SRA Final Report

Evaluation
Work Based Learning Scheme Pilot
Cohort 1
2008 - 2010

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Report compiled by Institute for Work Based Learning
Middlesex University, 2010

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The overall objective of the Work Based Learning (WBL) project is to develop an approach to ensuring the competence of qualifying solicitors that is quality assured, consistent and reliable.

Source: SRA Website
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<tr>
<th>Term</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>SRA</td>
<td>Solicitors Regulation Authority</td>
</tr>
<tr>
<td>WBL</td>
<td>Work Based Learning which refers to the pilot scheme</td>
</tr>
<tr>
<td>wbl</td>
<td>work based learning in its generic form</td>
</tr>
<tr>
<td>IWBL</td>
<td>Institute for Work Based Learning, MU</td>
</tr>
<tr>
<td>MU</td>
<td>Middlesex University</td>
</tr>
<tr>
<td>Context</td>
<td>the legal profession</td>
</tr>
<tr>
<td>Set ups</td>
<td>the various legal environments in which trainees are trained: small, medium and large legal firms with a range of specialisations; legal departments in organisations which are not legal firms</td>
</tr>
<tr>
<td>Trainees</td>
<td>individuals employed as trainees on a training contract</td>
</tr>
<tr>
<td>Paralegals</td>
<td>individuals who are employed to do paralegal work</td>
</tr>
<tr>
<td>Candidates</td>
<td>all individuals whether employed by an organisation as a trainee or as a paralegal who are enrolled on the WBL pilot scheme to qualify as solicitors</td>
</tr>
<tr>
<td>Cohort 1</td>
<td>all candidates registered full time for the scheme commencing 2008 and ending 2010</td>
</tr>
<tr>
<td>Stream 1 candidates</td>
<td>all candidates on the WBL pilot scheme employed as trainees and who are either internally or externally assessed</td>
</tr>
<tr>
<td>Stream 2 candidates</td>
<td>all candidates on the WBL pilot scheme who are employed in legal roles and are externally assessed</td>
</tr>
<tr>
<td>EAOs</td>
<td>external assessment organisations contracted to review, support and assess candidates. In this pilot scheme, there are two EAOs: NLS and OXILP selected through a tendering process for the role</td>
</tr>
<tr>
<td>NLS</td>
<td>Nottingham Law School (Nottingham Trent University) contracted for all stream 1 and a small number of stream 2</td>
</tr>
<tr>
<td>OXILP</td>
<td>Oxford Institute of Legal Practice (Oxford Brookes University) contracted for LawNet firms</td>
</tr>
<tr>
<td>LawNet firms</td>
<td>legal firms who are part of a networking group of over 60 legal practices in England and Wales</td>
</tr>
<tr>
<td>IAOs</td>
<td>internal assessment organisations: legal firms internally assessing their candidates on the WBL pilot scheme</td>
</tr>
<tr>
<td><strong>Supportive Employers</strong></td>
<td>legal firms and legal departments in other organisations prepared to meet all the procedures, training and ethics criteria set down by the SRA for participation in the pilot scheme and able to provide evidence of being in a position to give full support to the participating candidates in their organisations</td>
</tr>
<tr>
<td><strong>Participants</strong></td>
<td>both professionals and candidates participating in the scheme unless otherwise stated e.g. candidate participants</td>
</tr>
<tr>
<td><strong>Professionals</strong></td>
<td>all professionals involved in the delivery of the scheme: EAOs and IAOs</td>
</tr>
<tr>
<td><strong>Standardisation</strong></td>
<td>the achievement of a set of standards that are reliable and consistent across all set ups</td>
</tr>
<tr>
<td><strong>Formative/incremental assessment</strong></td>
<td>assessment of different stages of progress towards an award</td>
</tr>
<tr>
<td><strong>Summative assessment</strong></td>
<td>final assessment for an award after the incremental stages have been successfully completed</td>
</tr>
<tr>
<td><strong>Use of italics</strong></td>
<td>indicates quotes from data</td>
</tr>
</tbody>
</table>

**Guide on how best to use this report**

1. **Executive summary** provides a background to the project and summarises the key findings in relation to meeting the objectives of the pilot scheme.

2. **Evaluation methodology** details how the evaluation was carried out and how the challenges were addressed.

3. **Evaluation conclusions** list the conclusions of the evaluation team based on a critique of the Findings of Annexe 1.i.

4. **Recommendations** list the key recommendations arising from the findings of the evaluation.
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Annexe 1

i. **Findings** relate to the main themes which reflect participants' views and experiences relating to the scheme which emerged from the evaluation exercise accompanied by evaluators' comments. Themes relate to: the set up; support and maintenance of the scheme; key findings on aims and objectives, learning outcomes, portfolios and assessment; widening participation and the future.

ii. **Stream 2 candidates** this section explores the issues arising from how this scheme addressed widening access to the profession.

iii. **Narrative reports** supplement the extracted findings by i. capturing the mood and modes of expressions of professionals when talking about the scheme which convey the *implicits* and the *intangibles*. These terms were used frequently by professional and candidate participants to describe what they believe 'objective' measures cannot ii. contributing a range of professional participants' views about how to ensure professional standards across all set ups. The narrative reports are on sufficiency: sufficiency of learning outcomes and levels; sufficiency to demonstrate the skills required; sufficiency of a WBL portfolio and employability; sufficiency of correspondence between evidence of key criteria and employability; the role of the SRA in the vocational training stage; the purpose of the vocational stage as distinct from the other stages; desirability of standardisation; the impact the future direction of law firms will have on training.

Annexe 2

**Resource Papers** have been written or commissioned especially for this report relating directly to the issues which have arisen in this particular pilot scheme and in the context of the legal profession. They can be used to i. support the recommendations ii. contribute to an exploration of whether aspects of the scheme are still relevant in the existing climate which has changed since the scheme was first introduced iii. provide ideas on how recommendations which are considered relevant can be reframed and realised. The papers are on: WBL in other professions; being a professional and being professional: competences and skills; portfolios and capabilities; accreditation; learning outcomes and credit systems; level descriptors of achievement; the use of reflection; assessment; ethics; coaching models; critical literature on diversity: education and the professions.

**Appendix 1** is a background to the consultation, design and implementation of the WBL pilot scheme.

**Appendix 2** is a grid of the tasks required of the evaluation exercise as listed in the SRA Scoping Document 2008.

**Appendix 3** SRA Scoping Document 2008.

**Appendix 4** MU Scoping Document 2009.

**Appendix 5** gives details of the analysis of each phase of data gathering.
1. Executive summary

Background
The training contract stage of qualifying as a solicitor is a prime example of ‘work based learning’ (WBL), a phrase that generally describes the learning provided in connection with a person’s employment. It is through work based learning that employees gain the vocational skills and knowledge needed to be competent in their job role or advance their career and while there is a general consensus within the profession that the training contract system seems to function well enough in providing the necessary knowledge and skills, nevertheless it has been vulnerable to the following concerns:

- standardisation: that the training contract does not expose all trainees to the same core areas of law and develop a set of skills that are qualitatively comparable whether from a small firm in the North or a magic circle firm in London;
- under representation of diverse socio-economic and cultural groups and of those with disabilities;
- unfairness to those in paralegal roles who had not been able to gain training contracts even although they had successfully completed the first two stages of the route to becoming a solicitor and who under the current system were highly unlikely to ever qualify.

Arising from these considerations, the Work Based Learning (WBL) pilot scheme was initiated by the SRA in September 2008 to research and explore an alternative model of assessing competence at the training contract stage of qualifying as a solicitor. The primary aims of the research were:

- to develop a method of assessment that was quality assured, consistent and reliable allowing demonstration of competence;
- to test a route to qualification that did not depend on the candidate having a training contract and as a vehicle for reducing barriers to access to the solicitors profession.

The Institute for Work Based Learning at Middlesex University tendered for the role of external evaluator for the pilot and was contracted in February 2009. The role of the external evaluator was to ensure an objective, thorough and informed assessment of every aspect of the scheme. The evaluation was intended to provide the SRA with a reliable analysis of the scheme, across a range of set ups with a cross section of participants, to inform its education and training strategy, and to progress the development of a competence based framework that would fulfil its obligations as a regulator.

Project description
The pilot tested and evaluated a point of admission assessment of competence against a set of WBL outcomes during the period 2008-2010. The outcomes specified fell under eight key headings:
1. application of legal expertise
2. communication
3. client relations
4. business awareness
5. workload management
6. working with others
7. self awareness and development
8. professional conduct.

There were four different strands to the SRA project, of which two have been completed in full and two are ongoing:

- The training contract/employer assessed route - employers assessed their trainees against the WBL outcomes;
- The training contract/externally assessed route - employers agreed that an external provider would assess their trainees.

The other two strands are:

- The paralegal route - aimed at those who do not have training contracts but whose legal work is commensurate with the work undertaken in a training contract. Assessment is provided by an external provider. Full time candidates have completed their assessment and the findings are included in this summary report. Part time candidates will be assessed during 2011 and 2012.
- The combined route - single provider providing a law degree, LPC and assessment of WBL in two contexts: client facing experience in the University's Student Law Office (a pro bono clinic providing free legal advice to the local community), and a placement with an employer. Assessments for this strand will take place in 2012.

The Middlesex Report evaluates those parts of the project that completed by December 2010. Findings from those on the part time paralegal route and the combined route will also be gathered and used to inform future work.

Under the WBL pilot, the SRA required candidates, both those in training contracts and paralegals, to complete a period of practical, assessed legal experience prior to qualification, with the aim of ensuring that each candidate should demonstrate the required standard of competence through the WBL outcomes in supportive legal environments.

A portfolio was chosen by both the internal and external assessment organisations as the method by which trainees would be able to demonstrate evidence of their competency against the WBL outcomes. Such evidence included a range of material such as reflection sheets, supervisor feedback, examples of exposure to areas of law, and experience of contentious/non contentious work.

The basic nature of the current training system remained in that training was designed and delivered by autonomous organisations under the central regulations and guidance
of the SRA. For candidates in paralegal roles in the WBL scheme, external assessment organisations designed and developed programmes under the new pilot framework which the SRA validated. The external assessment organisations performed the final assessment of competence for this group.

**Methodology**

A system of mixed methods was used to gather the data including quantitative methods for benchmarking information and qualitative methods in the form of interviews and thematic analysis of questionnaires. The evaluation team at Middlesex judged that this would:

- best capture the range of data required to attend to the aims and objectives of the SRA
- ensure reliability over a wide range of variables in the absence of the diverse sample being able to produce significant statistical reliability in all aspects
- the opportunity for triangulation to increase reliability
- give, as far as possible, a balance between data that could be regarded as objective and data which would be experience and opinion focussed. This was important for candidates for whom this pilot would be an entirely new experience. It was anticipated that candidates on the paralegal route in particular would have a useful perspective on the endeavour to widen participation and that this would not be captured in depth through surveys only
- elicit data on both general and specific areas and issues
- capture representative individual views and perspectives as well as systemic considerations.

Other methodological considerations were:

- issues arising in the evaluation due to the number of variables contained in the sample: different set ups; different candidate streams; different assessment arrangements; different regions; different educational and experience levels among candidates
- the evaluation exercise itself could impact on the views of participants
- the additional time, over and above the requirements of their training, that those in the sample would be required to give to the evaluation
- the responsibilities of the evaluator to provide reliable data to inform future decisions in the light of the SRA’s aims, and the potential of the evaluation exercise to impact on future policies.

To keep these considerations at the forefront of the evaluation exercise, the evaluation team had regular meetings with the SRA in the first phases of the research and involved external experts on law and professional qualifications to act as critical readers and advisers.

Participation in the scheme was limited to candidates at supportive organisations in England and Wales who had or would have completed the academic requirements (a law
degree or GDL) and the LPC before the start of the scheme. The deadline was 3 April 2008.

There were two sources of candidates:

1. Candidates nominated by participating legal firms who had already agreed to take them on for training as solicitors
2. Candidates volunteering for the scheme who were in employment in legal roles (which would not otherwise have led to qualification) in legal firms or legal departments of other organisations.

The final number of candidates who participated in the scheme is shown below with assessment outcomes:

<table>
<thead>
<tr>
<th>No. candidates</th>
<th>No. Passed</th>
<th>Revised deadlines</th>
<th>Referred</th>
<th>Withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Externally Assessed by Nottingham Law School</td>
<td>35*</td>
<td>27</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Externally Assessed by Oxford Institute of Legal Practice</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Internally Assessed by Legal firms</td>
<td>36</td>
<td>35</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>79</td>
<td>70</td>
<td>6</td>
<td>1</td>
</tr>
</tbody>
</table>

* Over 85% of this group were paralegals/in legal employment in organisations which were not legal firms.

**Analysis**

A system of triangulation of data was used: each data stream (surveys, interviews, portfolios, literature, policy documents, quality assurance documents from the various set ups) was analysed and checked against each other until the distillation produced confident superordinate themes (high consensus) and subordinate themes (lower consensus but high significance for certain participants). Where there was no consensus in the data collected the data was either used to describe or illustrate particular problems, or omitted. The conclusions and recommendations in the final report are based on themes that were consistently superordinate and high subordinate in the final phases of the evaluation exercise.
Key findings
The findings reported here are organised to address specifically the two primary aims of the project:

1. to develop a method of assessment that was quality assured, consistent and reliable allowing demonstration of competence;
2. to test a route to qualification that did not depend on the candidate having a training contract and as a vehicle for reducing barriers to access to the solicitors profession.

1.1 Work based learning outcomes
1.1.1 The WBL scheme demonstrated the value of learning outcomes as an appropriate learning and assessment approach for the vocational stage of training.
1.1.2 Learning outcomes were regarded by a large majority of respondents as ‘good practice’ in principle. Learning outcomes:

• are a move in the right direction to achieve objective measures and standards across all set ups
• assist in quality assurance
• enhance learning if delivered well
• guide the candidate and encourage, eventually, self managed learning
• guide the supervisor/reviewer in how best to support the candidate
• form a sound basis for assessment in skills application and competences
• encourage a professional (solicitor’s ) attitude by their requirement to evidence all work, be proactive, disciplined, business aware and manage time appropriately.

1.1.3 All the learning outcomes were considered relevant but the business awareness outcome, particularly in the changing economic climate, emerged as a key one for both legal firms and other organisations.

1.1.4 While a large majority of respondents regarded the learning outcomes as good practice in principle, there were reservations and qualifications:

• in their current form they are administratively burdensome and time consuming for everyone
• although designed to be generic, not all may be relevant for all sets ups or should be given the same emphasis
• there are too many
• several overlap
• a number are challenging to evidence particularly those involving people skills
• concerns about assessing levels of incremental learning
• concerns about whether one could use, and the value of using, the same piece of evidence for several outcomes
• uncertainty about reflection sheets and how best to use them
• not convinced that on their own the learning outcomes measure anything more than skills application and track the development of that process.

1.2 Portfolios
There was no unanimity on the effectiveness of the WBL portfolio as an assessment tool but the consensus drawn from the data was that the portfolio was a useful tool for providing a picture of a candidate's readiness to be a 'Day 1 solicitor' in terms of certain specific skills and their application under supervision. However, the portfolio was considered insufficient to give a complete picture of whether or not that candidate would be a good solicitor. The limitation of this endorsement related to two crucial factors:

i. the inability of the portfolio, by itself, to show necessary skills, in particular 'soft' skills, such as 'interpersonal communication'

ii. strong confidence on the part of training organisations in the instincts, perceptiveness and good judgement of professionals involved in training in respect of the relevant qualities of trainees. It was frequently stated that these qualities were difficult, if not impossible, to describe, define or evidence in an objective format.

Most legal firms, even those expressing reservations, intended to do one of the following with a number stating they had already started to do i. or ii.:

i. adopt a WBL scheme
ii. adapt the best of the WBL scheme to the best of their own practices
iii. be less resistant to an adapted version of WBL from the SRA

Benefits included for some

...WBL is good because it helps a trainee to concentrate more on acquiring skills.

...It will produce a much more rounded individual.

...the responsibility WBL seemed to put on the trainee, is one thing that attracted [our firm] to the scheme.

Overall, there was concern for everyone about what stages of the portfolio should be measured at what level. For those who had negative comments on the effectiveness of the portfolio, criticism focused on the whole exercise having the clear potential to become a meaningless, mechanical tick box process. There was an indication that 'just getting on' with work, showing initiative, willingness, self managed learning, attention to detail, professional knowledge or how to get it and being proactive were clear enough indicators of employability in the profession. A more complex criticism arose from an overall perception that the scheme did not deliver a system more beneficial than the one used by the responding organisation.

2 Reducing barriers to access
2.1 In relation to the aim to test WBL as a route to qualification that may help to reduce barriers to access to the solicitor’s profession, the pilot found that:
most candidates were convinced that such a scheme would help address the specific perceived barrier to entry into the profession of socio/educational background but only relating directly to paralegals and those in legal related employment

- professionals were not convinced that by itself the WBL scheme could address barriers to entry but rather barriers to entry needed to be addressed earlier in the education and training process, for example at the training contract application stage
- due to the economic climate, professionals in law firms believed that the level of degree and type of university would still need to be one of the criteria of initial selection for processing to interview stage
- professionals were not convinced that having a WBL portfolio would offer any particular advantage to the individual in seeking a newly qualified solicitor job in a legal firm. It could assist to secure an interview.

2.2 Professionals in legal firms all agreed that this route for paralegals to qualify as solicitors was a fairer system. However over the course of the pilot they became less convinced that it was desirable or feasible on a large scale due to a number of factors:

- shifting economic climate and potential professionalisation of other legal roles influenced a modification in views from ‘supportive in principle’ to ‘perhaps not feasible’
- all professionals did believe it was ‘fair’ to have this route but were concerned that reduced availability of training contracts would make entry into the profession even more competitive and selection criteria would be even more refined making a change to the degree level requirement unlikely
- concerns over whether being employed as a paralegal could give full exposure to the areas of law without the paralegal becoming a full time trainee
- the process of replacing a paralegal would also incur more costs for the employer
- during the course of the scheme concerns arose, which were not evident in the first year, that giving access to paralegals to enter the profession through the WBL scheme may create a two-tier system because paralegals would never be able to have the same experience as trainees unless they were employed solely as trainees
- the impact of Alternative Business Structures as well as the emergence of a professional body for paralegals was mentioned in this context but not elaborated upon
- the possibility of firms becoming more specialised and traditional paralegal work going abroad meant that firms would be looking for individuals to enter the profession who had the highest knowledge and skills levels to bring in and maintain business. It was believed by some that this approach was a meritocratic approach, decided by the market, that
would remove barriers to entry which were based on other factors such as age, ethnicity and gender.

2.3 The majority of other employers whose employees accounted for the majority of paralegals on the scheme all agreed that this route for paralegals to qualify as solicitors was a fairer system. However they were not convinced it was desirable in all cases and their reasons differed from the legal firms in a number of respects:

- if the paralegals were good at doing their job the employer would not want to lose them but recognised they also did not want to stand in the way of advancement
- extra cost incurred in terms of time to help their paralegals to qualify
- extra cost incurred if the paralegals wanted to stay on as qualified solicitors
- wanting to secure staff development for their employees and reconsidering whether this is the most appropriate way.

2.4 Candidates who were employed as paralegals were very enthusiastic about the scheme but also had reservations. Overall they reported:

- the pilot addressed barriers to entry on the grounds of socio/educational discrimination
- it was a fairer system because it recognised that without a training contract those who had successfully completed the first two stages of training could never qualify
- they understood why previous experience was not taken into consideration but would like to see it count if the scheme is rolled out
- the WBL framework encouraged them be more proactive in seeking opportunities that would enhance their learning
- the WBL framework helped them to engage at a more professional level of thinking
- concerns about whether their employer would be supportive, and were not clear what should be expected in terms of reasonable support
- differences arose/were accentuated between how they were treated in relation to trainees on standard training contracts e.g. for trainees on a training contract, the professional skills course was paid for by the employer and they had more freedom to move around ‘seats’
- concern about getting exposure to all the areas of law required, contentious and non-contentious work, and a lack of confidence that a secondment could work for them or their employers
- little concern that WBL may be a second rate/tier route
- more concern about payment for professional skills course and exposure to advocacy.

2.5 Candidates who were employed as trainees were less enthusiastic in the first year of the scheme but on the whole were more enthusiastic towards the completion of their training contract:
• at first they felt they were being treated differently, having to do more work, meet higher levels of evidence than colleagues on standard training contracts
• during the second year confidence had increased, they felt they had achieved more and could evidence it
• unlike paralegals and those employed in other legal roles, they believe they were helped by their organisations, drawing on the organisations’ existing training practice to support them as well as the WBL system
• they did not have concerns about exposure to areas of law but had concerns about getting experience of advocacy
• they had concerns that the profession may consider their WBL training to be inferior to the standard training contract because the profession did not really know about it.

Summary of key recommendations
The Middlesex Evaluation Report found that the WBL framework demonstrated a level of success in providing the legal profession with a learning and development approach to the vocational stage of qualification that assures quality in assessment, and that can be monitored and contribute to enhancing standards across all set ups. The evaluation report also highlighted a number of key recommendations:

1. Undertake further work to set out the skills and attributes for qualifying as a solicitor;
2. Develop progressive steps of achievement linking the LPC, the vocational stage and Day 1 competences;
3. Set out the learning outcomes necessary to demonstrate competence;
4. Consider a credit system to assess incremental learning and to open the door to more flexible routes to qualification and transfer between professions;
5. Retain and develop the use of the portfolio as a learning journal;
6. Train key professionals in coaching and assessing within a WBL framework;
7. Continue the bold moves in widening participation through exploring an accredited learning scheme for prior learning;
8. Address barriers to entry at secondary school level when choices of university, courses and future careers are still in the formative stage.
2. Evaluation methodology

Introduction

The role of education and training strategy for any regulator that sets professional standards is to apply education theory and practice across critical areas of risk – the validity, consistency and reliability of assessment – in order to ensure competence and the embedding of professional values and ethics. For the vocational/admission stage of solicitor training, failure in these critical areas constitutes risk to the public in terms of assuring the competence of new entrants to the profession.

Currently, there is no assessment at the point of admission to the solicitors’ profession. This was pivotal in the decision by the SRA to pilot Work Based Learning (WBL) for the vocational stage to inform future strategy. The SRA took the view that a work based learning framework supported the aim of ensuring competence rather than adhering to process, and also allows flexibility of routes to qualification. At the moment, large numbers of graduates of the Legal Practice Course (LPC) do not succeed in getting training contracts and therefore cannot proceed with the vocational stage of solicitor training. The WBL pilot also had the aim of exploring a work based route to assessing the competence of such individuals, working in paralegal roles, to enter the profession, and thereby the openness of the scheme to candidates from a wide range of backgrounds and experience.

Under the WBL pilot, the SRA required candidates, both those in training contracts and paralegals, to complete a period of practical, assessed legal experience prior to qualification, with the aim of ensuring that each candidate should demonstrate the required standard of competence through the Work Based Learning Outcomes in supportive legal environments.

The basic nature of the current training system remained in that training was designed and delivered by autonomous organisations under the central regulations and guidance of the SRA. For candidates in paralegal roles in the WBL scheme, external assessment organisations designed and developed programmes under the new pilot framework which the SRA validated. The external assessment organisations performed the final assessment of competence for this group.

An external evaluation of the scheme by consultants, experienced in both work based learning and legal education, was considered necessary to ensure an objective, thorough and informed assessment of every aspect of the scheme [Appendix 3 SRA Scoping Document]. Such an evaluation would provide the SRA with a reliable analysis of the scheme, across a range of set ups with a cross section of participants, to inform its education and training strategy and to progress the development of a competence based framework that would fulfil its obligations as a regulator. The Scope of Work document prepared by the SRA was extensive and detailed and had itself been informed by the open and engaged process which the SRA encouraged during its setting up of the pilot and its recruitment procedures.
The external evaluation team was given access to all aspects of the scheme and all participants during the Cohort 1 training period 2008 - 2010. This report is based on the findings of the Middlesex University evaluation team over this period. The scope of the evaluation exercise can be found in Appendices 2 and 3.

The Evaluation methodology was informed by the guidance issued in the SRA Scoping document [Appendices 2,3,4] and the Institute for Work Based Learning’s considerable experience in methodologies appropriate to professional work environments underpinned by a commitment to inclusion. The IWBL supports the notion that everyone has the potential to learn and contribute to knowledge through critical reflection on work experiences and practices.

The evaluation team decided on a methodological frame employing mixed methods (quantitative and qualitative) that would:

- best capture the range of data required to attend to the aims and objectives of the SRA [Appendix 2, SRA scoping document, Appendix 3, MU scoping document];
- ensure reliability over a wide range of variables in the absence of the diverse sample being able to produce significant statistical reliability in all aspects;
- the opportunity for triangulation to increase reliability;
- give, as far as possible, a balance between data that could be regarded as objective and data which would be experience and opinion focussed. This would be important for candidates for whom this pilot would be an entirely new experience. It was anticipated that stream 2 candidates would have a voice of value to the profession particularly in its endeavours to widen participation and that voice would not be captured in depth through surveys only;
- elicit data on both general and specific areas and issues;
- capture representative individual views and perspectives as well as systemic considerations.

Other methodological considerations were:

- issues arising in the evaluation due to the high level of variables contained in the sample: different set ups; different candidate streams; different assessment arrangements; different regions; different educational and experience levels among candidates;
- the evaluation exercise itself could impact on the views of participants;
- the sample would be subject to evaluation attention which would require their time over and above the requirements of their training;
- the responsibilities of the evaluator to provide reliable data to inform future decisions in the light of the SRA’s aims, and the potential of the evaluation exercise to impact on future policies.

To keep these considerations at the forefront of the evaluation exercise, the evaluation team would:
SRA Final Report

- have regular meetings with the SRA in the first Phases of the research;
- involve external experts on law and professional qualifications to act as critical readers and advisers.

**Analysis detail for each phase of the evaluation**

(for more detailed information on the analyses see Appendix 5)

- a system of mixed methods was used
- quantitative for benchmarking information
- qualitative in the form of interviews and thematic analysis of questionnaires
- thematic analysis was the organisation of themes over time into superordinate = major themes with high consensus and subordinate = themes with a lower consensus but still important in response to specific areas and set ups. Issues raised with no consensus were omitted or used for describing individual problems
- all the themes in the body of the final report and on which the conclusions and recommendations are based were consistently superordinate and high subordinate in Phases 3 and 4 of the evaluation exercise
- a system of triangulation of data was used: each data stream (surveys, interviews, portfolios, literature, policy documents, quality assurance documents from the various set ups) was analysed and checked against each other till the distillation produced confident superordinate themes (high consensus) and subordinate themes (lower consensus but high significance for certain participants)

**Evaluation research pathway**

1. **Phase 1 and 2 candidate survey, candidate interviews, professionals interviews**
2. **Interim Report 1**
   - quantitative and qualitative analyses: thematic analyses superordinate and subordinate themes
3. **Interim Report 2**
   - Phase 3 Key Questionnaire to all candidates and professionals : thematic analyses
4. **Distillation of findings, SRA scoping doc, SRA monitoring, literature search, critical advisers**
5. **Phase 4 professionals interviews, portfolios, distillation of all themes into superordinate and subordinate for inclusion in**
6. **Final Report**
Profile of Sample

Stream 1
Candidates employed by legal firms on a training contract. Internally assessed by their individual employers.
Other variables: location mainly London; large and medium practices; city firms, litigation; commercial; ethnicity; gender.

Candidates employed by legal firms on a training contract. Externally assessed by OXILP.
Other variables: location mainly London, south and south west; mixture of medium and large; different specialisations; ethnicity; gender.

Stream 2
Candidates employed by legal firm on training contracts. Externally assessed by NLS.
Other variables: location the North; large firm; ethnicity; gender; socio/educational.

Candidates employed by legal departments in a variety of organisations. Externally assessed by NLS.
Other variables: the North, the Midlands and London; variety of small, medium and large organisations; different types of organisations including local government and big business; wider range of age, gender, ethnicity, socio/educational and socio/economic backgrounds.

Research phases

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Feb to April 2009</th>
<th>an exploration of the set up, selection and recruiting documents of the SRA pilot</th>
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<tr>
<td></td>
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<td>an evaluation of the learning materials and guidance documents of the various assessment organisations</td>
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<td>an overall benchmarking questionnaire to all candidates and professionals involved in the scheme</td>
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<td></td>
<td></td>
<td>ongoing literature search on diversity in the professions and in education. Developments in work based learning practice and as specifically applied to professional qualifications most notably in the assessment of competence, skills and capabilities. Best practice in work based learning in the professions</td>
</tr>
<tr>
<td>Phase 2</td>
<td>May to Sept 2009</td>
<td>in depth interviews with key professionals and discussions with SRA team members</td>
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<td></td>
<td></td>
<td>In depth interviews with a broad selection of candidates</td>
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<td><strong>INTERIM REPORT</strong></td>
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<tr>
<td>Phase 3</td>
<td>March to July 2010</td>
<td>a key questionnaire designed to pay attention to the key issues distilled from both an analysis of the data and the emerging picture from the SRA monitoring of the scheme</td>
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<tr>
<td></td>
<td></td>
<td>on going literature search on diversity in the professions and in education.</td>
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Developments in work based learning practice and as specifically applied to professional qualifications most notably in the assessment of competence, skills and capabilities. Best practice in work based learning in the professions

**INTERIM REPORT**

**Phase 4**
August – December 2010*

further in depth interviews with key professionals to specifically focus on learning outcomes, assessments, widening participation, the pilot scheme as a whole, the future.

examination of a wide selection from both IAOs and EAOs of completed portfolios and summative assessments

in depth interviews with professionals of firms not involved in the scheme to test validity of the findings for the profession as a whole

analysis of the data from the evaluation exercise and an interpretation of the findings

recommendations

commissioning of particular papers to support the recommendations based on the findings

assessment of the diversity strategy

extrapolation of best practice

**FINAL REPORT**

*All assessments were not completed till end of October 2010

**Details of enquiry activities over 2 years**

**Year 1**

- desk research into set up of pilot scheme
- 1 benchmarking survey to all candidates
- 19 interviews with a range of candidates from both streams
- 9 interviews with professionals including 2 with EAOs

**Year 1 and Year 2**

- desk research into a wide range of assessment documents and portfolio systems
- literature search: diversity; socio/economic discrimination; professional routes to qualification; WBL as applied to the professions

**Year 2**

- 1 major key questionnaire to all participants
- 17 interviews with professionals
  - Large City of London/international firms
  - Medium-sized litigation intensive firms central London
  - Small ‘high street ‘ mixed practice firms suburban London
  - Legal departments of City Councils
  - Medium regional mixed practice firms north of England
  - Medium region mixed practice firms southern England
  - Non-scheme small litigation intensive practice firm regional, North of England
  - Non-scheme small litigation intensive practice firm regional, South of England
  - Non-scheme medium-sized mixed practice firm central and suburban London
  - Non-scheme international exclusively corporate practice firm (City of London)
Considerations which arose during the evaluation exercise:

- A number of team changes which took place in the SRA
- Two team changes in the evaluation team
- A change to team leadership in the SRA
- Full impact of the economic downturn
- Imminent changes in the law profession

**Challenges during the evaluation**

<table>
<thead>
<tr>
<th>Consideration</th>
<th>Response</th>
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<tbody>
<tr>
<td>1. Multiple variables and no representative sample for some factors</td>
<td>Increase interviews for reliability</td>
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<tr>
<td>2. Socio educational factors cited as major discrimination factor in the legal profession</td>
<td>Go outside of the scheme to check validity</td>
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<tr>
<td>3. Cooperation with the SRA on an independent report</td>
<td>Dedicate a discrete section in the report on stream 2. [See Annexe 1.ii.]</td>
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<td></td>
<td>Widens diversity literature search and barriers to entry into the professions [Resource paper 11]</td>
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<tr>
<td>4. Two processes going on at the same time i. the monitoring of the scheme by the SRA which also included consultations and eliciting evaluation material from participants for SRA purposes ii. the independent evaluation by the MU team. This led to candidates and professionals being regularly contacted for information and views</td>
<td>Recognition that due to the significant implications of the pilot scheme it was necessary to cooperate on certain issues: information; changes to procedures/materials; reviewing changes in focus due to shifting external and internal landscape; no collaboration during Phase 4 and writing of the Final Report</td>
</tr>
<tr>
<td>5. That the SRA monitoring visits appeared to have two functions: i. the SRA monitoring of the implementation and delivery to meet quality assurance requirements ii. information gathering/research on aspects of the scheme</td>
<td>Regularly apologizing to participants for what appeared to them to be repetitive checking</td>
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</table>
3. Evaluation conclusions

The conclusions listed here emerge out of the Findings [Annexe1.i] and are informed by an extensive literature search [Resource paper 11: work based learning; widening participation] and the work based learning expertise in research, employer engagement and professional training and practice which has been developed, and in some cases pioneered, by the Institute for Work Based Learning over the last nineteen years.

The evaluation exercise sought to evaluate the scheme against the template of validity, consistency and reliability in the application of education theory and practice in the vocational stage of training and to assess the scheme’s impact on addressing the issue of widening access to the profession.

The legal profession, after many years of ‘if is isn’t broken why fix it’ approach has, through its regulator, begun to challenge the accepted route of a training contract in its present form as being the most appropriate and sustainable for the profession in the current socio/political/economic climate of a global world. A system which has no objective assessment criteria, has a high variance in standards and has no requirement for objective evidence of skills and competences across all set ups is one that would find it not only increasingly difficult to compete in a knowledge economy but most importantly withstand scrutiny of standards, quality assurance, risk, ethics and inclusion.

The WBL framework is an adaptable framework which has at its core a set of learning outcomes which, if successfully achieved, demonstrate a range of competences/capabilities/skills which are evidenced through various activities and recorded in some form, the most common vehicle for this currently being a portfolio. The learning outcomes are formatively/incrementally assessed and the portfolio containing the activities, which constitute the body of evidence, provides the basis for the final assessment. Such a learning outcomes focused approach facilitates and enhances quality assurance across a range of set ups within the same profession which ensures the regulatory objectives of a profession can be met.
The evaluation exercise was able to some extent to differentiate the reasons behind some of the findings ranging from insufficiencies in a learning outcomes framework itself, the various ways in which it was interpreted and applied and the influence of environmental factors.

The evaluation conclusions have been organised into sections which focus on the different parts of the WBL framework as described above with an introductory paragraph for each. The use of **bold** indicates areas for note or development. Key recommendations to address these are in Section 4 and Resource papers to support the recommendations are in Annexe 2.

**General conclusions**

The evaluation team found that the WBL pilot scheme was carried out with due attention to consultation, research and transparency. Through its own monitoring of the scheme, the SRA was able to continue to clarify or consult on issues which arose for all participants. Some operational aspects took time to resolve. The WBL scheme was considered by a significant majority of its participants as motivated by necessary and worthwhile aims while at the same time raising both positive and negative responses. A number of negative or resistant responses were influenced by changes in the economic climate since the WBL pilot scheme was initiated.

3.1 The pilot was a success against most of its stated aims:

- to develop an approach to ensuring the competence of qualifying solicitors that is quality assured, consistent and reliable;
- to develop, test and evaluate WBL as a model for improving the quality assurance of the vocational training stage of qualification as a solicitor;
- to develop, test and evaluate WBL as a model for widening access to the profession.

