

Nottingham Law School

**Pre-qualification work experience in professional legal education**

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Nottingham Trent University 

**Excellence in professional legal education**

# Summary

## Work experience for intending solicitors

As part of its Training for Tomorrow project, the Solicitors Regulation Authority has been working with researchers at Nottingham Law School to explore the contribution of different kinds of work experience for those who want to become solicitors. This included the traditional two year training contract, but also looked at work as a paralegal or legal executive, in sandwich degree placements and university law clinics as well as short vacation schemes with firms.

## Workplace working highly valued

Everyone agrees that learning in the workplace is valuable and important. It allows students to apply academic knowledge of law to the real world; exposes students to the "messiness" of real legal problem and helps them to understand how to work with real people, as well as introducing them to the way in which legal practices and departments are run. Clinics, law centres, legal executive work and not for profit organisations tend to focus on work for individuals, often those in great need. Vacation schemes and training contracts tend to focus on commercial work, frequently with larger law firms.

## Positive experiences

However, what happens during the experience can vary widely, from observing colleagues and routine administration to considerable responsibility for clients and files, carrying out advocacy and undertaking negotiation. Positive experience allows young lawyers to develop new skills such as team-working. They can apply what they have learned in the classroom to a more complex context and deal with real world issues such as a client's emotional connection to their problem. It allows potential solicitors to understand how professional ethics, duties to clients, professionalism and responsibility operate and are challenged in practice. This can be found in many training contracts, but also in some placements, university law clinics and paralegal work.

## Paralegal work

Some experience is, however, more limited. Some junior paralegal work is largely administrative. Short vacation schemes seem to work best as a way of informing career choice and as part of a firm's recruitment processes. Paralegal work prior to a training contract is quite normal, though not universal, and can sometimes continue for many years. Interestingly, becoming a trainee after having been a paralegal can, for some, involve a *decrease* in client contact, personal autonomy and responsibility as their role shifts from managing a case load of their own to supporting a senior fee earner with their case load.

## Links to SRA competences

A number of the SRA's competences (e.g. legal research, taking responsibility for one's own learning, taking steps to obtain help, communicating clearly, analysing problems, obtaining facts and drafting) appear in most kinds of work experience.

Opportunities to learn about ethics, teamwork, the commercial background of the organisation, personal autonomy, responsibility and time and workload management are provided in most training contracts and in some other kinds of work experience.

However, lack of opportunity to acquire, develop or demonstrate competences in client contact, advocacy and negotiation is widespread, including in some training contracts.

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## Acknowledgements and statement of interest

It is necessary to declare the following:

Jane Ching

- I am a qualified solicitor and experienced what was then articles of clerkship, now the training contract, between 1988 and 1990.
- I ran the paralegal section of the SRA's work based learning project between 2008 and 2013.
- I was a member of the Legal Education and Training Review research team.
- I have taught on the LPC and on the Professional Certificate in Trade Mark Law and Practice for intending trade mark attorneys.

Pamela Henderson

- I am a qualified solicitor and experienced what was then articles of clerkship, now the training contract, between 1989 and 1991.
- I was an assessor on the paralegal section of the SRA's work based learning project between 2008 and 2013.
- I was a member of the team that undertook the review of the CPD framework on behalf of the SRA.
- I have taught on the LPC, the Professional Skills Course and on the Professional Certificate in Trade Mark Law and Practice for intending trade mark attorneys.

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# 1 Introduction

This report contributes to the Solicitors Regulation Authority's (SRA) Training for Tomorrow project, specifically the work stream "a new approach to qualification" for intending solicitors in England and Wales. Other related activities undertaken by the SRA include development of a competence statement for the point of qualification<sup>1</sup> and consultation on a possible Solicitors Qualifying Examination (SQE).<sup>2</sup>

The SRA's overall objective for this project is:

One aspect of the [Training for Tomorrow] programme is to move from a system where we prescribe the pathways to qualification (law degree/Common Professional Examination, Legal Practice Course and training contract) to one in which we set out the competences that a new solicitor must possess and permit much greater flexibility as to how those competences are acquired.

This includes looking at the "work experience" that is required before qualification. The most common pathway is the traditional training contract. We want to find out what other types of work experience/work trainees, students and paralegals are undertaking and if and how these might enable candidates to develop the competences set out in our Statement of Solicitor Competence.

At present, the majority of intending solicitors in England and Wales are required to complete a two year period of recognised training (previously known as a training contract).<sup>3</sup> This research project is intended to inform any new regulatory requirements around pre-qualification work-based experience requirements. Consequently, the SRA has identified the aims of this research project as:

- To find out and compare the type of work that students and trainees undertake during their training contract, as a paralegal, during a sandwich placement and from university law clinics, and the extent to which this may enable candidates to develop the competences set out in the Statement of Solicitor Competence.
- To find out what knowledge, skills and attitudes trainees/paralegals/students get out of workplace experience.
- Literature review/benchmarking exercise on what exactly other professions require trainees to do in terms of workplace experience prior to qualification and on any learning about the value and nature of work experience in the current system leading to qualification as a solicitor.

There are two phases to this research project:

- Phase A - online survey (conducted by the SRA);
- Phase B - literature review,<sup>4</sup> expert evaluation, in depth interviews.

This report and its accompanying appendices contain data from two sources: the phase A online survey with 804 respondents and a series of 23 qualitative follow up interviews in phase B.<sup>5</sup> The main findings are as follows:

1. A range of areas of work is covered in different kinds of work experience. Clinics, law centres, legal executive work and not for profit organisations tend to focus on personal plight work. Vacation schemes and training contracts tend to focus on commercial work.

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<sup>1</sup> Solicitors Regulation Authority, 'Statement of Solicitor Competence' (*Solicitors Regulation Authority*, 11 March 2015) <<http://www.sra.org.uk/solicitors/competence-statement.page>> accessed 10 June 2016.

<sup>2</sup> Solicitors Regulation Authority, 'Training for Tomorrow: Assessing Competence' (*Solicitors Regulation Authority*, 7 December 2015) <<http://www.sra.org.uk/sra/consultations/t4t-assessing-competence.page>> accessed 10 June 2016.

<sup>3</sup> SRA Training Regulations 2014 - Qualification and Provider Regulations. Solicitors Regulation Authority, 'Training Trainee Solicitors' <<http://www.sra.org.uk/trainees/training-contract.page>>.

<sup>4</sup> The literature review is a separate document.

<sup>5</sup> Ethical approval for the project was given on 5<sup>th</sup> May 2016 by the Research Ethics Committee of the College of Business, Law and Social Sciences at Nottingham Trent University, Application No. 2016/69.

2. The depth and autonomy of work carried out ranges from observation (e.g. in vacation schemes and training contracts) and administration (e.g. by junior paralegals) then management of comparatively straightforward files (mid-range paralegals, some sandwich placements and training contracts) and junior work on more complex transactions (e.g. training contracts) to managing files and departments (senior paralegals, FILEx, others). Paralegal work, sometimes of many years, prior to a training contract is quite normal, though not universal.
3. Knowledge gained appears to be either new knowledge, related to areas of law not covered in prior or parallel classroom activity, or application of existing or new knowledge to the messiness and unpredictability of the real world.
4. Skills obtained from the workplace may be new (e.g. team-working); application in a more complex context of skills introduced elsewhere (e.g. application of law to the facts, legal research) or to a real world context (e.g. taking into account a client's emotions when advising them).
5. Attitudes mentioned are also related to operationalisation of, possibly academic or theoretical, understanding of issues such as ethics or client care. Professionalism, duties to clients, and responsibility are emphasised.
6. A number of the SRA's designated competences appear to be unproblematic (e.g. legal research, taking responsibility for one's own learning, taking steps to obtain help, communicating clearly, analysing problems, obtaining facts and drafting) in most kinds of work experience. However where the experience is very short, very constrained or very junior, opportunities to acquire or develop competence in even these may be depressed. Vacation schemes in particular appear to be too short and too constrained to allow for very much more than informed career choice and to be part of a firm's recruitment processes.
7. Some paralegals may be in a position to acquire, develop or demonstrate competences relating to client contact and taking responsibility for managing/progressing a case or transaction to a greater extent than some trainees.
8. There appear to be issues surrounding the ability to experience and therefore to learn about application of ethics, the commercial background of the organisation, personal autonomy, responsibility and time and workload management in some kinds of work experience. Not all work experience involves team work.
9. Lack of opportunities to acquire, develop or demonstrate competences in client contact, advocacy and negotiation appear to be widespread.

## 2 Survey

### 2.1 Survey respondents

Responses were received from 804 respondents, who self-identified themselves as undergraduate or postgraduate law students, trainee solicitors, paralegals, legal executives or people working in "another position in the legal sector ("others"). Clearly there is potential for interpretation in asking respondents to self-identify, so, for example, some legal executives entered themselves as students, and some paralegals were also part time students. Of these, 601 respondents had completed some type of work experience, some more than one.<sup>6</sup>

The response rates for each category are shown in Figure 1, with responses from law students, trainee solicitors, paralegals, legal executives and others working in the legal sector

Seventy one per cent of all respondents were female. Just over half of all respondents were aged 22 to 30 years old. Five per cent stated they had a disability. The ethnic profile was mainly white (78.3%), black or black British (2.6%) and Asian or Asian British (12.0%). Almost 12% had attended a fee paying school and a similar number had attended a school outside the UK.

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<sup>6</sup> Not all respondents answered all questions about all the different kinds of work experience in which they had participated.

**Figure 1: Survey respondents with work experience**

	All respondents (N = 804)	Respondents with work experience (N = 601)
Law student	24.2% (194)	15.3% (92)
Trainee solicitor	29.2% (235)	39.1% (235)
Paralegal	20.8% (167)	24.3% (146)
Legal executive	16.3% (131)	15.1% (91)
Other	9.6% (77)	6.2% (37)

The SRA research team, with input from the NLS researchers, designed, administered and analysed the online survey and results in June 2016. It was piloted on the research team and on SRA staff and went live on 23 May 2016, closing on 6 June 2016. The link to the online survey was placed on the SRA website and circulated with the kind assistance of the Committee of Heads of University Law Schools, the Legal Education Section of the Society of Legal Scholars, the Clinical Legal Education Organisation, Association of Law Teachers, Chartered Institute of Legal Executives and law firms with trainees. The survey was in the field for two weeks and received 804 responses.

The survey, a copy of which appears at appendix 3.1, sought information in the following categories:

- Information about work experience in the following categories: training contract/period of recognised training; student law clinic; placement on a sandwich course; vacation/summer legal placement; volunteering at a Law Centre (outside university); other unpaid internship; Citizen's Advice ; other not for profit; paralegal work; legal executive work; other.
- For those who no longer considered becoming a solicitor, why this was the case.
- For those who had obtained a training contract, factors that had helped them in doing so.
- What areas of practice had been covered in the work experience.
- What activities (mapped to the main headings of the Statement of Solicitor Competence) had been covered in the work experience; how confident the respondent had felt about their competence in each at the start of the period and at their current stage, and roughly how long they felt would be necessary to achieve basic competence in each.
- How, if at all, performance during the work experience was evaluated.
- Advantages, disadvantages, and scope for improvement of the work experience.

As survey respondents were self-selecting, and targeted efforts had been made to obtain data from some constituencies, it was not possible to guarantee that the sample was representative. An additional challenge where workplace experience takes place in parallel with LLB courses is that not all law students participating in clinics and placements will be doing so with a view to a later career as a solicitor. The timing of the survey, in parallel with the university assessment period and the end of the summer term, may also have depressed the number of responses from students.

It is not possible accurately to estimate the size of some of the populations involved in particular categories of work experience. The best figures that we can determine are:

- Law students participating in clinics: it has been estimated that between 6,000 and 10,000 UK law students are involved in clinic and pro bono activity.<sup>7</sup>
- Law students participating in other placements and work experience: these may differ in size and while some are formal,<sup>8</sup> others may be arranged locally or through personal contacts as unpaid internships. It is, as a result, difficult to estimate the number of students who have participated in such activity.
- Law students on sandwich degrees: there are seven "thick" sandwich LLB degrees currently available in England and Wales.<sup>9</sup> In 2012/2013, 1,955 first time full time law degree students

<sup>7</sup> Damien Carney and others, 'The LawWorks Law School Pro Bono and Clinics Report 2014' (LawWorks 2014) <<http://lawworks.org.uk/index.php?CID=49&cType=news>> accessed 12 July 2015, 5.

<sup>8</sup> LawCareers.net, 'Work Placement Scheme Deadlines | Vacation Scheme Deadlines' (Law Careers.Net) <<http://www.lawcareers.net/Solicitors/WorkPlacementDeadlines>> accessed 8 April 2016.

<sup>9</sup> Solicitors Regulation Authority, 'SRA | Qualifying Law Degree Providers | Solicitors Regulation Authority' (Solicitors Regulation Authority, 2015) <<http://www.sra.org.uk/students/courses/Qualifying-law-degree-providers.page>> accessed 8 April 2016.

were enrolled on sandwich courses (3% of the total).<sup>10</sup> Other sandwich arrangements are available, including a year's study abroad.

- Trainee solicitors: approximately 10,000.<sup>11</sup>
- Paralegals: the size and shape of the paralegal community is notoriously difficult to define and to calculate. Some LPC graduate paralegals may also have made sideways moves and be training as, for example, legal executives or as trade mark attorneys, even if their preference remains qualification as a solicitor.
- CILEx has "more than 20,000 trainee and practising Chartered Legal Executives".<sup>12</sup>

There was a wide variety of different kinds of work experience, many respondents reporting more than one.<sup>13</sup> Selected detail derived from the SRA collation and processing of the quantitative survey results appears in this report and in the appendices. Cross references to the appendices appear, where relevant, in footnotes in this report.

## 2.2 Student responses

The majority of student responses in the total sample of 804<sup>14</sup> came from undergraduates, with the majority of the undergraduates in their first or second year.<sup>15</sup> Other students included LPC students, CILEx students (including some at level 3) as well as PhD students, recent graduates, an apprentice and someone studying abroad.<sup>16</sup> The range of universities and colleges was widely geographically spread and included public (predominantly from the new university sector) and private providers. Most were full time students. As might be expected, the majority (85.1%) were interested in becoming a solicitor. The majority of those who were no longer interested (51.9%) now preferred to qualify into another profession, quite often, CILEx. The next most frequent responses to having changed opinions about qualifying as a solicitor were the financial costs of training and the difficulty in securing a training contract/job as a solicitor. Of those who still wished to become a solicitor, the majority (58.6%) wished to work in private practice. The remainder wished to work in commerce or in-house (16.7%), in the CPS (14.2%) or central or local government (6.8%). Others had either not yet decided or nominated courts, law centres, charity and human rights organisations.

Of the 16 students who had secured a training contract, four had found it easy to do so; three neither easy nor difficult; four quite difficult and five very difficult.<sup>17</sup> Their comments on the process were predominantly about the number of applications they had submitted and the competitiveness of the process. Another driver was finance:

I would have preferred a legal aid firm. I couldn't afford to go down that route owing to the trend of having to work as a paralegal for a year or so before being offered a training contract (i.e. low salary) and the low salaries in such firms for trainees. I intend to target these firms once I am qualified.

Student respondent (survey)

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<sup>10</sup> Higher Education Statistics Agency, 'Sandwich Day - Students on Sandwich Courses' (*Higher Education Statistics Agency*, 3 November 2014) <<https://www.hesa.ac.uk/topical/3332-blog-post-0003>> accessed 19 May 2016.

<sup>11</sup> Law Society of England and Wales, 'Annual Statistical Report 2014' (Law Society of England and Wales 2015) <<http://www.lawsociety.org.uk/support-services/research-trends/annual-statistical-report-2014/>> accessed 8 April 2016. Law Society of England and Wales, 'Trends in the Solicitors Profession Annual Statistics Report 2015'.

<sup>12</sup> Chartered Institute of Legal Executives, 'About CILEx' (*Chartered Institute of Legal Executives*, no date) <[http://www.cilex.org.uk/about\\_cilex](http://www.cilex.org.uk/about_cilex)> accessed 6 July 2016.

<sup>13</sup> Appendix 2.1.

