

Biographies

Alison Pope is Library and Information Services Manager and supports the Schools of Law and Business at Staffordshire University Law School. As a Learning and Teaching Fellow at the University 2005-2009, Alison was involved in integrating information literacy into the University's Learning and Teaching strategy. She has since been working on initiatives to integrate information literacy elements into law and other university programmes and projects such as Enquiring Minds (EMs). She was co-editor (with Geoff Walton) of *Information Literacy: Recognising the Need* (Oxford: Chandos, 2006) and other IL work. With Geoff Walton she is co-editing *Information Literacy: Infiltrating the Curriculum, Challenging Minds* (Oxford: Chandos, forthcoming later in 2010).

Keith Puttick lectures in employment, social welfare law and family welfare aspects of migration at SULLS. He is a co-author of *Employment Rights; Civil Appeals* (ed. Sir Michael Burton: Foreword Lord Woolf); *Butterworths Family Law/SFLS* (ed. John Fotheringham); and *The Challenge of Asylum to Legal Systems* (ed. Prakash Shah).

Geoff Walton is Academic Skills Tutor Librarian and Research Informed Teaching (RiT) Project Co-ordinator at Staffordshire University. His specific subject responsibilities are for Psychology and Sport & Exercise Science. He recently completed a PhD which analysed the development of a blended approach (a mix of face-to-face and online pedagogical methods) for delivering information literacy to first year undergraduates. Geoff is co-author (with Mark Hepworth) of *Teaching Information Literacy for Inquiry-based Learning*. He is also winner of the award - SLA Europe information Professional 2010.

Legal Information Management, 10 (2010), pp. 108–110
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doi:10.1017/S1472669610000423

Law Firm Legal Research – What Trainees Need to Know

Abstract: At large City firm Herbert Smith, the legal research training programme for trainee solicitors is taken very seriously and includes a compulsory training course in their first two weeks, followed by research exercises and further courses which have been carefully designed in association with the partners to ensure that trainees qualify with excellent legal research skills.

Keywords: law firms; legal research; trainee solicitors

Introduction

Herbert Smith, in common with most law firms, has a rigorous selection procedure for its trainees. All are graduates who have performed to a high standard throughout their degree course. At the selection stage they are tested both in writing and verbally at interview on their ability to solve problems, express themselves clearly and commercial awareness. Why then, do we consider it necessary to give these individuals further training on research skills?



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The answer is simple. The background of the students, both at university and subsequently at law school, does not adequately equip the majority of them to tackle a piece of research in the commercial context. Whilst it is dangerous to over-generalise, at the degree stage the students are working at a more theoretical and academic level, where the main purpose of the assignment is to test their ability to assimilate information from a variety of sources and to produce a well-argued and structured answer to the

questions posed. Students are not required at that stage to think from a commercial perspective by putting themselves into the position of the client who is looking for a practical solution.

At law school there is a shift of focus from the academic to the procedural and practical and students are encouraged, through the use of case studies, to think more in terms of a practitioner. They are given discrete research tasks to carry out as part of the Practical Legal Research (PLR) module which forms a small part of the Legal Practice Course (LPC). The time constraints of the PLR mean that, in reality, there are few opportunities for the students to put those skills into practice. Many students find case studies artificial and do not get into the client mind-set.

As with any cohort, there will always be some who, from their first day as trainees, tackle a piece of research in a short time scale with calm aplomb, producing a succinct yet thorough note in easily digestible form. The majority need the chance to hone their skills further. It comes as no surprise that trainees in their third or fourth seats¹ generally produce much better research notes than their colleagues who have just joined the firm.

Internal legal skills training

Rather than leave the trainees to pick up the skills as they go along, Herbert Smith has designed a training programme on legal research skills. This covers the following elements:

1. A compulsory course of one and half day's duration in the first two weeks of their joining. On this they cover both legal research and writing. The course is delivered by partners and the Library and Information Group (L&I Group). It involves a practical legal research exercise; a practical company research exercise and a legal writing and mark-up exercise. The latter focuses on how to write a legal research memo and also gives guidance on the symbols used to mark up a document. The purpose of the legal research exercises is to act as a refresher and build on the knowledge that they will have gained as part of their PLR.
2. At the start of both their Litigation and Corporate seats the trainees are given a research exercise to complete in one afternoon. These are marked and returned with individual feedback on a standardised marking sheet. This covers both the form of the research memorandum, including the following:
 - Were sentences clear and grammatically correct?
 - Was tabulation used?
 - Was there a summary upfront?
 - Were sources listed at the end?

And the content:

- Were the sources used adequate?

- Were conclusions reached and
- Were they correct?

Much of this reinforces what the trainees have covered in the PLR. Markers are also asked to add their own particular observations at the end of the sheet. The markers meet with those trainees whose memoranda have failed to meet the requisite standard to give them feedback on their work and guidance on how they can improve.