3.2 In terms of developing an approach to ensuring competence, the pilot was successful in testing:

- the concept of a framework of competence measures for the practical vocational stage of solicitors’ qualification. The pilot has shown that this concept is appropriate for SRA aims;
- the competence measures themselves (the Work Based Learning Outcomes). Although they cover the essential areas, modifications to the style and structure of the Outcomes are needed [Resource paper 5];
- the use of evidence based assessment criteria;
- a vehicle for evidencing competences (the portfolio) which has provided valuable data to inform the next steps in this area [Annexe 1.i. Findings and Resource paper 3];
- a quality assurance system that can be monitored and contribute to enhancing standards;
- the means for candidates to self manage their learning;
• a model for widening access to qualification as a solicitor, allowing conclusions to be drawn as to the next steps in this area [Annexe 1.ii and Resource papers 4 and 9].

**Detailed conclusions**

3.3 The SRA’s design, implementation and monitoring of the WBL pilot scheme were underpinned by considerable research and ongoing consultation within the profession and with educational experts.

*A number of operational issues took time to resolve.*

3.4 The pilot’s two major aims were ambitious to achieve within the same scheme:

(i) a professional training and assessment framework that is quality assured, consistent and reliable
(ii) and widens access to the profession.

It was a bold move to include the second. It broke with tradition and produced valuable data to inform future steps regarding widening participation [Annexe 1.i. and ii. and Resource papers 4,5].

3.5 The scheme succeeded in persuading even the most resistant participants of the rationality of the purpose of the scheme resulting in several participating legal firms enhancing their existing training practices during and since the end of this Cohort 1 pilot.

3.6 It did not succeed in convincing the profession that it could be adopted as a training framework in its present form.

3.7 Impressive progress towards a viable system of professional learning appropriate to all set ups was evident. There is still a considerable amount of development and consultation work to be done which requires looking at all levels of legal training.

3.8 The WBL pilot was able to demonstrate progressive learning and development appropriate to the professional standards required to qualify as a solicitor and an acceptable level of consistency across all set ups was achieved. The WBL framework needs further development particularly in the area of assessment.

3.9 There was a high level of compliance to the WBL framework and its procedures and protocols because it was a closely monitored exercise introduced by the regulator for which organisations had volunteered. If a new framework is rolled out there is no guarantee of such a high level of compliance which needs to be taken into consideration when planning quality assurance and compliance protocols across all set ups. However if
the new framework can meet the concerns raised during this evaluation exercise then compliance will not be a core issue as the benefits to organisations will be evident and make sound business sense.

Quality assurance and enhancement (QAE)

The SRA is moving towards an Outcomes Focussed Regulation framework for all its regulatory activities directed at ensuring the right outcomes for solicitors' clients and others. This requires effective and proportionate quality assurance of entrance to the profession. The SRA needs a framework which ensures that competence to practise as a solicitor is attributed to each individual through assessment that is valid, consistent and reliable - and the WBL pilot was designed to research and test this

In this instance we are referring to quality assurance as processes which reduce risk to the public and the profession by ensuring that professional standards and practices are monitored and maintained. Quality assurance has sensibly evolved to include enhancement through the aspiration of high quality learning and development. It cannot rely on a set of rules which employees follow because of authority compliance rather than stakeholder compliance. Quality assurance for the professions integrates fundamental principles common to all work and professional practices and those which are domain specific. Among the contributions which WBL philosophy has made in the last fifteen years are:

(i) the notion that professional practice is a contributor to knowledge worthy of academic accreditation;
(ii) that the critique of professional practice as opposed to just doing it produces guidance to quality that is relevant, informed, open to ongoing development and makes good business sense. Most importantly, it encourages compliance through providing a 'profession derived' basis for consistency across different set ups which can be objectively measured against a standard that has been designed and supported by its members with the highest aspirations for its membership.

3.10 The scheme raised awareness in legal firms of the benefits of working to a WBL training framework/adapted framework in particular its value in facilitating self managed learning and supporting supervisors.

The vehicle of delivery (the portfolio) in its current form is administratively burdensome for candidates and professionals.

The vehicle of delivery (if used on its own) has limitations in assessing whether an individual has met the criteria for professional qualification [see Learning Outcomes and Portfolio below].

3.11 The scheme achieved success in providing a firm basis and an appropriate and flexible framework for objective assessment criteria with the potential to achieve a level of standardisation across all set ups but considerable challenges remain.
Even basic level competences vary in different set ups with varying degrees of supervisory skills in assessing and facilitating learning. The use of the portfolio varied across different set ups giving some indication of the challenge to drawing up a set of basic competences with which everyone agrees and complies.

3.12 Attempts to standardise could possibly result in a focussing on a minimum standard to qualify. This is a challenge not unique to the legal profession.

**Learning outcomes**

The pilot scheme aimed to test a learning outcomes framework within the legal profession and its potential to replace the standard training contract as a more objective process which encourages self managed learning, a professional attitude to work through evidence gathering and reflection and to assure the regulator and the profession that qualifying solicitors have met an evidenced benchmark standard across all set ups. The learning outcomes for this scheme were based on what were considered the main competences required of a Day 1 solicitor and these needed to be tested for relevance.

The literature on skills, competences and capabilities [Resource paper 11] has been extensive particularly in the last fifteen years with confusions arising over terminology and a range of competing conceptualisations of a professional: the skills and attributes required; an approach to facilitate the development of a professional and a system of objective measures to assess whether that goal has been achieved. The evidenced learning outcomes approach has emerged as the most appropriate pedagogic framework to fulfil these aims and has the flexibility for application in different professions and environments. However, training in how to facilitate and assess learning outcomes has been shown to be an essential component in the success of the framework particularly the use of reflection and what constitutes evidence [Resource paper 5].

3.13 The WBL scheme demonstrated the value of learning outcomes as an appropriate learning and assessment approach for the vocational stage of training.

3.14 The learning outcomes approach was overall effective in guiding candidates, supervisors and reviewers:

- to ensure candidates received adequate exposure to the areas of law
  *This was more challenging for stream 2.*
- to enable candidates to be proactive
- to enable candidates to self manage
  *Self management was a slower process for some than for others but no clear evidence as to why. It was unclear from the portfolios how much and what kind of help was given by supervisors/reviewers. Not every exchange was recorded in the portfolio.*
to ensure candidates provided evidence for their learning which formed the basis for discussions between candidates and supervisors/reviewers as well as for assessment.

The use of one piece of evidence to meet several outcomes is indicative of

(i) the overlap in the learning outcomes
(ii) in some cases a lack of varied work (more evident in stream 2)
(iii) challenges in evidencing learning outcomes 5-8.

3.15 The scheme succeeded in ensuring all candidates had exposure to the areas of law in part due to this exercise being a closely monitored pilot in which compliance was expected.

This was more challenging to achieve for stream 2 and needs further development.

3.16 The learning outcomes were too numerous, overlapping and prescriptive for the intended purpose and took up resources particularly in time causing hesitation about and, in some cases, resistance to adopting such a framework in the future.

3.17 All the learning outcomes were considered relevant overall but the business awareness outcome, particularly in the changing economic climate, emerged as a key one for both legal firms and other organisations.

The challenge was not relevance but how they could be demonstrated.

3.18 The soft skills learning outcomes 5-8 were challenging to demonstrate for all candidates using the evidence required. In other applications of the WBL framework, soft skills i.e. interpersonal and social skills are demonstrated more effectively through learning conversations and through reflection sheets.

3.19 Reflection sheets were used in several cases in an attempt to demonstrate these outcomes in the absence of other forms of evidence.

Guidance on the purpose and value of reflection within a WBL framework was limited, absent in some cases, and needs to be addressed.

3.20 The contentious/advocacy experience requirement was itself contentious and out of date. It requires clarification of what defines it, what evidences it and its relevance in all set ups.

3.21 The learning outcomes as they are framed and delivered cannot on their own evidence professionalism or potential.

3.22 Learning outcomes, to be effective as a learning, development and assessment approach, need to be complemented by skilled supervisors and reviewers who are an essential source of learning, development and assessment (of potential and professionalism as well as skills) and
instrumental in facilitating a move towards self management and professional acculturation.  

**It was not clear what impact the skill of the supervisor/reviewer had in the achieving of the outcomes.**  

**To be effective in the role of supervisor/reviewer and assessor within a learning outcomes based approach, training is essential and should include a developmental model taking the candidate from dependence to independence, from being taught to being coached.** Coaching models are widely regarded as the most appropriate for the professions [Resource paper 10].

**Portfolio**

In work based learning, a portfolio is a vehicle for evidencing competences. In this pilot scheme its use has provided valuable data to inform the next steps in this area. Although the SRA did not prescribe a portfolio, both the internal and external assessment organisations chose this method of delivery, record keeping, evidencing and assessment. A number of internal organisations chose the portfolio because a portfolio or something similar was already a feature of their existing training practices. External assessment organisations, influenced by work based learning practices, found it to be the most suitable and accessible form of

(i) collecting and recording evidence across various set ups  
(ii) facilitating learning development for candidates and their role as assessors.

Some organisations, which had not used a portfolio before, found it useful and were considering adopting it with some changes in any event. However a portfolio is not the only vehicle and its efficacy varies depending on several factors including how it is used, how the various aspects of the portfolio are interpreted and managed and whether it becomes relied upon as the sole means of assessment. It is open to being highly prescriptive and process focussed which does not support the SRA’s education and training strategy which emphasises competence rather than process.

There are different versions of portfolios and evidence in the literature of different ways in which they are used in the professions, in workplaces and in academic settings. In an academic setting, portfolios are more often used at the undergraduate and masters levels as evidencing learning and development in particular parts of the curriculum which may be new and have practice components. For example, they can be used to evidence the application of research methods through small exercises or projects, as learning journals for work placements to record how theory is related to practice or as evidence of attendance and of contributions the experience is making to the learning of the candidate/student. At doctoral level, portfolios are most often used as optional self learning tools and assessment is based on the integration of knowledge and practice through papers/projects. In accrediting workplace learning, portfolios are a reliable learning tool the early stages when articulating practice through reflection and writing papers on practice are, for many experienced workers, relatively new activities. In these cases, the portfolios are more a facilitation of learning than an assessment
tool. If they are used for assessment then they constitute only a part of that assessment. However portfolios can be used effectively in a very sophisticated way for the professions [Resource paper 3]. If portfolios are used in the delivery of a WBL framework and for assessment then they require training for candidates, supervisors/reviewers and assessors. They are not normally used as the only means of summative assessment. Portfolios are more often considered as a learning tool for the candidate/student and the educational institute or workplace than as something which is transferable and public. One of the exceptions to this would be in the arts.

3.23 The WBL scheme brought about the successful introduction of a portfolio as a vehicle for learning, professional development and formative assessment.

At times learning outcomes and portfolio were used synonymously.

3.24 The WBL portfolio system succeeded in helping candidates to plan their work, track their progress, reflect on challenges and have a basis for discussion with their supervisors and reviewers.

It was repetitive and burdensome resulting in one piece of evidence being used to demonstrate several outcomes particularly in stream 2.

It was prescriptive inhibiting candidates from thinking for themselves.

3.25 The limitations of the portfolio were also due to how it was used by candidates and employers (see 2.24 – 2.28).

Over conscientiously as in the case of some organisations which were not legal firms wanting to do everything well and to the letter.

Some legal practices operating it in parallel with their existing training contract examples of some portfolios concentrating on the incremental stages and others more on the final stages.

Supervisors feedback and reports varying in depth and skill.

Some candidates writing up feedback to work on, others not.

3.26 Some IAOs allowed more repetition of documents in terms of evidencing the learning outcomes than others which had implications for tracking progression. Some IAOs were very suspicious of allowing a candidate to include evidence of substandard work in their portfolios even if it was in an effort to show that they had learned from mistakes and progressed. Other IAOs were supportive of allowing a candidate to show where failings had occurred and how they had corrected them when dealing with future matters indicating learning progression.

3.27 There was some confusion about how to deal with evidence of supplementary internal training for candidates. Some IAOs provide extensive internal training for their trainees including courses, presentations, lectures and seminars. In one case the portfolios were given their own section to deal exclusively with evidencing attendance at such sessions. Other IAOs either had less formal internal training or chose not to include evidence of it in the portfolios.
3.28 The personal learning and development plan was considered a significant contribution by firms which did not previously have this practice and by employers of stream 2. Stream 2 reviewers actively helped with this which in the varied and often challenging circumstances of stream 2 was good practice. It was instrumental in helping to develop self management in achieving the outcomes. Stream 2 candidates were quite capable of self management in their legal roles but there was evidence that undertaking the WBL was deskillling when candidates moved out of their usual area of law.

3.29 Some IAOs emphasised the importance of the personal learning and development plan and constructed them in detail with the candidate and the supervisor collaborating on its content. These organisations tended to be those that use similar documents or systems in their standard training contracts. A number of other IAOs however, preferred to allow a greater degree of autonomy in their candidates by having them formulate their own personal learning and development plans as a means of self-reflection.

3.30 Some IAOs were more concerned with confidentiality than others with some being particularly concerned about the contents of portfolios being viewed by parties outside the organisation whilst others were content to use redaction. The evaluation team members had some difficulty in accessing portfolios in some legal practices on the grounds of confidentiality. There was evidence from the portfolios that substantial redaction had the same impact as excluding the document for any potential employer or external monitor.

3.31 The external assessment organisations made several contributions to refining and conveying the purpose and processes of the WBL framework to participants in how to meet the learning outcomes.

3.32 Three types of portfolio system were used - adapted electronic, tailored electronic and hard copy. The portfolio system, particularly the hard copy has significant problems concerning transferability/portability including issues of confidentiality hard copy was used by most of stream 1 and stream 2. The tailored electronic was well received by those who used it in contrast to the adapted electronic which was very unpopular.

3.33 The portfolio of evidence and assessment offers no advantage in employability over existing training systems. Employers will rely on their interviewing process and on supervisors’ appraisals to decide whether an individual is suitable for a position in their particular firm.

3.34 Employers will be more inclined to offer paralegals an interview if they know they have completed the WBL scheme but would most likely only use supervisors’ appraisals to inform the interview.
3.35 In terms of how IAOs differed before and after they implemented WBL there are a couple of areas to be highlighted. Some organisations were clear that they do not normally expect large amounts of document evidence to be collated as part of a standard training contract in order to demonstrate competence. The portfolios far exceed the amount of documentation normally expected of a candidate. Other organisations do expect extensive documentation from their standard trainees so the portfolio tended to be more familiar to them in terms of evidence requirements. In some cases the organisations internal systems require greater evidence than that required by the portfolios.

Assessment

Assessment of competence is perhaps one of the most researched areas of work based learning. The SRA in its endeavour to implement regulatory objectives relating to licensure sought to explore appropriate assessment methods. However, it is also one of the most challenging aspects of work based learning for the professions as its success is predicated on a conceptualisation of professionalism, a model of skills, competences and capabilities which articulate it, a set of processes and objectives which evidence it and a set of descriptors to assess it. In this pilot scheme, every care was taken to ensure the learning outcomes were evidenced and met. However, the scheme also highlighted the need for a confident conceptualisation of professionalism integrating skills, attitudes and attributes, a robust model of these and challenging, mature and creative ways to demonstrate them.

In the WBL pilot scheme, the portfolio provided the demonstration of achievement of the learning outcomes supported by a range of evidence including legal documents; reflection sheets; supervisor/reviewer feedback; use of feedback; formative assessment levels; appraisals; exposure to areas of law and contentious/non contentious experience. The assessment of competence to enter the profession was based on this evidence based demonstration of achievement of the learning outcomes. However retention by legal firms of these newly qualified solicitors appeared to be based on something that the portfolios did not seem to deliver on their own [Resource papers 2 and 7].

In addition to those challenges to assessment protocols mentioned there are others which range from criteria to objectivity. In work based learning, although designed to meet several of those challenges, some problems still remain. For example:

(i) at what stage can it be decided that a candidate does not have the potential to achieve the levels required to gain an award or to achieve professional qualifications and what criteria are used to reach that decision? Work based learning is progressive. Learning outcomes are achieved through a process of incremental learning giving rise to the notion that everyone will achieve the outcomes eventually. In some organisations if a candidate reaches a certain stage over a long period of time it is considered unethical not to allow them to proceed. To address this, work based learning has a series of level descriptors which clearly outline what a candidate is
expected to achieve at each level [Resource paper 6]. At each level the candidate is not only expected to meet the level descriptors but to demonstrate potential for the next level. Without demonstrating the potential, the candidate cannot proceed. Certain actions are taken, for example, increased support for the candidate, and if this does not influence the outcome then the candidate cannot progress towards the particular award they are aiming at. However systems are usually in place to supply credits or an exit award so that there is recognition of the learning up to that point [Resource papers 2,4,5]

(ii) how can learning outcomes ensure that professional attributes and attitudes can be defined, developed and objectively assessed? Portfolios on the whole are adequate for skills assessment however the assessment of attributes and attitudes require other forms of engagement from the candidate and from the supervisor such as the skilled use of reflection and learning conversations between candidate and supervisor/reviewer and oral presentation or dialogic engagement in summative assessment  [Resource papers 2,3, 10]

(iii) what distinguishes summative assessment from formative assessment? Is summative assessment the accumulation of formative assessment or is something more required? [Resource papers 2,5,8]. Formative assessment is a means to assist a learner to progress through clearly defined targets of attainment. Summative assessment requires an expert view on whether the learning journey has resulted in the acquiring and integration of skills and attitudes which the candidate can engage with critically. Different practices of assessment exist across different domains but there is general agreement that to deliver, facilitate and assess learning outcomes focused approaches requires training for those engaged in it.

A current trend in the development of assessment protocols considered appropriate for workplace environments and which remove assessment from the novice - expert dyad is the 360 degree assessment which has varying degrees of success. This gives everyone who works with the trainee/candidate the opportunity to be part of the assessment process through feedback including the candidate having the opportunity to feedback on everyone else. Such assessments claim to capture a more accurate picture of the attributes and attitudes of an individual, the soft skills and of course the skills of the supervisor

3.36 The WBL scheme demonstrated the value of learning outcomes and formatively assessed incremental learning as an appropriate learning framework for the profession at the vocational stage. Progress could be tracked on the portfolios particularly in stream 2. How this progress was defined and assessed was not always explicit. Guidelines on how incremental learning is assessed were not sufficient and in some cases non existent. The link between evidence and progression was not clear across all set ups there was no clear rationale for the different levels assigned to attainment in the portfolios. It was unclear how much supervision or direction had been invested to produce these results.
3.37 The portfolio on its own is not a reliable vehicle for summative assessment as it does not adequately demonstrate the development of soft skills, professionalism, potential and reduced dependency on the input of the supervisor/reviewer.

3.38 The evidence requirements, in how they were used, emphasised skills (learning how to do) rather than attitude, initiative and potential.

3.38 **Variance in assessment across sets ups was primarily due to how the WBL framework was used and level of individual assessment skills.**

3.39 **There were differences in how supervisors assessed.** Some organisations seemed to let a candidate’s everyday work account for that aspect of their training and use the meetings with a supervisor to gauge areas in which the candidate could improve themselves professionally. Other organisations showed a marked focus on the portfolio as a means of physically evidencing professional skills and these show a greater degree of scrutiny of the portfolios. For example, at one organisation the supervisors made detailed, handwritten comments in the portfolios themselves whilst at another the WBL supervisor admitted to not paying much attention to the portfolio at all.

3.40 There were differences between the ‘minimum standard’ achieved by a few candidates from stream 2 and stream 1 with the minimum being higher in stream 1. However in high performers in both groups there was no marked difference in levels of achievement and competence.

3.41 There were differences between the WBL learning and assessment system and some of those normally used by IAOs but differences varied depending on the firm. Weight and variety of evidence was higher in some cases, number of outcomes lower and use of reflection evident but not in the form of separate reflection sheets.

3.42 Interviews with non participants in the scheme demonstrated a strong consensus on the key issues which have emerged in this evaluation exercise, particularly on challenges to assessment and what the attributes of a newly qualified solicitor should be.

See Findings Annexe 1.i. section 6.3 for more extensive evaluator observations on learning outcomes, portfolios and assessments.

**Barriers to Entry**

The SRA did not hold back in its agenda for change. The SRA made it a major aim of this pilot to test a framework that could widen access to the profession for a range of LPC graduates who could not get training contracts but who had secured jobs as paralegals. Equal opportunities legislation, the changing nature of society and diversity enriched global markets have made it an imperative for British businesses
and institutions to more accurately represent the people who use their services. The SRA also needed to respond to the criticism levelled against it that the legal profession operates exclusive practices particularly in the larger to medium sized firms. Research would support that the criticisms have some basis in fact:

*The provision of legal services at the highest levels is still dominated by white, male lawyers from the highest socio-economic groups* (Nicolson, 2005, Sullivan 2010).

*The literature does not reveal direct discrimination in access to jobs or gaining a training contract. What is revealed is more the hierarchy and lack of differentiation within the profession that causes the lack of diversity in legal personnel* (Rolfe and Anderson, 2003).

Sommerlad et al (2010) found that the legal profession *vividly exemplified the cultural practices which indirectly discriminate against the non normative professional and constrain individual choices.*

*a higher proportion of black and other ethnic minorities study law compared to white students 6.3% of black students vs 3.1% of white students* (Equality Challenge Unit, 2010)

[Resource paper 11].

It was an ambitious move to try to achieve two major aims in one pilot both requiring shifts in attitudes and practices of such significance, particularly the addressing of barriers to entry, that they could be seen as paradigm shifts. However, the two areas are related. A lack of objective measures makes it difficult for the legal profession to defend the concerns directed at it regarding barriers to entry for LPC graduates on the grounds of difference.

The pilot scheme succeeded in raising awareness within the profession of widening access but also raised a number of issues for the SRA to address, not least the regulation of standards across an expanded range of set ups if access is widened through the adoption of the paralegal route of entry into the profession, the potential for the emergence of a two tier system and market forces which will be used to continue exclusion on the grounds of socio/educational factors, an issue already well recognised in the literature.

*The twin pillars supporting contemporary lifelong learning theory in Britain - and also to some extent in the USA, Europe and Australasia (Field & Leicester, 2000) - are the development of vocational skills for economic competitiveness, and the fostering of social inclusion and cohesion. Clear and direct links are made between inclusion and economic prosperity in the 'vision of a society where high skills, high rewards and access to education and training are open to everyone' (DfEE, 2001, p. 6). However, although this policy does, to some degree, represent a break with the rampant neo-liberalism of the 1980s and 1990s in Britain (Hyland, 2002) - underpinned by 'third way' values, which emphasise 'economic efficiency and social cohesion' (Giddens, 2000, p. 78) - the concept of economic capital always takes pride of place and there is a real danger that the social capital objectives of contemporary*
British vocational education and training (VET) may be neglected in the obsession with economic competitiveness. Since work-based learning (WBL) is now a central element in all current VET policy initiatives, it is suggested that attention to the systematic management and support of learning on WBL programmes can go some way towards achieving the important social objectives of lifelong learning.


In recognition of the complexities involved and the major steps which were achieved, the evaluation team has included a section of this report [Annexe 1.ii] relating solely to this aspect of the scheme and the dilemmas which have arisen.

While economic factors may be cited by members of the profession as reasons why the socio/educational barrier cannot be addressed at the training stage and why other barriers can under the blanket rule of employing on the basis of high level of academic achievement or meritocracy, there are ways which can still address the socio/educational barrier through a system of

(i) accreditating learning of previous experience for paralegals which would top up their degree attainment;
(ii) awarding credits for each part of the vocational stage for every trainee which would be transferable across professional domains for those exiting the legal profession and also transferable to post graduate university courses for those exiting the training [Annexe 1.ii, Resource papers 2,4,5,11].

3.43 The scheme brought ethical issues for the profession into sharper focus increasing awareness of ethics in recruitment and training practices and the responsibilities of the profession to the public.

3.44 The scheme itself contributed to the emergence of a two stream system (stream 1: traditional – trainees on training contracts and stream 2: non traditional - paralegals) raising concerns about a two tier system.

3.45 The scheme did not succeed in fully addressing with all employers in other organisations the implications of this scheme as a route to qualification for their employees to become solicitors.

3.46 The recruitment of stream 2 candidates would have benefited from more time to brief employers and potential candidates more fully about all the anticipated implications for both employers and candidates. A number of applications were last minute and had not been sufficiently thought through by candidates and employers.

3.47 Although there was an attempt to encourage a wide diversity of stream 2 type participants into the WBL pilot scheme the common factor for them all, which dominated the pilot, was that the obstacle to entry into the profession was due to socio/educational background.
3.48 There was success in addressing this socio/educational barrier to entry this was contextually limited to stream 2 candidates who had successfully completed the first two stages of the process to qualify as a solicitor and could produce supportive employers.

3.49 Other barriers to entry were not addressed other than those that may have been part of the socio/educational barrier such as age and to a lesser extent ethnicity. Gender was cited by only one candidate as a possibility but for this candidate the socio/educational factor was stronger.

3.50 There were significant differences in recruitment into the scheme between stream 1 and stream 2 candidates as well as in facilities and support while on the scheme which need reviewing as these practices could in themselves be considered unfair.

3.51 External assessment organisations particularly for stream 2 candidates made significant contributions to the successful application of the WBL framework and to candidates’ positive experiences.

3.52 There is a lack of clarity and transparency on recruitment processes for a training contract and on what basis, how and by whom decisions are made which requires some action.

3.53 The scheme used the recognition of previous learning, one of the aspects of a WBL framework, in a particular way i.e. recruitment of paralegals. Recognition of previous learning has a more significant role to play within a WBL framework.

3.54 The seductive argument of ‘market forces will decide’ was prevalent among the larger firms in particular: market forces will decide what a firm needs to survive in the changing global climate therefore legal firms will have to choose the best regardless of ethnicity, gender and social background. Academic excellence in such as market is not negotiable.

**Professional issues**

Additional professional issues were brought into focus through participating in the pilot mainly around the wider issues of change influenced by both the predictability and unpredictability of the future in a period of rapid social and economic movement. There was a sense from the profession of the priority being restructuring, streamlining and specialising to meet the changes in the market and then decisions could be made about the recruitment and training. Evidence indicated that the profession believed it could integrate all levels of difference but that high and consistent academic achievement was not negotiable. In addition, in the current economic climate any new scheme introduced by the SRA would be welcomed or resisted on the basis of cost and the availability of training placements.
Professional bodies are currently focussing on their role of providing the conditions for these objectives of professional standards and widening access to be achieved while members of the profession are paying attention to costs and recruiting the highest achievers to maintain competitive edge. However, the professional participants in this scheme were genuinely interested in the range of issues which the WBL pilot scheme raised directly or indirectly.

3.55 The scheme raised questions about the function of the two year vocational stage in relation to the academic phase (law degree/GDL) and the LPC.

3.56 The scheme brought the function and efficacy of the professional skills course into sharper focus.

3.57 The scheme raised issues of costs particularly in terms of time. For employers of stream 2 the costs in time and human resources arose from the implications for the organisation of helping the candidate to qualify, helping them get exposure to the areas of law and do the jobs they were employed for as well as with evidencing learning. For employers of stream 1 it was primarily in meeting the ‘burdensome’ requirements of the portfolio in its current format.

3.58 There were no guidelines on how long an employer would have to have responsibility for supporting and keeping a candidate on the scheme who did not complete in the two years. There was an anxiety that the WBL framework was based on the premise that everyone should pass given time.

3.59 The role of recognition of previous learning. Recognition of previous learning was dismissed as being of no particular value for legal firms. There would only be very particular circumstances in which an individual could have time to count and that would be if they had experience in a desirable skill although there was no formal way to assess this. Legal firms were also reluctant to reduce the two years except in such circumstances because they believed it took 2 years to acculturate someone not only into the profession but into the firm. However recognition of previous learning is a core feature of work based learning particularly within a credit frame and could meet some of the concerns that were expressed relating to transferability and time to specialise. [Resource papers 4,5].

3.60 While there was a general consensus on the relevance of the areas covered by the learning of outcomes, the areas of law drew out some issues of their relevance in all set ups and length of time that trainees might need to spend in each area. Some professionals supported the reduction of time in areas in the first year and longer time spent in the area that would become the specialist area for the candidate on qualification in the second year although this view was not unanimous. Professionals did not wish the time in seats to be prescribed in any new framework.
4. Key recommendations

(i) Findings for a rationale for the recommendations (Annexe 1.i.)
(ii) Resource Papers on how to address them (Annexe 2)
(iii) Some recommendations are repeated in different sections due to context

The WBL framework has demonstrated a level of success in providing the legal profession with a learning and development approach to the vocational stage of qualification assuring quality in assessment which can be monitored and can contribute to enhancing standards across all set ups. The evaluation exercise was not undertaken for the evaluation team to redesign the framework or propose a bespoke one for the legal profession. It was undertaken to evaluate the pilot and make recommendations for further development based on that research. The evaluation exercise has highlighted a number of areas for review. The evaluators’ recommendations are intended to provide the legal profession with a rationale for possible modifications and ways in which they might be successfully achieved. A series of resource papers has been included in Annexe 2 to support further development of the framework which the evaluators conclude is basically sound. The focus of the modifications is on the following areas

- a set of baseline competences appropriate across all set ups
- competences that incorporate interpersonal skills and professional attributes such as potential, initiative, integrity and confidence
- learning outcomes and vehicle of delivery
- training of professionals
- formative and summative assessment
- role of EAOs
- a system that is equitable and widens participation
- a system that has flexibility to respond to life stages and events
- a system that eases transferability of learning achieved
- an exit strategy that makes the work achieved transferable into different domains
- a cost effective system that makes good business sense

The following recommendations may require the profession to look at the three stages of training as an integrated progression. Any changes made to the vocational stage will impact on what is covered in the LPC and on the role of the PSC.

<table>
<thead>
<tr>
<th>Summary of key recommendations</th>
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<tbody>
<tr>
<td>Conceptualise the skills and attributes for qualifying as a solicitor</td>
</tr>
<tr>
<td>Develop progressive steps of achievement linking the LPC, the vocational stage and Day 1 competences</td>
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<tr>
<td><strong>Quality assurance</strong></td>
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<td>-----------------------</td>
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<tr>
<td>4.1 Choose a WBL framework credit system if stream 2 is to be integrated into the vocational stage of training [Resource paper 5]. This will go some way to meet the concerns raised and have other benefits for all participants.</td>
</tr>
<tr>
<td>4.2 A WBL credit system would address issues of transferability; time to count; time out; give professional and market value to all professional learning; provide a fair exist strategy and open the door to university accreditation [Resource paper 5].</td>
</tr>
<tr>
<td>4.3 If it is decided not to pursue this route into the profession for stream 2 then modifications to the learning outcomes may be sufficient in addition to changes in the current WBL pilot summative assessment process but would offer few of the advantages outlined in 3.2.</td>
</tr>
<tr>
<td>4.4 Combine the SRA monitoring report, this evaluation report and further consultation with the profession to modify the pilot framework based on a conceptualisation of the skills and attributes of a good lawyer and how they can be achieved [Resource papers 1-3,5-8].</td>
</tr>
<tr>
<td>4.5 Draw from the experiences of other professional bodies with regulatory functions in how they have evolved, developed and applied competency, skills and capability models and assessment criteria [Resource papers 1-3].</td>
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<table>
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<tr>
<th><strong>Rationalise the learning outcomes to reflect the conceptualisation</strong></th>
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<tbody>
<tr>
<td><strong>Consider a credit system to assess incremental learning and to open the door to university accreditation for exit strategies and transfers to other domains/professions</strong></td>
</tr>
<tr>
<td><strong>Retain the portfolio as a learning journal, evidence of learning and formative assessment complemented by learning conversations and add a formal oral presentation/dialogue component for summative assessment to include an external assessor/observer experienced in WBL</strong></td>
</tr>
<tr>
<td><strong>Train key professionals in coaching and assessing within a WBL framework to complement the skills application focus of the learning outcomes</strong></td>
</tr>
<tr>
<td><strong>Continue the bold moves in widening participation through exploring an accredited learning scheme for prior learning</strong></td>
</tr>
<tr>
<td><strong>Address barriers to entry at secondary school level when choices of university, courses and future careers are still in the formative stage</strong></td>
</tr>
</tbody>
</table>
4.6 Look at best practice in legal firms and combine these with the best of the WBL system to produce an appropriate framework for the vocational stage of training which will set a high minimum standard and at the same time support the development and achievement of a minimum plus standard relevant for individual employers (see 3.10).

4.7 Set a standard which is not only concerned with competences and being ‘good enough’ but rather one which also indicates the potential in the individual to continue to develop [Resource papers 1-3].

4.8 Select a model in terms of skills, competences and capabilities from Resource papers 1 –3 or the extensive literature available which best describes what it is that is required to be a member of the legal profession.

4.9 There needs to be not only a rationale for defining a baseline of competences but a recognition of context, and therefore, flexibility, within any baseline reference plus the evidence to support them and the objective means to assess them[Resource papers 2, 5, 6, 8 ].

4.10 Base ‘standardisation’ on a minimum professional standard ‘plus’ which a modified WBL framework can deliver e.g. minimum professional standard = generic competences and the plus = the flexibility of specialisations for different environments and for developing a professional attitude. Candidates would have to demonstrate that they can achieve this ‘plus’ which would also indicate whether the candidate has the potential for ongoing professional learning [Resource papers 2, 5 and 6].

4.11 Separate the generic skills required for the profession from the aspirations of the employer recognising that employers want above the minimum standard; train supervisors, trainers, reviewers on facilitating and encouraging performance that is above the minimum standard and in interpreting learning beyond skills application.

4.12 Revisit Day 1 competences in the light of changes made to the vocational stage and refocus them if necessary.

4.13 To support an objective assessment framework and compliance to and enhancement of standards across all set ups, introduce an oral/viva aspect to summative assessment and the involvement of an external assessor reporting directly to the SRA.

4.14 To support an objective assessment framework and compliance to and enhancement of standards across all set ups, introduce training in WBL learning and assessment. Coaching models may be appropriate [Resource paper10].
4.15 Use a licensing system for organisations to have trainees which would require them to have trained supervisors and assessors in a work based learning and assessment framework.

4.16 Develop a monitoring strategy which takes into consideration the financial and human resource implications of monitoring that goes beyond random checking of standards to that needed for full scale compliance across all set ups. This could be assisted by both the use of EAOs [Resource paper 8] and electronic archiving to ensure compliance can be effectively monitored.

**Learning outcomes**

4.17 Reduce the learning outcomes to avoid overlap and recognise that at the vocational stage candidates bring many skills with them which may be inhibited by a too prescriptive approach [Resource papers 2,5].

4.18 Adapt some of the current outcomes as descriptors for assessment, particularly incremental learning, and other ways of evidencing learning [Resource papers 2,5,6,7].

4.19 Give consideration to what the profession regards as the key skills and attributes including soft skills which define a member of its profession and whether/how the current learning outcomes system can capture the attributes and the soft skills [Resource papers 1-3].

4.20 Make more effective use of the notion of reflection in work based learning as a vehicle for developing self awareness; interpersonal skills; integrity and professional attitude and consideration towards work and others [Resource paper 7].

4.21 Consult with the profession further on required areas of law; on what can be defined as belonging to a particular area of law and the particular issues of i. the paralegal context ii. contentious work.

4.22 Choose a model of training for supervisors/reviewers which incorporates learning conversations which are developmental and reflective to complement the skills focus of the learning outcomes. This would give candidates an evidence base and means of reflecting on the soft skills, professional attributes and getting the most out of the learning experience [Resource papers 1-3, 6,7,8,10].