<sup>14</sup> The total population of undergraduate law students in England and Wales is in the region of 50,000, with 21,775 accepted onto courses in 2014: Law Society of England and Wales, 'Entry Trends' (*Law Society of England and Wales*) <<http://www.lawsociety.org.uk/law-careers/becoming-a-solicitor/entry-trends/>> accessed 11 August 2016. There is some attrition during the three year course, with 17,330 graduating from undergraduate law courses in the whole UK in 2014/2015: HESA - Higher Education Statistics Agency, 'Students and Qualifiers' (*HESA - Higher Education Statistics Agency*, 2015 2014) <<https://www.hesa.ac.uk/stats>> accessed 11 August 2016.

<sup>15</sup> This may explain the comparatively high proportion of student respondents routed out of the remainder of the survey as not having (yet) had any work experience.

<sup>16</sup> Appendix 2.2.

<sup>17</sup> Appendix 2.13.

The 92 students who had some work experience had obtained a wide variety of different kinds of work experience, many of them more than one.<sup>18</sup> "Other not for profit" included work with the courts as a volunteer, charities and trade unions. The large variety of responses in the 'other' category demonstrates the breadth of work experience that participants felt might be relevant to work as a solicitor. It included mini-pupillage, volunteering with charities and refuges, working in academic research, on a helpline, in HM forces, and in a number of cases with law firms and in-house legal departments. Almost two thirds of the students' work experience was unpaid, although some placements, vacation placements and paralegal work were paid. Student law clinics and some other paralegal work were normally unpaid.

Students in this group were asked to aggregate their periods of work experience. Just over two-thirds had accumulated time of up to a year (although this does not necessarily mean that the work experience was full time).<sup>19</sup>

## 2.3 Trainee responses

Responses were obtained from 235 current trainee solicitors, of whom 130 were in their first year and 105 in their second year.<sup>20</sup> Only one was part-time. Trainees had completed their LLB/GDL at a wider range of law schools than the student sample, including a number of research-active universities, although new universities and private providers were still well-represented. The majority had completed their LPC at private providers.

The overwhelming majority (215) were in private practice; seven were in house; six in central or local government and the remainder in organisations as varied as the police, an insurance company and a housing association.<sup>21</sup> Only 17 respondents described their organisation as an ABS. The majority of trainees were in the large City firms: this is broadly consistent with Law Society statistics.<sup>22</sup>

Trainees were asked the same questions about their prior work experience as the students. As expected, more trainees had experience of vacation schemes and paralegal work than the student population. However, if vacation schemes normally take place after the second year of undergraduate study, and paralegal work after graduation, this may not be surprising.

The "other" category was principally charity and pro bono work, but included some respondents with previous careers in other disciplines. A very small number of respondents had no work experience prior to entering the training contract. Very few had prior experience as a legal executive, and other data (see section 7.3 below) suggests that transitioning between CILEx and being a solicitor is decreasingly popular or necessary.

As for students, the duration of much of the law school-organised work experience (vacation schemes, placements, clinic) was comparatively short.<sup>23</sup> A number of respondents had, however, undertaken more than one different kind of work experience, and this has an impact on their reporting of their overall time in the workplace.

## 2.4 Paralegals, legal executives and "others" responses

As indicated in Figure 1, responses were obtained from a substantial number of paralegals, legal executives and "others". Of the self-identified paralegals, 55 (32.9%) had an LPC, but this was true of less than ten per cent of the legal executive and "other" respondents. Not all had had what they would describe as "work experience".

The majority of the legal executives were Fellows,<sup>24</sup> and this has had an impact on later data, in particular comparison between the work of trainees and those in this category (see section 7 below). All but eight of the respondents were paid. The majority of paralegals (77.2%) and "others" (59.7%) were considering becoming a solicitor. However, only forty-five per cent of legal executives were considering becoming a solicitor. Of those no longer considering becoming a solicitor, the principal reason given by paralegals was wishing to qualify into a different profession; by legal executives the financial cost of completing

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<sup>18</sup> Appendix 2.1.

<sup>19</sup> Appendix 2.3.

<sup>20</sup> Appendix 2.5. The total population of trainees in England and Wales is in the region of 10,000, with 5,457 new traineeships registered in the year ending 31st July 2015: Law Society of England and Wales, 'Entry Trends' (*Law Society of England and Wales*) <<http://www.lawsociety.org.uk/law-careers/becoming-a-solicitor/entry-trends/>> accessed 11 August 2016.

<sup>21</sup> Appendix 2.4.

<sup>22</sup> Law Society of England and Wales, 'Trends in the Solicitors Profession Annual Statistics Report 2015'.

<sup>23</sup> Appendix 2.6.

<sup>24</sup> Appendix 2.7. Of the 91 legal executives who said they had work experience, 55 reported having been in the sector for 5 years or more.

solicitors' training<sup>25</sup> and by those in the "others" category solicitors' work-life balance. As might be expected, a substantial proportion of respondents in this category had been working in the sector for several years.

While respondents in this category were overwhelmingly employed in private practice, the kind of organisations in which they were employed was more varied than for the trainee sample, with a preponderance in smaller firms.<sup>26</sup> "Other" work here included banks, insurers and other financial services organisations; government departments and agencies (including the NHS and the Fire Service); social enterprise and not for profit, and regulators. Almost three quarters of the legal executives were in high street or "medium to large" practices with fewer than ten per cent in "top City firms". By contrast, twenty-two per cent of the paralegals were in such firms.

Respondents in this group were asked about their prior work experience, if any. It was not surprising that working as a paralegal or a legal executive scored strongly. However, a higher response for "none"<sup>27</sup> possibly indicates that some respondents in this category had entered the workplace straight from school, treating subsequent employment as "work" rather than "work experience". Work in the "other not for profit" category was, in the main, volunteer work. The "other" category included caseworkers, apprentices, legal secretaries, OISC immigration advisors and legal assistants.<sup>28</sup>

### 3 Interviews and survey narrative comments

The NLS researchers organised and conducted follow up interviews with 23 of the 389 respondents with work experience who had indicated that they would be prepared to participate further. On receipt of the list of respondents who had consented to an interview, the NLS researchers made selections with a view to obtaining the desired range of interviewees from a sampling frame devised by the SRA, but also to achieve some variations in the following factors:

- Protected characteristics<sup>29</sup> and geographical location;
- Private practice, not for profit, government and in-house practice;
- Where relevant, CILEx membership grade.

Where possible, the NLS researchers selected interviewees who had had more than one form of work experience, and so might be in a position to compare them. Volunteers invited for interview were sent an information sheet and consent form. Invitations were issued in tranches, the later tranches focusing specifically on categories which had proved hard to reach.

The desired student categories were essentially exhausted very quickly.<sup>30</sup> However, responses about a wide range of student workplace experience were obtained by asking interviewees in the other categories about clinics, placements and vacation schemes.<sup>31</sup> For some of the trainees and paralegals, their experience of these was very recent. Consequently, when reporting on the experiences of interviewees later in this report, we have been able to include the full range of those experiences.

The schedule for the qualitative, semi-structured interviews was designed to obtain in depth data on two aspects of the survey:

- The headings mapped to the statement of solicitor competence, where more detail, including examples and comparison between different episodes of work experience could be investigated;
- Narrative descriptions and examples of things that respondents felt a) could only be learned in the workplace; b) were enhanced or improved by workplace experience and c) could have been learned in a non-workplace setting (e.g. a classroom).

Interviews were audio-recorded with interviewees' consent and interviewers took detailed contemporaneous notes. The overall timescale for the project did not allow for interviews to be transcribed, so analysis was carried out by reference to the notes and the recordings themselves.

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<sup>25</sup> This is presumably a reference to the cost of the LPC. The second most popular response from legal executives was that, in effect, having achieved CILEx qualification they saw no need to transfer into another profession.

<sup>26</sup> Appendix 2.9.

<sup>27</sup> From 21 of the 167 paralegals, 40 of the 131 legal executives and 40 of the 77 others.

<sup>28</sup> In some organisations there is a distinction between "legal assistant" and "paralegal". Which is the more senior role is, however, not consistent.

<sup>29</sup> Age, caring responsibilities, disability, ethnicity and gender, where declared. Details of other protected characteristics were not sought in the demographic information questions.

<sup>30</sup> Appendix 2.10.

<sup>31</sup> Appendix 2.11.

## 4 Role of work experience

### 4.1 A valuable site for learning

There was a general consensus about the value of the workplace in general terms, whether as work experience organised through the law school (clinic and placement), through law firms (vacation schemes) and as an employee (paralegal, training contract/period of recognised training, CILEx qualifying employment). The majority of respondents knew, or at least hoped, that their experience would contribute to making them a good solicitor (if they intended to become one).<sup>32</sup> Some had, of course, invested a great deal of time and expense in securing the experience in any event.

I am from the USA originally, which is a system with no required work experience and instead only requires a student to pass an exam. This system is far inferior to the one in the UK and it would be folly for the SRA to go down that route. Work experience is hugely important and students who simply pass a test are not necessarily going to be the best lawyers as hugely important skills are simply not covered by an exam. Academic knowledge is in fact only a part of the job and focusing exclusively on this is not the best way forward.

Trainee respondent (survey)<sup>33</sup>

Interviewees also commented positively on what was learned in the workplace and its significance. Their comments are built into the discussions that follow. Further discussion of what is learned in the workplace and the workplace as a site for learning appears in sections 6 and 8 below. One caveat for some respondents was the use of the term "work experience" which could be interpreted as something other than permanent paid employment.

### 4.2 The price of a job/training contract

Some respondents, perhaps more pragmatically, pointed out that prior workplace experience (vacation schemes, placements, clinic and in some cases paralegal employment) was a requirement for obtaining a training contract. Some felt that what was learned during vacation schemes and similar placements held little significance for becoming a good solicitor later on, but was the price of securing the critical training place. This led to concerns, discussed at section 5 below, about access to work experience.

Work experience is required by employers - no work experience = no job ...

I was pleased to secure a work placement with a law centre, which I undertook one day a week while studying the GDL. I was disappointed to hear my university's career service say that I also needed to secure experience with a firm, as the law centre role wasn't sufficient. In my experience, securing experience with a firm is difficult (for example, I called, emailed and followed up with numerous firms local to me with no success). I suspect that other students have the same issues. I struggle to see how spending 1 week with a firm is more advantageous than ongoing work at a law centre. I hope that this attitude doesn't continue to cause disappointment for students in the future.

Student respondents (survey)

I felt that my work experience was always a means to an end. When you're dropped into an office for a week or two it is rare that you get given legal work because it takes time for people to trust you to do a good job, which doesn't often happen in just a week. Firms have no obligation to invest in you or help you develop your skills, so there is a danger you just do the jobs nobody else wants. My work experience has made me more rounded as a person but on the whole, there is little I can point to (aside from paralegalling ...) which I can say made a difference as to my performance as a solicitor in the future.

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<sup>32</sup> Appendix 2.12.

<sup>33</sup> For discussion of the system used in the USA, see accompanying literature review, section 9.1.

If by work experience, this question means placement schemes - then there is little value to becoming a "good solicitor."

It will help you realise if you want to be a solicitor and help you secure a training contract but the training contract itself only will help you become a good solicitor.

The pre PRT work experience felt like a "box ticking" exercise to obtain a training contract.

Trainee respondents (survey)

### 4.3 A transition to the training contract

A small number of respondents, however, found work experience, particularly in paralegal roles, a useful transition to the training contract:

My time as a paralegal and with the Citizens Advice Bureau built up my confidence and grew my understanding of what would be expected of a trainee solicitor. Without this experience first I would have found becoming a trainee a much bigger step.

Trainee respondent (survey)

The relationship between paralegal work and a subsequent training contract is explored in more detail in section 7 below.

### 4.4 Informing career choice

Prior to the training contract, work experience was often used as a means of finding out what working in the law entailed. Data from the interviews suggested that this might particularly be the case for vacation schemes, which might be only a week long, and possibly explicitly tied to the recruitment processes of a particular firm. One interviewee, who had done so, recommended undertaking more than one vacation scheme so as to see different kinds of firms.

Although I was not presented with anything too strenuous the overall experience gave me a great insight into what the role of a solicitor entails and confirmed for me it was the career path I wished to pursue.

Gives us a snippet of how tough solicitors' work will be. Gain experience in dealing with clients and their problems.

Student respondents (survey)

## 5 Access to work experience

### 5.1 Access to work experience other than a training contract

Access was a serious problem for many respondents.<sup>34</sup> Challenges included contacts, cultural and social capital and, for mature students in particular, simply being able to arrange it around existing work and family commitments:

As a mature, disabled student, it is virtually impossible to get any placements. Being repeatedly told that I need to do these placements otherwise I will not get a contract has made me reconsider whether to apply in the first place now.

Student respondent (survey)

The access to legal work experience on an unpaid basis and through vacation schemes means that people with less money to sustain themselves during the scheme or to travel

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<sup>34</sup> See also accompanying literature review at section 6.3.1.

to interview are kept out of the legal profession because they cannot obtain relevant work experience. Additionally, for people who wish to switch careers early, having to go through this process is unduly burdensome.

Trainee respondent (survey)

In addition, one interviewee commented that although firms claimed to be interested in trainees with other strengths, a four year joint degree with another discipline could be an impediment if it did not fit neatly into firms' recruitment strategies. Students taking a year's study abroad could find it particularly challenging to attend interviews for vacation schemes or vacation schemes themselves.

The question of payment was particularly significant for a number of respondents:

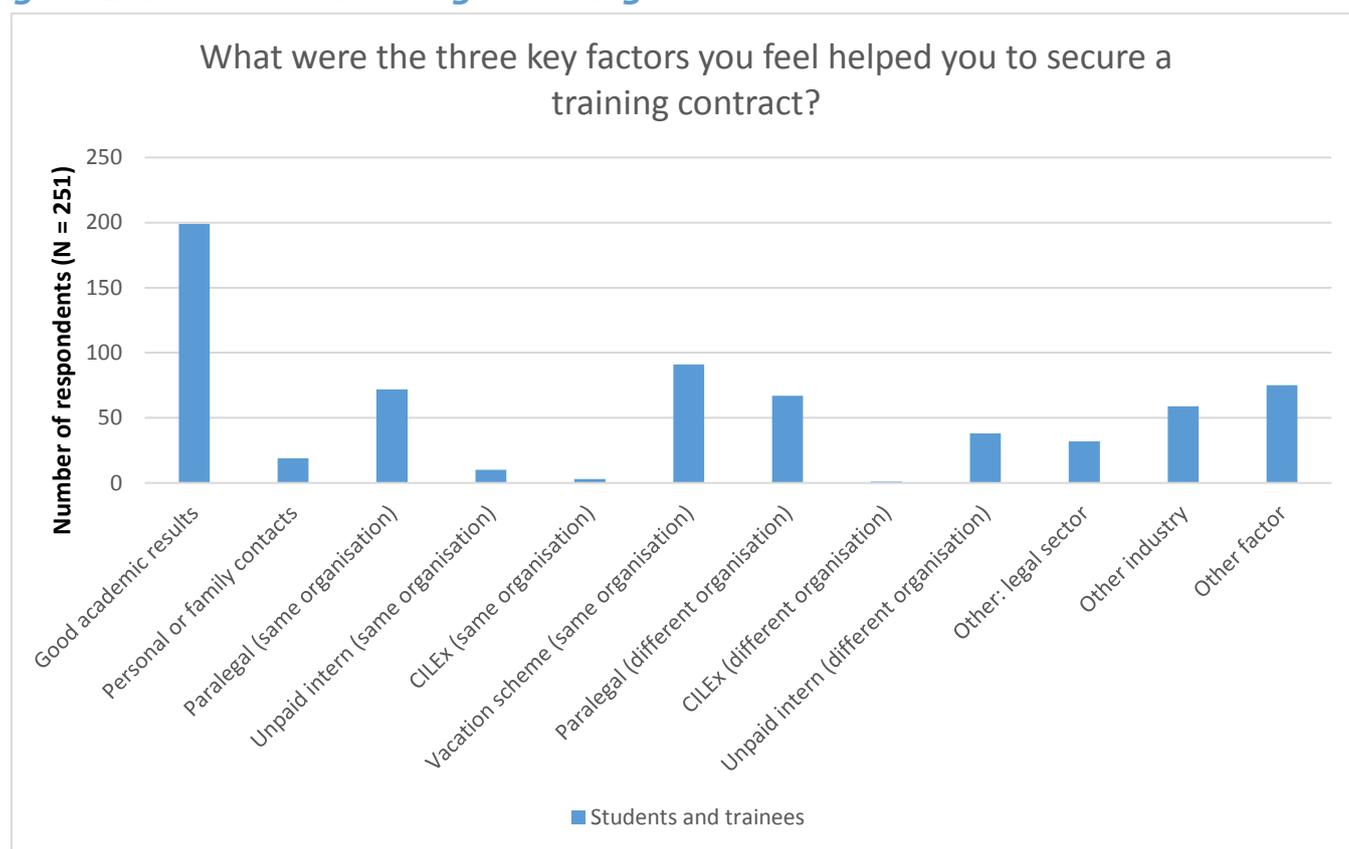
The internship should have been paid, because it meant I had to work full time leading up to the internship, causing me to miss class and my grades to slide. Getting paid even a small stipend would improve the accessibility to those with low socioeconomic backgrounds

Student respondent (survey)

## 5.2 Obtaining a training contract

Both students and trainees were asked to identify three key factors that had helped them secure a training contract.<sup>35</sup>

**Figure 2: Factors in obtaining a training contract**



	Students (N = 16)	Trainees (N = 235)	Totals (N = 251)
Good academic results <sup>36</sup>	81.3% (13)	79.1% (186)	79.3% (199)
Personal or family contacts	12.5% (2)	7.2% (17)	7.6% (19)
Paralegal (same organisation)	0	30.6% (72)	28.7% (72)

<sup>35</sup> See generally, accompanying literature review at section 5.2.

