

# Hitting the Ground Running – are LPC Students Ready for Practice?

Amanda Fancourt is a Lecturer on the Legal Practice Course (LPC) at the Oxford Institute of Legal Practice. This article summarises the results of her research project, “Hitting the Ground Running?”, which looks at whether graduates receive a sufficiently focussed training for future legal careers whilst studying on the Legal Practice Course.

## Introduction

Between June 2002 and June 2003, I conducted research whilst on secondment as Research Fellow to the UK Centre for Legal Education (UKCLE) into whether the LPC is adequately preparing its students for their training contracts. This research project was funded by the UKCLE, which is based at the University of Warwick. The research arose in response to the concerns about the quality of trainees raised by City law firms, and particularly the eight who went on to develop the “City LPC” with three LPC providers, OXILP, BPP and Nottingham Law School.

This article sets out the key findings of that research, with an emphasis on those relating to legal research and the use of legal information, including precedents. The full research report is available on the UKCLE website at [www.ukcle.ac.uk/research/fancourt](http://www.ukcle.ac.uk/research/fancourt). In addition, there is some commentary on the approach to legal research in the Law Society’s current Training Framework Review.



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This became known as the “City LPC”. The firms were of the view that their trainees had inadequate knowledge of black letter law, and that the existing LPC placed insufficient emphasis on legal research and drafting, two of the principal tasks undertaken by trainees. I was interested to discover if other law firms had the same concerns.

It is worth mentioning at this point that, as many of you will know, the entire training process for solicitors is currently under review. In July 2001, the Law Society issued its first consultation document on the “Training Framework Review” (the “TFR”), in which it sought views on the competencies required of solicitors on quali-

fication. Since then, there have been a report on the first consultation responses, a discussion document on the TFR and a second consultation (October 2003). The Law Society has reported on responses to this latest consultation. Broadly, it has been agreed that greater flexibility needs to be given to the training process through an outcomes-based approach. Whether a trainee has attained or possesses the knowledge, understanding, skills and attitude necessary for the profession will be assessed at the point of qualification. The TFR proposes that there could be a number of pathways to qualification.<sup>3</sup> At the time of writing, the Law Society Council has issued a statement approving the TFR, but requiring further detail on the outcomes proposed. It is unlikely that any changes will be implemented before September 2006.

## A little background

The LPC is the current vocational stage of training for solicitors. It was introduced in 1993, “to ensure that trainee solicitors entering training contracts have the necessary knowledge and skills to undertake appropriate tasks under proper supervision during the contract”.<sup>1</sup> The course underwent substantial review in 1996.<sup>2</sup> In 1999, eight City law firms approached three LPC providers, of which OXILP was one, to develop an LPC that was more tailored to the type of work undertaken by those firms.

## The research – how and with whom?

Through questionnaires and interviews, I sought views on the LPC from trainers and trainees at 14 training

establishments.<sup>4</sup> These ranged from a three-partner legal aid practice in Berkshire, through a local authority and a twenty-partner general practice firm, to a 300 partner City firm.<sup>5</sup>

The questionnaires were completed and returned to me before the interviews, and they provided a useful fact base and starting point for the interviews. I interviewed the trainers and trainees separately.

The questionnaires sought outlines of the training programmes offered to trainees, and most importantly what it is the trainees actually do (their tasks), together with the skills and attributes required by the firm of its trainees. These issues were explored further in the interviews. However, these concentrated on a number of areas, namely:

- The current role of a trainee
- Trainee strengths and weaknesses
- LPC strengths and weaknesses

### What were the findings?

The next paragraphs sum up the principal findings very briefly, while subsequent paragraphs focus on legal research and presentation of research results in practice. I would encourage you to look at the full report for details on the findings.

In terms of the tasks identified in the questionnaires, the most common was, unsurprisingly, legal research, followed by conduct of small files, and drafting. Good communication, both written and oral, came top of the skills list, whilst “people skills” were the most required attribute. On the role of the trainee, firms reported that, while they recognise that they have a training role, they do expect trainees to take on early responsibility, to a greater extent than five to ten years ago.

The principal criticisms of trainees were that their written communication was poor, particularly in terms of grammar, spelling and punctuation, and that they lacked a satisfactory professional attitude. This latter was broadly due to lack of knowledge of a working environment. A number of firms, especially smaller ones which needed their trainees to take on a high level of responsibility early, actually preferred trainees who had some sort of prior experience, beyond the occasional summer job, as this made them far more effective from an early stage in the training contract. It was felt by trainers and trainees alike that greater awareness raising on the LPC of the realities of practice could improve trainees’ attitude. This was discussed at length in the research report,<sup>6</sup> but it is not possible to go into it further here.