4.23 Involve the EAOs in further consultations on the learning outcomes based on their experience of delivery to, and review and assessment of, the candidates who participated in the scheme.

**Portfolio**
4.24 Keep the portfolio system but

(i) reduce the learning outcomes
(ii) make them more challenging and reflective
(iii) use the portfolio as a learning guide, a learning record and journal, a tool for formative assessment and for verified evidence of learning achievement for summative assessment [Resource papers 1,2,3,5,6,7].

4.25 Make better use of technology. Introduce e portfolios and make fuller use of a system tailored to the profession to facilitate assessment and centrally archive written work and reports which would also assist in the monitoring of standards across all set ups and be accessible and easy to use for prospective employers.

4.26 Design a handbook for professionals and trainees which includes a rationale for the attainment of professional standards; the development of professionalism in terms of behaviour and capabilities; level descriptors; ethics in practice; formative/incremental goals and assessment; summative assessment protocols and criteria, and monitoring strategies.

4.27 Develop current discussions taking place on what is good enough evidence of contentious experience which may not evidence advocacy as it is currently understood.

4.28 The portfolio system needs to be complemented by learning conversations with supervisors/reviewers which need to be written up in such a way that indicates an integration of skills and attitude.

Assessment

4.29 Train key professionals in both incremental and summative assessment and employ coaching models to inform this training [Resource papers 1-10].

4.30 Employ a system of incremental development and formative assessment with

(i) more written work relating to professional skills application and the integration of a developing professionalism which can be second marked
(ii) regular meetings between candidates and supervisors being more in the form of learning conversations which can attend to the soft skills and attributes of being professional [Resource papers 2,3,5,7].

4.31 Use Resource paper 6 on academic level descriptors which can easily be adapted to the professions as descriptors for incremental learning and assessment.

4.32 Complement the existing WBL summative assessment system with an oral presentation/discussion/interview with the addition of an external
assessor/observer with legal, educational and work based learning experience. This would assist the SRA in its monitoring responsibilities, ensure compliance, attend to ethical practice and address some of the concerns over being explicit in how soft skills can be assessed which is in part by being in a learning conversation whether formative or summative. The external can counterbalance any subjectivity and reduce concerns of decisions being made which could be perceived as discriminatory.

4.33 Consider in any evolved framework the value of an external with experience in WBL learning and assessment, education and training in law in some capacity. This would promote the firm or organisation as a learning one committed to its own development as well as to that of its candidates. For example, uses of an external could be:

(i) part of the internal assessment process as a standard practice across all set ups for summative assessment (there would be some resistance to this);
(ii) as ‘second markers’ for any written work;
(iii) monitors (legal firms were not adverse to this role);
(iv) assessment trainers.

4.34 If a decision is made to employ a credit system with accreditation for previous learning, an external assessment organisation would be in a position to assess and award credits applied for by paralegals, for example, wishing to top up their 2.2 degree award to increase their chances of a full training contract.

4.35 If a credit system can have university accreditation through the EAOs which is quite feasible then it becomes transferable into other domains and offers a fair exit strategy.

Professional issues

4.36 Consult with the profession over the length of time and discrete areas covered by each phase of the training route to qualifying as a solicitor with a view to:

(i) integrating/blending all three phases
(ii) blending phases 2 and 3 to reduce overall training time
(iii) introducing incremental development stages throughout

As a review of the three stages will be a major task no Resource paper was commissioned but it is strongly advised that the SRA engage experts in the field of education and professional qualification to assist.

4.37 Scrutinise the PSC’s function, content and delivery to assess the appropriateness of its content, its value for money, the selection of providers,
how the PSC can be more relevant to what is required in each set up and whether it can or should be subsumed into any new framework.

4.38 If the PSC is to be retained more monitoring is required to ensure it offers relevant aspects of professionalism which can complement a new framework and help address gaps in a portfolio system of assessment: such as ethical attitudes; profiles and brands; compromise; acculturation and professional identity; individual aims and group aims; initiative; role of supervision; people skills; active listening skills and recognition of and optimisation of strengths (finder, minder, grinder).

4.39 Consult with small to medium size companies to assess the financial implications for them of training solicitors on a more ‘burdensome’ and regulated system, the impact opting out of having trainees may have on their practices and on the profession as a whole and what particular support they may need to meet changes to the current system.

4.40 Consult closely with the profession on the various roles an external assessment organisation can have in addition to the ones allocated to it in this pilot scheme.

4.41 Involve in future consultations 2 year qualified associate solicitors as they hold an important piece of the jigsaw, currently missing, which could make a significant contribution to the design and development of the vocational stage of training.

4.42 Have clear guidelines about at what stage in the vocational process a sufficient assessment can determine whether a candidate is suitable or not for the profession of law. This can be incorporated into a WBL framework [Resource papers 2 and 5]. A transferable credit system would be of value in such a scenario.

4.43 Guidelines are needed on how long an employer would have to have responsibility for supporting and keeping a candidate on a training system who did not complete in the two years.

Barriers to entry

4.44 Give considerable attention to the aim of addressing barriers to entry through a route to qualification for paralegals. The WBL pilot scheme’s attempt made it fairer for certain individuals but in its current form brings into question what could be perceived by some as discriminatory practices [See Annexe1.i and ii. and Resource paper 11].

4.45 Clarify the parameters of the SRA’s role in removing barriers to entry and whether it can enforce any guidelines it might seek to develop on recruitment.
4.46 Explore what barriers to entry currently exist in the profession and at what stage in the qualifying process these are most manifest [Resource paper 11].

4.47 Address barriers to entry to the profession at earlier educational stages, for example, by clarifying to pre university groups what the requirements are to enter the legal profession; alternative routes to working in a legal setting and the value of legal education in other professions. This kind of information can influence what universities to apply for and what courses to take.

4.48 Address the issue of the professions’ current level of academic achievement as a core requirement for a training contract for many legal practices and how that academic level is assessed. For example, explore the role of accreditation of previous learning [Resource papers 4 and 5] and the disadvantages as well as the advantages of an electronic training contract application device which does not allow an applicant to proceed with an application if they list a 2.2 degree level.

4.49 Consider what a credit system coupled with university accredited previous learning could offer as a way to address some of the socio/educational barriers to entry. For example instead of the cut off being a 2.1 for a training contract, it could be 2.2 plus 40 credits in family law [Resource papers 4, 5 and Annexe 1.ii].

4.50 Give closer scrutiny to the practices around the processing of applications for training contracts and the role of human resources departments with a view to supporting them in how selection protocols can be enhanced.

4.51 Research and consult with employers and former candidates on this WBL pilot’s widening participation strategy; its timing; its purpose; policies and changes to the infrastructure of the profession to prevent the emergence of a two tier system.

4.52 If this route to qualification for paralegals is to be maintained, address the issues of difference in the conditions in which the qualification was obtained by stream 1 and stream 2 and whether and how a higher level of consistency can be achieved [Resource papers 4, 5, 8, 9, 10 and Annexe 1.ii].

4.53 If this route to qualification for paralegals is to be maintained, using the findings from this evaluation exercise, critique how the pilot scheme’s selection system of stream 2 candidates was carried out and how it can be refined [Resource paper 11 and Annexe 1.ii].

4.54 If this route to qualification for paralegals is to be maintained consult extensively with employers of stream 2 type candidates on the full implications of what being a ‘supportive employer’ entails; on the consequences of staff qualifying; on staff development and whether other options could be more appropriate for the individual and for the organisation [Resource papers 4 and 5].
Findings

Providing the conditions for open discussion
There are many aspects of the WBL Pilot Scheme which the evaluation team and the participants found to commend. The SRA policy executive encouraged and positively promoted collaboration and frankness from its participants. It achieved this through its wide consultation and briefings which took place before the commencement of the scheme and through its workshops, monitoring visits and the symposium which was held in October 2010 at the ending of the pilot for Cohort 1.

Level of engagement with the Pilot
The following findings are a reflection of the considerable engagement the participants had with this pilot. The data emerges out of intense levels of discussion, passion even, about professional standards, fairness and the need to address and meet the impact of a changing political, economic and social environment. There was a consensus among participants of the need for an SRA initiative to address standards and ‘fairness’.

Changing nature of the data over time
The nature of the data from participants changed over the course of two years from resistance and scepticism to a willingness to debate the issues and most recently to actively contribute to improving the vocational training learning experience at an organisational level or at a profession wide level

Reporting
Findings were reported on twice during the course of the evaluation but not positioned in an overall evaluation, nor were confident recommendations made as the exercise had yet to be completed and summative assessments had still to take place. Information was drawn from the interim reports but the full texts were not be included. They can be made available from the SRA
1. **Consultation, Design and Implementation (CDI)**

[For background on the Consultation, Design and Implementation of the WBL Pilot Scheme See Appendix 1.]

On the whole, the evaluation team found that the Consultation, Design and Implementation phase of this pilot scheme was thorough. The WBL pilot emerged as an Action Learning cycle. Each stage of the process of the CDI threw up issues to review, give consideration to and incorporate, or not, so that the scheme could be homogenous yet tailored to the needs of the individual candidates and the different sets ups in which they worked. Considerable effort was expended by the SRA to

a. consult on its aims and objectives  
b. put in quality assurance protocols that would also offer quality enhancement  
c. find the most appropriate learning and assessment frame  
d. recruit, assess and brief assessment organisations  
e. ensure all participant organisations could support candidates and all candidates would be supported to achieve the outcomes  
f. assure all systems were ethical

Evaluators recommend

| i. | more consultation with employers of stream 2 |
| ii. | more refined recruitment system for stream 2 |

2. **SRA monitoring visits and the MU evaluation exercise**

Both the SRA monitor of the scheme and members of the Middlesex University evaluation team made independent visits to or communicated with participating employers on a regular basis to fulfil their respective remits. The SRA monitoring visits also appeared to function as research and development encounters so that the SRA could gather information, consult and act accordingly. External evaluation and SRA monitoring were built into the framework of the pilot but the research and development aspect was less explicit. The monitoring/consultation and evaluation happened concurrently requiring of all participants a level of engagement not normally associated with training solicitors.

a. Candidates and professionals made allowances and were generous with their time stating that this was in recognition that it was a pilot and one which had implications for the profession and individuals wishing to enter it.  
b. There were frequent overlaps between the questions from the evaluator and from the SRA which raised issues concerning what impact repeat aspects of data gathering may have on the views of participants.  
c. In the case of this pilot scheme, the effect was positive leading to more informed and distilled responses.
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d. The more discussions, interviews and consultations, the clearer the participants became about their understanding of the scheme and their views about its value or otherwise.

e. Extensive feedback from the range of professionals involved in the scheme indicated that the encounters with both the SRA monitoring and the evaluation team became a form of action learning for everyone.

f. Two firms at the end of the scheme made little effort to permit an examination of the final assessments with indications that the pilot had been time consuming and, as it was now over, they could ‘detach’ and move on.

Evaluators recommend

<p>| | |</p>
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<tbody>
<tr>
<td>i.</td>
<td>the SRA individually thanks all the participants particularly the candidates for the level of time and thought they put into assisting in the evaluation</td>
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<tr>
<td>ii.</td>
<td>the SRA designs a monitoring strategy that can be delivered in part by externals with a specific summative assessment role similar to the academic practices that will keep firms and organisations ‘attached’ to the standards and criteria of professional qualification</td>
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3. **Handbook and communication management**

From the first evaluation report, when candidates were in their first year of training, it became clear that for all participants, professionals and candidates, the handbook required some revisions. Feedback was extensive as to what could be improved. It was regarded by participants as a procedural handbook which was designed more as an information booklet for anyone wanting to participate in the scheme rather than a manual or resource to effectively engage with the requirements of the scheme as a training system to qualify solicitors. It did not give enough information on what were felt to be key issues. The majority of externally assessed candidates said they would have found a resource handbook more useful with examples and templates. Candidates stated it was not made clear by the SRA that the resource aspect was expected to be supplied by the assessment organisations. [See First Interim Reports for data.]

Feedback mainly centred on questions regarding the practical processes:

- what should responding to a learning outcome look like?
- how many pieces of evidence are required for each outcome?
- how exactly can you evidence X,Y,Z?
- can the same piece of evidence be used for everything?
- what does reflection mean?
- why are there so many outcomes?
- what is the difference between the levels of attainment?
- why are there no examples in the handbook?
- what is the handbook for?
- is it a manual or a rationale for having the scheme?
Responses to the problems came from four sources:

1. **The SRA** made regular visits to the organisations involved in the pilot to clarify many of the issues with the internal and external assessment organisations: reviewers; supervisors; assessors; training partners; heads of departments; the SRA encouraged a mailbox for candidates though this was not introduced till the pilot was well underway; workshops;
2. **NLS (EAO)** provided regular supplementary material for their candidates who were mostly paralegals and recognised that a portion of their reviewers’ time with the candidate would be taken up with process;
3. **OXILP (EAO)** supplied guidance and information through its reviewers and its electronic system for portfolios, PebblePad;
4. **Internal assessment organisations (IAOs)** and **LawNet firms** relied upon their existing training contract requirements to support the candidates with some firms almost running the two systems in parallel or complementary to the first year.

These responses were so comprehensive that when candidates responded to the same questions regarding the handbooks in their second year, the importance of the handbook as a source of guidance had become significantly diminished but there was still the recommendation from participants that if the scheme were to be rolled out the SRA would need to decide on the purpose of the handbook.

Other questions regarding process and communication management arose during implementation:

- who is paying for the professional skills course for paralegals?
- what is the professional skills course for as it is not very useful and repeats LPC and some of what is covered on the training contract?
- what makes a training contract different from the LPC?
- how can we meet the advocacy learning outcomes?
- how can we ensure sufficient exposure to three areas of law?
- can the professional skills course make up some of the deficit?

Clarification eventually came from the SRA on the professional skills fees and some flexibility on advocacy outcomes.

**Evaluators recommend**

| i. | a review of the professionals skills course, its content and function and whether it can be subsumed into a WBL framework or tailored to more directly complement it |
| ii. | a handbook for professionals and trainees which includes minimum and minimum plus standards; the development of professionalism in terms of behaviour and capabilities; level descriptors; ethics in practice; formative/incremental goals; summative assessment protocols and criteria, and monitoring strategies. [Resource papers 2,6,8,9] |
4. Fulfilling aims and objectives summary

1. Over 90% of respondents considered the WBL pilot scheme a success in providing the profession with:
   
   1.1 a framework of competence measures which can now be modified;
   
   1.2 a vehicle for evidencing those competences which can now be reviewed;
   
   1.3 the basis of objective measures and benchmark standards in training across all sets ups in the profession;
   
   1.4 assessment criteria that is evidence based;
   
   1.5 a quality assurance system that can be monitored and contribute to enhancing standards;
   
   1.6 the means for candidates to self manage their learning;
   
   1.7 assistance and motivation to supervisors to provide the best opportunities and feedback to facilitate learning;
   
   1.8 a basis for moving forward not only on objective measures and standards but on the discrete areas of and the relationship between the three stages of training – academic, skills acquisition and skills application and acculturation into the profession.

2. The pilot was able to address aspects of socio/educational barriers through facilitating a route to qualification for paralegals. Although it was not directly able to address other barriers to entry to the profession, the process has contributed significantly to highlighting what they may be and the need for the profession to address them.

   2.1 Most candidates were convinced that such a scheme would help address the specific perceived barrier to entry into the profession of socio/educational background but only relating directly to paralegals and those in legal related employment.

   2.2 Professionals were not convinced that by itself the WBL scheme could address barriers to entry but rather barriers to entry needed to be addressed earlier in the process particularly at the training contract application stage.

   2.3 Due to the economic climate, professionals in law firms believed that the level of degree and type of university would still need to be one of the criteria of initial selection for processing to interview stage. Professionals were not convinced that having a WBL portfolio would offer any particular advantage to the individual in seeking a NQS job in a legal firm. It could assist to secure an interview.

3. Professionals in legal firms all agreed that this route for paralegals to qualify as solicitors was a fairer system. However they were now not convinced that it was desirable or feasible on a large scale due to a number of factors:
3.1 shifting economic climate and potential professionalisation of other legal roles influenced a modification in views from ‘supportive in principle’ to ‘perhaps not feasible’;
3.2 all professionals did believe it was ‘fair’ to have this route but were concerned that reduced availability of training contracts would make entry into the profession even more competitive and selection criteria would be even more refined making a change to the degree level requirement unlikely;
3.3 concerns over whether being employed as a paralegal could give full exposure to the areas of law without the paralegal becoming a full time trainee;
3.4 the process of replacing a paralegal would also incur more costs for the employer;
3.5 during the course of the scheme concerns arose, which were not evident in the first year, that giving access to paralegals to enter the profession through the WBL scheme may have the potential to become a two-tier system because paralegals would never be able to have the same experience as trainees unless they were employed solely as trainees;
3.6 the impact of the Alternative Business Structures as well as the emergence of a professional body for paralegals was mentioned in this context but not elaborated upon;
3.7 the possibility of firms becoming more specialised and traditional paralegal work going abroad meant that firms would be looking for individuals to enter the profession who had the highest knowledge and skills levels to bring in and maintain business. It was believed by some that this approach was a meritocracy approach, decided by the market, that would remove barriers to entry which were based on other factors such as age, ethnicity and gender.

4. The majority of other employers whose employees accounted for the majority of paralegals on the scheme all agreed that this route for paralegals to qualify as solicitors was a fairer system. However they were not convinced it was desirable in all cases. However their reasons differed from the legal firms in a number of respects:

4.1 if the paralegals were good at doing their job they would not want to lose them but recognised they also did not want to stand in the way of advancement;
4.2 extra cost incurred to replace them;
4.3 concerns over ensuring that their paralegals had exposure to the different areas of law involving them in discussions with and reassurances from the EAOs;
4.4 extra cost incurred in terms of time to help their paralegals to qualify;
4.5 extra cost incurred if the paralegals wanted to stay on as qualified solicitors;
4.6 wanting to secure staff development for their employees and reconsidering whether this is the most appropriate way.

5. Candidates who were employed as paralegals were very enthusiastic about the scheme but also had reservations:
5.1 the pilot addressed barriers to entry on the grounds of socio/educational
discrimination;
5.2 it was a fairer system because it recognised that without a training contract
those who had successfully completed the first two stages of training could
never qualify;
5.3 they understood why their previous experience wasn’t taken into
consideration but would like to see it count if the scheme is rolled out;
5.4 the WBL framework helped them be more proactive in seeking opportunities
that would enhance their learning;
5.5 the WBL framework helped them to engage at a more professional level of
thinking;
5.6 a number had ongoing concerns about whether their employer would be
supportive enough and not being clear about the parameters of ‘supportive
enough’. This was of greater concern for those who worked in the same
organisation with WBL candidates employed on a training contract basis;
5.7 for those with trainees on standard training contracts in the same
organisation, differences arose/were accentuated between how both were
treated e.g. for trainees on contract, the professional skills course was paid
for by the employer and they had more freedom to move around ‘seats’;
5.8 concern about getting exposure to all the areas of law required, contentious
and non contentious work, and they were not confident that a secondment
could work for them or their employers;
5.9 had little concern that WBL may be a second rate/tier route had more
concern about payment for professional skills course and exposure to
advocacy.

6. Candidates who were employed as trainees were less enthusiastic in the first year
of the scheme but on the whole were more enthusiastic towards the end:

6.1 at first they felt they were being treated differently, having to do more work,
meet higher levels of evidence than colleagues on standard training
contracts;
6.2 during the second year confidence had increased, they felt they had achieved
more and could evidence it;
6.3 unlike paralegals and those employed in other legal roles, they believe they
were helped by their organisations drawing on the organisations’ existing
training practice to support them as well as the WBL system;
6.4 did not have concerns about exposure to areas of law but had concerns
about getting experience of advocacy;
6.5 had concerns that the profession may consider their WBL training to be
inferior to the standard training contract because the profession didn’t really
know about it.

5. Learning Outcomes

1. Learning Outcomes were regarded by a large majority of respondents as ‘good
practice’ in principle. Learning outcomes:
1.1 are a move in the right direction to achieve objective measures and standards across all set ups;
1.2 assist in quality assurance;
1.3 enhance learning if delivered well;
1.4 guide the candidate and encourage, eventually, self managed learning;
1.5 guide the supervisor/reviewer in how best to support the candidate;
1.6 form a sound basis for assessment in skills application and competences [Resource Papers 2,5,8];
1.7 encourage a professional (solicitor’s ) attitude by their requirement to evidence all work, be proactive, disciplined, business aware and manage time appropriately [Resource paper2].

2. While a large majority of respondents regarded the Learning Outcomes as good practice in principle, there were reservations and qualifications to these statements:

2.1 in their current form they are administratively burdensome and time consuming for everyone;
2.2 although designed to be generic, not all may be relevant for all sets ups or should be given the same emphasis;
2.3 there are too many;
2.4 several overlap;
2.5 a number are challenging to evidence particularly 5-8 involving people skills;
2.6 concerns about assessing levels of incremental learning;
2.7 concerns about whether one could and the value of using the same piece of evidence for several outcomes;
2.8 uncertainty about reflection sheets and how best to use them;
2.9 not convinced that on their own the learning outcomes measure anything more than skills application and track the development of that process.

Evaluators recommend

i. Resource papers 5-8
ii. the SRA maintain a learning outcomes strategy in any new training framework

6. Portfolio

A portfolio was used by all participants in the pilot scheme. Overall, there was a feeling that the portfolio itself (hard copy and e-portfolios) was an appropriate vehicle to demonstrate the learning outcomes but that the outcomes themselves needed distillation. The consensus drawn from the data was that the portfolio was a useful tool for providing a picture of a candidate’s readiness to be a ‘Day 1 solicitor’ in terms of certain specific skills and their application under supervision but that it was insufficient to give a complete picture of whether or not that candidate would be a good solicitor. This insufficiency, according to the evaluators, was in part accounted for by how the portfolio
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was used, what was used to complement it, the various interpretations of the function of reflection sheets and the link between evidence and progression.

1. **Types of Portfolio**

   1.1 Stream 2 used hard copy portfolios.
   1.2 The majority of stream 2 were satisfied with hard copy but would consider an e system if it were easy to operate.
   1.3 Stream 1 used a mixture across the candidates: hard copy; (e system 1) PebblePad adapted for their requirements; (e system 2) another e system tailored for their requirements.
   1.4 Those in stream 1 using PebblePad were very dissatisfied with it but would be happy to use a more user friendly and tailored e system. In one case it was clear a candidate struggled and, perhaps underperformed, due to difficulties with PebblePad.
   1.5 The issue of portability is a pressing one and the sheer size of the portfolio makes it unwieldy. Evaluation team members had to visit organisations to view hard copy portfolios as their size made posting complicated and expensive.
   1.6 The portfolio by its very nature will contain documents referring to clients and the legal issues facing them which is obviously of concern. Some organisations have attempted to overcome this problem by utilising a system of redaction.
   1.7 This has left some candidates with concerns that a heavily redacted portfolio is less meaningful and left some organisations with concerns that redacting alone is insufficient to protect confidentiality.
   1.8 Some organisations voiced concerns about Middlesex examining their portfolios due to confidentiality issues. This highlights a problem if candidates wish to use their portfolio for future employers as evidence of their skills.
   1.9 The trend here seemed to be that the larger organisations are more concerned about confidentiality than the small ones.

Evaluators recommend for type of portfolio

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<th>i.</th>
<th>if issues of confidentiality can be resolved, which would be easier on an electronic copy, an online or digital method of storing the portfolio documents</th>
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<tr>
<td>ii.</td>
<td>in terms of portability, supervisors and assessors appraisals could be sufficient evidence (and the number of credits if a credit system is adopted) stored electronically in an online data room for potential employers to access with a password</td>
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2. Issues regarding the portfolio from interviews with candidates, professionals and the key questionnaire:

   2.1 **All the participants**

   2.1.1 All participants found the portfolio an appropriate vehicle for the learning and assessment framework that could deliver on the aims and objectives of the SRA;
   2.1.2 found it burdensome due to repetitive or difficult to evidence outcomes;
2.1.3 agreed that items of evidence to support the learning outcomes were overused;
2.1.4 there was agreement by professionals and candidates on the value of reflection sheets although they were all aware there was room for ‘manufacturing’ reflection especially if it helped to support/evidence a learning outcome and that the most appropriate use of reflection sheets remained limited and vague.

2.2 Candidates

2.2.1 Candidates were not convinced it would have the portability anticipated due to:
(i) issues of confidentiality;
(ii) candidates not being convinced it would mean very much if highly redacted;
(iii) candidates not being convinced that employers would want/have the time to look at it in either hard copy or electronically.
2.2.2 Candidates found that by the end they had created a learning reference for themselves but once qualified they were uncertain how often they would need to refer to it.

2.3 Professionals/Employers

2.3.1 The majority of firms had a positive attitude to the portfolio system and its potential to have a role in assessment in principle as it was, for several, not too far removed from learning and assessment systems they were already using.
2.3.2 Some firms were unimpressed and resentful of the imposition on their professionals’ and trainees’ time because of how it was designed. Some expressed strong resistance to such changes but as part of a range of issues on change. Negativity did not consistently relate to the type of firm interviewed; small and medium-sized mixed practice firms were critical as well as large City practices.
2.3.3 Several raised questions about whether it could be, on its own, an appropriate assessment tool that could confidently say the individual had reached Day 1 competences.
2.3.4 Several were not convinced it would have the portability anticipated due to:
(i) issues of confidentiality;
(ii) employers not being convinced they would look at the whole thing;
(iii) employers indicating they might look at a selection and the supervisors’ appraisal reports;
(iv) employers giving more objective weight to the appraisal reports;
(v). employers believing that it would more likely influence them to offer an interview;
(vi) employers believing that its use could be more in providing the basis of some discussion topics in which to engage a potential employee at an interview.
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2.3.5 There was a range of responses to the portfolios as both a learning and assessment tool. One firm did not examine the portfolios of their candidates. Even in organisations that believed the portfolio system was a useful tool there were concerns that although candidates may be able to show progression in relation to the learning outcomes, the development of the personality and character of a trainee could not be captured which is a vital omission.

3. **The evaluators**: a review of the portfolios (the best and the borderline) across the various set ups brought up these issues:

3.1 **Positive Aspects**
   3.1.1 The portfolio was a useful guide as to what was required.
   3.1.2 It was a potentially efficient means to demonstrate evidence that the learning outcomes were being achieved.
   3.1.3 It was a useful means for incremental development and formative assessment.

3.2 **Progression**
   3.2.1 Considerable learning progress was demonstrated in the majority of the portfolios from year one to year two. In the high performers an increase in confidence was evident.
   3.2.2 The appraisals showed a candidate’s personal and professional development in relation to the learning outcomes but even although most professionals said they found their own ongoing comments in the portfolio indispensable in their engagement with the candidates, the same appraisal was used multiple times. In EAO supervised organisations this was less pronounced.
   3.2.3 Candidates supervised by IAOs showed a range in this area of progression with some candidates being encouraged to demonstrate explicitly incremental progression while others were encouraged to focus more upon the final result.

3.3 **Use/Management of Portfolio**
   3.3.1 Legal firms who had similar means of assessment to the portfolio already in place seemed to have had fewer problems with portfolios except for clarification in exactly what the SRA required.
   3.3.2 In IAOs where the portfolio seemed to be a secondary tool or not used as intensely as others, this was compensated by the firms either running the WBL scheme in parallel with their own or as a complement to it.
   3.3.3 In stream 1 with low variables in the sample, high variables were evident in how the employers/assessors (IAOs) managed the candidates’ learning through the portfolios whereas in stream 2 with high variables in the sample the EAO managed a consistent, low variable approach.
   3.3.4 Reflection sheets were used primarily to demonstrate what a candidate would have done differently and to manage the evidence requirement for learning outcomes concerning people skills and not in the way which
would be generally understood within a WBL framework [See Resource Paper 7].

3.3.5 It was challenging to tell from a wide range of reflection sheets whether a candidate had developed beyond the ability to perform the task to an acceptable level e.g. to show initiative, to question attitudes etc. This is an especially important area for supervisors to be aware of. There is the need for the candidate to avoid box-ticking and be facilitated to develop more genuine self and other awareness and to understand what is required in being both a professional and professional [Resource paper 2].

3.3.6 In portfolios where candidates had attempted to write more reflectively there was noticeable self consciousness.

3.3.7 The more detailed portfolios tended to be found at firms which either already operated a similar system of evidencing competence and/or had the resources to allow candidates access to a wide range of areas from which they could draw evidence to demonstrate different learning outcomes.

3.3.8 There were no major differences in summative assessments across all set ups as the learning outcomes focussed on skills application through tasks.

Evaluators recommend on use and management of portfolios

| i. keep portfolios but more streamlined. Although use differed across the set ups, positive impact was evident on training practices and attitudes |
| ii. achieve a level of consistency in the use of portfolios is required across set ups to a benchmark high standard of outcomes |
| iii. training of supervisors and assessors is essential to assist in this consistency |
| iv. consult with EAOs as consistency of approach was most evident in EAOs |
| v. reflection sheets need to be reviewed and closer consideration given to how they are usually used in a WBL framework [Resource paper 7] |

3.4 Feedback in portfolios from Supervisors/Nominated Solicitors/Reviewers/Assessors

3.4.1 The quality of feedback was generally high but showed differences in focus between stream 1 and stream 2: in stream 1 feedback tended to contain less teaching and more challenges. stream 2 feedback contained more teaching and clarification but by year 2 in a number of cases this had evolved into more facilitated learning.

3.4.2 Relating to the previous point, stream 1 was more homogenous and therefore it was easier to draw out commonalities but there was a small number of individuals in this group who needed more ‘teaching’. stream 2 posed a greater challenge to draw out commonalities due to a much higher level of variables. In stream 2 there were examples of highly competent to outstanding individuals who responded to a facilitative and challenging style though these were not the majority.
3.4.3 It was evident from the portfolios that the majority of supervisors and reviewers demonstrated an active engagement in a candidate’s learning and progression but to varying degrees.

3.4.4 There was evidence of more teaching, reinforcement and repetition from reviewers in some stream 2 portfolios of candidates in environments less supportive to training requirements. This does not mean that the majority did not have supportive employers but that the demands of their jobs, their family lives and limitations on the kind of help available were not always conducive to the training targets required of them.

3.4.5 Candidates’ responses to feedback varied for a variety of reasons - pressure of work, clarification of what differentiates the different levels of attainments, exposure to areas of law needed and types of evidence required.

3.4.6 There was some correlation between the quality and skill of the reviewer/nominated solicitor in their feedback and the progress of the candidate.

3.4.7 There appeared to be a trend that candidates who performed better often enjoyed review and supervision from higher quality and more attentive supervisors.

3.4.8 The portfolio seemed to be a useful tool for a supervisor

(i) to have a basis for discussion with the candidate;
(ii) to have learning objectively evidenced;
(iii) to encourage candidate self management;
(iv) to be reminded of providing the support/requirements of training to the candidate while managing fee earning busy work load;
(v) to be more careful in analysing work according to described outcomes.

3.4.9 These observations regarding the supervisors, drawn from a review of the portfolios, were supported by a number of interview comments such as: 
*What was most difficult was getting the supervisors to concentrate on what is a more rigid scheme. [They] have to step outside their day to day work and go through things with the trainee.*
*We thought we were pretty good trainers. [Although] the quality of work given is good [already], the pilot has shown it can be better.*

3.4.10 However the review of the portfolios did not always demonstrate this supervisor learning.

3.4.11 EAO portfolios did demonstrate more ‘educational and training’ awareness in their feedback and reviews.

3.4.12 Several interviews indicated that, even amongst the good portfolios, the supervisor is still the only person suitable to gauge the missing key elements necessary to give the full-flavour of a candidate.

Evaluators recommend on feedback from supervisors, nominated solicitors and reviewers
i. the portfolio be complemented by learning conversations and other supportive material as on its own/in its current form it is not able to ensure Day 1 competences and employability

ii. training of supervisors and assessors which would address some of the issues around standardisation of assessment

iii. the portfolio could become a more effective tool if the supervisors were given training in assessing candidates using the portfolio [Resource paper 3]

iv. use EAO’s experience in training and education and how it can be best utilised in any new framework

3.5 Differences

There were differences

3.5.1 in how the portfolio was managed across all the set ups which accounts for some of the variance;

3.5.2 in how the portfolio was used or in how the candidate had been instructed to use the portfolio. The variance on this aspect was noticeable;

3.5.3 in individual style of reporting, recording and evidencing;

3.5.4 in the style and engagement of supervisors, reviewers and assessors;

3.5.5 in environmental factors e.g. type of set up, length of time in and opportunity for exposure to areas of law;

3.5.6 in time and support allocated to each candidate;

3.5.7 in motives and purpose for candidates: stream 2 portfolio completion was the means to a long achieved goal rather than employability and the support was in the context of staff development;

3.5.8 stream 1 portfolio completion was carried out within the security of a training contract which was for both candidates and employers more of an experiment which was evident in attitudes. The end goal was employability within the profession preferably for most candidates within the training firm. Support was within the context of firm recruitment;

3.5.9 in portfolio presentation: there was evidence to suggest that the better assembled portfolios correlated to the more successful candidates;

3.5.10 between the ‘minimum standard’ achieved by a few candidates from stream 2 and stream 1 with the minimum being higher in stream 1;

3.5.11 however in high performers in both groups there was no marked difference in levels of achievement and competence;

3.5.12 in type/rate of progression: stream 2 on the whole demonstrated the most marked progression and steepest learning curves;

3.5.13 between the WBL system and the standard form of assessment used but this varied from firm to firm;

3.5.14 such differences when encountered were in weight and variety of evidence, use of reflection sheets and depth of appraisals.
3.6 Challenges

3.6.1 On its own the portfolio was not convincing as a summative assessment tool at the end of the two years.

3.6.2 The portfolio as it was used did not address soft skills as well as it did practical skills.

3.6.3 It was not evident from the candidate’s contributions to the portfolios what level of supervision or assistance had been needed to achieve the outcomes and how much support the candidate would still need on Day 1.

3.6.4 Often the reviewer’s or supervisor’s feedback was summarised from verbal communication which had most likely been more extensive.

3.7 What the portfolio may not be able to do as an assessment tool

3.7.1 There was no unanimity on the effectiveness of the WBL portfolio as an assessment tool. However, most organisations were, to some degree, positive about the usefulness of the portfolio in showing some competences. The limitation of this endorsement related to two crucial factors. These emerged both within overall negative responses and overall positive ones to the overall pilot scheme. They were:

(i) the inability of the portfolio, by itself, to show necessary skills, in particular ‘soft’ skills, such as ‘interpersonal communication’;

(ii) strong confidence on the part of training organisations in the instincts, perceptiveness and good judgement of professionals involved in training about relevant qualities of trainees. It was often believed that these qualities were difficult, if not impossible, to describe or define.

3.7.2 There was concern for everyone about what stages of the portfolio should be measured at what level. EAOs used two different scales. IAOS believed they needed more guidance on this and on what could be measured beyond basic competences.

3.7.3 For those who had negative comments on the effectiveness of the portfolio, criticism focused on the whole exercise having the clear potential to become a meaningless, mechanical tick box process.

3.7.4 There was an indication that just getting on with work showing initiative, willingness, self managed learning, attention to detail, professional knowledge or how to get it and being proactive were clear enough indicators of employability in the profession.

3.7.5 Indicators for not being kept on would be complaining, dependency and expectation of things being done for you.

3.7.6 A more complex criticism took form in an overall perception that the scheme did not deliver a system more beneficial than the one used by the responding organisation. In relation to this criticism, there
was, however, a marginal difference in focus between the negative responses of large commercial firms, on the one hand, and smaller firms, on the other.