<sup>36</sup> As respondents could select more than one option, numbers add up to more than 100%.

	Students (N = 16)	Trainees (N = 235)	Totals (N = 251)
Unpaid intern (same organisation)	6.3% (1)	3.8% (9)	4.0% (10)
CILEx (same organisation)	0	1.3% (3)	1.2% (3)
Vacation scheme (same organisation)	31.3% (5)	36.6% (86)	36.3% (91)
Paralegal (different organisation)	12.5% (2)	27.7% (65)	26.7% (67)
CILEx (different organisation)	0	0.4% (1)	0.4% (1)
Unpaid intern (different organisation)	25.0% (4)	14.5% (34)	15.1% (38)
Other: legal sector	0	13.6% (32)	12.7% (32)
Other industry	18.8% (3)	23.8% (56)	23.5% (59)
Other factor	25.0% (4)	30.2% (71)	29.8% (75)

Factors in the "other" category included prior work experience, mooted results, connection to the area, passion, previous careers, transferrable skills from a non-law degree, language skills, status of university, experience abroad and extra-curricular activity.

As the majority of student respondents were undergraduates, particularly in the first and second years, it is perhaps therefore not surprising that very few of them had yet secured a training contract. As demonstrated in the survey narrative data, experiences of seeking a training contract varied enormously:

I applied to several law firms for vacation scheme places, firms such as Magic Circle and large US law firms. I did several rounds of interviews and was offered only one vacation scheme place. Happily I was offered a training contract place at the firm at which I did the vacation scheme, and therefore did not do any other training contract applications.

High competition, strong feeling that academics are the main consideration, very little feedback from lengthy applications.

Lots of competition in the company. I also found the need to apply many years in advance for the "bigger" firms off putting. I felt I was not the person when applying I intended to be when the contract was due to start.

Trainee respondents (survey)

It might be more difficult to find out about or apply to organisations that were not large private practice firms:

Following my degree course I was unsure as to what area of law I wanted to work within and was unsure as to the type of law firm I wished to apply to. The emphasis at university was on applying to Magic Circle firms and no real advice as to alternative options. I had very little knowledge as to the possibilities within local government until I found an advertisement for a paralegal position with a council. It was only from there that I could see a clear career path and compete for training contract positions.

I feel that there is a lack of advertising from small and medium firms. This means that somebody wanting to train at such a firm would need to rely on time consuming speculative applications, or take a job as a paralegal in such a firm and hope to secure a training contract in the future. I think that such uncertainty is unsatisfactory when applicants are likely to have a significant amount of student debt.

Trainee respondents (survey)

Other comments referred to the paucity of training contracts available in Wales, the time consuming nature of completing applications in different formats for many different firms and to the difficulty of making oneself stand out and obtaining feedback with a clear rationale for the rejection. As with other kinds of work experience, there were significant perceptions of discrimination against some categories of candidate:

An issue that I'd like to make known to the SRA is what I like to call, indirect nepotism within trainee recruitment at law firms. Many prospective commercial solicitors gain 'work experience' through the back door at large city firms through contacts, which they then use to secure training contracts. I also know many students who gain experience at their international offices through contacts, which they do not even attend, but simply ask their contact to sign them off on. This is indirect nepotism because somebody like me, who hasn't got any contacts in the legal field, is stuck in a cycle in which I am repeatedly turned down a vacation scheme, because I have no legal experience. I urge the SRA to issue guidelines, particularly to the large commercial firms, to voluntarily stop this practice.<sup>37</sup> It's actually in their own interest as getting work experience without going through a fair and open application process demonstrates nothing about a prospective applicant apart from the fact they have contacts in the profession. It is creating solicitors who are where they are simply because of who they know.

Student respondent (survey)

I think most law firms look for a specific type of person (middle class, been on a gap year, never had to work a Saturday job because they have parents that can give them money etc.) rather than looking at an individual's potential, life experience and what they have to offer in a rounded way. My experience of training contract interviews in the past have been that the person doing the interviewing has looked down their nose at me because I am obviously from a working class background, not privately educated or been to a university that has snob value. I feel that, as a result of the attitudes of the people doing the recruiting, the system is geared to making a candidate such as myself fail before you have even started and, vice versa, certain candidates succeed regardless.

Trainee respondent (survey)

A number of respondents had obtained a training contract, however, as a direct result of vacation schemes and prior paralegal work, sometimes for very long periods:

I came to law as a second career with comparatively little legal experience. Gaining that legal experience, with below comparable grades and at the time of the recession, was impossible. I therefore had to paralegal for almost 4 years in order to: (i) gain relevant experience; and (ii) wait for firms to stop deferring existing trainees and for them to start actually recruiting again. There was a pool of LPC graduates stuck in paralegal limbo, all waiting to scrap over what few jobs were available.

Very difficult to get through the paper sift to get firms to look at you - just given the sheer number of applications received. Also seems as though so many firms recruit from their vac schemes so if you were unable to do one/didn't apply for one you are at a distinct disadvantage.

Trainee respondents (survey)

Others had had very substantial gaps between completing the LPC and being able to start a training contract:

It took me 4 years to obtain one and then a further 2 years waiting to start! Competition is extreme and getting the required grades and doing extra-curricular activities are no longer enough. You need to go above and beyond what they look for and gain experience in practice along the way.

It took me seven years from ending the LPC to starting my training contract - I never thought I would end up getting one. There are far too many law school places and far

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<sup>37</sup> The Law Society issues best practice guidelines, including that opportunities should be "openly advertised and fairly recruited", Law Society of England and Wales, 'Best Practice Guidance: Work Experience Placements' <<http://www.lawsociety.org.uk/Support-services/Advice/Articles/best-practice-guidance--work-experience-placements/>> accessed 19 May 2016.

too few training contracts. If I had known the difficulty and the odds of obtaining a training contract, I would never have gone to law school.

Trainee respondents (survey)

Responses here demonstrate the persistence and complexity of the range of challenges to securing both training contracts and the necessary work experience that is in many cases a precursor to obtaining a training contract.

### 5.3 Proposed solutions to the bottleneck

Amongst proposed solutions to these challenges were asking the SRA to act as a clearing house or allocator of work experience positions, imposing quotas and pushing workplace experience back into the vocational course (i.e. the Australian model<sup>38</sup>) or adopting an "earn while you learn" approach.

I think an integrated approach to qualification is essential - qualifications should be completed alongside work experience as in other professions such as accountancy. It gives firms a chance to properly assess and vet individual employees about their suitability, gives better access for individuals from less well-off backgrounds to "earn-and-learn" and will ultimately produce lawyers which are better adapted to serve clients. I wish there had been more initiative like Eversheds Unlocked when I went to university.

Trainee respondent (survey)<sup>39</sup>

I will be quite honest here and say that for many people including myself, getting a training contract is a huge hurdle. I have chosen the CILEx route because it is easier to get the right experience to the required level outside the traditional route. .... It seemed to me that the SRA had done a really good thing when it came up with the alternative means stuff recently. However, if the SRA really wanted to help with standards and access it should get rid of the training contract and have an LPC that includes assigned workplace experience organised through the law school with the idea that by the end of it, the person is qualified. .... That way everyone going through the LPC would gain valuable experience in practice areas whilst also studying them and law firms could take an active part in training from an earlier point. If this made the LPC a year or two longer then this would not be a bad thing. .... I really have a problem with the idea that work based learning and the LPC are entirely separate and then after completing what is a justifiably hard course, the huge hurdle and free for all of training contracts bars so many from qualifying.

Work experience is an excuse to treat needy law students awfully. Paralegals are dangled the carrot of a training contract which never happens and therefore thousands of people literally throw away £10,000.00. This is unacceptable. There should only be university places for the number of training contracts available like with the medical profession.

Legal executive respondents (survey)

Work experience undertaken during undergraduate studies appears to be awesome and universities should be encouraged to incorporate them as part of undergraduate modules. After undergraduate studies, it appears that the work experience is simply building on the foundation established at undergraduate level. As experience comes with time in practice, work experience is inevitably capped for unqualified solicitors simply because of the fact that they are not yet qualified. Good example, every newly qualified medical doctor gained loads of experience during their undergraduate period of studies not when they qualified. LPC should be part of the undergraduate process so that upon graduation, one becomes a solicitor ....

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<sup>38</sup> See accompanying literature review at section 9.2.1.

<sup>39</sup> Eversheds International, 'Eversheds Unlocked' (*Eversheds International*, 2016) <<https://play.buto.tv/Q6s3l?autoplay=1>> accessed 15 June 2016.

I think it is essential for any LPC student to experience at least 1-2 years in industry before starting their training contract. This will give them the bare basics, and depending on what size firm, experience across a variety of areas to help them start their official training on a firm footing, and have confidence in what they produce or manage.

Paralegal respondents (survey)

A number of entrants with prior experience felt this should count against the training contract:

All experience helps, however I believe the training contract should be shortened when you have paralegal experience whether your employer consents or not.

Trainee respondent (survey)<sup>40</sup>

... A competent paralegal with significant years' work will benefit very little from a traditional training contract and such rigid rules should not debar experienced paralegals from becoming solicitors in their own right post qualification.

Paralegal respondent (survey)

I believe that it is essential for solicitors to be required to obtain good quality work experience prior to qualification, but I think that it should be easier to use experience that is not part of a formal training contract to count toward qualification more like CILEX so that aspiring solicitors can qualify without the support of their firm if necessary.

Legal executive respondent (survey)

An alternative was to allow work experience to count against the LPC (an idea endorsed by one of the interviewees). A proportion of respondents had, however, not undertaken the LPC and so might not know what it covered (see section 8.4.1 below).

Any actual work done (not work experience as such) should negate the need for some parts of the LPC i.e. exempt. The LPC needs to be far more regulated by the SRA to ensure ALL students are being trained properly as fully competent solicitors not trained in specific areas for large corporate London law firms.<sup>41</sup>

Trainee respondent (survey)

There were, however, some who felt that crediting prior work experience was not appropriate.

I don't think it is reasonable to conflate work experience from a training contract with that from a university law clinic. If the proposal is to reduce the length of a training contract from two years, it is not realistic to assume that the work experience gained before the start of a training contract is adequate to compensate. Pre-training contract work experience tends to be limited in terms of responsibility, actual legal work done and lack of charging responsibilities.

Trainee respondent (survey)

There was, therefore, no evidence that the equivalent means process<sup>42</sup> was widely known, as some of the paralegal respondents might have been in a position to take advantage of it.

While trainee solicitor interviewees generally spoke positively about the benefits of prior work experience in the legal services market before commencing their training contract, some interviewees, particularly

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<sup>40</sup> Under the present arrangements, a training contract can be shortened by up to 6 months at the discretion of the employing organisation. The "equivalent means" scheme might allow competences developed in the workplace to exempt an individual from the LPC.

<sup>41</sup> This may be a reference to the tailored LPCs run by some law schools for some larger law firms.

<sup>42</sup> Solicitors Regulation Authority, 'Equivalent Means Information Pack' (1 June 2015) <<http://www.sra.org.uk/students/resources/equivalent-means-information-pack.page>> accessed 29 May 2016.

mature entrants, also had significant work experience outside it. Mature entrants emphasised the valuable learning that took place in other environments, notably in respect of communication and team working skills.

## 6 The working environment

Some respondents, including interviewees, commented on a tension between their own desire to specialise and work experience that might be broader or require them to experience fields of practice in which they had no interest.

I want to be a commercial solicitor, so just observing criminal cases without much input won't directly help.

Student respondent (survey)

Others, however, welcomed breadth, especially in the training contract:

A TC sometimes makes you go to departments you wouldn't normally try, only to find you love them.

I am currently on secondment to a client, so I am gaining valuable insight into the client's concerns and how it carries out business. These will help improve my commercial awareness and client skills.

Without a training contract I would not have had the opportunity to understand and learn the type of work that each department undertakes, and I would not feel like I could have made an informed decision about the team I wish to qualify into. It is also beneficial as no team works in isolation, so having a basic understanding of what each team does is hugely beneficial when working on projects with more than 1 team.

Trainee respondents (survey)

Some respondents felt that the quality of work experience might differ in different kinds of organisation.

My work experience covered all that I needed to know about becoming a solicitor. Since it was a local, family run firm, I think I was able to learn a lot more about managing all kinds of activities within a law firm, that I would not have learnt if I would have applied for an internship at a City law firm, since the huge competition will not help a law student to get noticed and get personalised advice and help.

Student respondent (survey)

I found that work experience was just an opportunity for the firm to have a free secretary  
Paralegal respondent (survey)

Experience in more than one organisation might also be helpful, particularly in making an informed career choice:

Structured experiences at a variety of firms have exposed me to different styles of practice.

Student respondent (survey)

Some work experience opportunities, particularly vacation schemes, might be long enough to gain an understanding of what solicitors' practice is like, but too brief for other substantial learning or to be attractive to other employers:

Gives you an idea of what it might be like working as a solicitor, but short snapshot. Not the same as being an employee with respect to responsibility, role in the team, integration into the company. Hard for companies to integrate work experience students.

It is way too hard to find a valuable and meaningful work experience that really adds to the CV. All vacancies need prior experience of at least one year in a similar position which is the hardest part - entry level jobs in the legal career.

Student respondents (survey)

... the work experience I undertook was either of such an insignificant period that I was unable to develop any skills within the time, or was in an area I was uninterested in and knew I was not going to qualify into and therefore the skills I developed would not necessarily translate completely into the area I was interested in.

Trainee respondent (survey)

## 6.1 Areas of work and competences covered

A different group of questions in the survey asked about the areas of law covered in work experience.<sup>43</sup> The 601 respondents who had undertaken work experience were asked to estimate the proportion of their time spent in a range of areas of work (Figure 3). Whilst this is only indicative, it does support the idea that, for example, vacation and summer placement schemes are likely to take place in commercial/corporate practice, and sandwich placements in personal plight practice.

Respondents who had undertaken work experience were also asked to map each kind of work experience against the broad headings of the statement of solicitor competence (Figure 4). The figure that follows gives percentages of those for each category who said they *had* done tasks relating to the competence. Clearly, there is a level of interpretation here, as respondents were provided only with the broad headings, and might not fully appreciate the implications of the standard, not just the scope, of competence. However results lower than 50% may help to indicate work environments where opportunities to satisfy the competences might be weaker. This is largely borne out by the qualitative data, particularly the interviews, where these areas were explored in more depth.

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<sup>43</sup> Appendix 2.14.