Finally, as for the LPC itself, the majority of trainers interviewed offered few comments on the course or how it might be improved. The main reason for this was that they had little idea of what the LPC actually involved. I was concerned by this, as the LPC and the training contract are supposed to form a continuum in the training of solicitors. I would welcome perspectives from legal

information managers in training establishments on this point.

Trainees in the main were critical of the skills elements of the LPC, saying that they were insufficiently integrated into the substantive subject areas, such as business law and property. In addition, trainees would welcome more awareness-raising as mentioned above.

There now follows more detail on the findings and comments on legal research itself and on trainees’ writing skills.

### ● Legal research

Legal research, which was mentioned by all participants, either in the questionnaires or in interview, is the most obvious task for trainees. This is perhaps particularly so in the early stages of the training contract when firms or supervisors are assessing the trainees’ abilities and what degree of responsibility can be given to them. Most trainers interviewed were impressed with the high quality of their trainees’ research ability, and particularly with electronic research. Two firms (one legal aid, and one small general practice) reported that their most recent trainees had become actively involved in setting up or improving the firm’s IT systems. This must be reassuring for undergraduate law schools and LPC providers.

As the interviewees tended to concentrate on problem areas, legal research itself was discussed very little. However, the presentation of research results orally or in memoranda received considerable criticism, to be discussed further below. For example, the training partner at a large corporate provincial firm said:

“... the only criticism of the research is the ability [or lack of it] to see the wood for the trees . . . . They give everything and it is for someone else to decide what is wood and what is tree.”

This was echoed by training partners at a legal aid practice and at a niche commercial firm.

### ● The collapse of English and seeing the wood for the trees

One of the key criticisms of trainees was the lack of ability to present research findings in a helpful way. In addition, most trainers interviewed were very critical of their trainees’ standards of English, and some commented that trainees are unable to deal effectively with precedents when creating documents.

“standards of English have collapsed! [This is] one thing still needed that I see is not necessarily being provided. . . . But people who are perfectly competent to do all kinds of other things, cannot necessarily draft in the way that is needed, even starting with small correspondence. That has been a disappointment to me. No-one expects in our

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areas of law [personal injury and multi-party litigation] to receive a letter that is badly spelt or punctuated". (**Training partner at a niche legal aid firm**)

"We are constantly told trainees have no sense of grammar, spelling... [But] it is not the LPC's job". (**Training manager at a provincial mixed practice**)

In the context of both legal writing and drafting, only one of my respondents, training partner in a legal aid firm, actually referred, on a more positive note, to the notion of "plain English".

"..... Apart from remedial English classes as a compulsory element of the LPC, generally plain English seems to be getting home".

It would be interesting to hear how law librarians and information managers in all sectors see the development of plain English.

As for presentation of research findings and use of precedents,

"[In research findings there is] lots on the outline of the law, but what is the answer? Sometimes they don't take it that one step further. They seem to think that they've told you what the law is, so it's up to you to work out the answer". (**Training director at a local authority**)

"I think... that students are still in an academic mode of writing, rather than getting to the point... Comes through when writing up recommendations from a piece of research they might have done". (**Training partner at a large corporate provincial firm**)

Trainees were said not to be able to use precedents effectively. They had a tendency to copy them out without adequate adaptation to the needs of the client. One trainer, at a niche commercial firm, commented that "it is easy to pick holes in drafting [when reviewing someone else's agreements], but the classic is not to think what is not there...". Certainly, students on the LPC at OXILP are given exercises in adapting precedents and amending agreements, but have those in firms guiding trainees when they visit a database or library noticed any lack of knowledge of where to find or how to use a precedent? Also, while I am aware that librarians at universities and LPC providers will show students how to find information and use library facilities, do you become involved in assisting students in the writing up of that their research?

Subject to the above, overall conclusions were that the LPC is not doing such a bad job, even if trainees are unable to write very well. It was acknowledged that this is not the fault of the LPC, but is several stages further back in time.

## Legal research and training standards

Before concluding, it is worth considering how legal research is presented in the LPC standards and in the TFR proposals. Currently legal research is one of the skills developed and assessed on the LPC,<sup>7</sup> yet it is no longer mentioned as a separate skill in either of the TFR consultations. Remember that the TFR proposals relate to what a solicitor will have achieved or can demonstrate at the point of admission, that is after any vocational course and period of work-based learning. The outcomes in the proposals are therefore necessarily more general or broad than standards set for a particular course or stage in training.