**Large firms**

(i) The existing arrangements were superior as they required learning outcomes at a higher level of competency than was required of most trainee-lawyers by less commercial, less well resourced firms.

(ii) Reference to the superiority or very high standards or top standard required of the firms’ trainees, as well as reference to the value of the firms’ reputations was frequent.

(iii) The existing in-house systems were superior in producing an experience of acculturation that better fitted these firms’ corporate identities and supported their reputations:

[L]et’s face it, we wouldn’t be here, the City firms wouldn’t be here if we didn’t maintain standards. Our reputation is crucial...

(iv) Strong views on the limitations of the portfolio and the superiority of supervisors’ judgements:

You’ve just got to trust the lawyer that they’re working with to form a view as to whether or not they are up to it or not...

The portfolio evidence might be useful perhaps for a smaller firm or high street practice, perhaps, but in our practice where you are really relying on the specialist partner to judge whether or not they’ve done a fantastic job in corporate or in real estate, when they are working with them, attaching all the portfolio evidence was not a useful exercise.

**Small to Medium sized firms**

(i). Only reliable test of such qualities was the personal judgement of supervisors who worked closely with the candidate. A typical comment was:

The best assessor is a supervisor who works with the trainee on a day to day basis. The firm is very hands on about training. It becomes clear quite quickly if there are problems. We get the same feedback from most supervisors, so it is reliable

ii. How can a portfolio inculcate or assess in the candidate a firm ethos or identity with the firm and also the profession?

iii. Many of the negative comments of small and medium sized firms with mixed practices or litigation-intense practices tended to emphasize the inability of a collection of documents to show employers that a candidate had acquired the interpersonal and social skills necessary for practice.

**3.8 The positive influences of the portfolio**
3.8.1 Most legal firms, even those expressing negative comments, intended to do one of the following with a number stating they had already started to do i. or ii.:
   i. to adopt a WBL scheme;
   ii. adapt the best of the WBL scheme to the best of their own practices;
   iii. be less resistant to an adapted version from the SRA.

3.8.2 Descriptions of the portfolio system for learning outcomes, formative assessment and a training tool were: good, excellent, better, very helpful, very satisfied, see some positive effects, required more engagement from both candidates and supervisors in the learning process.

3.8.3 Benefits included for some
   ...WBL is good because it helps a trainee to concentrate more on acquiring skills.
   ...It will produce a much more rounded individual.
   ...the responsibility WBL seemed to be put on the trainee, is one thing that attracted [our firm] to the scheme.

3.8.4 Unanimous reservation:
   that it cannot be an effective assessment tool if not combined with other measures to ensure the soft skills are maturing and the development of a professional attitude is evident.

Evaluators recommend on Portfolio as an Assessment Tool [Resource papers 5,6,7,8]

| i.  | distinguish the portfolio’s use as a formative assessment tool and as a summative assessment tool [Resource papers 3 and 8] |
| ii. | examine how it can be used not only to measure skills application but how to more effectively measure professionalism [Resource papers 1-3] |
| iii. | draw up level descriptors for year one and level descriptors for Day 1 [Resource paper 6] |
| iv.  | address the number of learning outcomes and their relevance [Resource paper 5] |
| v.   | address the type of outcomes [Resource papers 2,5] |
| vi.  | address the evidence requirements and what is actually being evidenced, their skill or their attitude or both [Resource paper 2] |
| vii. | address the reflection sheets and how they are used [Resource paper 7] |
| viii. | include the training of supervisors, reviewers and assessors in any new framework |
| ix.  | include in PSC more relevant aspects of professionalism which can complement a new framework and help address gaps in a portfolio system of assessment: such as ethical attitudes, profiles and brands, compromise, acculturation, individual aims and group aims, initiative, role of supervision, people skills, listening skills, recognition of and optimisation of strengths (finder, minder, grinder) |
7. **Time costs for organisations and candidates**

1. Organisations were not able or not prepared to give the financial costs of the scheme.
2. All organisations were willing to make allowances on costs because this was a pilot scheme.
3. There was clear agreement that the scheme was more burdensome in terms of time. Some organisations, especially those which assessed internally, viewed this factor as the dominant effect of the pilot.
4. A few stated categorically that if WBL is brought in without considerable modification it will significantly affect their decision about whether to hire trainees in the future.
5. A number of organisations stated that they were aware that with modification such as reduced outcomes, less prescriptive outcomes and better guidance the time element could be diminished.
6. A small number of legal firms said they would consider using EAOs if it were economically feasible but had strong reservations that an EAO could ever really assess beyond basic skills if it did not know the culture of the organisation and its specialist areas.
7. A number of legal firms said they would consider an external assessment organisation in another role such as training provider or moderator.
8. Organisations which were not legal firms said they felt very supported by the EAOs.
9. Complaints about the time-cost were more frequent with city councils, other organisations and small firms. Several organisations who are not legal firms stated they would have considerable concerns about supporting a scheme again even although they considered it the ‘right’ thing to do to address what they also thought were unfair practices in the legal profession.
10. Generally very difficult for all participants to actually offer any quantifiable time costs.
11. There were several reports of candidates having to complete requirements after work hours which was viewed as unfair and possibly discriminatory to those not on a training contract and not desirable for those who were.

8. **Issues which arose regarding the future of the scheme**

[see also Narrative Reporting Annexe 1.iii.]

1. Changes in the economic climate would affect availability of training places which would influence decisions and attitudes towards the introduction of a new training framework both positively and negatively.
2. Organisations which were not legal firms will think more carefully about whether qualifying paralegals or those employed in legal related jobs is beneficial to the organisation as well as to the individual.
3. Organisations which were not legal firms will consider the time, human resource and financial implications of having employees on such a scheme.
4. Legal firms were not very supportive of time to count (recognition of previous learning) except in particular circumstances where the candidate came with
highly transferable and desirable skills. 6 months should be the maximum as 18 months was considered the appropriate minimum time for a trainee/candidate to become immersed in the professional culture and identity of the firm.

5. Legal firms were even more reluctant to consider time to count for paralegals as they could not be confident in how their previous experience could be assessed as it may have been in an unrelated context which was not transferable or relevant.

6. There was a mixture of responses about how to proceed and what recommendations and feedback legal firms would like to give to the SRA: whether to adopt an SRA backed WBL framework and modify it to suit their own set ups or to advocate the high professional standards of their existing systems from which the SRA could draw to set a high minimum standard across the whole profession which was believed to be very much needed.

7. There was considerable concern expressed by all employers that there were no guidelines on how long an employer would have to have responsibility for supporting and keeping on a candidate on the scheme who did not complete in the two years. There was an anxiety that the WBL framework was based on the premise that everyone should pass given time.
Annexe 1.ii.

Stream 2: paralegals

[see also Resource paper 11]

The pilot scheme had two major aims:

- to reform the vocational/applied stage of training to achieve objective measures and standardisation in training and assessment;
- to explore its contribution to addressing barriers to entry to the profession.

Through the inclusion in the pilot scheme of paralegals employed in various organisations (stream 2), it was anticipated that this had the potential to address a range of barriers: ethnicity, gender, age and socio-economic/educational barriers. It was a bold move and possibly the most reforming part of the design of the pilot scheme and for that reason closer consideration could have been given to whether two major aims could be achieved within the same scheme.

However, reform of a traditional paradigm or practice is always a challenge and there is a case to be made that if an embedded system is to be disturbed then there are strategic advantages to addressing as many issues as possible in one disturbance.

1. Issues arising

While demonstrating that this reform alone will not address barriers to entry, attempting it did demonstrate that:

1. the WBL pilot had the potential to address socio/educational barriers;
2. the pilot had addressed an inequality in the system for a range of individuals;
3. barriers to entry on socio/educational grounds could be addressed if legal firms removed the 2.1 or first class requirement for applicants as a criterion for their applications to be looked at let alone offered an interview, particularly on e-applications where an applicant cannot proceed as soon as they enter a level of degree award lower that 2.1;
4. there was no evidence in this evaluation of the pilot scheme that it addressed any other barrier directly;
5. the pilot had highlighted the need for addressing barriers to entry at an earlier stage [see recommendations and resource papers];
6. the variables among this group are much higher than variables among the trainees in legal firms (in workplace; jobs; backgrounds; experience; skills; location);
7. the pilot raised several issues which need to be addressed before this route to qualification can be successfully introduced;
8. the portfolio system demonstrated significant learning was achieved for a number of stream 2 which depended very much on how they responded to the reviewers’ feedback;
9. External assessment organisations could have value in a learning an assessment framework across the profession as well as in the role of assessors for stream 2 type candidates.

2. Potential to address socio/educational barriers

All participants (paralegal and non paralegal and all professionals) spoke of the potential and desirability to achieve this rather than the realisation of it as a viable system.

For stream 2 candidates this barrier to entry was the most significant for them as it was a lived rather than an observed experience. The following is a general profile of stream 2 to contextualise their views.

Stream 2 profile

Individuals in employment in organisations to carry out legal/legal related activities were invited to volunteer for the pilot scheme if

- they had successfully completed a law degree/GDL and the LPC;
- had employers willing to support them in achieving the requirements of the SRA including opportunity to gain exposure to the required areas of law (contentious and non-contentious).

The majority of stream 2 candidates stated that they had gone into paid legal work because they had not succeeded in gaining a training contract. All had made several application attempts (from 6 to over 100) to gain a training contract. A range of reasons were given by each candidate and these were checked against reasons given to them by potential suppliers of training contracts. While individual reasons varied, the level of degree and university remained constant in all responses

- 2.2 degree
- 2.2 degree from minor university
- 2.1 from minor university

Others reasons given in order of frequency though at a much lower occurrence than degree level

- age
- nepotism
- location

It is important to note that degree ranking was, to this stream and to other participants in the scheme, not just about educational attainment.

- there was an implied class issue.
• there was no opportunity to explain the lower level of educational attainment at a younger age and what their true capabilities were when they were excluded from having an interview.

• in the rare event of an interview, there was no way to explain about the role of environmental factors without it sounding like a lame excuse.

Environmental factors cited as having an influence on degree attainment:

• working to earn money while studying
• learning at night classes
• dependents
• caring roles
• first person in family to go to university
• deprived cities/localities

There was also a frustration that:

• the following would never, in the eyes of the legal profession, be enough to make up for the degree attainment
  - gaining the LPC often at night classes or part time while working
  - holding a responsible legal related job
  - accumulated extensive experience
  - commitments to CPD

• they were prevented from entering the profession although they had succeeded in the first two stages of the route to qualification. In most professions there would have been no question about moving onto the third stage after successfully completing the previous two stages.

Interviews with stream 2 highlighted the role of HR in deciding whose applications to put forward as this stream had experienced multiple rejections. This was also commented on by some stream 1 candidates. Among a large section of potential applicants into the profession, ‘myths’ on the way HR select applicants for interview are prolific. Worryingly, the commonality in all these ‘myths’ is that it is HR that has the power in legal firms and organisations to make all the important decisions on recruitment. This issue raised the following concerns for candidates with regard to medium and larger firms

• who makes the decisions to forward an application to the decision maker?
• on what basis is that selection made?
• are HR qualified to make such decisions?
• what is their legal training?
• who regulates HR?

**WBL Pilot Scheme**

Stream 2’s views on whether it can address socio/educational barriers
3. No evidence that the WBL pilot directly addressed any other barriers to entry

The pilot scheme was not seen as addressing or being able address any other barrier to entry except if based on the following two assumptions

- that stream 2 type candidates have all been prevented from getting training contracts predominantly for educational reasons
- that those who are stream 2 type candidates are also from wider ethnic, gender and age groups than those gaining training contracts

Stream 2 candidates and other candidates and professional participants in the scheme speculated on other obstacles to entering the profession. However, from the pilot scheme itself they were not evidenced.

- professionals in legal firms were clear that gender barriers to entry no longer existed and that ethnicity was also disappearing as a barrier because excellence in educational achievement regardless of gender, age and ethnicity was now the overriding criterion driven by market forces.
- experience was also considered as having the potential to supersede traditional barriers if the experience was highly relevant to the organisation’s profile.
- other positive factors were client facing skills, business acumen and languages

All participants in the pilot believed barriers to entry should be addressed much earlier in the system but very few ideas were offered about at what stage and how they could be addressed [See Resource paper on diversity literature].
4. Feasible route to qualification for stream 2 type candidates

These questions have been gathered from a range of all participants.

- How does a WBL framework address the educational barrier to entry?
- Should it be the role of the SRA to challenge the criteria if the criteria are about evidencing excellence?
- What other ways are there of addressing this particular barrier to entry?
- How does a WBL framework address previous experience?
- What is the function of recognition of previous experience/learning?
- How can exposure to the areas of law be ensured for certain set ups?
- How can contentious and non contentious requirements be fulfilled in all set ups?
- When does the responsibility of training end for the employers of both streams? In other words what if someone fails?
- What are the real costs?
- Does the high variability of stream 2 pose challenges to assessment and monitoring

Evaluators comments:

The following probing questions are intended to assist the next iteration of the WBL framework to i. help address some concerns and ii. prevent a two tier system/discriminatory system emerging out of what are sound ethical intentions.

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<td></td>
<td>is the SRA’s recruitment to the pilot of stream 2 candidates on a self selection plus supportive employers basis a sound and fair approach for the profession, the candidate and the employer?</td>
<td>are the differences in recruiting requirements for stream 1 and stream 2 in the form they are in the pilot justified?</td>
<td>beyond the pilot, can not having recognition of previous experience be justified?</td>
<td>how can differences in supportive conditions between the 2 streams be reduced?</td>
<td>do differences in situation, intention, motive and personal; cost/sacrifice between the two streams have any influence on what form a WBL framework should take? For example, for stream 1 the pilot was an experiment with the security of it being really another version of a ‘training contract’. For stream 2 it was the only means to achieve a longed for goal after considerable investment in a legal career</td>
<td>what can be done about making the securing of a training contract a fairer process?</td>
<td>does the exclusion of willing applicants on the grounds of not having supportive employers contribute to a fairer system?</td>
<td>how can monitoring of supportive employers be assured and what defines ‘supportive enough’ in practice?</td>
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9. how can potential employers of stream 2 be made more aware of the implications of being a supportive employer and facilitating their employees, particularly those already in important roles, to qualify as solicitors without unduly disadvantaging the candidate and the employer?

10. how can the inequalities of learning experiences, opportunities and support both within each stream and between the two streams be attended to?

11. how can transparency be assured about the time and financial costs for the employer and the candidate in stream 2 without disadvantaging the candidate?

12. how can ‘what if’ scenarios - time out for maternity leave, family issues, not able to get exposure to all the areas of law etc - which are more prevalent in stream 2 be ethically managed?

13. how can the SRA use this route to qualification to address other barriers to entry and is this way the most effective way?

14. at what stage after the completion of the 2 years in the vocational training stage can an employer bring to a close their responsibility for the candidate who does not succeed in qualifying in that period?

15. are HR practices subject to SRA auditing?

5. Use of external assessment organisations

External assessment organisations were used in this pilot to formatively and summatively assess candidates on the scheme who were not being internally assessed by their employers.

- Nottingham Law School assessed paralegals and/or individuals employed in legal jobs in a variety of organisations and a small number of candidates in law firms who would have been on the traditional training contract. These candidates were from various regions in England and Wales.
- Oxford Institute of Legal Practice assessed candidates in LawNet firms. These candidates would otherwise have been on a traditional training contract. Their firms were mainly in the South.

Both EAOs were given recognition by candidate participants and employers of candidates for their regular input, feedback and support. Employers, most particularly those from non legal firms, considered their candidates to be in safe hands. They had confidence in their formative assessments based on witnessing the ongoing support and feedback to candidates throughout the two years of the scheme.

Would organisations use them after the scheme was completed and if the scheme were rolled out?
Legal Firms

The majority said they would not continue to use an EAO as an assessment organisation for the following reasons

- not cost effective
- knowing how the system now works they can do it in house
- EAOs can assess the skills application but not whether the candidate is suitable for the firm or has reached a level of professionalism required.

A minority said they would for the following reasons

- Cost effective
- Efficient
- Objective
- But had the reservation that an EAO would not be familiar with the culture of the set up which could be a disadvantage in assessment.

Other organisations

A majority of other organisations said they would continue to use EAOs if they were to sign up for such a scheme again.

Evaluators recommend

| i. | use external assessors from EAOs as part of an oral panel for the final assessment of candidates as this would meet the aim of objectivity and act as a monitoring of standards with EAOs reporting directly to the SRA |
| ii. | use the pilot’s EAOs to advise on a modified framework |
Annexe 1.iii.

Narrative reporting

This section of the report aims to capture some of the mood and feelings which could not be conveyed in the factual extrapolations. The content has been included in the Findings in Annexe 1.i.. The narratives are taken directly from intensive interviews which were carried out during and at the end of the final assessment period and the ending of the WBL pilot scheme.

1. **Sufficiency**
   1.1 Outcomes and issues of level
   1.2 to demonstrate skills required to qualify as a solicitor
   1.3 of WBL portfolio as a means of employing an applicant candidate from outside the organisation
   1.4 of correspondence between evidence of key criteria and whether to employ.

2. The proper role of the SRA in relation to the vocational (training) stage and the desirability of achieving standardisation.

3. The proper objectives of the vocational (training) stage and the extent to which it comprises a distinctive and necessary stage within a coherent training framework.

4. The impact of likely future developments within the legal professions on the availability and nature of professional training at the vocational stage.

1. **Sufficiency**

1.1 **Outcomes and issues of level**

**Outcomes**

Some of the firms which had an overall positive view of WBL said that they thought that this was because the outcomes *sit well with our firm and our area of practice*. There was concern and confusion, however, about the extent to which level of achievement could or should be measured.

Not surprisingly, particular context mattered to the extent to which organisations found particular outcomes difficult to evidence or did not regard them as relevant. Most of the comments were provoked by the ‘advocacy’ outcome and the number of ‘business and commercial awareness’ outcomes.

Small to medium-sized litigation firms were comfortable with the ‘advocacy’ outcomes while some but not all larger firms and some smaller or medium-sized practices were uninterested in advocacy skills, commenting, for instance:

*One problem is with advocacy. [The SRA] must look at this closely. Not many litigators go to court. It is not mainstream anymore. You instruct counsel. Trainees cannot do advocacy in magistrate court in crime now.*
The outcomes are actually very good. Only one difficult area is advocacy…plus some trainees do not need advocacy experience; [they] never want to be an advocate.

Most firms seemed untroubled by the fact that many of the outcomes involve general business awareness. Some firms were at pains to stress the importance of getting trainees to use common sense and develop business instincts. Indeed, this was seen as the central most important goal of the training stage as distinct from previous practical and academic stages (see below). Two aspects of business awareness were identified: the trainee’s understanding and acceptance of the firm as a business organisation and the trainee’s ability to understand the business objectives of clients. Some respondents were adamant about the need to keep these outcomes in the WBL scheme:

Business awareness? It is an issue. An ability to develop and market is needed. It is important. They must keep it in the learning outcomes. You can be fantastic academically but terrible with client or getting business. You have to be an allrounder.

We do need business awareness and this is something that people are woefully unprepared for. [Trainees] have to have commercial awareness. We have to have money coming in and trainees have to understand that.

Issues of level

A few participants were concerned to point out that they did not understand the extent to which the SRA intended evaluators of portfolios to indicate level of performance:

A down side is how will we all know what is the right level. So, the [organisation’s] level might be above the level elsewhere.

There was concern and confusion about the extent to which level of achievement could or should be measured. Some firms which were overall negative about the scheme felt ill at ease with or lack of confidence about assessing outcomes. For instance, one said,

There was too much detail in the instructions. There is a lot of pressure on high street firms. They are not going to be read thoroughly or remembered. The WBL outcomes are full of abstract thoughts. This is difficult for us.

Quite a few of the organisations that expressed discomfort about the outcomes in the scheme suggested that firms might want to receive further training in assessment.

These suggestions came from firms that were positive about at least some aspects of the scheme:
SRA Final Report

*We do not have education expertise. Maybe we should have some training on it. It is not something that we do naturally.*

Others interviewees were firmly of the opinion that level could not be measured well by the portfolio and that it only made sense for the outcomes to describe a ‘baseline’ competency. The issue overlapped with the professional participants’ consideration of the extent to which there can be standardisation of competence related outcomes (see below).

Candidates were also concerned about what levels actually meant and how these could be satisfactorily demonstrated. They had the idea that it was incremental but were anxious about whether they were filling things out correctly to show they had reached the next level. Many interpreted quantity as the indicator rather than quality, quality being defined as how one interrogates the work and has the evidence. In reviewing the portfolios major indicators of not reaching a higher level were not necessarily explicit in the guidelines. There were indicators such as not yet demonstrating: *insight, increased awareness of wider issues, consistent attention to detail, growing awareness of business considerations for the organisation and the client, initiative, requiring less supervision time.* In other words not going beyond the basic requirements.

### 1.2 Skills required as a solicitor

**to demonstrate skills required to qualify as a solicitor if combined with and complemented by other possible tools**

Every organisation interviewed thought that the portfolio could not stand alone as evidence of competency to practice. In making a decision to hire a person who had qualified elsewhere under a portfolio-based WBL scheme, organisations would be unwilling to accept the portfolio as evidence of the competences that were most important to them: a relevant response was:

*[It is] Impossible to answer fully. It varies with context, depend s on what a trainee wants to do. With litigation versus private or commercial. A commercial trainee needs to be able to give precise quick advice, be comfortable with business clients and confident and convey a degree of satisfaction. With private client [the trainee is] dealing with a lot of elderly. They need to be slow, kind, confidential. So WBL would not tell you this without an interview. So the area of law [they seek to come into] is key.*

Nevertheless, many interviewees accepted that a portfolio (especially if it contained a good level of contemporaneous feedback by prior employers) would be a *useful tool* if combined with an interview, a practical test or references. All organisations insisted that an interview was the principle vehicle for informing their judgements, once an external candidate had met their criteria in relation to academic achievement, including LPC result. Some interviewees stated that the portfolio could be a useful source of reference within an interview. It would *give [firms] confidence and would certainly add to their confidence in interview* by enabling
them to ask specific questions about prior work or to drill down in order to assess the range and quality of the applicant’s prior experience. The portfolio could in this way become a useful form of currency.

1.3 WBL portfolio and employability

WBL portfolio as a means of judging the desirability of employing an applicant from outside the organisation (potentially one who had been employed elsewhere as a paralegal)

Interviewees were generally sceptical about the use of a WBL scheme to allow those who have not been able to obtain a training contract, but who are working as paralegals, to qualify as solicitors.

However, it was accepted by several organisations that applicants with non-traditional training contract backgrounds might be more likely to be taken on by them if they could demonstrate outcomes through a portfolio. Several firms, especially small to medium-sized mixed practice firms, said that they were not unalterably opposed to offering existing paralegals training places:

After 12 months some paralegals prove themselves and we then would take them on as trainees.

However, the issue of qualification by paralegals was frequently (almost invariably) related in the interviewees’ minds both to the issue of the exacerbation of the post LPC glut by the current economic situation and to how they respond to and evaluate prior academic qualifications.

Firms were concerned about managing paralegals’ expectations in an economically challenging period when they are making lawyers redundant. Most interviewees had strong views about the necessity of setting some minimum level of academic criteria:

if you have 900 who have a 2.1 why would you take someone with a 2.2?. You have got to believe that there is significance to the difference between a 2.1 and a 2.2. A lot of the problem is that we have got too many people coming through from the academic stage. That is not anything to do with the SRA it is to do with the economic situation... We see a 100 people at first interview and in our experience 95% of the time those that are academically stronger come out better at the end of the day.

1.4 Key Criteria of WBL learning outcomes and employability

Correspondence between evidence of key criteria/competences/WBL learning achievement of WBL learning outcomes and subsequent decision whether or not to continue employment as a solicitor.

There was a consistent response to questions relating to hiring and redundancy decisions to demonstration of outcomes. Economic factors and the availability of a position for a newly qualified solicitor in an area of practice in which s/he sought to
SRA Final Report

qualify were the dominant reasons given by employers who did not offer trainees (or WBL candidates) positions as solicitors. None of those interviewed was able specifically to link a decision not to keep on a trainee to that trainee’s failure to show evidence of one of the learning outcomes. Some firms speculated that there was a relationship, but they were unwilling to say that the relationship was clear to them.

2. SRA role in relation to vocational training and standardisation

The proper role of the SRA in relation to the vocational (training) stage, its extent and nature and the desirability of achieving standardisation

There was broad, but not unanimous, acknowledgement that some greater standardisation of the criteria for evaluation of the training stage is desirable:

the SRA role is needed to maintain the ‘esteem’ or ‘lustre’ of profession - even though we have a poor system of regulation compared with several other professions.

the SRA is extremely prescriptive at the moment about LPC providers, for example, but not at all prescriptive about training providers.

The situation is far too lax at the moment.

Clearly there has to be a role about what needs to take place in training. ...This is because of the variety of firms. The system of auditing currently in place is right. But they do need to be more prescriptive.

Although some thought that standardisation and greater prescription was needed because of the variety of contexts, others thought that that very variety was a reason for less prescription: thus it was stated that:

Standardisation is difficult because the contexts of practice vary widely. It has to come down to the judgement of the supervisor. The issue is ‘How does the evidence support something you already know?’

It is hard to test someone doing family law against someone doing litigation. Contexts are very different. Really supervisors know that; they are the best people to judge.

If standardisation is possible can a level of standardised be defined?

There was agreement that greater standardisation was desirable and possible, but only to a limited extent. Most respondents thought that the SRA could and should only ensure baseline competency. Others did not agree with this but were doubtful of the utility to them and their context of a baseline competence (the SRA standard is the very, very minimum for us.). None felt able to express anything useful about how a baseline standard could be defined. The result is that there is
consensus about the rationality of trying to define a baseline of competence but also consensus that there should be recognition of context, and therefore, flexibility, within the baseline reference. Moreover, there was support for the idea that firms and organisations should be permitted to build in their own criteria per their context – city, private, etc. needs to [be] flexible as well as achieving a basis standard.

Is standardisation only possible through a system of regulation involving reference to external assessment?

There was strong resistance to a scheme which would require reference to an external assessment organisation.

*It would be a tragedy if we could not internally assess, but I can see that some firms might have problems with this.*

Resistance was less strong where the idea of an external auditing system was mooted. However, on any model involving external assessment, it was generally considered that cost would be a significant issue.

What are the possible models for regulation and standardisation?

No detailed proposals for alternative models of regulation of the training stage were offered. Some strongly believed that the way forward needs to be a more stringently enforced licensing and auditing system because, as was said,

*the situation is far too lax at the moment, particularly with regard to the level of difficulty there is to become licensed as a training establishment, and it’s far too easy to become a licensed training establishment and I think it should be, you should only be licensed if you can actually demonstrate [the quality of your training]*.

In conclusion, although there were a few interviewees who consistently rejected the idea of any change, the majority of firms gave conditional support to the idea of a system based on learning outcomes but providing areas of flexibility. A representative response (focusing on the area of flexibility within context as discussed above) was:

*I think possibly. I think the way the outcomes were drafted is that they could be applied in different contexts and I think it would be possible to, in every different context, assess the outcomes of whether in that particular context they had been sufficiently demonstrated or not. And so to that extent there could be standardisation. But obviously there would be a huge difference between the different contexts. But I don’t think that means there isn’t a standard sort of… It’s just that it’s being assessed in a different context. If the context had to be the same across all those, and clearly it couldn’t possibly be standardised.*
3. **Vocational (training) stage in coherent training framework**

The proper objectives of the vocational (training) stage and the extent to which it comprises a distinctive and necessary stage within a coherent training framework

**What does training within employment achieve that is distinctive from what is or can be achieved on the LPC and/or PSC?**

Unsurprisingly, there was consensus amongst interviewees that a period of on the job training is essential to achieve *day one* competency. In addition, almost all thought that the 2 year period was both necessary and sufficient. A few thought that particular circumstances might warrant a shorter or longer period.

*This is about what is necessary to show you have learned what you need to learn.*

Repeatedly, training in employment was described as *invaluable* and it was said that new lawyers needed to be able to *put skills into practice in a supportive environment.* This was so for all types of organisations interviewed. Most referred to the value of being *at the coal face*; having a *real time* experience; *live exposure*; and a *real sense* of responsibility due to the knowledge that the work being done mattered significantly to the client, either because of its financial value or because of the real risk to the client of failure, or both.

**Key competences achieved by a period of training within employment**

Different types of organisations tended to describe key competences achieved in training differently or gave a different emphasis. Larger and more commercial firms tended to emphasise specialist knowledge. One larger firm referred to the necessity of learning *the ‘trade secrets’ if you like.* Smaller to medium-sized firms more often drew attention to *interpersonal skills* and to *personality.*

*The other crucial thing is that [a trainee has] to have a lot of energy, a bit of a buzz...[they have to be] self-motivated.*

But larger firms as well as smaller ones spoke of personal skills and both spoke of the need to gain specific practical knowledge.

**Problem solving skills, ‘common sense’ and knowing whom to ask**

Many gave examples of new trainees failing to use ‘common sense’ or failing, for instance, to think of ‘just going and asking’ someone in a position to know. A medium-sized litigation firm pointed out:

*It's... For example, it's [not only] knowing how to solve problems but knowing [that] how to solve them is often knowing who you've got to go to to solve the problems, whereas in the classroom they wouldn't know who to go to. They wouldn't know that ‘to solve this problem you need to speak to this particular person' they wouldn't...*
be able to tell you that because they don’t practice. Or they wouldn’t be able to tell you just a thousand and one things that you pick up in the job.

A medium-sized regional firm drew attention to their practice of giving new trainees a file to read (without letting them know that the lawyer’s file correspondence is in reverse chronological order) and then noticing how quickly trainees ‘figure it out’ or asked a lawyer to explain things in the file.

A larger firm referred to the need for trainees to learn ‘how things really work’, ‘how to’ and ‘who will know.’ Again, examples were frequent:

[The partner said]...you might think you know the law but what you don't know is the Yellow Book’ - as it was then - ‘the City’s regulation, and how it’s been applied and what they say, what this particular regulation actually means in practice and how they'd apply it and who you’d need to go to' and so it’s actually how it works, it’s knowing how it works, knowing that contacts, having the experience, getting enough experience of the detail. It's your trade, it's knowing the ‘trade secrets' if you like.

Finally, there was comment on the need for a training stage to provide a supportive environment for ‘real live’ practice:

But if you can do it in a supportive environment where you’ve got people all around you `who are supporting you through the whole process and you do it enough times and then once you've been through that process enough times then you know that you can do that without... It’s not to say that you don't need supportive environments still because you know,...[as a lawyer you] still go to other people and ask, bounce things off people and ask questions and... You still need to do that throughout your career.

Confidence and communication with clients and colleagues

Interviewees were consistently keen to emphasise how much their judgements about the fitness of a trainee to practice as a solicitor and, indeed, their decisions about keeping particular trainees on as newly qualified solicitors depended upon the trainee’s ability or lack of ability to communicate clearly with clients typical to the organisation and on the ability to ‘fit in with’ or ‘get along with’ colleagues.

Organisations stressed that the context in which they practice and the nature of their client base required particular, if not unique, communication skills. A high street commercial lawyer emphasised the need for a trainee to be able to communicate with business clients by understanding what it is they were wanting to achieve and how it impacted on their particular business. One medium-sized regional high street practice, commenting upon communication with business clients, said:

[The] key criteria to demonstrate fitness to practice. We did once have a trainee who was excellent on paper but had no common sense. The key is to be able to
understand how to apply the principles to the problems you are presented with. You have to analyse the problem. You have to get on with clients by being able to communicate with the client in a way that they understand.

A criminal litigation firm drew attention to the need for trainees to be able to communicate appropriately with, for instance, client with whom they had probably had little common experience:

Yes. I mean obviously, many people that come in as trainees will have never associated or met people that have had their children taken into care or had to spend their whole lives in prison or... They just wouldn't know how to relate to them very much. It's quite a shock when you have to learn the skills... Some of those people have been in the criminal justice system for thirty years and know far more than you, so you have to realise that you’ve got to relate to them in a certain way because if you try and treat them like they know nothing and you know everything, then they'll just think you're a total idiot.

While comments made by interviewees about communication with clients were really very similar across the spectrum of types of firms, it was noticeable that some firms also sought to set themselves apart from one another or stress the perceived separateness of different parts of the sector for legal services in relation to the nature of the communications skills needing to be acquired during the training stage. Thus, not only did some City firms say that those whose training had been at 'high street' firms would not have had the specific type of client-facing experiences that would develop these skills, but 'high street' firms were equally convinced that those coming to them from the City firms would not understand how to relate to their clients:

So if they have high street experience we're saying to them 'Forget it, it's not actually relevant to what it's like if you came here.' And so I think that is the wrong, you know, you’re comparing apples with pears.” (From a City firm.) and There are huge differences. I've interviewed some newly qualified people that have decided not to continue in the City and have found that they have no experience, they might have worked in a big corporate law firm and there might be brilliant work going on there but they didn’t actually see any of it, they never got to go to court, never actually got to meet a client or do any client work.” (From a litigation department of a 'high street’ firm.)

Statements about a trainee’s need to have the ability to get along with and fit in with colleagues either emphasised clear communication with colleagues or support for colleagues:

We are always looking for human angle and are flexible about academic qualifications if it is clear the person can be effective fitting into a small team and can relate to clients and colleagues.

More statements about ‘fitting in’ seemed to be made by smaller firms. While eager to point out that they were looking to take on new lawyers with diverse
backgrounds and experience that set them apart, larger firms seemed more often to refer directly or indirectly to the firm’s identity and reputation and the extent to which a trainee appeared to embrace the firm’s identity.

Real time and time management

Organisations also stressed how they assess how trainees learn to manage time and a real ‘caseload’ within a firm. This was universally seen as a vital outcome. Similarly, there was agreement that it was essential in the training stage for trainees to learn to become conscious of operating within a business environment. Occasionally there was some impatience expressed about trainees’ lack of awareness of the business environment of their training organisation:

*They have to know that we get paid for doing the work. ... how you are getting paid? Is the client ok with cost? How does a practice run? They need to know about overheads, how to get over them.*

Perceived overlap between LPC, PSC and TC

Several interviewees were convinced that what is learned from *actually working with colleagues and clients cannot be taught*. It was commented that, while some skills can usefully be introduced in a simulated situation, this is not so with other skills, particularly those involving time management, and communication with colleagues and clients. This view notwithstanding, there seemed to be a general consensus that the LPC has been made more effective in producing trainees who are more ready for training and, in particular, more business aware. Some were doubtful of the use of teaching ‘customer relations’ on the LPC, however. While some thought that there was deterioration amongst incoming trainees in drafting skills or that drafting skills were badly taught, some thought that that trainees are generally better in presentation skills, albeit not always in relation to advocacy.

There was broadly support from interviewees for subsuming some aspects of the Professional Skills Course into the LPC. On the other hand, some felt that the PSC should be kept separate and happen during training because it can improve presentation skills and, perhaps, offer some useful simulated training in advocacy though candidates were not convinced the PSC *had any real relevance*.

A few larger firms said their trainees benefited from some on-going training whilst working but they would prefer to be allowed to have a tailor-made programme that fit better with their context by focusing on particular tasks.