**Figure 3: Areas of work covered in different kinds of work experience (all respondents with work experience)**

The form of work experience showing the highest percentage response for each area of work has been highlighted. Respondents who self-identified primarily in one category (e.g. as trainees) might also have had experience in another category (e.g. as paralegals). This table therefore aggregates responses about each of the forms of work experience from all respondent groups. As respondents could select more than one option, numbers may add up to more than 100%.

Which areas of law did you work in?	Environment										
	Training contract	Student clinic	Sandwich placement	Vacation/summer placement	Law Centre	U/paid intern	CAB	Other NFP	Paralegal	CILEx	Other
	N = 236 <sup>44</sup>	N = 101	N = 12	N = 237	N = 56	N = 119	N = 84	N = 56	N = 297	N = 95	N = 110
Arbitration and alternative dispute resolution	2.7%	1.0%	0.0%	2.2%	1.3%	1.0%	3.2%	5.5%	1.2%	0.2%	3.1%
Bankruptcy/insolvency	2.7%	0.7%	0.4%	0.9%	2.2%	0.9%	3.7%	4.1%	1.2%	1.2%	1.3%
Children	1.7%	1.8%	1.7%	1.2%	1.8%	4.2%	2.7%	2.2%	2.5%	3.9%	5.7%
Civil litigation	9.3%	6.5%	0.0%	6.8%	5.9%	7.7%	4.1%	5.7%	12.6%	16.6%	5.3%
Commercial/corporate work for listed companies	4.4%	0.5%	1.7%	10.8%	0.2%	6.9%	0.1%	1.0%	3.0%	1.5%	3.8%
Commercial/corporate work for non-listed companies and others	12.5%	3.4%	0.4%	7.9%	0.3%	9.2%	0.1%	0.6%	4.6%	5.1%	4.7%
Commercial litigation	6.2%	0.0%	2.1%	8.3%	0.2%	2.7%	0.8%	1.6%	3.6%	0.5%	4.2%
Consumer	0.6%	5.2%	8.3%	0.2%	2.3%	0.8%	5.1%	2.4%	1.1%	0.5%	0.7%
Criminal	2.0%	9.1%	17.9%	7.9%	5.8%	9.5%	1.9%	14.1%	2.8%	3.1%	11.0%
Debt collection	0.9%	1.3%	0.0%	0.5%	3.0%	0.4%	15.9%	0.3%	1.2%	1.5%	1.0%
Discrimination/civil liberties/human rights	0.2%	2.5%	0.0%	0.8%	7.4%	2.6%	3.2%	10.3%	0.6%	0.2%	1.4%
Employment	4.5%	17.2%	0.4%	6.3%	16.7%	4.9%	11.1%	5.1%	4.9%	2.3%	4.8%
Family/matrimonial	3.9%	12.6%	7.1%	7.6%	8.9%	8.3%	5.6%	9.3%	4.3%	3.0%	7.2%
Financial advice and services (SRA)	1.1%	0.0%	0.0%	0.7%	0.0%	1.3%	0.4%	0.0%	0.7%	0.0%	0.0%
Financial advice and services (FCA)	2.1%	0.0%	0.0%	1.2%	0.2%	1.2%	1.8%	0.0%	1.9%	0.6%	0.0%
Intellectual property	1.7%	2.0%	7.1%	2.3%	0.2%	1.8%	0.1%	1.1%	1.9%	1.1%	1.0%
Landlord and tenant (commercial and domestic)	2.8%	13.4%	13.8%	2.3%	8.3%	4.2%	8.0%	4.3%	2.2%	3.3%	2.6%

<sup>44</sup> One of the paralegal respondents had had training contract experience.

Which areas of law did you work in?	Environment										
	Training contract	Student clinic	Sandwich placement	Vacation/summer placement	Law Centre	U/paid intern	CAB	Other NFP	Paralegal	CILEx	Other
Litigation - other	3.8%	1.0%	0.8%	4.5%	1.1%	1.9%	2.2%	0.0%	3.2%	2.5%	2.2%
Mental health	0.1%	0.5%	0.4%	0.2%	0.2%	0.3%	1.2%	1.6%	0.8%	0.1%	0.7%
Immigration	0.3%	3.7%	5.8%	0.8%	7.0%	2.2%	3.7%	2.9%	2.3%	2.6%	5.8%
Non-litigation - other	1.7%	0.0%	0.0%	0.4%	0.0%	0.5%	0.4%	0.0%	1.2%	0.6%	0.5%
Personal injury	6.2%	1.8%	14.2%	4.8%	3.6%	5.2%	2.1%	2.9%	16.7%	18.5%	6.1%
Planning	1.8%	0.6%	0.0%	0.8%	0.1%	0.2%	0.3%	0.2%	0.4%	0.6%	0.6%
Probate and estate administration	1.9%	0.3%	0.4%	1.1%	0.2%	1.5%	1.6%	0.8%	3.3%	4.5%	1.2%
Property - commercial	11.0%	0.2%	2.9%	7.4%	0.0%	1.7%	0.3%	1.6%	7.1%	3.9%	3.7%
Property - residential	4.6%	5.1%	1.7%	4.8%	7.0%	4.6%	2.9%	3.2%	8.7%	13.4%	7.5%
Social welfare	0.4%	3.1%	0.0%	0.7%	13.2%	1.4%	12.8%	10.0%	0.2%	0.7%	1.4%
Wills, trusts and tax planning	3.2%	1.0%	1.7%	2.3%	0.0%	2.5%	1.9%	0.0%	1.7%	5.8%	3.0%
Other	5.7%	5.5%	11.3%	4.1%	2.7%	10.3%	2.7%	8.9%	3.8%	2.2%	9.6%

**Figure 4: Competences covered in different kinds of work experience (all respondents with work experience)**

Competences to which fewer than 50% of the respondents in the category responded “yes” have been highlighted. Respondents who self-identified primarily in one category (e.g. as trainees) might also have had experience in another category (e.g. as paralegals). This table therefore aggregates responses about each of the forms of work experience from all respondent groups. An aggregated figure for all respondents and kinds of work experience appears in appendix 2.14. As respondents could select more than one option, numbers may add up to more than 100%.

What types of work/tasks do you do or have done in your work experience?	Training contract N = 236	Student clinic N = 101	Sandwich placement N = 12	Vac scheme N = 237	Law centre N = 56	Unpaid intern N = 119	CAB N = 84	Other NFP N = 56	Paralegal less than 5 years N = 235	Paralegal 5 years + N = 62	CILEx less than 5 years N = 42	CILEx 5 years + N = 52	Other N = 110
Dealing with ethical and professional conduct issues	83.1%	59.4%	75.0%	25.7%	41.1%	31.9%	63.1%	51.8%	77.0%	79.0%	81.0%	84.6%	53.6%
Applying knowledge of the law to facts	99.6%	88.1%	75.0%	78.5%	67.9%	75.6%	83.3%	62.5%	94.0%	91.9%	92.9%	96.2%	74.5%
Undertaking written or spoken advocacy in court etc	46.6%	12.9%	25.0%	6.8%	19.6%	17.6%	16.7%	19.6%	26.8%	33.9%	45.2%	63.5%	19.1%
Undertaking written or spoken advocacy elsewhere	54.7%	26.7%	58.3%	12.7%	21.4%	23.5%	23.8%	19.6%	32.3%	45.2%	52.4%	57.7%	29.1%
Undertaking negotiation	64.8%	13.9%	41.7%	11.8%	19.6%	15.1%	34.5%	21.4%	47.7%	66.1%	78.6%	65.4%	25.5%
Taking responsibility for my own learning, lack of knowledge and mistakes	99.6%	71.3%	75.0%	53.2%	62.5%	63.0%	70.2%	58.9%	91.5%	95.2%	95.2%	94.2%	75.5%
Understanding when I need help and taking steps to obtain it	99.2%	73.3%	75.0%	66.2%	62.5%	69.7%	82.1%	71.4%	94.0%	96.8%	92.9%	96.2%	79.1%
Taking responsibility for managing/progressing case	96.2%	51.5%	50.0%	17.7%	41.1%	27.7%	45.2%	33.9%	82.1%	87.1%	92.9%	94.2%	52.7%
Communicating clearly orally and in writing	99.2%	86.1%	83.3%	72.6%	71.4%	77.3%	84.5%	80.4%	94.0%	96.8%	95.2%	96.2%	80.9%
Working in a direct relationship with clients	88.1%	43.6%	50.0%	15.6%	46.4%	28.6%	58.3%	46.4%	77.9%	87.1%	85.7%	90.4%	46.4%
Working in a team with others in your organisation	98.3%	81.2%	83.3%	65.8%	57.1%	69.7%	77.4%	66.1%	94.5%	98.4%	90.5%	94.2%	74.5%
Taking responsibility for managing your own workload and deadlines	98.7%	68.3%	75.0%	51.1%	53.6%	43.7%	46.4%	57.1%	91.1%	98.4%	92.9%	96.2%	69.1%
Keeping and using business records and systems within my organisation	93.2%	44.6%	75.0%	36.7%	44.6%	41.2%	61.9%	42.9%	85.1%	91.9%	88.1%	88.5%	62.7%
Analysing problems	99.6%	87.1%	83.3%	74.7%	71.4%	78.2%	86.9%	76.8%	94.9%	91.9%	92.9%	92.3%	78.2%
Understanding the commercial, organisational and financial context in which I work	88.6%	23.8%	58.3%	34.2%	32.1%	37.8%	36.9%	32.1%	72.3%	75.8%	76.2%	82.7%	44.5%
Obtaining facts through questioning and listening	94.5%	82.2%	75.0%	51.9%	75.0%	70.6%	91.7%	71.4%	88.1%	93.5%	92.9%	96.2%	71.8%
Obtaining facts through analysing documents	98.3%	80.2%	75.0%	78.5%	69.6%	75.6%	76.2%	60.7%	92.3%	93.5%	92.9%	96.2%	78.2%
Carrying out legal research	99.2%	80.2%	75.0%	81.9%	69.6%	73.9%	64.3%	51.8%	88.5%	88.7%	90.5%	92.3%	64.5%
Advising on options, strategies and solutions directly to a client	82.2%	60.4%	58.3%	12.2%	48.2%	29.4%	72.6%	46.4%	68.1%	75.8%	85.7%	90.4%	36.4%
Advising on options, strategies and solutions via a supervisor	97.0%	68.3%	66.7%	32.5%	39.3%	39.5%	64.3%	32.1%	77.9%	80.6%	81.0%	73.1%	50.0%
Drafting documents	99.2%	50.5%	75.0%	65.0%	48.2%	63.9%	40.5%	41.1%	91.9%	93.5%	92.9%	94.2%	64.5%

## 6.2 Ethical and professional conduct issues

In interviews it appeared that vacation scheme and placement students were usually given a briefing of some kind about the code of conduct, although, particularly given the brevity of some vacation schemes and the kind of work undertaken on them, actual engagement with matters of ethics or professional conduct was unlikely to arise. This is consistent with Figure 4. It seems likely that the principal concern of firms was to safeguard client confidentiality.

Interviewees who had work experience with Citizens Advice were also usually given briefings or training of some kind, especially in relation to client confidentiality and the importance of keeping accurate records of advice that had been given. Interviewees were generally given guidance on the need to tailor their communication style to ensure their advice could be fully understood by a variety of Citizens Advice clients, who may be relatively unsophisticated or inexperienced in dealing with legal problems.

Paralegals might have learned about ethics and professional conduct "on the hoof", though this could also include formal staff development sessions. Some paralegals and "other" respondents were working in organisations in which there was no solicitor on the staff (although there might be, for example, lawyers qualified from other jurisdictions), or on their own account in unreserved or OISC-regulated activity. In these cases, they might be alert to general ethical issues such as fraud or bribery, but might not have any exposure to the SRA code of conduct, especially if it did not govern their own work. Independent paralegals were conscious of being reliant on their own integrity in ethical matters, having "no one to ask".

An in-house paralegal with prior experience of private practice felt that matters of professional conduct were more significant in their in-house context than in a law firm, possibly because lawyers were a minority in the organisation. Different issues of ethical accountability and standards, including declarations of interest and public accountability, might arise in local government practice.

Legal executive interviewees reported that they might directly encounter ethical and professional conduct issues in the course of their day to day role, though the frequency and complexity could vary according to the individual's role and the area of practice they worked in. For example, challenging ethical issues arose more often in criminal practice than in civil claims handling, where direct experience may be confined to conducting new client checks.

Legal executives had the benefit of some formal training in ethics and professional conduct during their CILEx course. This formal training was valuable in helping them to understand the range of possible issues and to recognise them when they encountered them. However, interviewees considered that a deeper understanding of the issues affecting a variety of clients and how best to respond to complex, atypical or unexpected issues could be most effectively learned in the workplace.

Trainee solicitors emphasised the fundamental importance of simply being able to recognise an ethical or professional conduct issue when they encountered one. Most had received formal training during the LPC, which they considered to be very helpful in identifying issues later. The pervasive nature of ethics and professional conduct issues on the LPC, coupled with regular reiteration of key principles, was considered to be a strength of the course, especially in relation to the ability simply to recognise issues when they arose. However, as with the legal executives, trainee solicitor interviewees highlighted the diversity of clients and complexity of issues in real life as factors that promoted greater learning in the workplace than during formal training.

Those trainee solicitor interviewees who had undertaken work in a law clinic would usually have received further training and advice on the established clinic processes for responding to any such issues. Some organisations also offer additional training to trainees, either via formal development activities or via updates during regular team meetings; these were considered to be of most practical benefit where they related to actual issues recently encountered in the firm i.e. they were 'real life' issues.

The frequency with which trainees had directly encountered ethical and conduct issues themselves, beyond standard matters such as client confidentiality, was typically very low for a number of reasons, including:

- no such issues had yet arisen on the files they were working on;
- in their organisation, standard processes such as conflict checks for new clients, were carried out by someone else before the file was allocated to a fee earner;
- when issues arose, the organisation's processes required this to be escalated to a more senior colleague for resolution.

## 6.3 Advocacy and negotiation

### 6.3.1 Advocacy

Advocacy both in court, mediation or arbitration, or otherwise (e.g. client presentations) and negotiation appears to be challenge as shown in Figure 4, with fewer than 50% of trainees indicating that their work covered conventional advocacy.<sup>45</sup> The extent to which respondents had an opportunity to participate in advocacy in court, mediation or arbitration was often constrained by rights of audience, although a small number of interviewees appeared routinely by virtue of the Local Government Act 1972, s 223; the Lay Representatives (Rights of Audience) Order 1999 or the practice guidance and note relating to *McKenzie* friends in the civil and family courts. Opportunities might also be limited by the host organisation's attitude to instructing counsel.

More advocacy exposure would be desired, but this has been forthcoming where available and was more limited by the simple fact that not as many cases progress to court in the present climate.

There are little opportunities to negotiate during the training contract which forms such an important competency commercially. There is often a lot of cross over between trainee tasks and that of a legal assistant or secretary. A lot of importance is placed on time recording yet trainees are often asked to do work as a 'freebee' where fees are already high.

Trainee respondents (survey)

Some respondents who had experience in litigation work expressed surprise and regret that the opportunities for this kind of advocacy were limited or absent. Those paralegals or volunteers who had been able to appear found it intimidating but ultimately useful, one commenting positively on the immediate validation of hearing from a judge that their own interpretation of the law was correct, in contrast to waiting for feedback on an essay at law school. It could not be predicted that a *McKenzie* friend would be allowed to speak on behalf of a client and the uncertainty around this was "not a good look".

The extent to which interviewees had gained experience of advocacy in court, mediation or arbitration was generally, however, very limited and, where experience had been gained, this was often confined to attending court with a senior colleague in order to observe or take notes. Some paralegals found the fact they did not have the opportunity to attend court a defining factor in the difference between their work and that of trainees. Those interviewees who had observed court proceedings were positive about the experience, highlighting the benefits of gaining insights into the layout of a court (including who sits where), the "order of the day", formalities and etiquette in particular, which they did not consider could be readily gained outside of a real court.