Specifically, the first consultation refers to the use of "a wide range of research sources to produce up-to-date advice" and "techniques of legal interpretation to complex issues arising from them" in the wider context of legal analysis.<sup>8</sup> The second consultation moves away from such specific references to elements of research. In the section outlining the outcomes that a solicitor should demonstrate at the point of admission, it refers to "effective approaches to problem solving", and "effective use of current technologies and strategies to store, retrieve and analyse information".<sup>9</sup> These elements appear under the heading of "professional, personal management and client relationship skills". This is interesting. Other outcomes relate to general intellectual skills, core legal knowledge and understanding and the ability to complete legal transactions and resolve legal disputes, including the ability to "progress legal disputes towards resolution using a range of techniques and approaches".<sup>10</sup> Could these techniques and approaches be said to include effective legal research or, as is more likely, do they relate to negotiation and mediation for example?

It is puzzling that there is no more specific reference to legal research or analysis under the headings of intellectual skills and ability to complete legal transactions, particularly as the consultation paper states that the "ability to do requirements... could be developed and assessed in a training course similar to the current LPC and/or in a practice setting".<sup>11</sup> Of course, legal research is such an integral part of legal training, whether at degree level or in practice, that perhaps it is taken as read and need not be spelt out more fully. It remains to be seen how much more detail is added to these outcomes as the TFR progresses.

## Answers on a postcard...

I hope that the above provides some food for thought about the place of legal research and your role in the training of intending solicitors. I am aware that, within training establishments, librarians or information managers are involved in training, but my awareness of the detail or extent of that involvement is very limited.

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In one of the London firms that took part in my research, legal information managers conduct research training. Similarly at OXILP (and I assume this is common to all or most LPCs), our librarian takes sessions at the beginning of the course in which students familiarise themselves with the library, and begin to get to grips with the type of legal research that is required in practice.

I would be very interested to hear about your experiences of training in legal research, particularly in

law firms, and of your perception of trainees' use of precedents, for example. In addition, I welcome any observations you have on the "Hitting the Ground Running" findings, whatever sector you are in, and how you see the role of legal research and information management developing in the light of proposed changes to legal training.

Thank you for reading!

### References

1. Law Society website, The Legal Practice Course Format and Assessment
2. For details, see full report, at page 2, "Review in 1996", [www.ukcle.ac.uk/research/fancourt](http://www.ukcle.ac.uk/research/fancourt)
3. See for example, TFR consultation 2, at [www.lawsociety.org.uk](http://www.lawsociety.org.uk). The first consultation document and the report on it are also available at this site
4. That is, solicitors firms or public bodies authorised by the Law Society of England and Wales to take trainees
5. See Table 1 of the full report
6. Op cit, section 2.2 and page 53 for example
7. In the Written Standards for the Legal Practice Course at page 27, the introductory statement for Practical Legal Research states "Students should understand the need for thorough investigation of the factual and legal issues involved in a client's matter, the need for preparation and the best way to undertake it." The standards go on to list eleven things students should be able to do, such as identify and analyse facts and legal issues, and relate central legal and factual issues to each other
8. First Training Framework Review consultation paper, paragraph 19 (a) available at [www.lawsociety.org.uk](http://www.lawsociety.org.uk)
9. Ibid (note 3), at paragraph 53
10. Ibid paragraphs 49 to 51
11. Ibid paragraph 48

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*Legal Information Management*, 4 (2004), pp. 171–182

© BIALL Printed in the United Kingdom DOI: 10.1017/S1472669604001690

# SLS/BIALL Academic Law Library Survey 2002/2003

This is the latest report analysing the results of the Society of Legal Scholars (formerly Society of Public Teachers of Law) and BIALL Survey. It has been written by Cathie Jackson, Information Specialist – Law, Cardiff University.

## I. Introduction

The following report outlines the activities and funding of academic law libraries in the UK and Ireland in the academic year 2002/2003. The figures have been taken from the results of a postal questionnaire undertaken by Information Services staff at Cardiff University on behalf of the British and Irish Association of Law Librarians (BIALL).

This survey has been run on an annual basis since 1996 and reported in *The Law Librarian* and latterly in *Legal Information Management*. It is sponsored either by BIALL or by the Society of Legal Scholars (SLS), formerly the Society of Public Teachers of Law (SPTL). With the successful conclusion of the Foreign Law Guide (FLAG) project in 2002, Dr Peter Clinch was free to conduct the survey last year. This year he is planning an update to the FLAG database, so I have once again taken over the reins in administering and analysing the survey.