*[s]o I’m not saying that all training should stop, but the seminars that we have, we run in-house, are very practically based so they will take them, you know, ‘This is how you draft a share and purchase agreement and these are the clauses you need to watch out for. This is why our precedent says what it says...’ and so it is detailed drilling of what they are going to be doing on the job.*
A handful of organisations (of various types) were irritated by having to pay or pay so much for the PSC and for the interruption and logistical difficulty it caused. Quite a few firms said that they do not really pay much attention to or have much knowledge of the content of the PSC. A typical comment was:

*To be honest I don't get a lot of feedback really about what's taught at Professional Skills Course. I never did it myself. They go to the College of Law, I know they go off and I know we pay for it. But they just show me the certificate when I come to sign the forms, but I don't get any feedback about what the content is or how it may have assisted them; they just know it's a box that they've got to tick, so I couldn't comment about how useful it is. (From a training partner at a medium-sized firm.)*

4. Future Development and Impact on Vocational Stage Training

The impact of likely future developments within the legal professions on the availability and nature of professional training at the vocational stage.

**Economic conditions**

There was repeated reference to the current economic downturn. Interviewees said that the changes they anticipated had been underway for some time. The changes had predated the current downturn, but the downturn would exacerbate their effects.

There was unanimous agreement that the number of training contracts available would decrease significantly in the coming five years. Some firms said they had already been thinking ‘long and hard’ about taking on any new trainees. Some smaller and medium-sized firms think that the only organisations that will be able to offer training in future will be the larger firms and they say this is regrettable because their view is that the larger firms do not offer broad based training that prepares those who choose to leave the City for work in a ‘high street’ or general mixed practice firm.

One large city firm said that they do not necessarily expect a decrease in jobs in the legal sector but that hiring ‘armies of paralegals’ outsourcing (including outsourcing abroad), bundling services and ‘commodifying’ of transactions and ‘form filling’ will become common.

**Paralegals**

Smaller and medium sized firms say they have already taken more paralegals instead of trainees:

*In hard times we will look at taking trainees carefully. We will take fewer. Paralegals will replace trainees. There are some very proficient legal secretaries who can reduce costs too...[T]he number of solicitors will reduce considerably. People are just not going to be paying solicitors.*
Strategic solicitors and increased specialisation

There is a perception that there will be significantly fewer solicitors who do work that would be recognised as solicitors’ work. It was said that solicitors who do the value added work will have to have really good academics. They will also play a more strategic role in relation to the business of their clients. A large City firm anticipates that UK lawyers will increasingly be passed over in favour of foreign lawyers.

Alternative Business Structures (ABSs)

Smaller firms said they do not anticipate the changes due to ABSs being felt immediately, but that change in this direction will come and that they fear that ABSs will significantly cut down on referrals for ‘high street’ firms in all but niche practices. Few large firms made comments on ABSs and seemed unconcerned.

Susan Scott Hunt

Evaluators summary and comments

| i.       | importance of business awareness as core to the vocational stage |
| ii.      | need to redefine criteria for advocacy                          |
| iii.     | need for supervisor and assessor training informed by educational knowledge as well as legal knowledge |
|          | evaluator comment: coaching models could also be part of the training to support the development of professionalism |
| iv.      | understanding of incremental learning and assessment criteria for each stage |
| v.       | importance of acculturation and development of professional identity which impacts on training time and time to count |
| vi.      | portfolio cannot do the whole job                                |
| vii.     | portfolio can be a good basis for an interview but not for the job |
|          | evaluator comment: the above comment would support an interview/oral component of final assessment |
| viii.    | lack of knowing how to articulate why someone is not kept on in a firm |
|          | evaluator comment: this parallels the need to find how to appropriately assess the professionalism, the growing professional identity and the soft skills |
| ix.      | profession is aware it needs more standardisation but it must also contain flexibility |
| x.       | fear of the SRA going for the lowest common denominator in basic competences |
| xi.      | resistance to external assessment by legal firms but not to a form of external audit |
| xii.     | key competences are seen as different for different firms |
|          | evaluator comment: having an external assessor for final assessment could ensure standardisation based on high standards and an auditing system |
| xiii.    | some support for subsuming PSC into LPC or into a vocational training framework |
| xiv.     | economic downturn will adversely impact the number of training contracts |
available which in turn will bring about increasingly higher criteria for a training contract, particularly in grade of degree award.

| xv. | most professional participants not worried about the impact of ABS although this may have an adverse effect on the very small high street solicitors which were not represented in the pilot |
Annexe 2  Resource papers

These Resource papers were commissioned or drawn up by the Middlesex University evaluation team to support the recommendations which were the outcome of evaluation exercise

1. The work based phase of initial professional development: practices and trends among UK professions

2. Challenges in achieving professionalism (including Competences and Skills Schema)

3. The role of portfolios in the development of personal capability

4. The role of accreditation of previous learning

5. Learning Outcomes

6. Assessment Descriptors Level 7 and Level 8

7. The use of reflection

8. Assessment

9. Ethics

10. Coaching as a model for supervision

11. Diversity literature: education, training and the professions
1. The work-based phase of initial professional development: practices and trends among UK professions

Dr Stan Lester
27th October 2010

This short paper summarises current practices and recent trends in UK professions relating to the specification (in outcome terms) and assessment of the practising phase of initial professional development.

Trends in practising requirements

The majority of UK professions include and assess some form of practising phase before signing trainee professionals off as fully qualified. In my 2007 study (Lester 2008, 2009) 22 professions out of 23 included some form of practising requirement before granting qualified status (in the remaining one this was seen as implicit in the fact that the qualifying course took place over three years part-time). Of these, four provided only a general indication of coverage and a specified timescale, while 18 specified what the practising phase or assessment should contain. All but two of these latter bodies assessed the practising phase on an ongoing or summative basis or both, while one of the remaining two assessed practice for its ‘experienced practitioner’ route only.

The way in which professions’ practice-based learning takes place varies. Two mainstream models and one which is less common can be distinguished, with variations within each. These are described below as Type A (integrated within the course), Type B (following, or parallel with, the course), and Type C (independent of any course). There is no evidence of any trends from one model to another, or of one model being more effective than another; which model is used depends on the profession’s operating context and established traditions of training. Some professions use more than one model, for instance having a mainstream Type B route plus a Type C route for experienced practitioners.

Type A integrated routes are typified by teaching, nursing and some other health professions. A minimum practising requirement is incorporated within the academic course, so that trainees gain and are assessed on a range of skills in a supervised real-world practice setting. The level of overall competence achieved at the end of the course may be fairly basic in terms of what is expected of a fully-proficient practitioner, but graduates are normally entering a structured work environment and their initial development effectively continues through a probationary period managed by their employer.

Type B sequential or parallel routes are present in a wide range of professions and are typified by the ‘training contract’ approach, where graduates complete a period of work-based training with an employer as in law, accountancy and architecture.
Variations exist where a formal training contract is not used and initial practice-based development can be more individual in nature, sometimes with the ‘trainee’ able to move between jobs while keeping the same mentor. In general the aim at the end of this period is for the practitioner to be ready to work largely unsupervised, if not always immediately at a fully proficient level.

Two trends are observable in Type B routes. One concerns a move from loosely specified and assessed training periods to a more robust specification (e.g. ‘competences’ or ‘professional standards’) and a more formal assessment process that gives greater and more auditable confidence that the new practitioner is able to do what is intended. The second more tentative trend is to use this more robust process to move away from a set time for the training period to a requirement to reach the specified standard, something that is more easily achieved where there is not a tradition of standard-length training contracts (to date notable adopters of this practice include civil engineering and landscape architecture, with surveying moving in this direction).

Type C independent assessments take this latter approach to its logical conclusion, where the assessment is separated from any training process: practitioners enter for the assessment when they are ready, regardless of their training route or length of experience. This kind of assessment tends to be rigorous (and comparatively expensive), and it typically requires a fully proficient level of practice to be demonstrated. Several professions use this approach for their ‘experienced practitioner’ entry-routes; conservation (of cultural heritage) and project management use it for all would-be fully-qualified practitioners. Type C assessment typically expects a greater depth and breadth of experience than is usual for sign-off under Type B routes, with conservation advising a minimum of five years and some professions setting their ‘experienced practitioner’ requirement at ten years.

*Competences and professional standards*

The way that professions specify what will be assessed in the practising phase varies, but can generally be related to the purpose of the assessment and the model of practice-based learning. Simplistically, in Type A routes it is common to specify ‘learning outcomes’ or ‘competences’ that detail areas of knowledge and skill that the developing practitioner will need to cover. For Type C assessments the focus moves to ‘professional standards’ that describe what a person working to a proficient standard is able to do; these have sometimes been referred to, particularly in occupational standards and NVQ parlance, as ‘competences.’ In Type A programmes the limited level of exposure to practice can make it difficult to use professional standards easily, although it is possible to use them while recognising that the level of competence achieved will be limited (see later). For Type C assessments, a learning outcomes or competency-based approach can become unwieldy, difficult to assess, and can result in assessment of factors that are supposed to contribute to effective practice rather than assessment of whether or not the practice itself is acceptable and effective.
SRA Final Report

Type B development programmes commonly use both competency-type and professional standards specifications, with a trend towards professional standards particularly for summative assessment. The competency or learning outcomes approach would be expected where the objective is to check that trainee practitioners have covered the ground specified in their programme to an adequate level, while the professional standards approach is associated with ensuring a minimum standard of practice on sign-off.

Some other tentative observations can be made about assessable standards in work-based professional programmes. As a rule, professions have moved away from on the one hand trying to specify everything in detail and on the other very general descriptions of practice or of the relevant skills and knowledge, to describing the essential attributes needed (for the competency approach) or the core of practice (for the professional standards approach). While core-and-options approaches are used in some professions it is more common for newer standards to be written in a generic way that can be interpreted into different contexts, sometimes with guidance on interpretation into different specialisms or aspects of activity. Occasionally a more generic specification across-the-board is supplemented by greater detail in critical areas, as with the ‘skills cluster’ approach in nursing. Finally a few professions that use the professional standards approach also include an assessable specification of judgement, ethics and key values that convey the ethos and level of thinking expected in the profession. These are normally expected to be demonstrated across the areas of activity described in the standards.

Level of practice: Novice to Expert

The Novice to Expert model (more correctly the Dreyfus skills acquisition model) is introduced here because it provides a straightforward and assessable way of setting the level of proficiency required of a trainee or new practitioner. The model consists of five stages, outlined below and described in more detail in Dreyfus & Dreyfus (1986). In principle the model can be applied to any level or size of skill or activity, so it is possible to be an expert at tying a sheet bend or a novice at designing a nuclear power station. In professional development it is commonly used to describe progress towards becoming a fully proficient and independent practitioner, and as a scale for setting the pass level for assessments.

In a Type A development context initial sign-off will probably be somewhere between advanced beginner and competent level, consistent with the need for a probationary period before the practitioner is considered capable of independent practice. In Type C assessment, the assessment will generally require achievement at the proficient level, i.e. capable of fully independent practice to a consistently acceptable standard. Fully-assessed Type B programmes typically expect a ‘competent’ level or thereabouts, suggesting that while the practitioner is broadly proficient to practise they may not yet be at the level where they can be expected to operate independently of any oversight. The distinction made by some accountancy bodies between qualified status (at the end of a two- or three-year training contract) and gaining a practising certificate (generally a minimum of two
years later) can be regarded as a tacit recognition of this distinction between competent and proficient level. A very rough rule of thumb (that of course depends on a variety of factors) is that ‘competent’ level can be achieved in around two years in the workplace, ‘proficient’ level in five, while ‘expert’ level is likely to take ten to fifteen.

Table 1. Novice-to-expert (adapted from the Dreyfus skills acquisition model)

<table>
<thead>
<tr>
<th>Proficiency level</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Novice</td>
<td>Incomplete understanding, needs supervision to complete tasks</td>
</tr>
<tr>
<td>Advanced beginner</td>
<td>Working understanding, can complete simpler aspects without supervision</td>
</tr>
<tr>
<td>Competent</td>
<td>Good working and background understanding, able to complete work independently though may lack refinement</td>
</tr>
<tr>
<td>Proficient</td>
<td>Deep understanding, can achieve high standard routinely</td>
</tr>
<tr>
<td>Expert</td>
<td>Authoritative knowledge and deep holistic understanding, excellence achieved with ease</td>
</tr>
</tbody>
</table>

Assessment methods

The methods of assessment used for the practising phase of initial professional development vary, but some general practices and trends can be identified. One obvious trend is from a lack of assessment or reliance on informal assessment (e.g. sign-off by a supervisor against a simple list of tasks) to more formally specified and evidenced assessment, producing an increase in consistency and reliability (i.e. would-be practitioners are assessed to what is at least a nominally consistent standard). Another is an increase in the validity of assessment practices, ensuring that they relate more closely to the demands of practice as opposed to providing a broadly relevant hurdle to clear. This concern with increasing validity and robustness is ongoing, connected both to professional accountability and to fairness of access to professional careers.

A further trend in assessment is the movement to assessing real-life practice and associated reflection on it, as opposed to performance in simulated or test situations of one kind or another (though in some professions these are still important either because the training situation doesn’t provide sufficient exposure to practice, or to check mastery of the basic skills before being allowed to work in a live practice situation). While this kind of assessment is widely regarded as highly valid, it introduces an equation in which ensuring high levels of both validity and reliability tend to be expensive. Solutions in Type B programmes typically involve live observation and examination of work output by local supervisors, backed by either occasional on-site visits or examination of reports and tangible evidence by external assessors. Site-based methods have greater validity where it is important to assess processes (e.g. to verify interpersonal skills or ensure work is actually produced by the trainee) or products of work are not easily removed from the workplace, while written and evidence-collection methods are reasonably valid for work outputs and processes that are easily captured and presented in documentary
or electronic form, and for capturing reflection. Documentation or electronic presentation places a greater burden on the trainee, which can improve cost-effectiveness but also tends towards higher rates of non-completion.

In Type C stand-alone assessments there has been a move away from purely documentary forms of assessment on grounds of validity, with site-based visits and one-to-one discussions or panel interviews being common at least as an addition to documentary evidence.

Applying the principles to law

The practice-based development phase in law is an archetypal Type B process, with the current work-based learning pilots fitting in with the trend described above to move from looser standards and assessment arrangements to more explicitly specified ones. Debates about the form of standards and assessment processes need to be seen in this context. In the past it might be argued that the emphasis of the training contract was on a process of preparation for practice, whereas more recent thinking has moved the emphasis to the standard of practice demonstrated by ‘Day 1’ (i.e. newly-qualified) solicitors. Ideally this concern with output standards might be operationalised through requiring a set of professional standards (as opposed to learning outcomes or competences) to be met at ‘competent’ level, and the work-based development phase adjusted if necessary to enable their achievement. In practice there is a widely-accepted tradition of two-year training contracts in law, suggesting that in the medium term at least ‘Day 1’ expectations will need to be tailored to what can be achieved within this period. However, the question can still be asked about what standard – in terms of proficiency to practise – is expected at the end of the period, how this needs to be expressed in terms of assessable standards, and what the best way of assessing attainment of these standards is. Following on from this, further questions can be asked about the skills and knowledge needed at earlier stages of the process, including how the legal practice course relates to the work-based phase.

References


Lester, S (2008) Routes and requirements for becoming professionally qualified Bristol: Professional Associations Research Network

2. **Challenges to achieving professionalism**

*Being a Professional and being Professional: Competences and Skills*

Dr Kate Maguire  
September 2010

It is evident from this report that there is concern in the legal profession with regards to how learning outcomes evidenced in a portfolio can be the most appropriate means for assessing competences and skills to qualify an individual to enter the legal profession as a solicitor. The WBL pilot scheme itself has been a catalyst for the legal profession to scrutinise its existing systems and to begin comparing them against the WBL framework. That exercise has raised further questions as to what is best practice in how professional standards are to be achieved and whether current systems or the WBL framework used in the pilot are what is required to meet regulatory objectives.

An extension of this pursuit of best practice is the issue of standardisation in training and qualification across all set ups in the legal profession and the role of the SRA as regulator. The inclusion of stream 2 in this pilot, it could be argued, drew some attention away from the objective measures goal by adding a set of variables which the profession had not formerly had to deal with. Views on standardised outcomes therefore became diffused with implications for the profession of a route for non traditional trainees to be qualified raising concerns about standards and the feasibility of standardisation.

To extend the discourse on training standards and standardisation, it requires firstly the focus to return to legal firms and secondly clarification on terms relating to incremental learning and how they are understood and applied. The professions, academia and several other domains continue to grapple with an articulation of what is required from a specific individual to be useful to themselves and to the organisations in which they work. If the concepts are clear then learning outcomes and assessment strategies can be designed to optimise the individual’s contribution. While certain activities can be learned and applied there are areas within the engagement with work that have been described by participants in this pilot variously as intangibles, invisible, implicit, common sense, just doing it, you’ve either got it or you haven’t, it can’t be learned or it won’t be authentic.

The following does not purport to solve the issues and the terms used are, like all other terms, open to different interpretations. Its aim is to contribute to a clarification of the many important issues which the introduction of the SRA WBL scheme has raised and which require due consideration if a successful vocational training framework is to be introduced and standardisation achieved.

There are considerable challenges to writing about and assessing explicitly what are often implicit attitudes to work, to others and to life rather than skills that can be applied in a specific work situation/profession. It may help to look at it in these
terms: what makes a **professional** and what promotes a professional attitude i.e. **being professional**.

**Being a professional** pertains to an individual who becomes a member of a profession through a series of qualifying stages before going through a process of formal acceptance into the profession. This individual usually undertakes a contract not to bring the profession into disrepute and the commitment to meet the requirements of professional membership by regularly updating their specific knowledge and its application and evidencing it. Individuals who regularly demonstrate the fulfilment of these requirements can continue to use the brand of approved professionalism in the public domain. However there is wide recognition and evidence to support the notion that this brand of being a professional does not always mean the individual is professional in what they do.

**Being professional** is not bound to the profession of which one is an approved member but is rather an attitude to everything one undertakes: it can be defined by notions such as loyalty, commitment, getting the job done well regardless of how long it takes, respect for self and colleagues, high self awareness and reflexivity (the ability to know your impact on your environment and its impact on you) initiative, curiosity, self motivation.

In this evaluation all professional participants have struggled to articulate this but have stated they know what is when they encounter it or when they encounter the potential for it in an individual trainee. They do not know in explicit terms how it can be formally developed, measured and assessed but have stated that it has to do with trusting the experience of those in the profession, facilitating acculturation or socialisation into the profession and the potential for self management and insight in an individual candidate. Most professionals in this exercise agreed that a core reason for having a 2 year vocational training stage with 18 months as the shortest time recommended was because that would ensure, or go some way to address, the need for acculturation/socialisation into the set up as well as the profession and the development of a professional identity.

Returning to competences and skills, these two terms are often used interchangeably. Further confusion arises when they are qualified as in incompetent, low skilled, highly competent, highly skilled.

For the purposes of this particular part of the evaluation exercise which is to distil from the findings what may be suitable additions to assessment protocols to meet the concerns of the legal profession, **competences** can relate to the basic task requirements which are generic to all professions and **skills** to that which are profession specific or adapted to a specific profession. Many skills sets are transferable across professions. **Being professional** can relate to the attitudes and attributes which are added value and from which everyone benefits: the individual, colleagues, clients, the organisation so that the organisation as well as the individual becomes a continually learning one which is ready for or anticipates market changes and clients’ needs. Developing self managed learning, insight and soft skills can be facilitated and assessed though skilled use of reflection by both the
candidate and the supervisors/reviewers and the quality of the learning conversations which take place between them.

The following is an example of the differentiation and a basic schema of application. (+ = achieving above the minimum in i. competence in context specific specialisms ii. in professionalism and iii. as an indicator of potential to go on achieving with increasing self management)

<table>
<thead>
<tr>
<th>Basic competence</th>
<th>Professional Skills Application</th>
<th>Context</th>
<th>Progression</th>
<th>Being professional</th>
</tr>
</thead>
<tbody>
<tr>
<td>writing a letter to a client</td>
<td></td>
<td>not work context specific</td>
<td>Understood as a given but this is not always the case</td>
<td>Neat, tidy, spell checked, respectful</td>
</tr>
<tr>
<td><strong>Level 1</strong></td>
<td>writing a letter to a client which accurately summarises their request</td>
<td>work/professional context specific</td>
<td>Year 1 1-3 months With Supervision</td>
<td>The above plus has read the request carefully, discusses with supervisor, anticipated next step and does some research on their own initiative</td>
</tr>
<tr>
<td><strong>Level 2</strong></td>
<td>demonstrates a clear understanding of the client’s situation</td>
<td></td>
<td>Year 1 1-3 months With Supervision</td>
<td>Uses feedback from supervisor, distils research, checks if more information is needed from the client</td>
</tr>
<tr>
<td><strong>Level 3</strong></td>
<td>proffers informed advice without prejudice</td>
<td></td>
<td>Year 2 With supervision, time dependent on how new to the seat</td>
<td>Seeks supervision, has informed themselves enough to have fruitful engagement with supervisor re e.g. points of</td>
</tr>
</tbody>
</table>
### Challenge to Standardisation across all set ups

Individuals can meet these levels at different times depending on their set ups, exposure to areas of law, the quality of support they receive, how they engage with feedback, their previous learning experiences, the level of competences, skills and professionalism they bring with them.

Using the ‘being professional’ aspect of the frame, if standardisation and compliance is to be achieved, there has to be agreement on the ‘achievement’ expected by the end of the 2 year training period and the ‘potential to achieve’ during the newly qualified period. It would seem essential that the measuring of ‘potential’ is key to grappling with concerns about measuring the *implicits, soft skills, acculturation* and *professional attitudes* and the basis of that would be the existence of and the skilled assessment of a ‘being professional’ category. In addition, if the ‘being professional’ category is consistently not met in the first year there would have to be a process of withdrawing or being exited from vocational training. This could be part of the training contract and the reason for not being progressed would have to be evidenced. In this case the role of external assessors as moderators can be useful as a balance to subjectivity. Looking at the above schema, a cut off for levels of achievement and potential to achieve could be Level 3.

Dreyfus’s skills acquisition model in Dr Stan Lester’s preceding paper and Professor John Stephenson’s paper on Portfolios and Capabilities which follows this, offer

| Level 4 | Level 4 does all this with minimum supervision | Context relevant specialisms + | Second half year 2 –Day 1 Minimum supervision becoming more like learning conversations + | Reflects on impact of advice, responsibility and accountability, client faces, client maintained or lost, distils learning + |
| Level 5 | Level 5 contributes ideas to colleagues about successful resolution | Day 1 Supervision becoming more collegial | Attitude has already begun to impact on other areas of life and how the individual carries out any task within profession and outside |
ways of thinking about professional training that can contribute to the best training practice model for the legal profession. At the October 2010 WBL symposium organised by the SRA, I drew up the following model to represent the various articulations of those who were present combined with issues which arose from the evaluation of the WBL pilot. It also encapsulates possible solutions.
3. The role of portfolios in the development of personal capability


**Extract 1: Competence and Capability**

As Head of the Royal Society of Arts’ Higher Education for Capability project, John Stephenson developed a series of diagrammatic representations by which he attempted to show the basis of *Capability*. This culminated in Figure 1.3 which has been extensively used by many authors since Stephenson’s development of it.

![Figure 1.3. The Stephenson Y to Z Diagram](image)

The basic argument for this diagram goes as follows: In our daily lives we face a range of situations or contexts from familiar to unfamiliar (or novel) and we approach a number of problems or tasks which also range from the familiar to the unfamiliar. These two dimensions roughly constitute the learning plane of professional life (problems or tasks in situations or contexts).

The quadrant labelled as Y is where we face familiar problems in familiar contexts. This is a common daily or routine experience. Position Y can apply to the workplace, the home, community activities or artistic pursuits. Good performance in position Y may require technical skills and knowledge of the highest order, or at the simplest level. We give students information about the context; the more complex the context, the more information we give them. We give them information about the kinds of problems they will meet, and details of the solutions which have been found to be effective. We might even give them practice in the implementation of the solutions and evaluation of their effectiveness. We seek to develop the student capability in position Y by passing on other people’s experience, knowledge and
solutions. Though no doubt effective in the context of position Y, the resultant capability is essentially a dependent capability.

In position Z we are expected to take much more responsibility for our own learning and we must be adaptive, flexible and able to recognise and then apply solutions to the novel problems we face without certainty of outcome. We need “confidence in ourselves, and in our judgments, if we are to take actions in uncertainty and to see initial failure as a basis of learning how to do better.

Position Z, represents an “Independent Capability”, where individuals (or collections of people) can act independently and with confidence, utilising their skills, judgment and risk taking. Operating in position Z involves courage, intuition and creativity – all qualities difficult to measure though they can be observed and described. Whereas position Y focuses on the effective application of known solutions to known problems, within position Z the focus is crucially on the formulation of the problem itself.

The process of problem formulation can be an iterative one in which each successive ‘failure’ is regarded as a building block towards a reformulation of either the problem or the tentative solution, or both, leading to eventual progress. A capable person responds to any initial setback as a potential source of greater understanding and an opportunity to rethink both the original formulation and the tested solution leading eventually to a break-through. This suggests capability components such as determination, self-assurance, an orientation to learning from one’s own mistakes, creativity, persistence, and a facility for networking with others. With echoes of Ruskin's Craftsmen¹ and Keats’ Negative Capability’, such a person – or organisation – is not deterred by potential failure or uncertainty whereas a competent person is trained to get it right first time in familiar and routine. There are also echoes of Karl Popper’s falsification theory as outlined in The Logic of Scientific Discovery (1959).

A capable person can see a possible failure as a learning opportunity – the greater the setback the greater the opportunity to progress. A capable person has the potential to turn tragedy into triumph. And it is a continuous process, with each productive formulation and response leading to yet another opportunity to progress further. Capability is about continuing development.

Effectiveness in the intermediate positions, between Y and Z (subsequently referred to as positions X1 and X2), is also important in life and work. One is either using existing approaches to problem solving in an unfamiliar situation whilst the other is about developing novel or unfamiliar strategies and expertise in a familiar context. In each of these situations, adaptability is the key to successful outcomes. And it is from such adaptability that new knowledge and skills can emerge.

It is argued that the capable professional is not phased by unfamiliar situations and problems and has the capacity to learn from the experience of engaging with them. The essential role of the portfolio is to enable the individual to reflect on their
professional responses to such situations, record their learning for future reference, identify their further developmental needs and share their experience with others.

Extract 2: The Value of learner managed portfolios
Mindfulness and Continuing Professional Development p 27

Developing Mindfulness is not just a matter of defining the idea and seeing that it is a useful rubric for thoughtful behaviour and responses. Mindfulness implies a more refined development of awareness of one’s own thinking and operations. A reflective and thoughtful observance of what is actually taking place in consciousness and in developing an openness to ideas and thinking actively is something that needs purposeful or intentional learning.

Professions have, in the last twenty to thirty years, concentrated more on developing “reflective practitioners” (Schon, 1983. 1987), whereby thoughtful analysis of action during and after practice is seen as an open way to better professional behaviour and improved learning about practice. Architects, Teachers and Nurses, for example, have embraced this approach with considerable passion and vigour over the years.

There are other approaches to the general area of thinking about thinking, as implied by the term Mindfulness, which have been developed as well. Edward De Bono has developed concepts such as the “Six Thinking Hats” (1985) and “CoRT” thinking curriculum for schooling and corporate work where strategies are developed and explored in a meta-cognitive way (De Bono, 1985, 1992).

Meta cognitive teaching approaches and such ideas as utilising a “thinking curriculum” are increasingly referred to in educational circles.

In this ultra modern age, education has recently emerged as being more concerned with broader curricula goals than just narrow subject content knowledge after decades of such “silos” of knowledge encapsulation as Mathematics, Science, Language, Sport and so on. Key areas of curriculum content are gradually being supplanted with broader learning “essential goals” or “new basics” such as problem solving, thinking skill and wider “lifewide” learnings than merely mastery of essential mathematical techniques and historical facts. Such a shift is in congruence, we suggest, with the view that a mindful learner, with a broader meta-cognitive awareness, is a developmental necessity. This is movement towards a more capable learner.

This thrust and change however, is not taking place without some rebuffs from those who see traditional approaches being “thrown out” and who lament the decline of knowledge of small details as the mark of an educated person. Once again, values boundaries are “bounced” against and directly affect the movement of thought and development. It is significant, we argue, that challenges to boundaries are mindful endeavours rather than rash “knee-jerk” responses based on whim. A balance between known “appropriate” practiced values and appropriate challenge
to some existing values for betterment has always, throughout history, been a
delicate and controversial aspect of progress and development.

Being Mindful is about knowingly understanding one’s own thought and learning
processes and being open to changes and processes of learning. It underpins
Capability.

**Extract 3: The Middlesex University’s D Prof Programme – where managing one’s
learning portfolio is a key feature.**

Research (Stephenson, et al, 2006) into D Prof students’ retrospective accounts
revealed that the key process was the pivotal position of the candidate as the
*principal agent of control* of a programme situated within critical and demanding
academic and professional contexts. It was down to them as individuals, not the
university, to make the running, to expose their status and professionalism to
critical comment in both academic and professional communities, build and gain
approval for their programme and demonstrate their achievements. And it is on
these elements of candidate control and justification to self and others that the
benefits are built.

The same research revealed that key processes appear to include the following:

a) Candidates, whose main achievements, experience and expertise lie by
definition within the world of work, have to justify their professional prowess
and intentions in the challenging and different environment of academe and,
at the same time, justify their intended academic credentials in their
professional field. They have to secure personal credibility in both camps.

b) To people whose status and identity are bound up with their professional
expertise and status, the process of justifying their past and current
professional worth is much more a risk to professional and self esteem than is
demonstrating mastery of university-provided knowledge, techniques and
skills. As a consequence positive responses lead to strong personal and
professional legitimation in both contexts which in turn leads to enhancement
in credibility, belief in their power to perform and commitment to continuing
development. The process of justification also involves critical self-reflection
of past and planned activities and requires positive engagement with the field.

c) The programme structure contributes significantly by requiring the candidate
to judge their own professional performance as a whole, – including past,
current and planned activities – against generic criteria consistent with the
highest level of academic achievement thereby facilitating the capacity for
intellectual integration, synthesis and judgement of good practice.

d) By requiring integration of the different strands of previous experience,
current work activity, wider professional context and intended post-program
professional consequences and intentions, the program encourages the
development of deeper understanding of links between components and stakeholders and an awareness of the wider picture.

Analysis of candidates’ personal reflections on the experience as a whole suggests the personal benefits perceived by successful participants to be:

- Greater personal and professional credibility:

  As an individual: ‘It’s nice to know that you are, you’re considered, the sort of expert, in this particular territory of the profession”

- And for the wider professional group: “I also felt that the [professional community] deserved it and that it was probably going to enhance some sort of standing in terms of the various negotiations we continue to have.”

  Enhanced personal and professional capability and belief in their power to perform;

  - “I now know I can make a difference in what I am doing”.

- Strengthened commitment to continuing development.

- “Once you finish the program, it’s meant to be only the start of the next phase or the next series of projects.”

On the evidence of the Middlesex University (MU) DProf candidates’ experience, candidates themselves forge productive relationships between the professional context and the university within a general framework established by the university to assure the level of the final academic award. The pivotal role of learner control of the programme is generally underplayed in academic discussions of different kinds of professional doctorate. The greatest benefit for candidates on the Middlesex DProf programme derives from the exercise of the candidate’s sense of agency within critical environments and comes as much from the structure that supports and tests the exercise and outcomes of that agency. Payoffs come from greater self-confidence, intellectual development and commitment to further development of the candidates themselves as well as significant ‘new’ professional impact on practice. The majority of successful candidates also refer to involvement of work colleagues in their doctoral project and, significantly, in plans to build on its outcomes for further advancement of the workplace. The MU DProf offers a major contribution to the development of capable organizations as well as capable individuals.
4. The Role of Accreditation of Previous Learning

Dr Kate Maguire

A central part of a WBL approach is the accreditation of work experience/learning. The SRA selected this approach because it offers a training framework that is work based and has an assessment protocol based on learning outcomes that can be objectively measured and within which all trainees can be guided and assessed fairly and relatively equally. It is also an approach within which recognition of previous work experience (usually referred to as APEL) has an important role to play. However, in this pilot scheme APEL was not used in the way it is normally in a WBL frame which raised questions about recruitment to this scheme (and to any future scheme) and highlighted the ethical considerations which could arise.

Recruitment

- for those in Stream 1 their basis for entry into the scheme/training contract was: successful completion of Phases 1 and 2 of the route to qualification; selection based on that basis plus their CV and a successful interview. There was no requirement for recognition of previous learning otherwise.
- for Stream 2 it was: successful completion of Phases 1 and 2; volunteering for the scheme with a supportive employer plus a perception that the legal experience (previous learning) would somehow offset any 'not good enough' aspects of Phases 1 and 2. There was no other role for recognition of previous learning in the way that time to count might work.

A rationale for not having time to count is that the SRA scheme wanted to ensure that everyone started on an even playing field. This was not quite the case.

On the job

- for Stream 1, work during the vocational training was geared to training requirements and the line of responsibility in that work was relatively distant from the candidate. They were moved around or work was given to them which matched each level of their training requirements. They had regular contact with the supervisors of each seat as well as a nominated solicitor
- for Stream 2, although their work situation was closer to that for which WBL is most often used in the workplace (employment and experience), in terms of its use for training purposes, their work was not always geared to or made to be geared to training requirements and the major part of the work/job responsibility was often the candidate’s. These candidates used their everyday work to try to demonstrate the outcomes. In areas in which they were experienced this did not pose a problem. When dealing with areas in which they were not experienced the learning curve became steep due to the lack of intense exposure and the opportunity to work regularly and closely with area of law/seat supervisors. In addition they still held, in some cases, considerable responsibilities for their own specialist/employment areas.
Consultation Point 1:

For stream 2, but could also be used for stream 1, a case can be made for accrediting previous experience through requiring the candidate to write up and critically reflect on their learning from an area in which they are highly experienced. This would gain them ‘credits’ and allow them to spend more time in the other areas of law. This would move some way towards a more equitable system, that is if the SRA continues to support a two stream system.

Consultation Point 2: (see Accreditation System below)

The SRA could explore whether an accreditation system could

- be more feasible than a transferable portfolio (see below)
- be part of a recruitment system which would contribute to the mergence of the two streams e.g. firms could consider
  - level of degree as 2.1 or 1st
  - 2.2 with X accreditation points
- attend to issues regarding the assessment of skills and competences
- resolve ‘what if’ scenarios like maternity leave, bereavement etc
- contribute to managing the high level of variability in stream 2

Accreditation system:

The credits mentioned provide a hypothetical example

1. each seat/area of law could have a credit set against it and a summative assessment made at the end of each seat with credits awarded e.g. 40
2. the two years vocational training would have a total of e.g. 180 credits (a masters equivalence in universities)
3. if a candidate’s work is interrupted or the candidate moves during their training the credit for a particular seat is transferable.
4. there would be a sell by date on this e.g. the credit has to be used within three years
5. candidates (e.g. paralegals) could apply for seat credit for any previous learning through the presentation of written work and evidence demonstrating subject knowledge, skills application, critical engagement, reflection and professionalism
6. this credit application would be assessed by an external assessment organisation and full credit (40) awarded or partial credit (20). Partial credit would mean the candidate still needs to develop further in that area but can spend less time in the area of law
7. this would allow such a candidate either more time for learning in others seats or reduce the overall time of the contract by 3 months or 6 months
8. there could be a limit on the credit for previous learning of one seat only
9. In the long term this credit system could be developed to be accredited by a university so that other career pathways could be pursued in the event of an individual not wishing to or not able to continue in their aim to become a solicitor

**A credit model is outlined in Resource paper 5**
5. Learning Outcomes

Dr Kate Maguire
Duncan McLuckie

- personal learning and development plan – considered excellent practice by candidates and professionals and is a well tested aspect of WBL
- learning outcomes can be reduced and some subsumed under the requirement to evidence (see below)
- key areas for example could be Application of Legal Expertise; Client Relations; Business awareness and the others areas could then become areas that have to be demonstrated through the written pieces of work
- requirement to evidence can be though a written piece of work and examples to evidence the learning
- written work gives an opportunity for more dialogue and less ‘teaching’
- written pieces of work would facilitate learning conversations with supervisors which currently come under appraisals
- incremental development can be measured by meeting level descriptors (see assessment descriptors in Resource paper 6
- self managed learning should continue to be encouraged
- there can be a year 1 and year 2 level of requirement
- the system could work on a credit system
- a credit system eases transferability of achievement, interruption of training and exit particularly if credits are transferable into other domains or back into education for example for a Masters

The tables below offer examples of ways of using learning outcomes in vocational learning and development. They are not designs for a new framework but to inform thinking around designing a modified WBL framework.