Although more interviewees had gained experience of alternative forms of advocacy,<sup>46</sup> this was normally relatively limited and mostly confined to presentations to clients, being on the "mediation team", on the telephone, at committees and in meetings. In most cases, these presentations were pre-prepared, with very few interviewees having had the opportunity to present in an environment where they might encounter unexpected questions or hostile responses. If the occasion was a vacation scheme, the presentation or negotiation exercise might be tied to the firm's recruitment process. Some interviewees without LPC experience felt that advocacy was something that could only be learned in the workplace. A BPTC graduate interviewee drew, however, on advocacy training during that course and refined it in practice.

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<sup>45</sup> Overall (see appendix 2.1), the aggregate percentage of respondents reporting that they did not encounter particular competences is highest in conventional advocacy (76.8%), alternative advocacy (69.6%) and negotiation (65.6%) This is reflected in the level of confidence in conventional advocacy reported in appendix 2.17. Perhaps not unreasonably given their seniority and their likely areas of practice and employment, senior legal executives reported greater frequency in conventional advocacy than trainees as shown in Figure 4).

<sup>46</sup> Although substantial caution is required because of the difference in sample size, Figure 4 suggests that sandwich students were more likely to encounter alternative advocacy than trainees.

### 6.3.2 Negotiation

The numerical data in Figure 4 also suggests that direct experience of negotiation is a challenge in many areas of work experience. Interviewees who had undertaken Citizens Advice or clinic work might have engaged in some direct negotiation, but this was usually short and identified by them as being at a very low level. For example, it might involve a single short phone call to a third party. Pro bono activity offered more scope for direct involvement in negotiation, probably due to the longer term engagement with the client and the complexity of the matter when compared with typical Citizens Advice or clinic files. Some clinics offered the opportunity for advocacy in the employment tribunal.

A sandwich placement student, had, however, after an introductory period, been permitted substantial responsibility for a case load of comparatively small scale matters, including interviewing (supported by a checklist) and (subject to specific authorisation by the supervisor) negotiating settlements. Some paralegal interviewees in particular were involved in negotiation, including transnationally and clearly at a high level. Others might participate as a member of a team in discussions about negotiation strategy or negotiate on fees with counsel. The numerical data in Figure 4 suggests that junior legal executives are more likely to carry out negotiation in their work than trainees (see section 7 below).

Trainee solicitors were more likely to have observed negotiations being conducted by a senior colleague than to have undertaken negotiation themselves, though this could vary from seat to seat. Negotiation is no longer, it should be noted, a compulsory element of the LPC.<sup>47</sup> Observation would usually involve a trainee attending a formal negotiation, though trainees could potentially also hear negotiations taking place over the telephone. Trainees identified more opportunities for direct engagement in negotiation in transactional work such as property than in litigation matters, probably due to the greater likelihood of their having their own files, albeit in respect of relatively simple transactions, where the points being negotiated were less complex or contentious. Observation was considered to be most useful if the senior colleague took the time beforehand to discuss tactics, how to build rapport and reflect back the other side's concerns, and possible outcomes. Trainees were then better able to recognise the tactics that were being implemented, to see how the arguments were being constructed and to identify when a strong position had been established.

Legal executive interviewees with a degree of seniority were more likely overall than more junior legal executives<sup>48</sup> or trainee solicitors to have undertaken negotiation, including in relation to litigation matters. While formal training in negotiation was helpful in developing the skill, a key benefit of being able to participate in a "real" negotiation was the recognition that business issues are likely to prove more important than points of law.

## 6.4 Direct relationships with clients

The opportunity to deal with clients was identified as a particular strength in workplace learning. Figure 4 suggests however that it is a challenge in vacation schemes and in the not for profit sector.

It has taught me how to deal with clients who can on occasion be difficult. My confidence has improved massively and I now find it easy to meet and talk to clients.

It's beyond helpful having direct contact with clients, completing applications on their behalf, understanding commercial requirements of businesses as well as clients, communicating with clients as well as third parties directly. All these skills are essential and being able to do this job is priceless and an amazing opportunity. Being in this role has allowed me to understand that this is truly what I would like to do in future and that I just really love the work involved.

Student respondents (survey)

Direct contact with clients has been the most informing task as it has allowed me to assess not only if I meet formal requirements but if I can effectively help to improve situations beyond case success, which I believe is the most important part of engaging in legal tasks.

Paralegal respondent (survey)

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<sup>47</sup> Appendix 2.17 supports the idea that there is an issue with negotiation as well as advocacy (which *is* covered on the LPC), with 42.9% of trainees reporting that they were not confident in that area at the start of their traineeship.

<sup>48</sup> Figure 4, however, shows a higher response for junior legal executives than for trainees, paralegals or senior legal executives.

I think for a solicitor doing a law degree it would be of great benefit as it would bring their knowledge into practice. Newly qualified solicitors do struggle in my opinion to engage with clients and communicate the law to the lay person as managing your client's expectations is a very key role within my area of law specifically.

Legal executive respondent (survey)

This was reinforced in the interviewees, as interviewees commented on the need to learn to “read” a client; to advise a client that they might not win their case; or to deal with clients’ emotional and irrational responses. These were perceived as factors that would not be encountered in the classroom.

Opportunities to meet clients face to face, either to take instructions or to offer advice, varied considerably between interviewees and appeared to be dependent upon the nature of the role, established processes within the particular workplace and the complexity and value of the case. Opportunities also varied, and Figure 4 indicates that vacation schemes, law centres and not for profit work did not necessarily provide opportunities for client contact. Clinic students did not always have client contact: tasks might be delegated to them by a supervisor or another student, and advice reported onwards to the client in the same way. Figure 4 reinforces the idea that there is some polarisation in roles offered to students participating in clinics, with a high response for reporting directly to a client but a weaker one for working in a direct relationship with a client.<sup>49</sup>

Interviewees who had work experience with Citizens Advice generally had frequent direct contact with clients, but the matters they handled were typically simple in nature and of low financial value. They often met each client only once, for a short interview and advice session, with no follow up appointments. However, interviewees spoke positively of the benefit of Citizens Advice experience, which afforded them the opportunity to engage with a highly diverse client population and a wide range of legal problems, thus enabling them to develop their inter-personal skills and learn to tailor their communication style to suit the needs of different clients.

The experience of interviewees who were trainee solicitors largely reflected that of many paralegals in the sense that they might be given control of simple, low value files or else be assisting on more complex, high financial value files, with consequent variation in direct client contact. Sitting in on client meetings was a factor that might differentiate trainee work from paralegal work. However, the balance of the overall workload of these interviewees inclined more towards assisting senior colleagues rather than having their own files. This was particularly noticeable for trainee solicitors who had previously worked as paralegals, including in the same organisation, where their transfer to trainee solicitor status was typically (though not universally) accompanied by progression from simple to more complex transactions.

Client contact was more variable for interviewees with paralegal experience, which reflects the broader range of roles that paralegals undertake. Paralegal roles ranged from administration, through handling simple, low value transactions with a degree of automation through assisting on more complex, high value transactions to acting autonomously and at a high level of specialisation. An administrative role might, for example, limit client contact to emails, possibly dictated by a supervisor, updating on progress. In some cases paralegals with language skills might act as interpreters.

Where transactions were simple and of low value, the paralegal might have sole control of the file and thus take the lead on all client contact. However, where they were assisting a senior colleague on more complex matters, their direct client contact was typically much more limited, extending perhaps only to the occasional updating email at the specific request of a colleague. One in-house paralegal interviewee, however, had transnational authority for a particular field of practice and found it easy to explain complex matters to lay clients in straightforward language. Independent practitioners by definition had substantial client contact and might see themselves as, for example, more available to clients on an out of hours basis than conventional practitioners.

Legal executive interviewees also reported a range of experience in relation to client contact. Direct client contact was typically more limited in the early career stages, and where it did occur might be in the company of a senior colleague. However, the degree of client contact and complexity of the files handled by legal executives both increased in line with experience.

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<sup>49</sup> A 43.6% positive response for “Working in a direct relationship with clients” but a 58.3% response for “Advising on options, strategies and solutions directly to a client”.

## 6.5 Working in a team with others in your organisation

Working in a team scored strongly in the numerical data, with the lowest response in Figure 4 being 57.1% for work in law centres. The classroom and the workplace were considered by some interviewees to differ strongly in respect of team-working. Both environments provided team-working opportunities and these could be substantial and varied, but were different in character. In the classroom (particularly in a law school environment) the team-working challenges might lie in building relationships with other students from different cultural and socio-economic backgrounds, with different levels of motivation or ability, but generally all at the same academic stage and having a high degree of informality. In the workplace, interviewees found themselves having to adapt to teams that were often larger than those they had previously encountered (at least, away from the sports ground) and which included colleagues of different levels of seniority and experience, different expectations as to the formality or informality of relationships, and with potential issues around "office politics". Team-working skills were noted by survey respondents as something developed in the workplace:

Over seven years of paralegal experience - gained case management software skills, time management skills, teamwork skills, experience of working under pressure, developing resilience.

Work experience before commencing a training contract was invaluable as I got to experience how different firms operate and what it is like to work within different departments and teams of people.

Trainee respondents (survey)

Working within a team filled with highly qualified solicitors/litigation managers

Often you are working in a volume team on a routine transaction, meaning the experience you gain is very limited

Paralegal respondents (survey)

For interviewees working in teams, the support of colleagues was generally valued as a source of help and as a means of learning. This could be limited where exposure was short, as in a vacation scheme although there were positive comments in the survey about seeing how teams functioned from vacation students and some vacation students worked in teams under the supervision of trainees. There could be pressures on capacity in smaller and less well funded teams (e.g. in the not for profit sector). Rotation between seats for trainees could be both positive and negative in this respect:

Opportunity to experience different teams within the firm and how they work/with each other

Too disjointed, unable to fully integrate into any team with the seats system.

Exposure to clients and amount of responsibility varies between teams. If you were to shorten your training contract you risk spending all of your time in a team that does not give you as wide experience.

Trainee respondents (survey)

Clinic work<sup>50</sup> often appeared to be allocated to pairs or groups of students and this was not always seen as a positive by survey respondents. Interviewees commented that there were pros and cons in clinic team-working which might limit the extent to which the work was stretching and result in mature students with greater life experience being allocated (or taking) quasi-supervisory roles.

In-house interviewees (legal executives and paralegals) commented on the different relationship with the client-colleague. Within the workplace, interviewees reported distinctly different experiences

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<sup>50</sup> For clinic generally, see accompanying literature review at 6.2.

between private practice and in-house environments, with the latter typically being more supportive and collegiate, with lawyers and clients working regularly together within the same organisation. In-house work might, therefore, be geared more towards pre-emptive risk avoidance than problem-solving. In local government there might be early opportunities to advise senior employed and elected colleagues in considered, written form and “on the hoof” in committees and surgeries once initial competence and trust had been established. In-house clients might be more inclined to seek ad hoc advice on the telephone because they would not be billed for it. Working in this collegiate way might require lawyers to be more socially active, networking within the organisation to establish themselves as a reliable source of advice than need be the case in law firms.

The question of trust also arose for paralegals seeking to take on more responsibility. There seemed to be a watershed at around two years, when a paralegal had gained sufficient trust from colleagues to be allocated responsibility for files up to and including, in some cases, matters of equivalent complexity to those run by solicitors.<sup>51</sup> Many of the questions of hierarchy as between paralegals and trainees are dealt with in section 7 below, but the relative stability of paralegals contributed to interviewees becoming sources of information and support for colleagues, including trainees. Some paralegal interviewees commented specifically on the enlightened attitude taken by their teams to the contribution, support and progression of paralegals (suggesting perhaps that this was not universal). Sole practitioner interviewees valued the autonomy and responsibility that this provided, and recognised that their business was dependent on maintaining their own good reputation. Both interviewees commented on having learned the necessity of keeping good records. Nevertheless, one pointed out that when “It’s me supervising me”, there was a lack of corroboration of the quality of work that could be used in support of accreditation (e.g. CILEx work-based learning, equivalent means) when “all [I] have is a happy client and nothing else to show”.

## 6.6 Law as a business

The numerical data in Figure 4 suggest that these two competences are encountered more rarely in vacation schemes, law centres, Citizens Advice and other not for profit work, and in student clinics.

Generally graduates are generally given mundane tasks and not exposed to commercial decision-making, even after 1-2 years. This system does not produce the best possible lawyers.

Trainee respondent (survey)

I think in house experience is a good foundation in relation to clients as well as processes. I have learnt a lot about construction law, contract law and furthered my commercial awareness, perspective and insight.

Paralegal respondent (survey)

### 6.6.1 Understanding the commercial, organisational and financial context in which I work

There was scope for interpretation of this question in the survey, and some respondents and interviewees clearly treated it as being related to their own organisation, while others saw it as being about understanding the context of their own clients. The numerical data in Figure 4 suggests this is an issue in the not for profit sector and in vacation schemes.

Vacation schemes varied, but one interviewee had participated in one in which senior firm personnel had shared firm objectives with the student visitors. Vacation schemes were usually too short to develop such understanding; sandwich placements might not offer the opportunity, and an independent paralegal might not need to do so. Volunteering and pro bono work might, however, lead interviewees to develop perspectives on access to justice.

In-house practice might not involve billing targets but there might be targets of other kinds to meet, including statutory obligations. Interviewees with clinic and law centre experience were not necessarily made conscious of budgeting issues, although participants in not for profit organisations were acutely

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<sup>51</sup> This hierarchy seems to endorse the Professional Paralegal Register’s division of paralegals into tiers. The paralegals with greater responsibility amongst the interviewees were at tier 3 or 4. See accompanying literature review at 6.4.

conscious of the contingency of funding and consequent effects on access to justice (and on their own opportunities for continued work experience).

Trainee solicitors and legal executives were likely to be aware of the importance of careful budget management and the impact upon their own organisation's bottom line of decisions made on a daily basis. Where management was open about the budget and financial position, particularly if there were regular briefings, then trainees and legal executives typically felt confident that they understood the organisation's commercial, organisational and financial context. There was a variation in paralegal interviewees between those who had an administrative role, using business systems, but not generally involved in budgeting or marketing (although, if intending to become a solicitor, acutely aware of the need to develop "commercial awareness"). On the other hand, a senior paralegal might be in charge of a department and setting budgets for it.

In terms of understanding a client's context, trainees identified a need to be invested in the client's activities and to be pro-active in seeking out information about what clients were doing and why, for example by reading the *Financial Times*. There was some sense that a deep understanding of a client's commercial context could only be developed in the workplace, rather than during formal education. Nonetheless, learning that was gained via prior experience in different workplaces, whether this be a legal environment or otherwise, was generally considered by trainee respondents to transfer positively into the training contract.

The significance of organisational context might also differ in in-house practice, where getting to know the organisation and network with colleagues so as to develop internal relationships could be very important. The sense that a deep understanding of a client's commercial context could only be developed in the workplace was particularly emphasised by interviewees who worked in-house, with a mature understanding of the whole organisation being crucial to providing legal advice that was contextualised and reflected commercial reality and the needs of the business overall. To a certain extent, the business context was regarded as unique to each individual organisation, such that while some basic principles and skills may be learned elsewhere, deep knowledge and understanding could only be fully developed in each distinct workplace.

### 6.6.2 Keeping and using business records and systems

Use of business systems also varied, with some interviewees commenting on the sophistication of document and case management systems in use in law firms by contrast to the comparatively limited systems used in student clinics and law centres. The data in Figure 4 also suggests that the not for profit sector (other than Citizens Advice) and clinics are less strong in use of business systems. One interviewee specifically identified case and document management system use as a significant omission from the LPC. Vacation schemes appeared rarely to offer the opportunity to get to grips with internal office processes within what might only be a week's visit.

## 6.7 Managing time

The numerical data in Figure 4 suggest that this competence was least frequently encountered by unpaid interns and in Citizens Advice. One defining factor for interviewees was the difference between the law school and the workplace in terms of time pressure. Interviewees commented that essay deadlines were given weeks in advance, or that clinics allowed considerable time for research, reflection and feedback so that "nothing was ever really urgent" and students only worked on one task at a time. A clinic supervisor might prompt if a student had not completed work in a reasonable time, although this was perceived to push some of the responsibility onto the supervisor and did not necessarily encourage the student to take a disciplined approach to completing the task. By contrast, a client at a law centre might appear, seeking advice, within minutes of their court appointment. A client at Citizens Advice might need to be interviewed and given full advice within a 30 minute appointment slot. There was a similar contrast in the assimilation of information: drip fed over weeks during a module at law school but to be taken on board in a short burst of instructions from a supervisor in the workplace.

