they are, and should be, academic offering a ‘liberal’ degree or whether they should be vocational

(Bradney 1990, 1999, 2004; Savage and Watt 1996). This finding alone has the potential to re-cast the debate around law school missions.

This research also suggests that both fee earners and support staff are receiving legal education and the mechanisms of delivery include multimedia video along with e-learning both through internal bespoke and external systems. This potentially reveals a rich seam for future academic exploration.

Furthermore, it has been noted that a range of courses are being funded within practice beyond the PSC and LPC. There is evidence of MBA, LLM, ILEX and Paralegal qualification funding, together with in-house legal training on a host of substantive legal areas in addition to legal skills such as drafting and advocacy.

These findings, however, do not make the way forward for law schools and law firms any clearer. If anything, the debate will now become more complex. Sherr, writing in 1998, sounded the alarm that 'legal education itself may have lost its way', suggesting that law schools lacked certainty as to their future direction and purpose. He pointed to the fact that until the mid-1990s, over 60% of law graduates went on to qualify for the legal profession either as solicitors or barristers. Yet, of the 8,756 law graduates produced in 1995, only 3,700 would find places qualifying as practising lawyers.

Therefore, he argued training for the legal profession had become a 'minority interest' in undergraduate law teaching. Nonetheless, as Twining (1996) has noted, student culture continues to be more vocationally orientated.

Yet these developments also challenge us to re-examine 'firm culture'. If we consider that an institution that has individuals who publish scholarly work and which engages in knowledge transfer and teaches is a natural member of the Academy, should we not also consider law firms, and potentially other corporate entities, as members of that Academy too? (see more generally, Chesterman and Weisbrot 1987; Feldman 1989; Tushnet 1987).

During the 1980s and the deployment of a series of 'efficiency measures' in UK universities, the question 'When is a university no longer a university?' was asked and Steven Lukes allegedly responded 'When its philosophy department is closed down' (quoted in Brownsword 1996). As long ago as the mid-1960s, the legal academy has asked 'What is the purpose of, and what is the justification for, teaching law in a university?' (Kahn-Freund 1966). Implicit to these questions and the debate that has continued since is the view that legal education is only taught in law schools. This survey suggests that such an assumption is wrong. Legal education is being provided in law firms. The extent of this beyond the elite firms remains unknown and is an area for further research, as is the need for a more detailed probe into the nature of legal education in practice.

If a vocationally orientated form of legal education exists beyond the law school, the questions of function and form of the law school become all the more acute. If law firms are striking out beyond this small sample, then never has the assertion by JS Mill, as to the philosophy of law schools, been more relevant. Writing in 1867 he commented that the object of universities is 'not to make skilful lawyers, or physicians, or engineers, but capable and cultivated human beings' (quoted in Pring 1995).

It is unlikely that academics can compete with practitioners for vocational preparation. As has been noted in this article, PSLs are increasingly at the forefront of new knowledge and enterprise informed knowledge in law firms in a way that it would be difficult for academics. Those such as Bradney (1999, 2008) and Pring (1993) have advocated a more 'liberal' system of legal education, in which the ideas of Oakeshott and others are applied to law, and in which academics have control over academia rather than government and other forces

(Johnstone 1999). The findings of this survey suggest that further evaluation is needed as to what constitutes a 'liberal' legal education as the lines between universities and law firms along with preconceptions about where one will find academic or vocational experiences, become increasingly blurred.

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