Table 1: suggestions if current Learning Outcomes are to be modified rather than used differently [see also table in Interim Report 2 (Phase 3)]

<table>
<thead>
<tr>
<th>1. Application of Legal Expertise</th>
<th>1.1 and 1.2</th>
<th>could be amalgamated into a single learning outcome. In a number of portfolios the same document is used to evidence both.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.3.1 – 1.3.4</td>
<td>1.3.1 – 1.3.4</td>
<td>are all individual modules on the LPC course and are requirements for passing it. Experience in these areas is vital during a training period and they should remain present.</td>
</tr>
</tbody>
</table>
## 2. Communication

| 2. Communication | 2.1 and 2.2 | could be amalgamated into a single learning outcome. Using “clear concise an unambiguous language” to communicate with clients would surely include use of a suitable style appropriate to such a document?
| 2.3 | is lacking in clarity. It gives no indication as to the standard required and nor does it clarify what “adaptations” would be required to show sensitivity towards “diversity”. It could be absorbed into learning outcome 3.2
| 2.4 | could be absorbed into learning outcome 1.3.3 (Interviewing and Advising) as eliciting relevant information through effective questioning is a vital part of this module on the LPC anyway.
| 2.5 | could be absorbed into learning outcome 1.2 (Applying legal knowledge).
| 2.6 | could also be absorbed into learning outcome 1.3.3 (Interviewing and Advising) if it refers to clients. If not, then it requires greater clarity as to who the “others” might be that the candidate must “listen effectively” to.

## 3. Client Relations

| 3. Client Relations | 3.2 | could be amalgamated into a single learning outcome either with 1.2 (Applying Legal Knowledge) or with 2.3.
| 3.3 and 3.4 | could be amalgamated into a single learning outcome possibly by joining 3.2.
3.5 should be reworded to not include management jargon (“managing expectations”). Keeping a client informed regarding a matter’s outcome should perhaps not require a whole learning outcome.

4. Business Awareness

all useful learning outcomes.

5. Workload Management

5.1 managing tasks concurrently to meet deadlines, objectives and priorities etc; is a good learning outcome. If a candidate performs this task adequately then there should be no need for learning outcomes 5.2 or 5.3.

5.5 needs greater clarity. In the portfolios examined by Middlesex there is confusion as to what constitutes a “resource” that is to be used effectively.

6. Working with Others

6.1 could be amalgamated into a single learning outcome with the Business Awareness section.

6.4 should be scrapped. Treating colleagues and others with respect should be both obvious and an internal matter for an organisation to deal with, not the SRA or an external supervisor.

7. Self Awareness and Development

7.3 and 7.4 could be amalgamated into a single learning outcome

8. Professional Conduct

8.1 and 8.2 could be amalgamated into a single learning outcome.

The following involve increasing levels of modification.
<table>
<thead>
<tr>
<th>Key Area</th>
<th>Skills to be demonstrated in written work</th>
<th>Descriptors (see Masters and Doctoral Level descriptors in Resource Paper 6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application of Legal Expertise</td>
<td>Subject Area Knowledge (eg legal research) Communication Workload Management Working with Others Self Awareness and Development</td>
<td>Knowledge and application of legal expertise through developing legal skills; demonstrating a professional and collaborative attitude; self management etc</td>
</tr>
<tr>
<td>Client Relations</td>
<td>Subject area Knowledge (eg interpreting clients needs; how to save them money; engendering and maintaining trust) Communication Workload Management Working with Others Self Awareness and Development</td>
<td>Leadership; communication skills; trustworthiness; understanding across domains</td>
</tr>
<tr>
<td>Business awareness</td>
<td>Subject area Business (eg learning the business strategy of the firm/organisation; billing system; contributing to business development Communication Workload Management Working with Others Self Awareness and Development</td>
<td>Representing the interests of the company; working as an effective part of a team; winning and maintaining business</td>
</tr>
<tr>
<td>Professionalism</td>
<td>Reflection on your role in the organisation; ethical considerations; your own learning style; your values and how these are integrated into your work; individual and group goal awareness, professional identity</td>
<td>Expertise, professional attitude</td>
</tr>
<tr>
<td>Area into which you want to qualify</td>
<td>Year 2 level expertise of the area to include awareness of and its relationship to other key aspects in columns 1 and 2 and demonstrating the</td>
<td>Proficient specialist practitioner</td>
</tr>
</tbody>
</table>
Table 3a Demonstrating Professional Learning and credit accumulation

<table>
<thead>
<tr>
<th>Learning Outcomes</th>
<th>Written work Year 1</th>
<th>Written Work Year 2</th>
<th>Evidence</th>
<th>Area of law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Learning and Development plan</td>
<td>Plan for Year 1</td>
<td>Plan for Year 2</td>
<td>Approved</td>
<td></td>
</tr>
<tr>
<td>1. Application of Legal Expertise</td>
<td>Critical writing up</td>
<td>Critical writing up</td>
<td>3 items of work plus demonstration of skills and descriptors</td>
<td>Area of law</td>
</tr>
<tr>
<td></td>
<td>Level 1 credits 10</td>
<td>Level 2 credits 20</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>2. Client relations</td>
<td>Critical writing up</td>
<td>Critical writing up</td>
<td>3 items of work plus demonstration of skills and descriptors</td>
<td>Area of law</td>
</tr>
<tr>
<td></td>
<td>Level 1 credits 10</td>
<td>Level 2 credits 20</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>3. Business awareness</td>
<td>Critical writing up</td>
<td>Critical writing up</td>
<td>3 items of work plus demonstration of skills and descriptors</td>
<td>Area of law</td>
</tr>
<tr>
<td></td>
<td>Level 1 credits 10</td>
<td>Level 2 credits 20</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>4. Professionalism</td>
<td>Critical writing up</td>
<td>Critical writing up</td>
<td>Demonstration of descriptors</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Level 1 credits 10</td>
<td>Level 2 credits 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Specialist area</td>
<td></td>
<td>Critical Writing up</td>
<td>Demonstration of integration of skills and descriptors</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Level 3 credits 30</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>40</td>
<td>110</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>30</td>
<td>180</td>
</tr>
</tbody>
</table>

Table 3b Support

<table>
<thead>
<tr>
<th>Support</th>
<th>manual : could contain all the subheadings of learning outcomes, currently in the portfolio, as guides to demonstrating learning in the written pieces.</th>
</tr>
</thead>
<tbody>
<tr>
<td>e portfolio</td>
<td></td>
</tr>
<tr>
<td>trained supervisors/reviewers</td>
<td></td>
</tr>
<tr>
<td>regular learning conversations with supervisors</td>
<td></td>
</tr>
</tbody>
</table>
6. Masters (Level 7) and Doctorate (Level 8) Assessment Descriptors

These are the national criteria attainment levels for the awards of Masters and Doctorates which can be adapted for routes to professional qualification. Level 7 would be appropriate for the vocational stage of training and Level 8 for 2-3 years qualified.

<table>
<thead>
<tr>
<th>Key term</th>
<th>Assessment criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Assessment criteria</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Level 7</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Level 8</strong></td>
</tr>
<tr>
<td><strong>A. Knowledge and understanding</strong></td>
<td></td>
</tr>
<tr>
<td>A1 Knowledge</td>
<td>Identification and appropriate use of sources of knowledge and evidence is wide ranging, critical and often innovative</td>
</tr>
<tr>
<td></td>
<td>Evidence that the candidate has depth and range of knowledge in a complex area and is currently working at the leading edge of practice underpinned by theoretical understanding.</td>
</tr>
<tr>
<td>A2 Research + developme nt capability</td>
<td>Selection and justification of approaches to task/problem is self-directed and involves recognition, articulation and critical evaluation of a range of options from which a justified selection, based upon a reasoned methodology, is made</td>
</tr>
<tr>
<td></td>
<td>Demonstrates effective and critical selection, combination and use of research and development methods; can develop new approaches in new situations and contribute to the development of practice based research methodology</td>
</tr>
<tr>
<td>A3 Ethical understanding</td>
<td>Ethical understanding spans a range of contexts, where applicable prescribed codes and their rationale are critically understood and sensitively applied</td>
</tr>
<tr>
<td></td>
<td>Demonstrates awareness of ethical dilemmas and conflicting values which may arise in professional practice and work situations; able to formulate solutions in dialogue with</td>
</tr>
</tbody>
</table>
### B. Cognitive skills

<table>
<thead>
<tr>
<th></th>
<th>Analysis + synthesis</th>
<th>Analysis and synthesis of information and ideas demonstrate critical awareness and result in the creation of knowledge of significance to others</th>
<th>Demonstrates ability to analyse and synthesise complex and possibly conflicting ideas and information in order to redefine knowledge and develop new approaches</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1</td>
<td>Self appraisal / reflection on practice</td>
<td>Self appraisal/reflection on practice leads to significant insights which are likely to make a lasting impact upon personal and professional understanding</td>
<td>Provides evidence of work with 'critical communities' through whom a new or modified paradigm is being established. Habitually reflects on own and others practice so that self-appraisal and reflective inquiry are intertwined, thereby improving the candidate's own and others’ action.</td>
</tr>
<tr>
<td>B2</td>
<td>Planning / management of learning</td>
<td>Action planning leading to effective and appropriate action is complex and is likely to impact upon the work of others</td>
<td>Is autonomous in management of own learning; makes professional use of others in support of self directed learning and is fully aware of political implications of the study</td>
</tr>
<tr>
<td>B3</td>
<td>Evaluation</td>
<td>Is able to independently evaluate/argue a position concerning alternative approaches; can justify evaluations as constituting bases for improvement in practice.</td>
<td>Can independently evaluate/argue a complex position concerning alternative approaches; can accurately assess/report on own and others work; can critique and justify evaluations as constituting bases for improvement in practice.</td>
</tr>
</tbody>
</table>

### C. Practical skills

<table>
<thead>
<tr>
<th></th>
<th>Awareness of operational context + application of learning</th>
<th>Application of learning involves indicating workable frameworks and/or models for practice which transcend specific contexts</th>
<th>Can take into account complex, unpredictable, specialised work contexts requiring innovative approaches, which involve exploring current limits of knowledge and, in particular, interdisciplinary approaches and understanding. Is able to translate and disseminate theoretical knowledge into workable frameworks and/or models for practice.</th>
</tr>
</thead>
</table>
7. The use of reflection

This following is adapted from a review of learning of the professional studies doctoral handbook of the IWBL. It provides ideas for taking more advantage of the reflection element in the WBL framework to address the development of a professional attitude which can be more clearly and objectively evidenced. See also Resource papers 2 and 3

Reflection – an essential element in professional studies

Much of the thinking currently around professional development is influenced by Schon’s (1987) reflective practitioner paradigm. Its implementation in a variety of contexts has led to reflective practice becoming an educational orthodoxy (Clegg et al, 2002). Professional studies, achieving workplace success and gaining academic honours are about meeting and exceeding expectations often in creative and innovative ways.

Reflecting on work practices, work culture and organisational objectives makes sense of existing relationships, tasks and resources situated in oneself and others and encourages the development of pathways for new ones through networking with various communities of knowledge and practice. It is a shift from goal seeking to knowledge seeking and from repetition to innovation. The key outcome of reflection is a critical change in the individual. It is both self developmental and developmental for the work community in which the individual operates. This
notion of change is not about the neutrality of some idea of truth, rather it is the kind of change that shapes you for the better in some moral sense and has a positive impact on your work situations.

Being a member of a professional community and thinking reflectively requires an engagement with those you work with and with the way you see the world. It concerns what you are and might be; what is and what ought to be and what is speculated and turning that into action based on evidence.

Training of any kind which involves you in being part of a profession or community of practice requires you not only to acquire and apply the specific skills of that profession but to actively reflect on what you do, why you do it and how you might change the circumstances of your environment that lead to the achievement of your aims in a manner that supports your membership of the group and is in keeping with the ethical principles to which you subscribe.

**So what is reflection?**

Firstly it is about your engagement with a problem, a circumstance or a critical instance where you acted or refrained from acting and what you learned about yourself. Secondly, it is about going beyond simple feedback on what happened – it is about why it happened, what might have happened and what would have been a better way for the focused episode to have turned out.

For example, in considering if you could have behaved differently during or after a meeting with your supervisor, you might first consider why it is the meetings are being held. Are these meetings about communication or power; is the purpose benign towards you or exploitative; why is what is being said, being said and why is what is not being said, not being said?; what informs your questions and what informs your answers?; have you grasped the situation correctly?; what can you do to improve the encounters? Reflection on these issues which is informed by such a dialogue with self which does not start from a position of blaming or deficit in self or in the other, can lead to a form of praxis which is when theory/thinking are combined with practice. You act on knowledge and experience rather than on subjectivity which is often reactive. Reflecting in this way and then acting becomes an attitude, a way of being that makes you not only a better colleague but enhances all the personal and professional roles in your life.

What are the consequences of reflection? The consequences are central to the nature of what work based learning is. It is about becoming a good practitioner,
about choosing the best option not the easiest and it is about respecting humanity. This is a large claim but professional studies is not about doing some simple exercises in ways you have rehearsed many times before at college or at the workplace. It is not about doing a task in tried-and-tested ways to achieve a result and it is not about being superficial and safe. Work based learning, through reflection, is about making a difference, taking a risk, treating people with respect and it is about achieving workplace goals and aspirations. It is also about transformation – your transformation leading to positive changes and benefits for your community of practice.

**Work, subjectivity and reflexivity**

Being effective in the work situation is a central concern for individuals, corporations communities and countries. Individuals have to take more responsibility and be more proactive about the kind of environment they want to live and work in and their contribution to that.

**Work**

Work can be defined in many ways. A useful definition to employ is Billett’s:

\[
\text{work is individuals’ engagement in the goal-directed activities that usually emanate from social and cultural purposes, although these practices have particular meanings for the individual who engages with them and are often shaped by circumstances of their manifestation.}\]

\[2006; 4\]

From this it follows that work done in the home, community, workplace and educational institutions are not conceptually discrete. What is important is how the individual negotiates with the setting that constitutes work. Work is therefore an important culturally driven practice in which the work acts to achieve goals which are implicit in the identity of the individual. Work itself or the consequences of work reveal the identity of the agent undertaking the practice.

**Subjectivity**

We all respond to situations differently. We perceive, think, feel and act from within our own experience and in ways that will shape how we will attend to the future. We have different dispositions, we see things in different ways and what we create by our actions constitutes who we are. In many cases, we share understandings of the multiple constituents of the world and the behaviours of the creatures that inhabit it but we can react quite differently from each other to situations, even the
same situation, depending on our experiences. For example, we all see the atrocities of war in the media but actual experience of war will change the way in which we respond to the representation on the news. Hence individuals’ subjectivities comprise a set of conceptions, procedures, beliefs, values and dispositions that are both conscious and non-conscious and are linked to our sense of who we are.

Our understandings and approaches to life are deeply shaped by our particular contexts – our cultural backgrounds, our social conditionings, our economic realities, our personal histories, and so on. This is a fairly commonplace truth in today’s world... where we are increasingly exposed to a plurality of human ways of being-in-the-world.

Veling, 2005;23

The impact of our values and beliefs on our behaviour cannot be underestimated. Values are the ideals you hold which give meaning to your life and underpin your beliefs. However, values exist only in relation to other values so we tend to prioritise them. In this way, someone who values honesty may not always tell the truth. Their higher priority value of ‘being liked’ will mean that they may not give honest feedback for fear of alienating the recipient. When you value something you are motivated to achieve it. Therefore if you understand your values you understand what motivates you.

**Identities**

The social experience of the workplace includes the subtle, yet ubiquitous, social suggestions that are encountered in the conduct of daily life. These interactions influence our way of seeing ourselves as well as others and develop our own sense of identity. We have an identity as child and student, employee or parent at different, but often at overlapping, points in our lives. They often influence what we do and how we feel and interact in the workplace.

The relationship of the social and the individual is compelling (see Archer, 2007). The role of personal agency and intentionality is held to be central in the relationship between thinking and acting. In the workplace, changes in one's own way of knowing become evident as you learn how to do things, notice what is critical, reflect on where you have changed your own relationship to the situatedness of your own work and on how the personal, the social and the professional influence each other.
An example may be the development of your professional identity as you moved from being a new graduate having learned a single discipline to becoming an employed professional using a variety of learning from other disciplines such as business administration. You might understand your life differently; you may seek new opportunities or new networks all of which affect your personal epistemologies and ontogenetic development in the workplace. In order to own these changes, you need to reflect and understand reflexivity; who you are; what your goals are and how you might achieve them. The changes that come from your everyday life, from the repetition and from the novel, direct your intentionality and agency. This agency, and the action that flows from it, is based on your personal subjectivities – your perceptions, feelings and beliefs. In this way workplace practices are transformed by personal agency negotiated with the social norm that is prevalent.

Moreover, your assumptions about knowledge, that is, your epistemological beliefs, its nature, how it is created and its truth are also related to your personal agency and what you believe. Your epistemological beliefs therefore influence how you deal with reality and the solution of the problems which are presented to you. For example, you might hold that knowledge is simple, that it is delivered by authorities so that it is certain. That view may provide you with a security which meets your ontological position. On the other hand, you might hold that knowledge is a social construct which provides you with challenges and risk that suit a different ontological frame.

Reflexivity

According to Archer, reflexivity

is the regular exercising of the mental ability, shared in all normal people, to consider themselves in relations to their (social) context and vice versa.

Expressly, this can mean silently thinking things through or mulling them over in one’s head. It is, according to Archer, synonymous with an internal conversation. It is the mental activities that reveal themselves as self-observation, self-monitoring, self-criticism, self-evaluation and self-commitment in relation to others. It includes self-searching questions, the answers to which determine our action within the context we find ourselves. Yet reflexivity is not a vague self-awareness but a questioning exploration; it determines our conscious agency.
Indeed, it is the process in which we all engage in the workplace when practices are innovative or fail or become boringly repetitious and where others work with whom we engage. Our engagement impacts them and their engagement with us impacts us.

Such reflections raise questions like: where do you fit, what is your function, what is your identity, how do others respond to you. These are all questions relating to subjectivity, identity and reflexivity in the context of work.

The challenge is that we tend to be action-oriented, responding rather than thinking about our actions or our agency in the past. This seeking a place for yourself, an understanding of who you are and what this means to future actions is a central aspect of professional studies learning. A review of your previous learning is a place where the practice of reflexivity and reflection (a less directional form of reflexivity) can be undertaken and where the internal conversation is moved into the public domain. It is a place where you reflect on your past reflexivity and rather than lose it to memory or into the behavioural repertoire which is your subjectivity, you recall it and you record it as it integrates into the intended project you are to undertake.

**Activity (examples of reflection tasks relating to professional training and development situations)**

- have you identified all the work roles you have undertaken in the past?
- how has your sense of identity (both personal and professional) changed during your vocational training journey?
- how have your top 10 values changed or adapted during this time?
- evidence how your subjectivity has changed during this first year
- are there some issues which you respond to differently as a consequence?
- you were given a difficult task and were surprised at how well you faced the challenges associated with completing it
- the people you needed to speak to were not responding to your calls

**Reflective dialogue as a learning conversation**

Reflection can be an individual experience, in partnership with trusted critical friends, or it can be undertaken in learning communities (see Angelides and Gibbs, 2004 and Nyhan, 2005). It is through the sharing of experiences and the contribution of others that the richness of understanding of one’s own action can best be appreciated. Without an understanding of how your actions are perceived by others can real change occur?
Reflective dialogue – reflection with another in a learning conversation, can help get you started by providing a more accessible route to developing reflective practice. By choosing an appropriate peer or colleague with whom you can have an ‘open and trusting’ conversation or asking your supervisor for a deeper engagement in your work you can receive feedback ‘in the moment’ such as requests for clarification or a challenge to some of your assumptions. Such conversations are used by organisations to improve the quality of the decision making of their executives (Kline 1998).

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8. Assessment

Formative and summative assessment cannot be divorced from learning outcomes, the function of the portfolio, supervisors’ reports and the requirements of the profession.

Skilled assessment is influenced by several factors including

- the skills, experience and insight of the supervisor/assessor
- the training of supervisors and assessors in work based learning/vocational stages which involve incremental learning goals and facilitated professionalisation
- the guidance, opportunities, quality of support given to the candidate
- adequate exposure to the areas of law
- the inclusion/exclusion from the culture of the organisation by self or others
- the candidate’s individual response to these factors
- the skills and education the candidate brings with them
- the quality of work presented and the evidence to support it

It is evident from the pilot scheme that while the existing learning outcomes and portfolio system are useful as a guide to learning and for formative assessment there is a lack of confidence that they are sufficient in their present form to assess whether a candidate has reached a level of professional standard to enter the profession. There is confidence that supervisors are better positioned to offer this. The rationale offered is that existing learning outcomes measure basic competences but when it comes to professional skills application and professional attitudes the level and quality vary depending on the factors listed above.

The following discussion points are summarised from questions which have emerged out of the data and the findings. With some adjustment, it is accepted by a number of the professionals who participated in the pilot that the WBL framework is workable. The challenge is knowing what the adjustment should be. The two main concerns are assessing the professionalism not just the skills and developing the skills of the supervisor and assessor so that the experience of the supervisor to ‘know’ the potential of the candidate, to have a sense of the implicit can be enhanced and articulated in a non subjective way.

- learning outcomes reduced and reframed
- learning descriptors relating to professional skills to be revisited and be relevant to individual set ups in the profession
- learning descriptors relating to professional attitude to be introduced.
- reflection sheets used to greater advantage so that they not only supply evidence of learning but promote the notion of being professional
- introduction of learning conversations with supervisors using coaching models complementing the portfolio with an oral engagement with the candidate in some form of dialogue: oral presentation and discussion or an interview using the learning portfolio as a basis for discussion moderated by an external
9. Ethics and dilemmas

Professional ethics do not just pertain to professional practice but to how a profession trains, qualifies and regularly upskills its members if it is to meet quality assurance requirements and minimise risk to the public. The legal profession has long been challenged over is exclusivity and its failure to establish objective measures of training and assessment across the board.

The SRA’s attempt to address these issues does not only go some way to meeting the ethical issues embedded in the above but makes good business sense.

A code of ethics is what not to do, a code of practice is what we do do. It is in the latter where dilemmas tend to emerge. The following questions may help to clarify the boundaries of responsibility and accountability. It is important to stress that the trainee/candidate also has responsibilities and is accountable if they do not use the opportunities extended to them to achieve the targets.

On the matter of a basic/minimum standard of competences and minimum plus standards being drawn up to advance the aim of standardisation, minimum plus standards can be viewed as aspirational. Whether a candidate goes beyond the basic requirements can be considered an ethical issue if opportunity and support have been extended to achieve this. This distinction should have implications/be one of the markers for employability.

1. What consideration will the SRA give to the ethical issues which have arisen from the route to qualification for stream 2?
2. What are the parameters of its role to ensure minimum risk to the public?
3. If market forces are playing an increasing role, will traditional barriers to entry not be successfully addressed by firms needing to employ the brightest?
4. Is it within the remit of the SRA to ensure entry into the profession of those with lower academic achievement?
5. What can the SRA do to monitor a ‘fair’ distribution of training contracts and does this fall within its remit?
6. What can a candidate on a training scheme do if they see unethical practice in their organisation?
7. Is there an ethical code of practice for trainers?
8. Is there a robust complaints procedure for trainees?
9. How can the SRA ensure that any scheme it supports will deliver to the standard that is required?
10. What are the SRA’s ethical obligations in making sure professional standards are upheld and how will it achieve that?
11. Is it ethical to have no clear ending to a training contract for an organisation or legal practice?

Dr Kate Maguire

10. What is coaching?

Using WBL Masters and Doctorate programmes to facilitate learning through coaching
Pauline Armsby and Annette Fillery-Travis
Institute for Work Based Learning
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The following is adapted from ongoing work at Middlesex University after its launch of an international centre for coaching research and training supported by leaders in the field: David Lane, Michael Cavanagh and David Clutterbuck

Coaching is

‘a learning relationship which helps people to take charge of their own development, to release their potential and to achieve results that they value’
Connor and Pakora (2007)

Coaching is informed by and develops out of knowledge and research in several domains.

Coaching is a learning conversation
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Coaching is Reflection-with-another
to challenge ‘assumptions, beliefs, perspectives and ways of construing and acting upon experience’
(Weil & McGill (1989)

There can be several styles appropriate to different stages of the coaching encounter and its aims and purpose for each individual or group

![Diagram of coaching styles]

Clutterbuck & Megginson
(2005)

What are the attributes required in a skilled coach?
• Interpersonal skills: empathy, encouragement, genuineness, authenticity, approachability, compassion, intelligence
• Communication skills: tact, listening /silence, questions, playful exchange
• Instrumental support: creativity, dealing with paradox, self-knowledge, positive regard, tolerance for intervention made, stimulation to think, feel and explore new ideas & behaviours, working on resistance to change

Dingman 2004

Boud and Costley (2007) found five clusters of competences:

• Knowledge of work and its context – working cultures; their restriction and opportunities
• Learning consultancy skills – acknowledging candidates knowledge base, identification of learning opportunities, construction of project within the work context
• Transdisciplinary awareness –ability to identity and communicate knowledge which embraces a range of disciplines
• Enquiry approaches – knowledge of flexible and collaborative methods of enquiry leading to research and development opportunities
• Reflexivity and reviewing skills –a reflective and evaluative approach which incorporates both self awareness and management with formalised assessment protocols and procedures.

‘To support project work now is to find ways of assisting students to develop the expertise needed in any given situation… There is little appropriate didactic role in transmitting knowledge.’

Boud and Costley (2007)

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11. Equality in the legal profession

Professor Carol Costley

The provision of legal services at the highest levels is still dominated by white, male lawyers from the highest socio-economic groups (Nicolson, 2005, Sullivan 2010). The Legal Services Board has a remit to promote better access to the profession, to develop a workforce for a changing market and thus produce a group of legal professionals that draw on the widest group of talent and are able to reflect the needs of their diverse client group. The access, retention and progression of legal professionals have therefore been under scrutiny in recent years.

The literature does not reveal direct discrimination in access to jobs or gaining a training contract. What is revealed is more the hierarchy and lack of differentiation within the profession that causes the lack of diversity in legal personnel (Rolfe and Anderson, 2003). Women and ethnic minorities are further disadvantaged by the culture of the legal profession which has a tradition of networking amongst male groups and family ties to the profession leading to women and ethnic minorities not always being able to ‘fit in’ with social expectations. Sommerlad et al (2010) found that the legal profession “vividly exemplified the cultural practices which indirectly discriminate against the non normative professional and constrain individual choices”. Each step of the career path can depend on the previous step and leads to an accumulation of reasons for the lack of equality.

Cumulative issues such as:

- **socio-economic background,**
  Twice as many parents in professional occupations expect their children to go to university compared to parents from lower socio-economic groups (Panel on Fair Access to Justice 2009). Children from middle class families become accustomed to talking to other professional people socially which raises confidence and prepares them for a professional career (Bar Council 2007);

- **not attaining the right A levels,**
  Some law firms were found to have developed links with selective and independent schools (Rolfe and Anderson);

- **not gaining work experience in law firms whilst at school,**
  Students with links to the legal profession are twice as likely to have had work experience as those without connections (Francis and Sommerland 2008) some law firms were involved in ‘the independent schools careers association’. To address this, a scheme 'Limitless London' established by trainee solicitors provides career guidance in state schools;
- gaining a higher education
  In 2000-01 25% of higher education entrants were from less advantaged socio-economic backgrounds rising to 29.1% in 2006-07. Given over half of this eligible age group are from less advantaged background the improvement is very small.

- attending a pre 92 university,
  Those from less advantaged backgrounds that receive a higher education are more likely to attend the new universities. The Russell group of universities are favoured by law firms; 2,500 students from private schools entered Oxbridge in 2006-07 with only 250 from lower socio-economic groups (Higher Education Statistics Agency). Ethnic minority law graduates are more likely to attend a new university and this is the case whether or not they have the right A levels and the right grades. The reasons may be because of cultural and confidence issues (Sutton Trust 2009:11);

- completing the Legal Practice Course
  It is expensive to take the Legal practice Course and 42% of individuals who did not apply stated that it was for financial reasons (Shiner and Newburn 1995). 74% of Oxbridge graduates 27% of old university graduates and 14% of post 92 university graduates received a professional sponsorship (Shiner and Newburn 1995);

- completing the 2 year training period,
  There are inequalities in the practices of firms for recruiting for training contracts (Rolfe and Henderson, 2003). In 2008 there were 7000 completions of the LPC with 6000 training contracts available in 2009.

- firms attitudes to new recruits
  Over a quarter of recruiters feel that new universities produce lower quality graduates (Rolfe and Anderson, 2003). However some firms have now changed their recruitment practices to achieve a more diverse intake.

There were 68% of partners in magic circle firms who were independently educated in 1988 compared to 55% in 2004 (the Sutton Trust 2009). Training at a law firm is not always conducive to career needs and this effects career projections and segregates the market.

The position of women
There are 46.1% of women solicitors and the figure is rising but women only account for 24.8% of partners in private practice (The Law Society 2009). There has been a history of subordination of women within legal practice (Francis 2006). Women are more likely to work in community-related legal work and in family law, employment and benefits work. This may be because women need greater flexibility offered by some kinds of legal work. Half of women lawyers thought that solicitors engaged in flexible working were considered as less serious about their careers (Law Society Gazette 2010). It may also be because women have a greater
sensitivity to the more equal opportunities work found outside private practice. There is little research about the rationale for the lack of women in large private firms and especially the lack of women partners.

The position of black and minority ethnic populations (BMEs)

There is an expectation that membership of the legal profession should reflect the ethnic mix in society (Black Lawyers Directory, 2009). However only 25.9% of BMEs are partners in firms compared to 38.4% of white Europeans (The Law Society, 2009). Sommerlad et al (2010) discuss “the Legacy of the Profession’s White, Male Elitist Origins and the Significance of Cultural Stereotypes”. Some BME lawyers are also found in the more feminised areas such as family law although this is more typical in North England. There are broad trends in the under achievement of BMEs in accessing higher education and in achievement of higher classification degrees (HEFCE 2010). This is also evident in a study conducted by the Equality Challenge Unit (2010) which reports that black students showed the lowest level of attainment of first or upper second class degrees (only 38.1%) compared to white students who had the highest percentage of such degrees (67.2%). However, a higher proportion of black and other ethnic minorities study law compared to white students -6.3% of black students vs 3.1% of white students (Equality Challenge Unit, 2010).

Development and recognition through work based learning

Learning in context

The specific context of the Law firm is acknowledged as the most appropriate place to become immersed in and continue to develop important technical skills and broad abilities concerning legal practice. In this sense, university-led provision of Work Based Learning modules, courses and programmes can provide recognition of the grounding of learning in daily routines of solicitors. Gold et al, (2007) acknowledge that such a strategy means that this allows the professional to learn and train in work rather than lose valuable time attending external training. The technical skills and knowledge of legal processes are no longer sufficient in the making of good solicitors who now need a range of business-related attributes to meet the needs of the highly competitive legal profession. To this end Watson and Harmel-Law (2010 p11) find that “… workplace learning could be a suitable vehicle to balance the technical orientation of professional body development, to embed learning in the workplace and minimise time out from income generating activities.” Gold et al (2007) confirm that a practice based learning perspective is conducive to good CPD in the legal profession.

Accreditation of in-house training and of experiential learning

Learning from experience can be captured through more formal learning technologies used by educators. Accreditation of in-house training acknowledges that high level learning takes place and values the knowledge in work situations (Armsby et al, 2006) and can improve business performance, skills and
knowledge gained and dissemination across organisations (Connor 2005). Higher education offers an established level of quality assurance (QAA, 2007), for example in undertaking processes involved in the accreditation of experiential learning which can also increase the external standing of in-house training courses.

Accreditation of courses and also of individuals’ learning at work has been acknowledges as having a positive impact on professionalism, morale and motivation for staff, leading to improved retention. Portfolio development is associated with benefits that meet the needs of the contemporary workforce by encouraging organisational learning and supporting workers to take responsibility for their own learning and development (Romaniuk and Snart 2000). Accreditation is able to meet the needs of organisations by providing general as well as specific credit i.e. credit for knowledge that does not appear in a form that is codified against subject discipline areas of knowledge but is recognised as being high level as an area of professional learning. Accrediting the knowledge of individuals often means appreciating a particular context and a particular individual’s experience. It is considered as enabling and developmental for individuals (Armsby et al 2006).

A close engagement with work and learning
Work Based Learning (WBL) has the potential to provide the kind of learning opportunities needed for access into the legal profession and CPD that is crucial for excellence in practice. One reason for this is that “tacit knowledge plays a large part in the successful operation in a work sphere; such knowledge can be nebulous and difficult to specify precisely” (Walsh, 2007) yet WBL is able to engage with this kind of knowledge from the starting point of the practitioner’s experience. The success of WBL in any given situation is dependent on the extent of an employer’s role in supporting and assessing WBL (Brennan and Little, 2006, Brodie and Irving, 2007). If legal firms invested in the wider training opportunities that are inclusive of business and key skills as well as technical legal skills WBL could be supported by employers and universities. This would entail a close working relationship between higher education and employers. Work-based approaches that consider the outcomes of learning are thought to increase flexibility of provisions and widen access for example through the use of accreditation and more accessible learning opportunities (Gosling and Moon 2002).

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**Extended Literature Research on diversity, education, the legal profession and work based learning**

Dr Natasha Shukla

**THE DEVELOPMENT OF A PARALEGAL PROFESSION IN THE UNITED KINGDOM** Full text available


This article tracks the development of a new legal profession in the United Kingdom: career *paralegals*. It considers the commercial, socio-economic, political and historical factors influencing the development of the paralegal profession and also hindering and warping aspects of its development. The article further considers how blinkered attitudes within the traditional legal profession have led to the growth of a half-million strong body of legal practitioners without many in the traditional legal profession even noticing. Finally, the article considers some of the lessons learned from the UK *experience* to date and how they may be of assistance to other jurisdictions. [ABSTRACT FROM AUTHOR]
WIDENING ACCESS AND WBL

Apel at core of access. Detail Only Available
Presents a letter to the editor in response to the article "Credits for Prior Learning Face Curb," published in the February 2004 issue.