A sandwich student found a year's placement to be helpful in learning to manage a personal workload. The short period involved in a vacation placement, however, was reported as potentially "overwhelming" when the student was expected to rotate between departments during a period of less than a month.

Trainee solicitors worked in a range of environments, some of which had largely internal clients, who might expect to be able to phone their in-house legal team at any time and about any matter. Some worked in organisations where external clients might arrive at short notice and without an appointment,

but staff on reception would identify the broad nature of the client's legal problem in order to direct them to the most appropriate lawyer. Others worked with clients who typically made appointments some time in advance, with a clear indication about the matters they wished to discuss. In addition, while some trainees and paralegals worked closely with a single supervisor who might be expected to have a reasonable overview of the trainee's workload, others received work from a number of people in different teams. All of these factors could impact upon the extent to which a day's activities could be planned, with individuals needing to manage their time to allow for any unexpected changes.

Apart from simply being able to complete tasks by a particular deadline, trainees also commented upon the quality of output that was expected of them, especially when compared with their formal education stage. While the need to meet deadlines at law school, especially in relation to summative assessments, was identified as something which helped individuals to develop self-discipline and take responsibility for managing their workload, it was acknowledged that there was still a significant amount of individual freedom about when work must be done. A student might elect to leave work until the last minute, or even complete it in the small hours of the morning, even where this compromised the quality of that work. This was identified as potentially encouraging poor practice that would not be acceptable in the workplace, where a very high standard of output was expected at all times and colleagues would soon identify if an individual habitually left everything to the last minute. The workplace, therefore, required much more careful planning and allocation of time when undertaking work, as well as greater self-discipline and awareness of the impression being formed by colleagues.

The variety of autonomy in paralegal experience was also demonstrated in their responses about personal time management. One interviewee, however, who had been a paralegal for a very short period, was in effect employed to manage a diary and remind supervisors about trigger dates.

In in-house practice, deadlines might be set externally, by statute or by court directions. An in-house legal executive interviewee suggested that because there was no external client to press for progress "... you have to push yourself". An in-house interviewee argued that the in-house lawyer, not relying on an external client to produce information, was able to manage the length of the transaction and "control its pacing". This was feasible because of the day to day interaction with the internal client.

## 6.8 Taking responsibility

### 6.8.1 For learning

The word "responsibility" appears many times in the narrative responses to the survey, as well as in the questions. Taking responsibility for one's own learning and for one's mistakes appeared very strongly in both survey data (see Figure 4) and in interviews. Some students on highly structured vacation schemes, however, did not have the opportunity to demonstrate this (other than taking responsibility for any mistakes). Some interviewees, however, learned that, in the workplace, it was not appropriate to be "shy" or not to want to "bother" others, but to ask for help because client's problems were important. A paralegal working independently knew that their reputation was entirely dependent on their own learning and that provided a greater motivator than had been the case in law firm experience. This could be a function of the atmosphere in the workplace:

... where I am now, the firm treats paralegals much better than at any other firm I have been. I am not scared of making mistakes or asking for help but I have been in previous roles.

Paralegal respondent (survey)

### 6.8.2 For clients and files

Responsibility for client relationships, or for managing matters, was more varied, and the data in Figure 4 suggest that opportunities are less strong in placements, vacation schemes, law centres, Citizens Advice and not for profit work.<sup>52</sup> A placement student had been able, during a year-long placement, to take substantial responsibility for a significant caseload of comparatively straightforward files, subject to preliminary authorisation of, for example, negotiation strategy, from a supervisor. A mature student in a clinic had been asked to take more responsibility than younger students.

Trainee solicitors might have responsibility for simple and low value files, though they were more likely to work as part of a team on more complex and high value files. In organisations where they did not

<sup>52</sup> This kind of responsibility was also muted in student clinic work, at 51.2% and in sandwich placements at 50.0%.

work exclusively for a single supervisor within a seat, they might also have to seek out work for themselves from a range of colleagues. Increases in responsibility and client contact appear strongly in the narrative survey responses as ways in which work experience could be improved. A number of interviewees identified increased responsibility as a sign of trust and a form of feedback on their competence.

Junior paralegals, might have some responsibility for systems and deadline reminders or for updating colleagues on developments in the law. Some paralegal interviewees also commented that if they asked to be given more stretching work or new experiences, this would be provided (as elsewhere, the fact this was perceived as worthy of comment suggests it is not universal).

As indicated elsewhere, some paralegals and senior legal executives, had substantial levels of responsibility, and this might include managing others (see section 7 below). Trainee solicitors might, however, take responsibility for or “manage” vacation students.

Generally my firm give a broad range of exposure to different levels of work which means that you tend to get a good exposure. So far my experience has also been that responsibility has been slowly ramped up as I've become more competent.

Training in house means I get more responsibility than others in my position.

Trainee solicitors should be pushed from an early age and firms need to be told to give them responsibility.

Trainee respondents (survey)

As I have been in this position more than 3 years I take much more responsibility over cases than trainees and have higher chargeable hour and costs targets. The downside is that I am only being trained in one area of the law.

Paralegal respondent (survey)

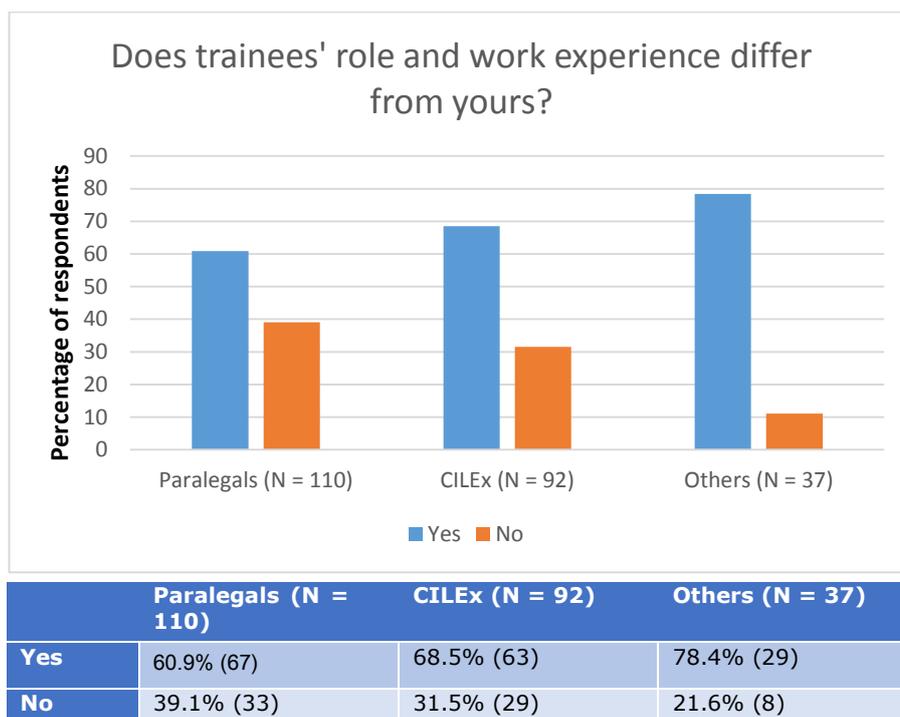
## **7 Comparisons between the experience of paralegals, legal executives and others and that of trainees**

Respondents in the paralegal, legal executive and other category were asked in the survey if there were also trainee solicitors in their organisation.<sup>53</sup> If so, they were asked to compare the trainees' work with their own. Evaluating this response is complex because of the high proportion of CILEX Fellows and senior paralegals. It should not therefore be assumed that differences were in one direction only. Of the 235 trainees in the sample, 115 had paralegal experience of some kind. Some trainee interviewees were therefore able to comment on the differences between the two from a different perspective. Although they were not asked the question, some trainee respondents in the survey also compared their work to their own, or others' paralegal experience.

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<sup>53</sup> See also accompanying literature review at 6.4.

**Figure 5: Does trainees' work differ from that of paralegals, legal executives and others?**



The data demonstrate, however, that it is not possible to treat “paralegals” as a homogenous group, even within the same organisation:

As currently set up, the paralegal role is not an adequate substitute for a trainee role, as it lacks definition. This can make it more difficult to apply for, because what people expect from a paralegal can be very different depending on the specific role (it can vary widely within firms - so paralegals are used in a quasi-trainee role, some paralegals are used to do more admin like tasks).

Trainee respondent (survey)

The quality and amount of work experience gained is very much dependent on the opportunities that law firms are willing to delegate onto paralegals, and the level of work delegation largely depends on the attitude and belief of the law firm towards its paralegals. Paralegals need a long overdue recognition in their position in the law firms, and there is an urgent need to differentiate the long-term professional paralegals from the short-term gap-filling paralegals; an SRA-approved guidance on paralegal standard and grading, or a more widely-accepted protected title would be most helpful in this regard especially for those who wish to qualify as a solicitor. A more harmonised standard of qualification should also be in place for the purpose of employment of paralegals across law firms.

Paralegal respondent (survey)

Almost a third of survey respondents in this category, however, saw very little difference between the scope and quality of a trainee’s work and their own. There might, however, be considerable discrepancies in pay, title and respect and some organisations might be more hierarchical about status differentials than others.

The work I undertake as part of my training contract is no more challenging than the work I undertook as a paralegal.

Trainee respondent (survey)

I already carry out exactly the same role as solicitors in the team. There are no differences in respective roles.

Legal executive respondent (survey)

I already undertake the same work as solicitors, only I am much cheaper to the firm due to not being qualified.

They have regular performance meetings to discuss their progress. They are paid better. They probably undertake a similar amount of work and responsibility however I think more is required of them from a commercial point of view i.e. encouraged to take part in things outside of work and work hours.

Paralegal respondents (survey)

I am classed as an apprentice but do a similar job to the trainees. The only difference is they will qualify and there is a pay difference.

"Other" respondent (survey)

A substantial proportion saw the trainee's work or competence as being more limited than their own, or in different spheres (more legal research/law/client based). Some paralegals supervised trainees.

I have a much better understanding of client interaction and application of the law to facts than some colleagues straight from LLB/LPC.

They are not expected to handle a case load as a junior paralegal is.

Trainee solicitors undertake more shadowing, business development and task based work. They do not run their own caseloads and generally undertake work provided on a day to day basis.

Paralegal respondents (survey)

Similar sentiments were expressed by legal executives.

I recently undertook the PSC and found a lot of the elements of the course I had done in practice, whereas trainees were learning from a theoretical point of view and struggled to understand the relevance of the PSC to what they will do in practice.

As a senior member of staff I have to deal with more complex cases within my area of law. The trainee solicitors assist with some of the drafting within my cases.

They come to me for advice and assistance.

Legal executive respondents (survey)

I have a higher case load than a trainee and also have an assistant to supervise.

My work is largely administration and finance based, trainee work is largely client based.

"Other" respondents (survey)

What seems to be a smaller proportion of survey respondents saw the trainee's work as being more complex, or with higher levels of responsibility, than their own. It might also be more legally oriented, "trainees do more research":<sup>54</sup>

I had a positive experience as a paralegal but I feel I am the exception rather than the rule. The firm I am in is actively looking to push the more mundane jobs downwards to paralegals as a cost saving exercise, allowing fee earners (in presumably smaller numbers) to concentrate on the complex legal work. In the future I feel that paralegals will be given less opportunity than I was to develop skills that will actually assist them in a future role as a solicitor, by removing the possibility of getting decent work as the work becomes more commoditised.

Trainee respondent (survey)

There is not a lot of time to learn anything useful. Often given admin tasks that do not relate to legal work.

Trainee solicitors in my team do a lot of the same work that I do, but they also have to take on more responsibility, take on senior roles with clients on secondment and do more legal work, i.e. making decisions for their cases. I as a paralegal, am usually in a role where I take instructions from solicitors and barristers in the team. Trainee solicitors also have a lot more client contact.

Trainees get slightly more complex work and are told to instruct paralegals. They also have a lot more demanded of them, but generally the work does not differ.

Work experience is important however when undergoing work experience the company is often not invested in individuals and therefore does not focus on training or developing skills. In addition, as a Legal Assistant you are seen as a cog in the machine and given very little chance to develop or try new things. Whilst I acknowledge this is part of the role, I think the things you learn during a training contract are invaluable and things that would not have been covered during work experience.

Paralegal respondents (survey)

They are generally pushed harder. I have to push for more complex work.

Legal executive respondent (survey)

As a legal assistant I'm not asked to do much legal research or write memoranda on legal issues - I am doing work that supports solicitors.

"Other" respondent (survey)

Comments were made in particular about the practice of seat rotation<sup>55</sup> for trainee solicitors as a difference in the nature, if not the level, of trainees' work experience, and the possible implications of this short-termism on the working practices of others.

As trainees' seat rotation occurs every few months, associates would sometimes prefer experienced paralegals to take the responsibilities to oversee a case in order to have some consistency and continuity. Sometimes experienced paralegals end up briefing trainees on cases and giving trainees guidance on how to proceed.

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<sup>54</sup> The fact that, in Figure 4, legal research appears strongly for most kinds of work experience does not necessarily negate this view, as Figure 4 only records whether tasks relating to competences were carried out *at all*, rather than with what intensity.

<sup>55</sup> During the two year period, trainees in many, if not most firms and other organisations, are rotated between "seats" of four or six months' duration in different departments.

In my department I do the same work as a trainee, the only difference is that they rotate to other departments.

Having seen the sorts of work which trainees undertake, it is concerning that with just 6 months in a department under their belt, they are then able to qualify as a solicitor, having potentially done 3 other completely unrelated seats. I am frequently asked to supervise NQs at my firm - clearly my knowledge and experience is of value, but this does not translate into equivalent salary. A different system to recognise and reward work experience needs to be brought in.

Paralegal respondents (survey)

They go through a variety of seats and position and work more closely with a supervisor, I have my own caseload and am in a fixed department.

Legal executive respondent (survey)

While there were positive benefits to remaining in a single department, notably in the ability to build expertise and reputation, interviewees also identified disadvantages, such as a more limited ability or opportunity to engage in work in other areas of practice. Interviewees also suggested that trainees had more opportunities to visit court, attend client meetings, contact third parties and might be expected to do more legal research. Trainees might, however, in contrast with a junior paralegal, be “thrown things at the last minute” and expected to work longer hours.

## 7.1 Do paralegals, legal executives and others have more autonomy and responsibility than trainees?

There was some evidence that even comparatively junior paralegals might have more autonomy and responsibility than trainees.<sup>56</sup>

I am too restricted in what I can do. Had more freedom to develop my skill set as a paralegal.

Working as a paralegal for 5 years was excellent insight into the profession. I was essentially working as a solicitor, carrying out the same work as my peers but with supervision. Excellent experience.

Trainee respondents (survey)

A trainee in my firm does not run a case load with a billing target. I am an established fee earner. However, in saying that, I am taken more seriously now I am taking steps to qualify as a solicitor.

Legal executive respondent (survey)

As mentioned above, interviewees with past or current paralegal experience were more likely to have been allocated a significant caseload of their own, when compared with trainee solicitors. Those files often related to simple, low value matters with a high degree of automation, for example via use of standardised letters and documents. However, individuals with their own caseload enjoyed a high degree of autonomy and responsibility in managing it, with the associated benefits of seeing the entirety of a transaction from start to finish.

## 7.2 The protective label of being a “trainee solicitor”

One point of distinction between trainees and paralegals appears often to be that paralegals are regarded as “employees” whilst trainees are in a more clearly defined training role. Paralegal interviewees did not necessarily identify that they were precluded from taking part in in-house training activities, and indeed some stated positively that they participated in the same activities, although

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<sup>56</sup> The data in Figure 4 are more ambivalent on an aggregated basis, but do not exclude this as the position in individual cases.

this might vary between organisations. They might, however, see trainees sitting in meetings, or visiting court, as opportunities not available to them. That said, some supervisors were clearly happy to allow paralegals to try their hand at activities that would stretch them, at least if the paralegal had the time and confidence to seek them out. A paralegal might also need to work to establish the trust of other colleagues before being allocated more challenging work.