3. A research skills course is run on a regular basis, which is open to all trainees but compulsory for those who have encountered difficulties in the research tasks above. This is a half-day course which covers various stages in the research process, from the time that the trainee is given the task, preparation, use of sources and writing the memorandum. The trainees carry out various practical tasks during the course.
4. Several courses are run by our L&I Group on the on-line and hard copy resources available to assist trainees in their research. These include:
 - Case and legislation research, UK, Europe and international
 - Business research
 - Internet research.

The aim is to provide trainees with a sound understanding of the resources available. They learn how to improve their research by using advanced search techniques and increasing their understanding of functionality. All of the courses include practical exercises with use of work-related examples. Practice-specific resource training is given to trainees at the start of their seat. Librarians work closely with professional support lawyers on the content.

Before writing the research skills course referred to at 3 above, a considerable amount of time was spent asking partners, associates and professional support lawyers within the firm for their criticisms and observations on the research notes produced by the trainees. Key points which emerged and which are focused on in the course are as follows

- When given a problem to research, trainees should try at that stage to ensure that they understand exactly what is being asked of them in terms of content, the timescale and the desired format of the research and to seek clarification if necessary. It is better to delay starting the task until the trainees are sure what it entails than realise several hours later that they have not fully understood, require more information and may have to start again.
- Before trainees embark on research which is fact dependent, rather than just being on a purely legal issue, they should make a list of what the key factual issues are and obtain, wherever

possible, all relevant documentation providing that factual information. PSLs frequently report occasions where trainees have asked them for assistance, but it has become clear that they do not have sufficient facts to proceed. While it is only with experience that one becomes fully aware of what the key factual points are, trainees should be encouraged to think in these terms before they rush to the library or the PSL for help.

- Again, before embarking on the memorandum, trainees should bear in mind that this research is not just some hypothetical task to test their analytical skills, but it is going to be translated into advice for the client. Whilst the memorandum should set out the relevant law, it should wherever possible reach a conclusion and contain practical advice such as timing of next steps, documentation to be drafted and possibly what further information may be necessary to progress the matter. This is an area which trainees, understandably, find hard. It does come easier once they have had exposure to clients and realise that ultimately clients are generally interested more in what needs to be done, and how, as opposed to simply why.
- There is a tendency for trainees to think that the longer the memorandum is the better it is. This is simply wrong. There is a vast amount of information available to them which can be overwhelming. Trainees need to be discerning about what they include: if a case is irrelevant, albeit interesting, it should not be included. If there are ten authorities all supporting the argument, only one should be included.
- It is not possible to twist the facts to suit the law. That may sound a very obvious point, but there are examples of key facts being suitably ignored so that the situation will fit nicely into a given scenario echoed in the case law. Life is not generally as convenient as that and the trainees have to be alive to this. As every individual case is different, a trainee will need to use reason and

judgment to come to a conclusion and this leads to perhaps the most common failing.

- Trainees often find it difficult to “pin their colours” to a conclusion preferring to sit on the fence. Unlike law school or university, often there will not be an answer to the problem they have been asked to explore. They will have to consider the case law or the statutory provisions and using their judgment, form a view. As long as trainees set out how and why they have formed that view, the lawyer reading the memorandum can follow the reasoning and possibly challenge it. Whilst the client is paying for us to form a judgment and may be interested to know that there are a range of possible options, ultimately they will only be interested in what the lawyer’s preferred option is.
- From a supervisor’s perspective one of the most important aspects of the research is that all the sources used are clearly identified. It is important that the supervisor is able to judge quickly the value of the research memo by checking that all relevant sources have been utilised. Unfortunately there are examples of trainees mistaking a “Google” search for a thorough piece of legal research.
- Whilst we undoubtedly have a lot to be thankful for in terms of our “Generation Y” trainees’ abilities to use electronic resources instinctively, valuable skills are being lost including referencing, using and cross-referring hard copy source materials and, in particular, the ability to use an index quickly and effectively.

Conclusion

The trainees who have attended these courses become more aware of the need to take a thorough yet focussed and practical approach to their research. It is rewarding when trainees who, at the start of their contract, have struggled with their research, six months later produce material which can readily be converted into sound advice to the client.

Footnote

¹A seat is the term applied to the division of a trainee solicitor’s training into four six-month periods in different departments. At Herbert Smith, trainees have compulsory six-month periods in corporate and litigation but can choose the other two.

Biography

Caroline Tuckwell is the Training Support Lawyer for the Litigation and Arbitration Division at Herbert Smith LLP. Her role includes writing and delivering legal and skills courses to associates and trainees. She has ten years’ experience as a fee earner. Prior to qualifying as a solicitor, she was a teacher.