Developing an Evaluation Framework: assessing the contribution of community-based and work-based approaches to lifelong learning amongst educationally marginalised adults. Detail Only Available
Thomas, L. and Slack, K. Research in Post-Compulsory Education Mar2003, Vol. 8 Issue 1, p19-38
In the United Kingdom and Europe 'lifelong learning' is often propounded to bring both economic and social returns, although the former, rather than the latter is more frequently the focus of policy prescriptions. Despite the significant increases in participation in post-compulsory education, certain socio-economic groups are still poorly represented. This article presents two case studies that promote lifelong learning to adults: a community-based initiative and a work-based scheme. Drawing on a comparison of these initiatives (based on a grounded theory approach) an evaluation framework for assessing the contribution of different approaches to further lifelong learning amongst educationally marginalised adults is proposed. This is then elaborated and utilised to explore the two case studies. This systematic analysis helps to highlight the complexity of the issues pertaining to lifelong learning amongst educationally marginalised adults. In addition, this article presents a substantive theory of evaluation that can be applied by others both to evaluate their work and to contribute towards a formal theory of evaluation. [ABSTRACT FROM AUTHOR]

Work-based Learning Programmes and Social Capital. Detail Only Available
Hyland, T. Journal of In-Service Education, Mar2003, Vol. 29 Issue 1, p49,
The twin pillars supporting contemporary lifelong learning theory in Britain - and also to some extent in the USA, Europe and Australasia (Field & Leicester, 2000) - are the development of vocational skills for economic competitiveness, and the fostering of social inclusion and cohesion. Clear and direct links are made between inclusion and economic prosperity in the 'vision of a society where high skills, high rewards and access to education and training are open to everyone' (DfEE, 2001, p. 6). However, although this policy does, to some degree, represent a break with the rampant neo-liberalism of the 1980s and 1990s in Britain (Hyland, 2002) - underpinned by 'third way' values, which emphasise 'economic efficiency and social cohesion' (Giddens, 2000, p. 78) - the concept of economic capital always takes pride of place and there is a real danger that the social capital objectives of contemporary British vocational education and training (VET) may be neglected in the obsession with economic competitiveness. Since work-based learning (WBL) is now a central element in all current VET policy initiatives, it is suggested that attention to the systematic management and support of learning on WBL programmes can go some way towards achieving the important social objectives of lifelong learning. [ABSTRACT FROM AUTHOR]
Evaluation of an access route to higher education through a work-based assessment strategy. Full Text Available

The Open University (OU) is the UK’s largest university, with over 200,000 people studying, part time and at a distance, a range of undergraduate and postgraduate courses and packs. Research and development carried out at the OU’s Centre for Outcomes-Based Education (COBE), has provided a new way of enabling students to be accredited at higher education level for their learning in the workplace. This approach to the assessment of work-based learning (WBL) involves recognizing the learning that has taken place below higher education (HE) level and enabling students to achieve 30 credits at higher education level through specially designed assessment. WBL below HE level is represented in the UK by National Qualifications Framework (NQF) Level 3 qualifications, such as National Vocational Qualifications (NVQ’s). This new assessment strategy, based on the theory of self-efficacy put forward by theorists such as Dweck (1999) and Bandura (1997), involves mapping learning outcomes from relevant NQF level 3 qualifications onto the generic learning outcomes for 30 credits of work-based learning at higher education level. Students who have completed this conversion course are therefore in a good position to further their studies at higher education level. [ABSTRACT FROM AUTHOR]

The legitimisation of knowledge: a work-based learning perspective of APEL Full Text Available

Accreditation of Prior Experiential Learning (APEL) is now an established but relatively underused process in higher education (HE). In our review article, we argue that this is because APEL not only challenges the traditional university monopoly of knowledge but also challenges other established processes and social constructions. Work-Based Learning (WBL) has used APEL to great advantage in allowing people to gain access to HE. Also, it has done much to challenge traditional discipline based assumptions associated with APEL practice through seeking to recognise the knowledge and abilities that come about through the three spheres of work, the academic and the personal. This article examines the perspectives of five tutors who regularly support the development of, and assess the APEL claims of WBL students. The perspectives of the tutors are presented as vignettes. These, together with three short case examples, are used to illustrate themes that are related to the APEL process: power and control within the infrastructure of universities; the power of the disciplines to skew the depth and significance of prior and experiential learning; the pressure from government for universities to foster employee learning; competing value positions of academics and of students; and the social influence of students and assessors’ gender, race and class. We look at these five overlapping themes and how the field of WBL may have certain features that can help overcome these constructions in the APEL process. We also consider the struggles of WBL and its own emerging value positions. [ABSTRACT FROM AUTHOR]

WBL: an accessible curriculum
Costley, C. Widening participation and lifelong learning, 5, p33-39
SRA Final Report

Culture and difference in workplace learning
Solomon, N. in Understanding learning at work, edited by D. Boud and J. Garrick (1999)

Technologising equity: the politics and practices of work-related learning,
Butler, E. in Understanding learning at work, edited by D. Boud and J. Garrick (1999)

Policy and practice in widening participation: a six country comparative study of access as flexibility.
Authors:
  Osborne, Michael

Widening participation to higher education (HE) is central to the educational policies of countries throughout the world, and takes the form of a range of types of intervention, which can be classified within a three-fold typology. Access as in-reach refers to those programmes that prioritize recruiting potential students into the institution—examples include adult Access courses and certain summer school provisions for school-leavers. Access as out-reach is typified by efforts to widen participation and involve partnerships with one or more of employers, schools and the wider community. Alongside in-reach and out-reach exist a number of initiatives that can neither be categorized primarily as either of these, but focus on transformations and adjustments to the structure, administration and delivery of HE programmes. The third category of Access as flexibility refers to systematic as against discrete provision and includes such structural arrangements such as the use of accreditation of prior learning (APL), open and distance learning and the use of information and communications technology (ICT). In this paper—based on research commissioned by the Scottish Executive—policies and practices from Australia, Canada, England, Finland and France are compared and analysed with particular focus being given to flexibility. The implications of these policies and practices and their potential transferability to Scotland are considered. [ABSTRACT FROM AUTHOR]

Extract from Costley, Abukari and Little 'Literature review of Work based learning':
The importance of the workplace in the work-based learning curriculum raises questions about how learning takes place at work. Chisholm et al. (2007) caution against taking the workplace at face value as a learning environment, and it is clear that workplaces vary widely in their propensity to promote learning (Sung & Ashton, 2005; Brennan & Little, 2006). While this does not necessarily mean that learners from workplaces with limited learning potential are excluded from work-based programmes, it suggests that higher education needs to be involved in providing good-quality learner support (Billet, 1999), developing approaches such as reflective practice (Boud, 1999; Graham et al., 2006) and action learning (Miller, 2003), and looking beyond the formal aspects of the organisation to opportunities offered by 'parallel' organisational activity (Cunningham, 2001).

Other references from Costley et al Literature review:


Keynes: CHERI and KPMG (Report for Higher Education Academy).


WBL AND ACCREDITATION

Accreditation or validation of prior experiential learning: knowledge and savoirs in France-a different perspective? Full Text Available


This article stems from the study of the process and application of Accreditation of Prior Experiential Learning (APEL) in the French higher education system, in France referred to as VAP (Validation des Acquis Professionnels). The paper seeks to review not only the context in which the concepts underpinning VAP in France have developed, but also the nature of these concepts and their implementation in practice. In particular, we consider the specific meaning of concepts used within France where terms with close meanings reflect subtle but essential cultural differ- ences of approaches within this arena, when compared to similar concepts and approaches in the Anglo-Saxon world. The practice of APEL in France raises questions about the nature, acquisition, recognition or even reconciliation of various forms of knowledge, as well as their utilization in respect of employability. While in Anglo-Saxon countries, and in the United Kingdom in particular, the practice of APEL seems to uncover resistance in universities along a ‘vocational’ or ‘professional’ versus ‘academic’ divide (Merrifield et al., 2000), la formation continue in the French higher education system seems to offer, through its VAP practices and underpinning principles, a third way, giving consistency of esteem to professional and vocational knowledge. [ABSTRACT FROM AUTHOR]
This article aims to show how a better undemanding of teachers' workplace learning might lead to increased recognition as a form of professional development and to universities and other professional bodies giving credit for such learning. Teachers' workplace learning is viewed as a significant component of the overall professional development of teachers. The article includes a case study of workplace learning and concludes by indicating ways that teachers can develop a portfolio of their workplace learning for assessment by universities. [ABSTRACT FROM AUTHOR]

This theoretical paper examines current practice in work-based studies where recognition of prior unaccredited work is normally limited to around 50% of the total programme. The basis of this limiting concept is challenged and consideration is given to a number of factors that have contributed to it. Comparison is made with the current practice of awarding Ph.D.s by previously published work and a model is proposed to facilitate the creation of a postgraduate work-based award completely by previously completed practice in the workplace. A number of key points are examined in relation to evaluating the model and to illuminating assessment and measurement of the previous work for 100% recognition within a work-based programme. [ABSTRACT FROM AUTHOR]

Defines "action research" and "action learning" as forms of emancipatory and democratic learning, and describes their use as a model of professional development which empowers the individual as both learner and critically reflective social researcher. Some of the issues in developing an accreditation programme for action research at master's level are discussed and a number of areas are identified for further research based around an action research Master of Arts degree in human resource strategy. Suggests that the notion of continuing professional development and professional fellowship can be delivered and accredited within the higher education system, using practitioner-centred and problem-solving approaches and the idea is promoted that the methodological use of action research in professional development is a means by which the divide between academia and industry-based practitioner experience can be bridged. [ABSTRACT FROM AUTHOR]

Presents a case study that explores issues associated with attempting to introduce systems of informal and non-formal learning in higher education institutions in France and Scotland. Analysis of both similarities and differences between informal and non-formal learning; Problems associated with accrediting different kinds of knowledge through voluntary activities and accreditation of prior experiential learning.

Is learning transferable?
Tennant, M. *Understanding learning at work*, edited by D. Boud and J. Garrick (1999)

ACCREDITATION OF PRIOR LEARNING

Discrimination Practices During *Workplace Learning*: Their Extent and Impact on Student Learning and Lives Full Text Available

*Workplace learning* is currently a crucial component of most programmes leading to professional and technical careers. Universities of Technologies expect their students to spend up to a year of their training programme at the site of envisaged work, while professional programmes in, e.g. teaching, are requiring a longer period of time to be spent in schools. The new framework for teacher education in South Africa gazetted in 2007 requires a student teacher to be in schools for up to a year. In fact, the length of school-based placement within teacher development programmes is central to the conceptualizations of theoretical models (e.g. master-apprentice model, applied science model and professional model fo teacher development) that frame teacher development across the centuries. This signals that workplace learning, either through internships or bounts of school placements spread across the programme, is now being conceptualized as a crucial component of learning. Currently, the major focus on workplace learning is on curriculum, policy and process issues. Little research has focused on discriminatory practices that impact on students learning and lives when students go on these workplace learning activities. This paper draws on empirical evidence from two different occupational specific training programme (Hospitality training and teaching), using surveys and narrative enquiry with students and staff of industries and schools, to identify the major forms of discriminatory practices that students are exposed to during their workplace learning and its resultant impact on their learning and lives. The paper finally alludes to curriculum intervention in the learning programme to help address theses gaps in training programmes. [ABSTRACT FROM AUTHOR]

Exploring the contribution of workplace learning to an HRD strategy in the Scottish legal profession Detail Only Available

Purpose - The purpose of this paper is to explore the relevance of human resource development (HRD) for law firms in the UK. It examines how the characteristics of legal professional practice in the UK, including the partnership structure, long established methods of targeting solicitors and the law society, may act as barriers to the
implementation of HRD. Design/methodology/approach - The paper uses an exploratory case study research approach to investigate characteristics and issues influencing the adoption of HRD in a Scottish legal firm. Primary data are collected via semi-structured interviews with a cross-section of representatives. Findings - Despite recognition of the importance of learning, the characteristic elements of law firms, including the partnership structure; the pervasiveness of time-billed targets in the solicitor community; and HR’s profile and acceptance among the solicitor community, remain as barriers to the applicability of HRD. The research also exposes variability on the level and scope of development opportunities, an emphasis on technical skills development, and a lack of solicitors’ self-managed learning ability. Research limitations/implications - While the research findings provide a useful insight into the barriers to HRD in one legal firm, this does not allow for any generalisations being drawn from the study. Practical implications - The paper explores the suitability of workplace learning to support legal professional development. Originality/value - There is a dearth of research into HRD in legal practices in the UK. The paper contributes to the contextual influences that limit the applicability of HRD to legal professional practices. [ABSTRACT FROM AUTHOR]

Accreditation of prior learning in pre-registration nursing programmes: Throwing the baby out with the bath water?

Summary: The perceived learning of pre-registration students nurses during the foundation programme with and without prior clinical experience was investigated at two universities using a quantitative questionnaire. No difference was found between the perceived learning of individuals with ( 1 year) and without prior clinical experience. Students at one of the universities consistently perceived that they learnt more than students at the other institute. Despite this, the pattern in the responses between the universities is consistent. The implications of the lack of effect of prior clinical experience on level of perceived learning for the process of accreditation of prior experiential learning is discussed. [Copyright &y& Elsevier]

The Accreditation of Prior Experiential Learning in Higher Education: A Discourse on Rationales and Assumptions Full Text Available
Lueddeke, G. Higher Education Quarterly, Jul97, Vol. 51 Issue 3, p210, 15p; (AN 8616416)
The legitimisation of knowledge: a work-based learning perspective of APEL


Accreditation of Prior Experiential Learning (APEL) is now an established but relatively underused process in higher education (HE). In our review article, we argue that this is because APEL not only challenges the traditional university monopoly of knowledge but also challenges other established processes and social constructions. Work-Based Learning (WBL) has used APEL to great advantage in allowing people to gain access to HE. Also, it has done much to challenge traditional discipline based assumptions associated with APEL practice through seeking to recognise the knowledge and abilities that come about through the three spheres of work, the academic and the personal. This article examines the perspectives of five tutors who regularly support the development of, and assess the APEL claims of WBL students. The perspectives of the tutors are presented as vignettes. These, together with three short case examples, are used to illustrate themes that are related to the APEL process: power and control within the infrastructure of universities; the power of the disciplines to skew the depth and significance of prior and experiential learning; the pressure from government for universities to foster employee learning; competing value positions of academics and of students; and the social influence of students and assessors’ gender, race and class. We look at these five overlapping themes and how the field of WBL may have certain features that can help overcome these constructions in the APEL process. We also consider the struggles of WBL and its own emerging value positions. [ABSTRACT FROM AUTHOR]

Angels in marble? Accrediting prior experiential learning in higher education

Trowler, P. Studies in Higher Education, Mar96, Vol. 21 Issue 1, p17, 14p

Discusses two contrasting approaches to accreditation of prior experiential learning (APEL) in higher education. Nature and background of APEL; Credit exchange approach to APEL; Developmental approach to APEL; Problems in the application of APEL in higher education.

Bridging the Academic and Vocational Divide – a Case Study on Work-Based Learning in the UK NHS


It is difficult to overcome the division between vocational, professional and higher education. However, the National Health Service Training Division (NHSTD) has developed a set of national occupational standards for Information Management and Technology (IM&T) professionals in health care. The standards form a coherent and integrated framework for knowledge and its application and have been used as a basis for developing a set of professional and academic awards for IM&T practitioners. The writers describe the technical-rational and the ‘professional artistry’ models of education and give an overview of the innovative Professional Awards as based on the portfolio
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assessment framework, which allows a work-based approach and accreditation of prior learning. [ABSTRACT FROM AUTHOR]

**What counts as learning?** Full Text Available
Challis, M. *Adults Learning*, Mar98, Vol. 9 Issue 7, p17

Evaluates the factors worthy of credit in learning. Results of the survey of Accreditation of Prior Experiential Learning (APEL) conducted by the Universities and Colleges Admissions Service (UCAS); Role of higher education; Influence of professional bodies in postgraduate or post-experience higher education provision.

**WBL AND ASSESSMENT**

**An exploration of Biggs’ constructive alignment in the context of work-based learning** Full Text Available

The paper will explore Biggs’ concept of constructive alignment in the context of work-based learning (WBL). In his book Teaching for Quality Learning at University Biggs quotes Tyler making the claim that ‘Learning takes place through the active behaviour of the student: it is what he does that he learns, not what the teacher does’. Biggs’ model is student-centred and outcomes focused, and has been very influential in the area of staff development relating to learning and teaching. The model emerged and has mostly been considered in the context of formal education. However, the strong emphasis on the student and the nature of the learning (as opposed to the location in which the learning takes place) lends itself well to the area of WBL. With the rapid expansion of awards such as the Foundation Degree, many academic colleagues are becoming involved in the supporting and assessing of WBL. For those staff whose background has been in formal teaching, it can prove difficult to achieve the change in perspective which is necessary to effectively support work-based students. Biggs’ model, which has been very influential inside HE, potentially offers a way of providing guidance to colleagues when they are required to engage with the evaluation and assessment of WBL. The intention here is to consider the constructive alignment model and explore the extent to which it can be applied in a WBL context. [ABSTRACT FROM AUTHOR]

**Work-based learning: assessment and evaluation in higher education** Full Text Available

**Work-based learning assessed as a field or a mode of study** Full Text Available
Costley, C. and Armsby, P. *Assessment & Evaluation in Higher Education*, Feb2007, Vol. 32 Issue 1, p21-33, 13p, 2 Charts; DOI: 10.1080/02602930600848267; (AN 23002119)

**Assessment in work-based learning: investigating a pedagogical approach to enhance student learning** Full Text Available

Work-based learning (WBL) is undertaken in a wide variety of higher education contexts and is increasingly viewed as a valuable, and increasingly essential, component of both
the undergraduate and postgraduate student learning experience. However, the development of rigorous pedagogies to underpin WBL and its assessment is still embryonic. This paper presents a case study of how one medium sized institution, with experience of offering WBL for more than 20 years, has developed a pedagogical approach for both supporting and assessing WBL. The WBL model examined is based on the inter-relationship and inter-dependency between understanding learning, critical reflection and the identification and development of capability within a WBL context. The paper considers each of the three areas in relation to its individual contribution and most importantly, in relation to the WBL process, as a means of developing a framework for academic, personal and capability development within a workplace setting. Critical to this discussion is an analysis of the contribution of related pedagogic theory and the use of appropriate assessment approaches to support WBL and to enhance the student learning experience. [ABSTRACT FROM AUTHOR]

The validity and reliability of assessments and self assessments of work based learning Full Text Available


Addresses the issues on validity and reliability of assessments and self-assessments of work-based learning. Classical test theory used to understand the fundamentals of validity and reliability; Examinations on how the notions of validity and reliability may be applied in the context of assessment; Conclusion.


Enhancing employability: the role of prior learning assessment and portfolios


‘Assessment and mentoring of work based learning in Foundation degrees’ Taylor, C. (Escalate report) available at: http://escalate.ac.uk/1151

Learning resources at Making Practice Based Learning Work (http://www.practicebasedlearning.org/resources/materials/intro.htm)

• Assessing student performance in work based learning (resource material), by Allin L & Turnock C (2007). Available at:

http://www.practicebasedlearning.org/resources/materials/docs/Assessment%20in%20the%20Work%20Place/index.htm

• Learning and assessing through reflection. By S. Fade. Available at:

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COMPETENCE BASED ASSESSMENT

**Competence-based Approaches to the Assessment of Professional Accountancy Training Work Experience Requirements: The ICAS Experience** Full Text Available


Most professional accountancy bodies' qualification processes encompass three components: a prescribed programme of professional education, some form of work experience, and a formal final examination to determine professional *competence*. The International Federation of Accountants (IFAC) suggests that purely theoretical and knowledge-*based* education does not meet the needs of all employers. Thus professional bodies are encouraged to find ways to deliver and assess relevant *competences* in the most appropriate manner. Despite educationalists suggesting that performance measurements *based* on direct observation within the work place are more effective at measuring *competences* than traditional paper-*based* examinations, *assessment* strategies within the accountancy domain remain conservative. The Institute of Chartered Accountants of Scotland (ICAS) was one of the first professional bodies to introduce a competency-*based* approach to work *based assessment* in 1999 and subsequently undertook a review of the process in 2004. The data collected for the review was undertaken by way of a questionnaire to authorized training offices, in-depth interviews with employers, and discussions which emanated from a Working Party which included internal ICAS employees, an academic and a representative from a large accountancy firm. This paper presents the findings of the review, discusses the pertinent issues in relation to work *based assessment* and outlines the changes that were made to the competency-*based* approach adopted by ICAS. It concludes with recommendations for future practice. [ABSTRACT FROM AUTHOR]

**Chapter 25: Competence-Based Assessment** Full Text Available

Wolf, A. *Competence* in the Learning Society, 2001, p453-466

Chapter 25 of the book "Competence in the Learning Society," edited by John Raven and John Stephenson is presented. This chapter illustrates the self-defeating nature of attempts to generate atomistic specifications of vocational *competence* and then to use these as a basis for decontextualised objective *assessments*. It also explores the means to transition traditional-*based* educational programmes to courses in which students learned how to do things they would later need to be competent.
Recognition of Prior Learning as an integral component of competence-based assessment in South Africa  

The concept of recognising and accrediting what people already know and can do — is having a significant impact on many of the education and training programmes currently being developed. This is irrespective of whether that learning has been acquired through unstructured learning, performance development, off-the-job assessment, or skills and knowledge that meet workplace needs but have been gained through various previous learning experiences. The concept Recognition of Prior Learning (RPL) is understood by most in the area of adult education as the method of assessing relevant competences gained by adults through work and life experiences, which can then be counted towards qualifications or for promotion in the workplace by using a systematic set of procedures. A practical elaboration of RPL policy and practice in the current South African education and training sector is urgently needed. Administered carefully, and supported by explicitly anti-discriminatory policies and practices, RPL can indeed contribute to movements for greater casual mobility, thus optimising South Africa's under-used skills and expertise. In doing so, this country can embark upon a realistic and attainable strategy towards becoming a winning nation. [ABSTRACT FROM AUTHOR]

Formality and informality in the summative assessment of motor vehicle apprentices: a case study  

This article explores the interaction of formal and informal attributes of competence-based assessment. Specifically, it presents evidence from a small qualitative case study of summative assessment practices for competence-based qualifications within apprenticeships in the motor industry in England. The data are analysed through applying an adaptation of a framework for exploring the interplay of formality and informality in learning. This analysis reveals informal mentoring as a significant element which influences not only the process of assessment, but also its outcomes. We offer different possible interpretations of the data and their analysis, and conclude that, whichever interpretation is adopted, there appears to be a need for greater capacity-building for assessors at a local level. This could acknowledge a more holistic role for assessors; recognise the importance of assessors' informal practices in the formal retention and achievement of apprentices; and enhance awareness of inequalities that may be reinforced by both informal and formal attributes of assessment practices. [ABSTRACT FROM AUTHOR]

Training for Competence--The Nature and Assessment of the Beast  
Christie, R. Journal of European Industrial Training, 1985, Vol. 9 Issue 6, p30-32,

Comments on how educational, professional and examining bodies are moving towards the use of the concept of competence as a basis for the provision, assessment and recognition of vocational education and training. Advantages of competence-based learning and assessment; Elements of the job description of an occupation; Criteria of competence.
General
Book
Competence in the learning society, John Raven and John Stephenson (eds) (2001)

Book chapters
‘An introduction to work based learning in higher education, by C. Costley in DEWBLAM
The social and educational challenge of work based learning in European higher
education and training: Results of a pilot study, edited by R. Schmidt
Theoretical underpinnings of work based learning: Some tensions and struggles, by C.
Costley in DEWBLAM
The social and educational challenge of work based learning in European higher education and training: Results of a pilot study, edited by R. Schmidt
Creating a work based curriculum, by D. Boud in Work based learning: A new higher
education, edited by D. Boud and N. Solomon

Reports
Making practice based learning work, Final report, by J. Mulholand, J. Scammell, C.
Turnock, B. Gregg, Available at:
http://www.practicebasedlearning.org/report/docs/summary2.pdf and

WORK BASED LEARNING AND PROFESSIONAL QUALIFICATIONS
The development of a CPD framework for GP Vets by experienced practioners’, by A.
Fillery Travis, D. Lane and J. Garnett, in Work based learning: Journeys to the core of
higher education, edited by J. Garnett, C. Costley, B. Workman

SEEC
All publications available at http://www.seec.org.uk/publications/seec-publications
SEEC Credit Level Descriptors 2010
Credit and HE Qualifications Credit guidelines for HE qualifications in England, Wales and
Northern Ireland
How to Use Learning Outcomes and Assessment Criteria
Revised SEEC Code of Practice for the Assessment of Prior (Experiential) Learning
SEEC Notes for Guidance on Work-Related Learning

QAA
Making it work: A guidebook exploring work based learning. Available at:
http://www.qaa.ac.uk/scotland/WBL/guidebook/default.asp
Code of practice for the assurance of academic quality and standards in higher education:
Work based and placement learning. Available at:
http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/section9/default.asp

DISCRIMINATION IN THE LEGAL PROFESSION
Law Society’s Diversity Access Scheme
For information see the following guides:
Diversity Access Scheme: Diversity in Action – A guide for solicitors
Diversity Access Scheme: Diversity in Action – A guide for students
Available at:
http://www.lawsociety.org.uk/becomingasolicitor/careerinlaw/equalityanddiversity.law:
Diversity Access Scheme: Supporting Solicitors
Available at:
http://www.lawsocietylogicauat.org.uk/new/documents/diversityaccesssschemebrochure
0709.pdf

General

Books


Articles


Social class
Race and ethnicity

**DISADVANTAGED GROUPS IN HIGHER EDUCATION**

2008/09: Widening participation of under-represented groups (Higher Education Statistics Agency)
http://www.hesa.ac.uk/index.php?option=com_content&task=view&id=1684&Itemid=141

2008/09: Widening participation of students in receipt of DSA
http://www.hesa.ac.uk/index.php?option=com_content&task=view&id=1693&Itemid=141

Black students trail white classmates in achieving first-class degrees
file:///D:/temp/CACHE/Content.Outlook/Q7FPMLFZ/Black%20students%20trail%20white%20classmates%20in%20achieving%20first-class%20degrees%20in%20Education%20in%20UK.htm

Trends in young participation in higher education: core results for England (This publication reports on the trends in young participation from the mid-1990s to the present.)
http://www.hefce.ac.uk/pubs/hefce/2010/10_03/

**Students in Higher Education Institutions (£55)**
http://www.hesa.ac.uk/index.php?option=com_pubs&task=show_pub_detail&pubid=1&Itemid=286

Higher Education Statistics: HE qualifications obtained in the UK by level, mode of study, domicile, gender, class of first degree and subject area
Higher Education Statistics: Destinations of leavers by mode of study, level of qualification, domicile and gender
Appendix 1

Background to the WBL Pilot Scheme

In October 2008 the Solicitors Regulation Authority implemented a pilot scheme based on a Work Based Learning training and assessment framework for the vocational stage of the route to qualification for the legal profession. This stage is currently referred to in the legal profession as the training contract and is preceded by the academic stage (Law degree or GDL) and the Legal skills course (LPC).

Issues which have arisen with regard to the current training contract:

- An individual who has successfully completed the first two stages is effectively unable to qualify as a solicitor if a training contract is not secured.
- Training contract standards are currently dependent on the employer organisation working to basic guidelines from the SRA primarily to do with exposure to set areas of law (seats).
- There are no required criteria of assessment or objective measures of competence other than those administered by the individual organisations.
- Training contracts are monitored on a random basis or when issues relating to practice standards arise for the public and for employees of individual organisations.

The rationale behind the SRA’s decision to introduce a pilot was:

- recognition that the existing system is vulnerable to individual interpretations of professional standards and individual assessments of whether a trainee is fit to practice.
- recognition that the current system is vulnerable to excluding sectors of the population.
- the need for a more robust and appropriate framework to support its regulatory obligations to attend to ethical issues of professional practice by

  (i) addressing standards to minimise risk to the public
  (ii) exploring and challenging barriers to widening participation

Attending to these issues anticipates the introduction of the Alternative Business Structures (ABS) in 2011 and compliance to the extension of the scope of duties on the public sector to the Equality Act 2010 with the introduction of a Single Equality Duty in 2011.

Specifically, the SRA wanted to find the most appropriate way to

(i) address the absence of

- standardised practices in assessing whether a trainee is fit to practice as a solicitor at the end of the vocational stage – Day 1 Competences.
objective assessment measures of competences
a review of competences and focus in the vocational stage in the context of
shifts in the global marketplace which have implications for the delivery and
timescale of academic and professional training

(ii) challenge barriers to widening participation through

• introducing standardised practices and objective assessment measures
• recognising that several individuals who successfully complete the first two
  stages often become paralegals after not being able to secure a training
  contract
• including paralegals in the pilot who had completed the LPC and wished to
  qualify as solicitors

(iii) encourage trainee centred proactive learning and an increase in supervisor
  awareness of training needs through

• systematic learning outcomes
• active engagement of organisations in providing the opportunities for learning
  outcomes to be achieved

1. Consultation, design, implementation

As early as 2002 the Education and Training committee of the Law Society and the
SRA’s policy unit went into extensive consultation to arrive at

1.1 the most appropriate framework to introduce which would address its aims
1.2 a recruitment and selection scheme for candidates
1.3 recruitment processes for the active participation of legal firms and legal
departments in other organisations (supportive employers)
1.4 a robust, ethical and standardised assessment system to be met by participant
  organisations
1.5 a recruitment and selection strategy for external assessment organisations
1.6 a recruitment strategy for internal assessment organisations
1.7 a reliable and effective monitoring of the pilot by the SRA to ensure quality
  and consistency across all participant organisations
1.8 the selection of an appropriate organisation to carry out an external
  evaluation of the pilot

2. Rationale for a Work Based Learning Approach

The SRA was set up in January 2006 to regulate solicitors. A central part of its
strategy is setting standards of entry to the profession. Its strategy framework is
Responses to this document were received from LPC providers, legal firms and
representative organisations. Discussions took place with LPC providers, SRA staff
and members of the Education and Training Committee. Out of these discussions
emerged a new framework drawn from work based learning (WBL) that would provide a more objective assessment of an individual’s readiness for admission as a solicitor and provide a route to qualification for LPC graduates who have not secured a training contract. [Future Structure of Legal Practice Course Consultation Annex 1. Background and Context] Although the general consensus of the profession was that the existing training contract system seemed to function well enough there were concerns about

- standardisation: that all qualified solicitors should be exposed to the same core areas of law and have developed a set of skills that are qualitatively comparable whether from a small firm in the North or a magic circle firm in London. [Source: Evaluation strategy meetings with SRA]
- under representation of diverse socio-economic and cultural groups and of those with disabilities
- unfairness to those in paralegal roles who had not been able to gain training contracts even although they had successfully completed the first two stages of the route to becoming a solicitor and who under the current system were highly unlikely to ever qualify

3. Finding a successful WBL model and adapting it for SRA purposes

The most comprehensive source for the design of the WBL strategy was the Project to support implementation of a new training framework for solicitors qualifying in England and Wales. Review of the training contract and work-based learning. Report by Webb, Maughan and Purcell (2004). The ethical considerations built into the design were supported by Preparatory ethics training for future solicitors by Kim Economides and Justine Rogers (March 2009).

Although the latter was published after the scheme had been introduced, the SRA did have access to the material beforehand

The SRA followed most of the recommendations made in the Webb, Maughan and Purcell report. The few which were not followed, including time to count/accreditation of previous learning, would be given fuller consideration once an evaluation of the pilot itself was completed

- The four case studies contained in the report provided the SRA with practical examples of how a work based learning framework could be successfully applied in other professions with similar routes to qualification
- They also highlighted the roles, responsibilities and training/support needs of supervisors, assessors (internal and external) and of trainees
- Central to the framework were learning outcomes and a portfolio system to best evidence learning
- The report did not prescribe the learning outcomes themselves but rather, through examples, offered the advantages of a portfolio system for all the stakeholders, its clear link between evidence based learning and the assessment of competence and its potential contribution to the aims of raising and maintaining standards across the profession in all set ups. A
learning outcomes/portfolio/assessment/appeals architecture was also provided

- The SRA, in consultation with the profession and informed by best practices in the delivery of a training contract and by the *Webb, Maughan and Purcell report*, drew up the learning outcomes which would be required to be met by all candidate participants in the pilot scheme
- On the same bases, the SRA developed the remainder of its strategies as listed above (1.2-1.8)
- The report did not explicitly address issues of discrimination and whether a WBL framework would in any way address these issues
- It was hoped that in opening the pilot to paralegals this would provide important data to inform any future policies in relation to discriminatory practices in the legal profession

The second paper on legal ethics *Preparatory ethics training for future solicitors by Kim Economides and Justine Rogers (March 2009)* drew attention to the need for standards of practice and conduct consistent across all set ups in professional practice and in all training in professional practice. All firms/organisations dealing in legal matters need to be not only signed up to legal ethics but also practising them. They need to be able to evidence an infrastructure of practice in which ethics are an integral and vital part. The SRA, through the pilot, wished to address a range of ethical issues within legal firms and legal departments. In its selection of and regular liaising with IAOs and EAOs the SRA has been particularly vigilant on the matter of ethics

[Source: SRA documents and reports]

### 3.1 SRA pilot learning outcomes (LO)

Eight superordinate Learning Outcomes were drawn up based on the SRA’s extensive consultations with the profession, its commissioned reports and on existing best training practices in the legal profession. Each LO had subcategories resulting in 34 learning outcomes to be evidenced

The eight were

- Application of Legal Expertise
- Communication
- Client relations
- Business Awareness
- Workload Management
- Working with Others
- Self Awareness and Development
- Professional conduct

The Learning Outcomes and what they would achieve were contained in the handbook (see 2.1.3) but how they were to be demonstrated was left to the IAOs and the EAOs who chose a portfolio system as the most appropriate vehicle for demonstrating learning, incremental achievement of outcomes
and a vehicle of assessment. The SRA agreed and options were available for hard copy or electronic portfolios.

3.2 **Portfolio system of learning and assessment**

The candidates’ portfolios would need to contain
- a learning development plan drawn up by the candidate
- evidenced learning/skills application for assessing incremental development and the achieving of outcomes
- reflection sheets
- records of meetings with reviewers/ nominated solicitors
- ongoing record of feedback and learning targets from reviewers/nominated solicitors
- record of training workshops/CPD
- supervisor appraisals
- self appraisals

3.3 **Areas of law**

Each candidate was required to gain experience in three areas of law which would include experience of contentious and non contentious work. The areas of law were not prescribed neither was the amount of time working in each area. The SRA anticipated that the time in each ‘seat’ would be about three months

3.4 **Assessment**

Assessment strategies were to be decided by the IAOs and EAOs with summative assessment carried out by assessors who were neither the reviewer nor the nominated solicitor of the individual candidate

3.5 **Supporting the new framework: Communication Management**

3.5.1 **Developing a handbook**

The Handbook was formulated as a procedures and entry into the scheme guide rather than a resource handbook
- it outlined the aims and purposes of the WBL Pilot Scheme
- presented the participative requirements for candidates, employers and assessment organisations
- listed the procedures of learning and assessments
- listed the learning outcomes
- provided information on monitoring of the scheme
- outlined the responsibilities of each of the stakeholders
Its first version was only moderately modified in February 2009 in response to the feedback from the participants, from the internal and external assessment organisations and from exchanges with supportive employers.