Being a paralegal you have the opportunity to take on as much or as little responsibility as you want. You are challenged and are often completely responsible for your own work as you have little supervision. I was exposed to so many issues and challenges as a paralegal, being a trainee is in most ways easier as you have a supervisor to ask for advice and there is more support in place. For me this was a fantastic way into law and I would encourage students to be a paralegal before training. The issue with training straight after university is trainees do not have the basic understanding of how a work place operates and their view of law is purely academic.

Do not remove the requirement to undertake a training contract prior to qualification. Not only is it necessary for learning how to do the job, it acts as a mental safety net for many trainees I know, giving them the confidence to be able to push themselves and to undertake work in increasing complexity, without ever fearing extreme negative consequences.

Work experience is essential to becoming an effective solicitor. Some practical skills that are essential in a solicitor can only be developed with practice in a real legal environment without the full responsibility of being a qualified solicitor without the requisite skills.

Trainee respondents (survey)

I am given fee earning targets and am under closer scrutiny than a trainee. However, I am paid less. I am also far busier than trainees in my firm and in my department.

Overall our roles are similar, however, a trainee solicitor is more likely to be given a research task or unusual case. In part, this is because their time can easily be written off and they are not expected to charge as much time as paralegals. However, I believe more senior fee earners feel that learning opportunities are better given to a trainee solicitor who has a defined career path, rather than a paralegal who will not necessarily move on and qualify. The senior fee earners potentially consider learning opportunities wasted on paralegals. Paralegals have a heavy caseload of their own clients, which will include more mundane repetitive work, whereas trainees move on quickly so cases are cherry picked for them to experience.

Trainees are more recognised and provided with more training. The structure with the seats is also different. Paralegals are given tasks based on needs while trainee tasks are based on their competencies and training needs.

Yes, as a paralegal not only do I have access to wide range of work related to large-scale matters with direct contact with clients alongside partners, I also find the trainee training sessions very useful.

Paralegal respondents (survey)

I carry out full client meetings and caseloads the same as a solicitor. A trainee in our firm is supervised and on the whole does not carry out caseloads and client meetings alone.

Legal executive respondent (survey)

Both yes and no, we primarily do the same work but a trainee is allowed a greater level of variety and experimentation with different practice areas. They are also given more exciting opportunities for learning and the learning curve is steeper, whereas a paralegal often plateaus early on.

“Other” respondents (survey)

Some of the trainee solicitor interviewees who had also been paralegals, sometimes in the same organisation and sometimes in a different organisation, had observed a change in their status and colleagues’ perceptions of them once they started their training contract. This manifested itself in a number of ways, including:

- More consistent and appropriate expectations of the trainee in terms of their knowledge and understanding of the law, probably because colleagues who were themselves solicitors had a better understanding of the academic and vocational stages that precede the training contract;
- Recognition that they were still training and thus not yet fully qualified for a particular role;
- Greater willingness to offer the trainee development opportunities e.g. to accompany a colleague to court or observe a complex negotiation;
- Offers of a wider variety of work, in different areas of law and involving more complex, high value files;
- Higher levels of supervision and improved access to support.

However, the extent to which colleagues who were not themselves solicitors recognised what education and training a trainee solicitor had already undertaken was more variable. Their expectations of the trainee might be unreasonably high or low as a result.

### 7.3 CILEx qualification

A small majority (62.4%) of the paralegal, legal executive and “other” group were, or had been, interested in becoming a solicitor. Of those who were no longer interested, 37.4% were put off by the financial costs of solicitors’ training; 16.5% by the demanding level of study; 14.8% by issues of work/life balance and 13.9% by the difficulties of getting a training contract. Not unnaturally, 20.9% now preferred to qualify into another profession: CILEx. Almost a third of respondents gave “other” reasons, in particular:

- There was no benefit to them in their current job;
- It was too late in their career to change;
- Becoming a solicitor would involve a pay cut.

There were frequent comments from legal executives in the survey and in interviews that there was no longer any reason for them to transfer into the solicitors’ profession. For example:

I do not believe there is any financial benefit to me as my CILEx qualification and experience is as valuable to my clients and recognised by my employers just as if I were a solicitor.

Unnecessary. As a Fellow I can practise residential conveyancing without becoming a solicitor.

Absolutely. I have been a Fellow for nearly a decade. However, only when I decided to do the extra to become a solicitor did my firm take me more seriously and give me more challenging work and actually train me.

Legal executive respondents (survey)

Others provided commentary on the CILEx qualification system and its relationship with workplace learning:

I am currently undertaking the CILEx graduate fast track diploma alongside working as a paralegal in Pensions, Immigration and Employment. My work experience is

varied and challenging and constitutes qualifying employment for CILEx purposes. In order to show CILEx my work was qualifying I had to construct a 10 page letter splitting out each aspect of my work and allocating a percentage of time to each task I undertake. I also had to provide 2 examples per practice area of the work that I do. If I pass my exams next week I will need to remain in post for a further year before submitting a work based learning portfolio covering 2 years of work demonstrating that I am competent and covering the required outcomes. When I've finished with that under the current rules. I'd have to take an LPC in order to cross qualify, it just seems a little arbitrary and with the current fees hovering around £15,000, a very expensive box to tick.

Paralegal respondent (survey)

Work experience is vital for qualification as a solicitor, whether as a trainee, or having qualified as CILEX. It provides much needed practical experience for prospective solicitors, which distinguish us from the US style bar exams, where you will be a qualified attorney upon passing. This is also the reason why, some states, notably in the New York Bar, there is a new requirement for pro bono work experience before fully qualifying as an attorney.<sup>57</sup> I think, in addition to centralised exams, the training contract/period of recognised training should remain as well as other routes into the profession which has a good standing in terms of work based learning (such as CILEX which requires minimum of 3 years training records in high level legal work).

Legal executive respondent (survey)<sup>58</sup>

However, it was not universally the case that legal executives considered their formal training to have prepared them for the workplace. While a formal education stage of training was broadly valued, in interview, some legal executives considered that certain areas of their course, such as ethics and professional conduct, drafting and legal research had not been sufficiently rigorous or practice based to be fully effective.

## **8 Becoming confident, becoming competent**

### **8.1 Comparisons between the classroom and work experience**

The classroom and the workplace were seen as distinctive environments, but in different ways. The classroom was valued as a place in which legal knowledge could be accumulated and, in the case of vocational courses, simple processes and skills could be learned and practised by way of "foundation". Some interviewees commented that there was an expectation in the workplace that trainee solicitors in particular would have an established knowledge bank and understanding of common processes such as the steps involved in a simple civil litigation action or a routine conveyancing transaction. There was some feeling that these matters could readily be learned in the classroom, where time was available to explore matters at length, identify key principles and put ideas into practice without real world adverse consequences if errors were made. However, while interviewees cited examples of high quality feedback, notably those explicitly referencing real world client expectations, it is apparent that feedback can be variable and the formal grading systems in educational institutions do not necessarily enable individuals to recognise the exceptionally high standard of work that would be expected in the workplace.

The workplace was considered by some interviewees to offer greater diversity in terms of clients and colleagues, although an individual might need experience in more than one type of workplace to gain the full benefit. For example, clients attending a Citizens Advice session might be relatively unsophisticated in their understanding, but with a significant personal investment in the matter because they were facing bankruptcy or homelessness. This might impact upon how the client presented, how they received legal advice and whether they fully understood that advice. Individuals attending at a large commercial practice, on the other hand, might be the employee of the client organisation with a greater prior understanding of the transaction, but less personal investment in it.

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<sup>57</sup> The primary objective articulated for the requirement for all new New York attorneys to have carried out 50 hours of pro bono work appears to be access to justice, with learning a secondary objective. See accompanying literature review at 9.1.2.

<sup>58</sup> New York State Unified Court SystemNYCourts.gov, 'Pro Bono Bar Admission Requirements - N.Y. State Courts' (2012) <<https://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>> accessed 5 May 2016.

Interviewees highlighted the importance of adapting their communication style to suit each client and this was something they considered could only be fully learned in the workplace.

Student interviewees and some paralegal interviewees had not undertaken the LPC and, as described in section 4 above, felt that work experience could validly substitute for it. Some of the items they identified as susceptible of being learned only in the workplace, such as advocacy, negotiation or drafting, are covered in that course, at least to an introductory level. There were some comments on the relationship between the LPC and the training contract in the survey data, but this area requires further evaluation at present.

My work experience made law 'come alive'. I studied the LPC after working as a paralegal for a year and this year's work experience really helped with the LPC. I am certain my work experience helped me to secure my training contract and it certainly helped me to hit the ground running when I started my training contract.

The LPC is vital for commencing a training contract in many circumstances and the training contract model allows for skills to be built over a period of time. Prior experience, perhaps during the undergraduate stage would be beneficial for many trainees of the future.

Trainee respondents (survey)

### 8.1.1 Differentials in space for work, reflection

The formal classroom environment was seen by some interviewees as a safe space in which key principles could be learned that were assumed knowledge in the workplace, for example basic civil litigation procedure. Essential skills such as drafting could begin to be developed, though interviewees acknowledged that the amount of time devoted to these during the academic and vocational stages of training might be limited. While deadlines existed, these were typically more generous than in the workplace, thus allowing time for thinking, planning and refinement of written work in particular.

Those trainee solicitor interviewees who had experience in a law clinic usually had more time to complete clinic tasks, for example drafting a letter of advice, than they would be given during their training contract. Again, this extra time could be used to undertake research and to refine the written advice, possibly a number of times. However, the extent to which individuals actually used that time was more variable, depending to some extent upon self-discipline but also the need to balance clinic work with mainstream academic commitments.

Interviewees who had undertaken work experience with Citizens Advice typically commented that there was very little time for research or reflection before advice must be tendered, due to the short duration of client appointments, the fact that advice was usually needed urgently and the client may not make any further appointments. Also, the survey data indicates that some individuals may have been required to interview and advise clients across a broad spectrum of legal issues. While they may in fact have seen a number of clients presenting with similar issues, the low percentages of time identified for some areas of law suggests that in these areas at least, the extent to which the student advisor benefited from revisiting similar issues and implementing lessons learned from advising previous clients was limited.

Trainee solicitor interviewees identified strict and often short deadlines as one of the challenges of adapting to the workplace. While good practice was mentioned in terms of the quality and constructive nature of feedback from supervisors, time to reflect on that feedback and respond to it was necessarily constrained by the need to complete work quickly and efficiently. For example, while a trainee might be permitted to produce the first draft of a document from a precedent, or amend an existing draft, there might not be scope to allow them to make repeated attempts to improve their drafting in response to supervisor feedback. However, trainee solicitor interviewees spoke positively of the benefits of repeated practice with documents of a similar nature- even if they did not have the opportunity to refine amendments to any single document in particular, which helped them to understand the structure and expected content of that type of document - as well as the meaning of individual provisions within it. Consequently, they felt much more confident that they could navigate around documents quickly, knowing where they were likely to find key provisions and with some expectation of what they would say. Their confidence in producing and amending drafts also increased with practice. Some interviewees considered that this was an area where the LPC had helped them, by introducing them to key principles of drafting, but more practice overall and with a wider variety of documents would have been beneficial.

### 8.1.2 Reality: "it matters!"

It is not just about knowing the law or applying it to hypothetical facts. It helps to actually experience dealing directly with the people involved - clients, colleagues, supervisors.

It helps you learn that there are a lot of cr\*p solicitors out there and how not to be like them.

Trainee respondents (survey)

Many interviewees highlighted the impact and importance of real experience in the workplace ahead of classroom learning. The opportunity to put theory into practice was an obvious benefit, although interviewees also emphasised team-working, communication skills and observation (for example, in court) as matters that could only be learned, or were substantially enhanced, in the workplace.

Often, this was because classroom experiences were cited as being too focused on theory at the expense of practice or else the classroom environment was considered to have a very different character from the workplace; for example, it tended to be more informal and students were working with other students at the same level. Moreover, a lower standard of work might be acceptable in the classroom than would be the case in the workplace: a relatively poor piece of drafting that would be considered negligent in the workplace could still achieve a "pass" grade in the formal education stage. Interviewees might also find that practical experience changed their attitude to an area of law they found dull and difficult in the classroom.

Even where the classroom sought to simulate practice, the scope of simulations was acknowledged to be restricted, such that students were not exposed to the full range of different types of clients or colleagues or the quirks of law and practical complexities that might arise even on a routine transaction. A simulation might not, for example, include strategy, or logistical issues such as a hierarchy of consents to be obtained before action could be taken. Interviewees mentioned, for example, the workplace as "applying the book to the world"; that "You can't see the people behind the legal problems" in the classroom and, in the comment in the subtitle, "it *matters*". They also commented on the significance of real life problems with clients whose emotions were engaged, and the challenges of the ramifications of providing bad advice. In particular, managing a client's expectations about the merits of their case was seen as something particularly learned in the workplace. However, some interviewees identified reality as a motivational factor; the mere knowledge that any errors and delays have real world consequences for the client, the lawyer and their organisation creates additional pressure, but also an enhanced sense of the value and importance of the lawyer's role, which cannot be replicated outside of the workplace. This was reinforced in some cases by a perception that the individual needed to demonstrate their abilities to senior colleagues in order to be given more challenging work that would progress their career or to be permitted direct contact with clients.

We have noted elsewhere that some interviewees who had not undertaken an LPC suggested that topics included in it could only be learned in the workplace, although others suggested inclusion of such topics in classroom requirements where there was more space for experimentation and feedback than in the workplace. Interviewees with an LPC, BPTC or CILEx qualifications were, however, more likely to see those courses as a foundation or introduction: "No matter how often it's tested in the LPC, in real life it's always different"; the LPC provides a straightforward explanation of how to do things in an ideal world but "in real life it never goes to plan".

## 8.2 Becoming confident

Interviewees often identified increases in confidence as a positive outcome of work experience and as something that could perhaps only be learned in the workplace. The increased confidence might relate to matters such as telephone and written communication, "knowing what I'm talking about", feeling ready to work and addressing nervousness when appearing in court. One interviewee with substantial paralegal experience anxious about starting a training contract wondered how new trainees without such experience managed at all.

Survey respondents were asked to rate their perceptions of confidence in each of the competences, as at the point they began the work experience, and "at this stage in your work experience". This

second benchmark, might, of course, be some time after the work experience had finished, for example, in the case of a current trainee considering how they felt on undertaking a vacation placement after the first or second year of their degree. Other courses, such as the LPC, and other periods of work experience might have intervened. The most useful numerical data included in the appendices are, therefore:

- Data from respondents (students<sup>59</sup> and trainees<sup>60</sup>) who could clearly be identified as still being in the same field of work experience or only recently having completed it.
- All respondent data in so far as it identifies common areas that are perceived to be more problematic at the start than others, but where confidence is increased for those who have had some kind of work place experience.<sup>61</sup>

Although these results show a general trend over time towards improvement in perceptions of confidence, as became apparent in some of the interviews, results for individuals could show a decrease in confidence. This could indicate, of course, a realisation that the job was more difficult than they had estimated at the outset, rather than a decrease in competence; or that towards the end of the period they were deployed on more complex tasks than they had been allowed to carry out at the beginning.

### 8.3 Becoming competent

All respondents were asked to estimate how long it might take to become competent in each area.<sup>62</sup> Caution is needed in interpreting these data as:

- Not all respondents, particularly perhaps those at the earlier stages of their careers necessarily understood what competence entailed;
- Self- assessment of competence is not necessarily reliable;<sup>63</sup>
- There is some evidence that respondents estimated the length of time as "from where I am now" with mature respondents in the interview sample often suggesting very short periods;
- The "all respondents" data show higher levels of responses for the middle two responses ("less than 6 months" and "6 months to 1 year"), suggesting that respondents may have been somewhat hesitant in their choices.

What these data may show, nevertheless, is which competences were, comparatively, perceived as more difficult to achieve. The responses suggesting it would take two years or more to acquire competence were, as elsewhere, stronger in advocacy, negotiation and direct advice to a client.

## 8.4 Learning approaches and supervision

### 8.4.1 Learning by doing

Respondents commented strongly on the experiential nature of learning in the workplace.

I think it is invaluable and cannot be replaced by any amount of academic work/revision/exams. Being a trainee has given me vastly different skills and understanding of the work of a solicitor - far more so than my law degree or the LPC.

I absolutely think work experience is far more essential than black letter academic learning. There are things you learn on the job that cannot be taught in school or tested in an exam.

One learns through doing

Trainee respondents (survey)

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<sup>59</sup> Appendices 2.15 and 2.16. Although the sample is small, clinics appear to be notable for high levels of confidence after or during the experience.

<sup>60</sup> Appendix 2.17. Challenges for trainees are in advocacy, negotiation and giving direct advice to a client.

<sup>61</sup> Appendix 2.18. As elsewhere, the more problematic areas are advocacy and direct advice to a client.

<sup>62</sup> Appendix 2.19.

<sup>63</sup> James C McCroskey and Linda L McCroskey, 'Self-report as an Approach to Measuring Communication Competence' (1988) 5 Communication Research Reports 108.

This could be contrasted with some respondents' perceptions of classroom experience, particularly perhaps if they did not yet have any clinic, placement or LPC experience on which to draw. Interviewees commented on positive feedback experience. However, in short periods, there was insufficient time to find out "if my work came to anything". Vacation schemes might differ substantially in how they conveyed feedback and whether the response was to ask the student to redo the work or whether it would be taken out of their hands and completed by someone else. Trainees similarly might not be able to see matters to their close and a paralegal interviewee had been given responsibility for the oversight of a lengthy transaction in preference to a trainee as a result.

### 8.4.2 Learning by observing

Nevertheless, a number of respondents also saw value in observing solicitors and others in practice.

Watching the best solicitors at work has taught me some of the qualities which are required as well as just knowledge of the law such as good communication/people skills and an ability to create a rapport with a client and constant commitment to the job.

Student respondent (survey)

During my training contract I have been able to observe the work of different fee earners and this will, I feel, help me become a good solicitor

Trainee respondent (survey)

Interviewees considered that learning by observing was most effective if they were briefed by their colleague beforehand and had an opportunity to discuss what they have observed afterwards.

### 8.4.3 The importance of good supervision

Supervision and its qualities received a number of comments in the survey.<sup>64</sup> Many were positive:

I am learning from experienced fee earners who have been generous in sharing their knowledge about the law and their experiences. The focus is on me qualifying as a well-rounded professional and I am given the opportunity to pursue matters that interest me and that offer good training opportunities as well as learning the necessity of efficient fee earning in a private practice setting.

I have direct interaction with solicitors who between them have decades of experience. The ratio of trainees to solicitors means a high degree of supervision. The high degree of supervision means access to some very good work exercises. My principal also provides legal research / academic tasks to cover in detail elements of law we have seen during the work we handle - these are great to build your understanding.

I feel that I am very fortunate to have obtained a training contract with a firm with integrity and long-standing traditions of nurturing its trainees. However, I am aware that this is not always the case for others and often the quality of training is down to the firm and there does not appear to be an enforceable over-arching framework which ensures trainees receive a minimum standard.

Trainee respondents (survey)

Working under supervision of an experienced specialist is priceless

Paralegal respondent (survey)

However, there were suggestions that supervision could be improved.

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<sup>64</sup> See also accompanying literature review at 10.6.

... Although this may seem a little too much to ask for, I feel that those who play supervisory roles to trainees/ paralegals should be appointed solely for that purpose. They would be a qualified solicitor who is no longer practising and there to work closely with trainees/paralegals. One person like this overlooking the trainees/paralegals in each department would be a great start. Another suggestion which was triggered by a very thought-provoking article I came across yesterday. It was all about teaching standards and university lecturers not being good enough at their job. In terms of law, I think it would be a great idea if professionals in the legal sector came together to help one another (solicitors, barristers, teachers of the law, law students, trainees/paralegals) - this kind of platform to allow everybody to suggest their ideas/voice their opinions would be fantastic and I would be interested to hear of the outcome. It would also be a great way of improving relationships amongst the legal sector.

Student respondent (survey)

Structure is crucial as without it the trainee can just be used as an admin resource. Also, trainees should have access to resources on the future of the profession as many of the current practitioners are mired in outdated working methods.

Trainee respondent (survey)

Because I have worked hard and worked in high pressure jobs. I have more experience and knowledge than qualified solicitors, I have provided training for them. Putting someone through a training contract where they have exams which are not applicable to real practice and work based learning which is really supervisors who don't have a clue themselves does not make a solicitor competent.

Legal executive respondent (survey)

Interviewees in particular spoke warmly of supportive environments which encouraged them to ask for help and to discuss mistakes, sometimes by contrast with experiences in other organisations and an attitude within a law school which might assume students were self-motivated. Independent practitioners, as indicated above, noted the absence of a supervisor to support them and validate their work. Several mentioned regular individual or team meetings, physical accessibility of supervisors and arrangements for review of drafts and authorisation to proceed.

## 8.5 Approaches to assessment or evaluation of workplace experience

There were a number of possibilities for ways in which respondents might be assessed, evaluated or certified in the workplace. A vacation scheme, for example, might not be formally "assessed", but a student's performance during it might affect whether or not they secured a training contract in the host organisation. Some clinic and placement activity might be on a volunteer basis, but it might be formally assessed for credits against the university degree. Trainees should be appraised and finally certified against the Practice Skills Standards,<sup>65</sup> and legal executives through CILEx qualifications and the CILEx work-based learning outcomes.<sup>66</sup> Some organisations might have their own internal competence statements. Paralegals might be summatively assessed as apprentices; through the Institute of Paralegals competences;<sup>67</sup> the National Association of Licensed Paralegals qualifications,<sup>68</sup> OISC competences<sup>69</sup> or other organisations. It should also be noted that data are aggregated, so they represent the different forms of evaluation and assessment encountered during the entirety of an individual's work experience. The survey data do indicate, however, that although appraisals and informal

<sup>65</sup> Solicitors Regulation Authority, 'Training Trainee Solicitors' <<http://www.sra.org.uk/trainees/training-contract.page>>.

<sup>66</sup> CILEx Regulation, 'Work Based Learning: Handbook' <[http://www.cilexregulation.org.uk/~media/pdf\\_documents/cilex-regulation/handbooks/work-based-learning-handbook-23-february-2016.pdf?la=en](http://www.cilexregulation.org.uk/~media/pdf_documents/cilex-regulation/handbooks/work-based-learning-handbook-23-february-2016.pdf?la=en)> accessed 15 June 2016.

<sup>67</sup> Institute of Paralegals, 'Competency Standards' (*Institute of Paralegals*) <<http://www.theiop.org/national-competency-standards/contract-terms.html>> accessed 19 May 2016.

<sup>68</sup> National Association of Licensed Paralegals, 'Courses' (*National Association of Licensed Paralegals*) <[http://www.nationalparalegals.co.uk/become\\_licensed](http://www.nationalparalegals.co.uk/become_licensed)> accessed 15 June 2016.

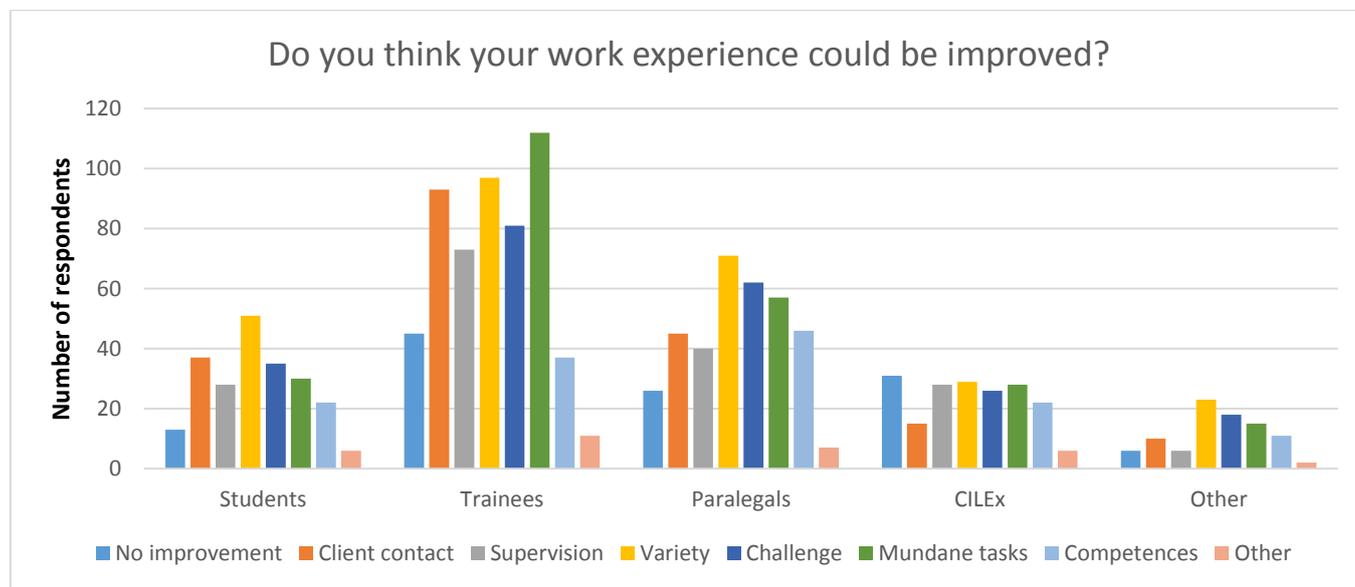
<sup>69</sup> OISC, 'How to Become a Regulated Immigration Adviser' (*Gov.uk*) <<https://www.gov.uk/government/publications/how-to-become-a-regulated-immigration-adviser>> accessed 9 May 2016.

discussions were common for employees, consistently with some of the suggestions in section 7 above, trainees received more apparent support particularly in principal sign off, formal discussions and use of checklists.<sup>70</sup> “Other” responses included self-appraisal, NALP qualifications and OISC audits, interview and failing to win repeat business. Some of the more senior respondents might no longer be “assessed” in this way.

## 8.6 Improving work experience

**Figure 6: How could work experience be improved**

Respondents could choose more than one option.



	No improve ment required	More client contact	Better supervis ion	Wider variety	More challeng e	Fewer mundan e tasks	More opportu nities/ competen ces	Other
<b>Students</b>	14.1% (13)	40.2% (37)	30.4% (28)	55.4% (51)	38.0% (35)	32.6% (30)	23.9% (22)	6.5% (6)
<b>Trainees</b>	19.1% (45)	39.6% (93)	31.1% (73)	41.3% (97)	34.5% (81)	47.7% (112)	15.7% (37)	4.7% (11)
<b>Paralegals</b>	17.8% (26)	30.8% (45)	27.4% (40)	48.6% (71)	42.5% (62)	39.0% (57)	31.5% (46)	4.8% (7)
<b>Legal executives<sup>71</sup></b>	33.7% (31)	16.3% (15)	30.4% (28)	31.5% (29)	28.3% (26)	30.4% (28)	23.9% (22)	0.5% (6)
<b>Other</b>	16.2% (6)	27.0% (10)	16.2% (6)	62.2% (23)	48.6% (18)	40.5% (15)	29.7% (11)	5.4% (2)

“Other” responses included, for students, more court hearings and longer periods of experience; for trainees, a living wage, clarity about how to meet the competences, more autonomy in training and more advocacy; and for paralegals, legal executives and others, more training and recognition of equivalence with solicitors.

<sup>70</sup> Appendix 2.20.

<sup>71</sup> It is possible that Legal executive respondents considered the CILEx work-based learning competences and some paralegals might have considered the Institute of Paralegals competence frameworks.

## 9 Conclusions

### 9.1 What kind of work is undertaken?

A range of areas of work are covered in different kinds of work experience (Figure 3). Clinics, law centres, legal executives and not for profit organisations tend to focus on personal plight work. Vacation schemes and training contracts tend to focus on commercial work.

The depth and autonomy of work carried out ranges from observation (e.g. in vacation schemes and training contracts) and administration (e.g. by junior paralegals) through management of comparatively straightforward files (mid-range paralegals, some sandwich placements and training contracts) and junior work on more complex transactions (e.g. training contracts) to managing files and departments (senior paralegals, FILEx, others). Paralegal work, sometimes of many years, prior to a training contract is quite normal, although not universal (section 5.2).

### 9.2 What knowledge, skills and attitudes are obtained from work experience?

Discussion of what is learned in the workplace appears in section 8 but also pervades the responses reported in this document. In summary, knowledge gained appears to be either new knowledge, related to areas of law not covered in prior or parallel classroom activity, or application of existing or new knowledge to the messiness and unpredictability of the real world.

Skills obtained from the workplace may be new (e.g. team-working); application in a more complex context of skills introduced elsewhere (e.g. application of law to the facts, legal research) or to a real world context (e.g. taking into account a client's emotions when advising them).

Attitudes mentioned are also related to operationalisation of, possibly academic or theoretical, understanding of issues such as ethics or client care. Professionalism, duties to clients, and responsibility are emphasised.

### 9.3 To what extent does work experience enable candidates to develop the competences set out in the Statement of Solicitor Competence?

A number of the competences appear to be unproblematic (e.g. legal research, taking responsibility for one's own learning, taking steps to obtain help, communicating clearly, analysing problems, obtaining facts and drafting) in most kinds of work experience: see Figure 4. However where the experience is very short, very constrained or very junior, opportunities to acquire or develop competence in even these may be depressed. Vacation schemes in particular appear to be too short and too constrained to allow for very much more than informed career choice and to be part of a firm's recruitment processes.

Some paralegals, (see section 7 above) may be in a position to acquire, develop or demonstrate competences relating to client contact and taking responsibility for managing/progressing a case or transaction to a greater extent than some trainees.

There appear to be issues surrounding the ability to experience and therefore to learn about application of ethics (section 6.2) the commercial background of the organisation (section 6.6.1), personal autonomy, responsibility (section 6.6) and time and workload management (section 6.7) in some kinds of work experience. Not all work experience involves team work (section 6.5). Lack of opportunities to acquire, develop or demonstrate competences in client contact, advocacy and negotiation appear to be widespread (Figure 4).

Sandwich placements and possibly clinics, as well as other volunteer work in Citizens Advice and law centres may provide more opportunity for learning that aligns with the Statement of Solicitor Competence, with some respondents being allowed substantial responsibility in those environments (section 6.8.2).

A substantial proportion of trainee respondents have had long periods in paralegal roles prior to entering the training contract. They, and mature entrants from other disciplines, were inclined to express the view that this experience should be taken into account as against the training contract and, sometimes, the LPC (section 5). The equivalent means route appears not to be well known (or we would have expected survey respondents and interviewees to mention it – only one did).

Qualifying as a solicitor appears to be of decreasing interest for legal executives (section 7.3).

There are challenges in work experience, including the training contract (and, possibly, CILEx qualifying employment) in relation to professional conduct (section 6.2), advocacy and negotiation (section 6.3).

6.4), client contact (section 6.4), understanding the commercial, organisational and financial context (section 6.6) and in taking responsibility for files or matters (section 6.8.2).

- Most interviewees, including those on vacation schemes, indicated that they had been briefed on the Code of Conduct (we anticipate that client confidentiality may have been emphasised) but there were limited opportunities to apply that information in dealing with ethical or professional conduct matters that may be filtered away from staff at their level (section 6.2).
- Some, but not all, students in clinics and on placements may have more direct interaction with clients than some paralegals and trainees, although some paralegals with significant seniority or responsibility worked directly with clients. Trainees might however, meet clients at meetings even if they did not advise them directly (section 6.4).
- Those placed in organisations for short periods were unlikely to be exposed to business or organisational matters. Some junior paralegals also encountered this. However, there was some variation, with some firms being very open about such matters, even to vacation scheme students (section 6.6.1).
- There is a strong indication, as set out in the analysis in section 7, that paralegals have more responsibility and autonomy, albeit sometimes for more routine files, than trainee solicitors, with trainees undertaking more directed, but less substantial tasks on more complex cases, as well as being in a consciously “training” role that has impacts on the experiences they are exposed to and the support they receive.