### 3.5.2 SRA website

The Handbook appeared on the SRA website in the summer of 2008 following approval by the Education and Training Committee in time for the start of the pilot in September 2008. Although there were some latecomers, the majority of potential candidates had already been briefed about the requirements and participating organisations selected and vetted early in 2008.

- news that the pilot had started was announced on the website
- a mailbox was also added in 2009 used almost exclusively by pilot participants but it was not set up as a channel for disseminating information between participants
- due to several enquiries from both participants and employers who wished to know more about the pilot in the scheme or have some clarification about aspects of the scheme FAQ’s were added in July 2010

### 3.5.3 Workshops meetings

Before the scheme started induction workshops were held in Leeds and London

The purpose of these workshops was to explain the purpose of the pilot, the different strands (i.e. external and internal), the distinction in assessment between the current TC and WBL, how the scheme would be monitored and evaluated and timescales

The delegates were divided into groups to discuss and raise issues regarding the development plan, portfolio and assessment with a sample handbook provided to supplement the sample documents already issued (training record, training and development plan, performance review).

A workshop was held in December 2009 specifically on assessment

### 3.5.4 SRA monitoring of pilot scheme

The SRA built a system into its design of quality assurance through monitoring. This would involve regular visits to participating employers and engaging with IAO and EAO members about their regular contact with candidates to ensure candidates were receiving adequate support and guidance and that standards were being monitored and met according to SRA requirements for the scheme.
The SRA would directly engage with candidates only if a situation arose in which the employer was not supportive or if the SRA policy unit felt it was appropriate in consultation with the employer. The monitoring would offer consistency by keeping to the same monitor/s who would then report back to the SRA policy team for discussion.

4. Recruitment

4.1. Recruiting candidates

Participation in the scheme was limited to candidates at supportive organisations in England and Wales who had or would have completed the academic requirements (a law degree or GDL) and the LPC before the start of the scheme. The deadline was 3 April 2008.

There were two sources of candidates:

1. Candidates nominated by participating legal firms who had already agreed to take them on for training as solicitors
2. Candidates volunteering for the scheme who were in employment in legal roles in legal firms or legal departments of other organisations. These candidates were required to read the Handbook and submit a self selection form and an employer statement of support. The candidate could not volunteer if the employer was not supportive or could not meet the SRA criteria for being supportive.

The following is a breakdown of applicants’ self defined ethnicity. Information on all candidates ethnicity was incomplete but the following provides an overall picture.

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>No of Applicants</th>
<th>Provisionally Selected (P)</th>
<th>Conditionally accepted (C)</th>
<th>Recommended later cohort</th>
</tr>
</thead>
<tbody>
<tr>
<td>White British</td>
<td>30</td>
<td>14*</td>
<td>8*</td>
<td>4*</td>
</tr>
<tr>
<td>Irish</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scottish</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>American</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Caribbean</td>
<td>8</td>
<td>0</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Asian E. African</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pakistan</td>
<td>7</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Indian</td>
<td>6</td>
<td>4</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>No. Candidates</td>
<td>Candidate Profiles</td>
<td>Overall % of the total</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-------------------------</td>
<td></td>
</tr>
<tr>
<td>Externally Assessed</td>
<td>35</td>
<td>Over 85% of this group were paralegals/in legal employment in organisations which were not legal firms</td>
<td>44.3%</td>
<td></td>
</tr>
<tr>
<td>by Nottingham Law</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Externally Assessed</td>
<td>8</td>
<td></td>
<td>10.13%</td>
<td></td>
</tr>
<tr>
<td>by Oxford Institute</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of Legal Practice</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Internally Assessed</td>
<td>36</td>
<td></td>
<td>45.57%</td>
<td></td>
</tr>
<tr>
<td>by Legal firms</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>79</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**4.2 Recruiting supportive employers**

Several organisations expressed an interest in taking part in the WBL pilot scheme, a number through their employees/trainees who had volunteered for the pilot scheme. The pilot scheme required supportive employers both in law firms and in law/paralegal departments in organisations. The SRA drew up criteria to be met for participation in the scheme. A supportive employer would be one who would

- have in place appropriate ethical procedures relating to training including explicit and transparent appeals and complaints systems
- have the resources to fulfil the criteria of support for the candidates
- ensure they had, could make available or contract the appropriate nominated solicitors/reviewers/supervisors to support the candidates in
the preparation of the learning portfolio, the achieving of levels and meeting the standards of final internal/external assessment

- ensure that the candidate would have access/exposure to the three areas of law, contentious and non contentious, so they would have the opportunity to successfully achieve the learning outcomes
- provide their candidates (their employees) who had volunteered for the scheme with a signed employer support undertaking. However before the candidates could be selected for the WBL pilot, the SRA entered into extensive correspondence requesting those employers to submit their existing practices and codes of conduct (including discrimination codes). These were reviewed by the SRA and in a number of cases requests were made for more information or more verifiable support before the employer could be considered supportive to the extent the SRA would require them to be to best assist the candidates to achieve their learning outcomes. [Source: Detailed correspondence supplied by the SRA]

4.3 Assessment provision

All candidates on the WBL scheme would be formatively assessed throughout the scheme on evidence based outcomes and summatively assessed at the end of it. Employers had the choice to

- internally assess if they could demonstrate that they could meet all the criteria of assessment and provide the appropriate individuals to carry out the tasks or
- opt for an external assessment organisation which would effectively manage the scheme and provide reviewers and assessors, materials and support.

The choices made were

- EAOs
  employers of candidates in paralegal employment
  a number of legal firms including LawNet firms
- IAOs
  the remaining legal firms

4.4 Recruiting external assessment organisations

Responses to tender as an external assessment organisation for the WBL pilot scheme were examined and evaluated by the SRA for shortlisting at the end of May 2008. The SRA evaluators used an agreed checklist so that the evaluation could be standardised. The tender asked organisations to submit a proposal of assessment. The submission by Nottingham Law School, which used case studies, reveals the extent to which the rich interaction over the tender led the SRA to make several clarifications relating to the scheme and some
modifications to the handbook which the SRA acknowledged as being an important part of the process. It was useful to have the handwritten notes on the documents made by the SRA evaluators for the shortlisting as well as the several questions raised by the proposers. It is recommended that what emerged from this engagement continues to inform future EAO recruitment, best practice in assessment and contributions to the Handbook if/when the scheme is fully implemented. [Source: SRA documents including the submissions and presentations of Nottingham Law School and Oxford Institute of Legal Practice (Oxford Brookes University)]

4.5 Recruiting internal assessment organisations

In SRA correspondence with these organisations, which would be internally assessing candidates, issues arose over the differences between practices relating to the existing training contracts system and the pilot. The main concerns for the SRA were around training of the assessors, reviewers, supervisors and support for the trainees eg how to deal with poor performance and those who fail to meet competences; mechanisms for dealing with problems; internal appeal processes and who would assist trainees in developing their training plans. From the correspondence, all the firms responded but some concerns seemed to linger. However two workshops were given in September for the IAOs and the feedback from these was extensive and helpful for the IAOs and a learning process for the SRA. [Source: SRA documentation and correspondence between IAOs and SRA]

5. Monitoring and Evaluation of the Scheme

5.1 SRA monitoring during the pilot

The Assessment Organisation must allow the SRA or its representative to observe, attend or monitor any aspect, and documentation of, the Work Based Learning programme, and investigate complaints against the Assessment Organisation. [Source The Handbook]

5.2 Having the pilot scheme externally evaluated

The SRA issued an invitation to quote for an external evaluation of the pilot scheme by 19 December 2008 and arranged presentations of those shortlisted in February 2009. The Scope of Work document prepared by the SRA was extensive and detailed and had itself been informed by the open and engaged process the SRA encouraged during its setting up of the pilot and its recruitment procedures.

The IWBL at Middlesex University was selected on the basis of their experience in work based learning and research.
They would use interviews, surveys, desk research, learning materials and policy documents to collect data to evaluate

- how this particular WBL pilot was selected, implemented and monitored by the SRA and the impact of those elements on its success or failure to meet the aims and objectives of the SRA’s scoping document
- the learning programmes and materials, the review system, the support, the assessment mechanisms, employer engagement and quality assurance and enhancement procedures of the external assessment organisations, how these might differ between them (1.2SD)
- how these compare with those of internal assessment practices (1.4 SD)
- a portfolio as best practice for evidencing and assessing competences (1.2 SD)
- how the WBL has been applied in the various set ups and contexts and any challenges to the raising of standards and achieving common learning outcomes across all set ups and for all candidates (1.6)
- whether the current adaptation and application of WBL learning outcomes and assessment protocols ensures that all competences have been met in this phase of the training of an individual to be fit for practice as a solicitor (1.5 SD)
- whether this pilot gives any indication of ‘removing barriers to access’ (1.5SD)
- any other unanticipated benefits or disadvantages to the profession of the introduction of the pilot
- the impact of this pilot on legal firms, organisations and professionals in terms of training practices, costs, learning and development approaches, recruitment and strategic planning (1.13)
## Appendix 2
### Evaluation and scope of activities

<table>
<thead>
<tr>
<th>1.</th>
<th>The evaluation exercise will look at the following aspects of the WBL pilot:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>the Internal Assessment Organisations and their approaches to training, including their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, quality assurance processes, staffing requirements and effects on the work of the firm</td>
</tr>
<tr>
<td>1.2</td>
<td>the External Assessment Organisations, their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, quality assurance processes, and relationships with candidates’ employers</td>
</tr>
<tr>
<td>1.3</td>
<td>the documentation and record keeping systems of internal and external assessment organisations</td>
</tr>
<tr>
<td>1.4</td>
<td>the strengths and weaknesses of the different approaches to WBL operated across the organisations taking part in the pilot, as well as any significant differences between assessment by an Internal and External Assessment Organisation</td>
</tr>
<tr>
<td>1.5</td>
<td>whether the Work Based Learning pilot has met its stated objectives, in terms of demonstration of competence and removing barriers to access</td>
</tr>
<tr>
<td>1.6</td>
<td>whether participants have achieved the required competences of the training period and if there are any factors which affect or might affect achievement of the Outcomes</td>
</tr>
<tr>
<td>1.7</td>
<td>the structure, effectiveness and appropriateness of the WBL Outcomes and SRA supporting information (e.g. would the Outcomes benefit from a two-part approach, with Legal Skills being distinct from general business skills? Is the Handbook an adequate set of requirements and guidance?)</td>
</tr>
<tr>
<td>1.8</td>
<td>the assessment systems operated by internal and external assessment Organisations, in particular their appropriateness, reliability and validity</td>
</tr>
<tr>
<td>1.9</td>
<td>the quality assurance processes associated with all aspects of the training and assessment provision</td>
</tr>
<tr>
<td>1.10</td>
<td>the feedback, opinions and experience of all participants in the pilots.</td>
</tr>
<tr>
<td>1.11</td>
<td>comparison of these factors across WBL sites and cohorts</td>
</tr>
<tr>
<td>1.12</td>
<td>risks and issues arising from WBL provision, including any disputes or problems between candidates and their employers.</td>
</tr>
<tr>
<td>1.13</td>
<td>the potential costs to firms and individuals if WBL is rolled-out as planned in 2011</td>
</tr>
<tr>
<td>1.14</td>
<td>inform the SRA of any improvements to the system, potential risks, and policy/operational issues arising from the pilot</td>
</tr>
</tbody>
</table>
## SRA Final Report

| 1.15  | evaluate any gaps between the WBL Outcomes and the current practice skills standards as detailed in Training Trainee Solicitors, and the scale of any risks and problems such gaps might cause | x |
| 1.16  | compare the outcome of a work-based learning period and the outcome of a training contract | x |
| 1.17  | provide qualitative and quantitative data to feed into an SRA assessment of impact of a WBL roll-out | x |
| 1.18  | provide discrete analysis of the 2008 cohort | x |
| 1.19  | provide an opinion on the long-term viability of WBL | x |

### 2. The impact assessment will be carried out by SRA staff – it is outside the scope of the role of the evaluation consultant. However, the consultant will have to pay particular attention to the areas listed below when designing and operating an evaluation methodology. The impact assessment will address issues relating to access to the profession, including:

| 2.1   | the extent to which the pilot addresses equality and diversity issues identified in supporting research (e.g. where some ethnic groups appeared less likely to be able to gain a training contract) | x |
| 2.2   | the possible impact of full implementation of work based learning on new entrants, focusing on ethnicity, gender, disability, and age (social class may also be covered if data can be captured) | x |
| 2.3   | the impact on current perceived or actual barriers to qualification | x |
| 2.4   | an evaluation of practical difficulties and costs for potential future candidates. | x |

### 3. Both quantitative and qualitative information will be gathered. The precise methodology is up to the evaluation consultant to design and operate. However, we anticipate it is likely to include:

| 3.1   | analysis of candidate information including tracking of candidates’ progress through records of previous attainments, diagnostic, formative and summative assessment information, personal reflection diaries, progress towards and attainment of the work based learning outcomes | x |
| 3.2   | analysis of external and internal assessment organisations’ development and quality assurance of assessments, their records of assessment and record-keeping by candidates’ work-based learning reviewers and assessors | x |
| 3.3   | analysis of equality and diversity information about the candidates | x |
| 3.4   | comparisons between analysis in all the areas listed above and any existing equivalent information about trainees on traditional training contracts, and, in respect of equality and diversity, further comparisons with the solicitors’ profession and the general population of England and Wales. | x |
| 3.5   | comparisons between internal and external candidates, and between candidates working in different sizes of firms. | x |
ITQ Ref: P184

15 December 2008

Dear Sir / Madam,

Invitation to Quote – Work Based Learning Consultancy

The Solicitors Regulation Authority (SRA) has a requirement to tender for the provision of consultancy in relation to its Work Based Learning pilot scheme and I am pleased to invite your organisation to submit a proposal.

The SRA is the independent regulatory body for solicitors in England and Wales. We set and monitor entry standards for those seeking qualification as a solicitor. Work Based Learning is a new framework for assessing the final stage of solicitors’ training. We are piloting the new system on a small scale and need external consultants to help us evaluate it.

The scheme and our requirements for evaluation consultants, is described more fully in the Scope of Work section. We are issuing a tender document directly, rather than approaching you initially to alert you to the work and gauge your interest, as the pilot is already underway and we would like a swift appointment.

Please find attached:

Appendix 1 - Scope of Work.
Appendix 2 - Acknowledgement of Receipt of ITQ.
Appendix 3 - Information Requested.

Proposed Time Scales

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue Invitation to Quote</td>
<td>By 19 December 2008</td>
</tr>
<tr>
<td>Acknowledgement of Receipt</td>
<td>16 January 2009</td>
</tr>
<tr>
<td>Return of quote</td>
<td>30 January 2009</td>
</tr>
</tbody>
</table>
The supplier will be selected on the basis of the response that is considered to provide the most advantageous solution to the Solicitors Regulation Authority (SRA). The SRA does not bind itself to accept the lowest bid.

The SRA will not be liable for any costs incurred by suppliers responding to this ITQ. The preparation of the Quotation will be made without obligation by the SRA to acquire any of the items or services included in the Quotation, or to select any supplier’s response, or to discuss the reasons why a Quotation is accepted or rejected.

It should be understood that if the supplier’s response is accepted it may form part of the Contract which will be completed subsequently.

You are requested to answer all questions. This will assist the SRA in a controlled and fair review of all replies.

Please include, where appropriate, any supporting documents marking clearly on all enclosures the number of the question to which they refer.

Please email your response to wbl-pilot@sra.org.uk by 2.00pm on Friday 30 January 2009.

All enquiries should be directed to:

Name: Simon Bullock
Job Title: Policy Executive
Tel: 0870 606 2555 extension 3464
Email: simon.bullock@sra.org.uk

All payments will be made within 30 days of the receipt of the invoice.

Yours faithfully,

David Ridley
Procurement Manager
Tel: 020 7316 5714
Appendix 1 - Scope of Work

Work Based Learning Specification for the evaluation consultant

First schedule
The services

Terms:

“Assessment assessment Organisation and evaluation methodology” the document used by the SRA to evaluate prospective organisations’ WBL programmes. Also used by EAOs to design deliver programmes

“Candidate” individuals attempting to qualify through a WBL programme

“Consultant” the consultant or consultants appointed by the SRA to evaluate progress and final results of the pilot

“EAO” External Assessment Organisation – the third party organisation that runs the WBL planning, support, review and assessment functions on paralegal participants

“Handbook” participants the WBL Handbook, the core supporting document for all

“IAO” Internal Assessment Organisation – the organisations who train, review and assess their own internal trainees

“nominated solicitor” the solicitor in the supportive employer who has responsibility for supervision

“Outcomes” the WBL Outcomes; what the candidate must demonstrate at the end of the WBL programme

“supportive employer” the organisation where the candidate works. The supportive employer is committed to fulfilling the role as described in the Handbook through signing a solicitors undertaking

“WBL " the Work Based Learning project as a whole - the framework for the final stage of solicitor training. May also refer to the learning experience period

“WBL Programme” the overall system of learning, support, review, and summative assessment
Background

The Solicitors Regulation Authority (SRA) is developing a new framework for the assessment of the final stage of solicitors’ training – a project called “Work Based Learning” (WBL).

The current training framework for domestic students seeking to become a solicitor in England and Wales has a number of key stages. Core legal knowledge is gained at the undergraduate level, usually by a qualifying law degree. Students can also have a degree in another subject and ‘convert’ it through a one-year course teaching the foundations of legal knowledge (the Common Professional Examination).

Following this academic stage, practical solicitor skills are taught during a one-year Legal Practice Course (LPC). The knowledge and skills are then practised in a real world context during the two-year Training Contract. This system is centred around a time-served approach, with a set of prescribed requirements – inputs – from the SRA instructing the 2,500-plus training providers on what experience their trainees must be given. Crucially, there is no objective, summative assessment of competence before the trainee proceeds to admission.

No evidence suggesting that the current system is failing exists, or that standards of newly qualified solicitors are dropping. However, we do not have sufficient assurance that trainees are meeting the required standard. We also have research which suggests that people from some ethnic groups have more difficulty in finding training contracts. As a risk-based regulator we need to address these issues.

The lack of objective assessment, together with the fact that a significant proportion of LPC graduates cannot find Training Contracts, led the SRA to develop the Work Based Learning (WBL) project. If successful, WBL will replace the current Training Contract arrangements in 2011.

Work Based Learning project

The SRA’s education and training strategy puts the emphasis of solicitor qualification on competence rather than process, and flexibility over routes of entry into the profession. To achieve this, the SRA will require that candidates complete a period of assessed, practical, legal experience prior to qualification, ensuring that they will:

- have demonstrated the required standard of competence (called the Work Based Learning Outcomes) in supportive legal environments
- come from a wide range of backgrounds and experience.

The basic nature of the current training system will remain; that training is designed and provided by autonomous organisations under the central regulations and guidance of the SRA.

However, in WBL the SRA has taken a non-prescriptive approach to how organisations are to carry out training functions – it is for an ‘Assessment Organisation’ to develop programmes under a new framework, which the SRA will then validate. Another important difference between the existing system and the pilot is that candidates will be able to gain experience outside a Training Contract. Candidates in paralegal-type roles will, with the support of their employer, be able to agree a learning and development plan with an external organisation. This organisation will also perform the final assessment of competence.
We explain the scope of the project in full in the Work Based Learning Handbook (available at www.sra.org.uk/wbl).

We launched a small-scale pilot of the new system in September 2008, which will run for two years. During this time we need rigorous evaluation of the operation of the new framework in order to decide whether or not to implement this system (the evaluation exercise). Implementation will only happen if it can be proved that WBL is reliable and viable. We are aiming for implementation at some point after September 2011.

The services to be provided by the evaluation consultant (the consultant) are described in detail below.

The requirements

The consultant will be required to:

• develop a methodology for evaluating the pilot within the parameters described in the ‘Scope’ and the ‘Detail of the evaluation exercise’, below
• operate this methodology and report back to the SRA within the timescales detailed on page 6.

The consultant will be free to use existing, or develop discrete, methodologies for the evaluation exercise. However, the SRA sets out what it needs to find out from the exercise in this document. This will form the basis of the agreement for services.

Scope

The scope of the evaluation exercise will include:

• Internal Assessment Organisations, their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, and quality assurance processes
• External Assessment Organisations, their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, quality assurance processes, and relationships with candidates’ employers
• Internal candidates
• External candidates
• Employers of External candidates
• Quality of SRA supporting information
• WBL Outcomes
• Qualitative analysis of feedback from all participants
• Potential costs to participants post roll-out
• Long-term viability of WBL

These areas are stated in more detail covered in the ‘Detail of the evaluation exercise’ section on page 4.

Exclusions

The evaluation exercise does not extend to:
• analysis of the regulatory framework within which WBL will operate
• changes to this framework
• longitudinal research into ongoing performance/competence of candidates post-qualification
• monitoring visits on IAOs and EAOs
• the overall SRA impact assessment(s) that the evaluation exercise findings will feed into
• anything else not listed in the ‘Scope’ or ‘Detail of the evaluation exercise’ sections.

Detail of the evaluation exercise

1. The evaluation exercise will look at the following aspects of the WBL pilot:

1.1 the Internal Assessment Organisations and their approaches to training, including their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, quality assurance processes, staffing requirements and effects on the work of the firm

1.2 the External Assessment Organisations, their learning programmes, review, support and assessment mechanisms, supporting documentation and policies, quality assurance processes, and relationships with candidates’ employers

1.3 the documentation and record keeping systems of internal and external assessment organisations

1.4 the strengths and weaknesses of the different approaches to WBL operated across the organisations taking part in the pilot, as well as any significant differences between assessment by an Internal and External Assessment Organisation

1.5 whether the Work Based Learning pilot has met its stated objectives, in terms of demonstration of competence and removing barriers to access

1.6 whether participants have achieved the required competences of the training period and if there are any factors which affect or might affect achievement of the Outcomes

1.7 the structure, effectiveness and appropriateness of the WBL Outcomes and SRA supporting information (e.g. would the Outcomes benefit from a two-part approach, with Legal Skills being distinct from general business skills? Is the Handbook an adequate set of requirements and guidance?)

1.8 the assessment systems operated by internal and external assessment Organisations, in particular their appropriateness, reliability and validity

1.9 the quality assurance processes associated with all aspects of the training and assessment provision

1.10 the feedback, opinions and experience of all participants in the pilots.

1.11 comparison of these factors across WBL sites and cohorts
1.12 risks and issues arising from WBL provision, including any disputes or problems between candidates and their employers.

1.13 the potential costs to firms and individuals if WBL is rolled-out as planned in 2011.

1.14 inform the SRA of any improvements to the system, potential risks, and policy/operational issues arising from the pilot.

1.15 evaluate any gaps between the WBL Outcomes and the current practice skills standards as detailed in Training Trainee Solicitors, and the scale of any risks and problems such gaps might cause.

1.16 compare the outcome of a work-based learning period and the outcome of a training contract.

1.17 provide qualitative and quantitative data to feed into an SRA assessment of impact of a WBL roll-out.

1.18 provide discrete analysis of the 2008 cohort.

1.19 provide an opinion on the long-term viability of WBL.

2. The outcomes of the evaluation exercise will feed into an assessment of the probable impact of work based learning, if rolled out as the new model for solicitors’ pre-qualification period. The impact assessment will be carried out by SRA staff – it is outside the scope of the role of the evaluation consultant. However, the consultant will have to pay particular attention to the areas listed below when designing and operating an evaluation methodology.

The impact assessment will address issues relating to access to the profession, including:

2.1 the extent to which the pilot addresses equality and diversity issues identified in supporting research (e.g. where some ethnic groups appeared less likely to be able to gain a training contract).

2.2 the possible impact of full implementation of work based learning on new entrants, focussing on ethnicity, gender, disability, and age (social class may also be covered if data can be captured).

2.3 the impact on current perceived or actual barriers to qualification.

2.4 an evaluation of practical difficulties and costs for potential future candidates.

3. Both quantitative and qualitative information will be gathered. The precise methodology is up to the evaluation consultant to design and operate. However, we anticipate it is likely to include:

3.1 analysis of candidate information including tracking of candidates’ progress through records of previous attainments, diagnostic, formative and...
SRA Final Report

summative assessment information, personal reflection diaries, progress towards and attainment of the work based learning outcomes

3.2 analysis of external and internal assessment organisations’ development and quality assurance of assessments, their records of assessment and record-keeping by candidates’ work-based learning reviewers and assessors

3.3 analysis of equality and diversity information about the candidates

3.4 comparisons between analysis in all the areas listed above and any existing equivalent information about trainees on traditional training contracts, and, in respect of equality and diversity, further comparisons with the solicitors’ profession and the general population of England and Wales.

3.5 comparisons between internal and external candidates, and between candidates working in different sizes of firms.

Information will be gathered directly either by the consultant or the SRA, and may also include information gathered during any training contract monitoring visits.

Reporting

The consultant is required to produce a total of four reports over a period of just less than two years: an early report in 2009, one interim in Autumn 09, another in early 2010 and a final report in October/November 2010. The reports will be structured as follows:

• early 2009 – the report will look back at the selection processes used, the initial functions of the Assessment Organisations, and experiences of the candidates (covering, but not limited to, items 1.1, 1.2, 1.3 and 1.12 of the Detail section above)

• Autumn 2009 – an analysis of the first year of the pilot’s operation, with some analysis of participants’ experiences at the half way point (items 1.1 to 1.4, 1.10 and 1.11).

• early 2010 – an analysis of the pilot at its ¾-completed stage (items 1.1 to 1.4, 1.10 and 1.11)

• Autumn 2010 – a full report, addressing all areas of detail listed in 1.1 to 1.18 above, following closure of the first cohort of the pilot. (all of the stated aspects, but in particular 1.4, 1.5, 1.6, and 1.13 to 1.19).

The reports will be submitted to the SRA for consideration by staff, the Education and Training Committee and SRA Board, as appropriate. It may be necessary for the consultant to present one or more of their reports to the Committee and/or Board.

Timescales

The consultant will be required to meet the following initial deadlines:

| Submission of evaluation exercise proposals | end of January 2009 |
The consultant will be required to provide regular updates on progress to the SRA, and also to report on any serious issues with the pilot as they are identified. The precise deadlines for interim and final reports will be discussed and agreed at the start of the project and the scope of work amended accordingly.

**General**

Any ongoing quality or performance issues during the project will be discussed with the consultant by the project manager in the first instance and referred to the Head of Education and Training Policy if unresolved.

In terms of candidate and partner organisation numbers, there are 41 external candidates across 32 employers; they are being assessed by one External Assessment Organisation. There are around 60 trainee candidates across 9 Internal Assessment Organisations. There are a further 9 trainees across five organisations being assessed by another External Assessment Organisation. The following table

<table>
<thead>
<tr>
<th>Cohort</th>
<th>Candidates</th>
<th>Employers</th>
<th>IAOs</th>
<th>EAOs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal cohort</td>
<td>60 (approx.)</td>
<td>-</td>
<td>9*</td>
<td>-</td>
</tr>
<tr>
<td>External cohort</td>
<td>41</td>
<td>32*</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>‘3rd way’ cohort</td>
<td>9</td>
<td>5</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>

* two Internal Assessment Organisations are also supporting external candidates.
Initial Scoping Report

for the

Evaluation of SRA Pilot WBL Programme 2008 – 2010

May 29th 2009
Initial Scoping Report for the
Evaluation of SRA WBL Pilot Programme 2008 - 2010

1. Context

1.1 Overall aim of the SRA:
To regulate training for the public interest and to make training and assessment fit for purpose through the introduction of an assessed period of work based learning that meets standardised basic criteria across the board

1.2 Overall purpose of the evaluation exercise:
To assess the extent to which the Pilot addresses the following SRA concerns about the present system:

- there is no objective, summative, appropriately uniform/consistent assessment of competence and no explicit outcomes or levels of competency before trainees proceed to admission
- people from some ethnic groups have more difficulty in finding training contracts than others
- a significant proportion of LPC graduates cannot find Training Contracts

1.2 In particular:
- to provide substantiated evidence based on the experience of all participants, including the SRA, on the extent to which the Pilot WBL approach addresses the above SRA concerns
- to explore standardisation of delivery across a range of providers
- to suggest changes based on the evaluation of the Pilot and experience elsewhere that might make the WBL a viable route for SRA entrants.

2. Preparation for Scoping Document, March 09 to May 31st 09 (Phase 1)

2.1 Familiarisation with relevant SRA documents and data
- Covering Letters to inform participants of the survey (Appendix 2, 8,9 April 09)
- Lists of contact details for all participants, 15 April 09
- Meeting between Simon Bullock and Maxine Warr (SRA) and Professor John Stephenson and Dr Kate Maguire (MU), 29 April 09
- Receipt of SRA document list relating to the scheme, 30 April 09
- Receipt of electronically held data, 20 May 09
- Receipt of hard copy data, 21 May 09

2.2 Clarifying terms and roles
The SRA has provided clarification on terms and roles as there are overlaps due to the running of a pilot scheme alongside the traditional scheme, with WBL terms/roles alongside existing SRA training contract terms/roles (e.g. trainees is the traditional term, candidates is the WBL term).
As a result, to avoid confusion, the Initial Benchmarking Review (see in 4.2 below) of nominated solicitors, reviewers etc will be referred to as the ‘Professionals’ survey.

2.3 Documentation now includes:
- New Framework for WBL Consultation – Feb 07
- Assessment organisation evaluation methodology – Aug 08
- Work Based Learning Handbook for all participants – Sep 08
- Invitation to quote 12/12/08¹
- An updated Work Based Learning Handbook for all participants – May 09
- SRA documentation on
  - the setting up of the Pilot
  - its contracts with the Internal and External assessment organizations
  - its existing QA procedures for monitoring the Pilot – May 09
- Research reports from which the SRA has drawn guidance and principles, May 09

3. Statement of Methodology

The general strategy of the evaluation was set out in the bid submitted to SRA on February 17th 2009, discussed with the SRA on 29th April and modified on 6th May after the MU research team meeting. See Appendix 6.

In this Initial Scoping Document we set out our overall ‘Blue-Print’ schedule for the evaluation as a whole, with detailed plans for the first stages consistent with the relevant section of our original bid, and a pathway for the remaining stages.


a) Aims of the IBR
(i) to compile a picture of what is happening formally within the SRA WBL Pilot at this relatively early stage so that we can scope the nature and levels of engagement of each participant group and inform the focus of more detailed investigations in later phases.

(ii) to explore the state of play and level of awareness of the nature of the WBL programme (e.g. relevant activities, contacts with other participants, awareness of and clarity of documents and procedures), and any concerns participants may have about the scheme in detail or as a whole.

¹ (Note: Clarification on paras 1.13 and 2.4 relating to costs of the scheme for participants (Invitation to Quote Appendix1). At the SRA meeting 29 April 2009 it was clarified that the evaluation exercise will evidence existing costs for the employers and the candidates and through interviews explore the role of costs for future participation in the scheme)
b) Participants: Questionnaires for Candidates and Professionals

Questionnaires for the Initial Benchmarking Review (IBR) will be distributed electronically between June 1st and June 3rd 2009 and returned by mid June 2009. We are using a well established internet-based survey facility advised by our IT & research department ensuring minimum effort for respondents, quick turn-around times and, where multiple choice formats are appropriate, automated numerical analyses. Text based responses will be analysed individually and take more time.

The penultimate drafts of each questionnaire are in the Appendices. See Candidates Survey Appendix 3 and Professionals Survey Appendix 4.

At all stages, our review will encourage respondents to be open about their concerns or enthusiasms. Confidentiality will be emphasised at all times, with all responses seen only by the evaluation team and reported anonymously. Each group’s questionnaire will have a unique URL, thereby ensuring only candidates receive the candidates version and professionals receive the professional version.

The respondents will be asked to indicate periods when they will not be available for any follow-up 1 to 1 interviews during the period July – September (e.g. for annual holidays).

(c) Participants: Internal and External Assessment Organisations

A review of the documentation demonstrated that existing material contained all the benchmarking information needed for this group of participants and nothing more would be obtained from doing an IBR questionnaire. Preliminary meetings are being arranged with the EAOs during the month of June 09. More searching involvement of assessors will begin in Phase 2.

5. Analyses of questionnaire responses by end of June 2009 (Phase 3)

Analyses of IBR responses to the online questionnaires and review of SRA documentation on assessment organisations will take place in the second half of June.

The analyses will help the evaluation team to formulate issues warranting closer follow-up, either by further questionnaires or, more significantly, by initial interviews. This in turn will lead to the selection of interviewees and the formulation of interview strategies for each group. These interview strategies will also be assisted by information gathered from SRA documentation relating to the aims, setting up of and maintenance of the scheme.

The analysis of questionnaire responses will also inform an emerging overview of the SRA’s documentation and processes of consultation, planning, setting up and maintenance of the WBL pilot scheme.

Note: a review of SRA processes, documents and support will be part of the overall integration of the evaluation exercise and the recommendations within the final report to SRA in November 2010
6. **Selection of Participants for Interview, late June, early July 09 (Phases 4 & 5)**

We will select a representative sample of candidate and professional participants, based on the analysis of the responses of the IBR exercise, to generate the most valuable and useful data pertinent to an evaluation. Samples will be carefully chosen to ensure representatives of all sub-groups are included.

We shall also prepare for interviews with all internal and external assessment organisations based on the data streams to date, i.e. SRA documentation and our analyses of the IBR’s of candidates and professionals questionnaires.

We plan to achieve a representative sample of about 25 - 30% of candidates and professionals, and aim for 100% of EAOs (2) and IAOs (9).

Schedules for face-to-face or telephone interviews will be finalised based on the selection process above, matched with general interviewee availability as indicated in the Initial Benchmarking Review survey and from contact with the assessment organisations.

7. **Face to face and telephone interviews – July to end of September (Phase 6)**

The agenda for interviews with each group will be collectively agreed by the team, based on issues arising from questionnaires and other sources. For the actual interviews, individual members of the team will take responsibility for particular groups according to their experience. (*See Appendix 1 for list of team members*).

All interviews will be audio recorded for subsequent analysis and cross-referencing of data.

8. **Analysis and discussion with SRA of first round of questionnaires and interviews**

By end October 09: Analysis of interview data, formulation of key issues and review of the first cycle of data gathering (**Phases 7 and 8**)

November 09 Preparation and presentation of *interim report to SRA* (Phase 9)

December 09 Discussion of Interim Report with SRA (**Phase 10**)

9. **Schedule for the ‘Second Round’ of interviews, analyses and reports.**

*NB – The timings of the following phases are provisional, depending on experience to date.*

Jan - Feb 2010 MU evaluation team review progress and plan follow-up interviews and questionnaires (**Phase 11**)

Feb – April 2010 Complete follow-up interviews and questionnaires (**Phase 12**)
May – June 2010 Analysis of follow-up interviews and questionnaires
(Phase 13)
Review of a sample of developmental portfolios

June - July 2010 Researchers recommend the SRA to consider the
distribution and analysis of an IBR Candidates questionnaire,
possibly modified from outcomes from first phases of the
evaluation exercise, to Cohort 2 which may yield some
comparative data
(Phase 14)

Writing up and presenting Interim Report to SRA on first
year of pilot at ¾ stage
(Phase 14)

September 2010 Collating all the data streams, including a review of the SRA’s
process of consultation, planning, setting up and
maintenance of the WBL pilot scheme which will have
provided one of the contextual frames for interview
strategies and analyses of the evaluation exercise
(Phase 15)

October 2010 Contextualising outcomes all analyses to date with wider
WBL experience to help formulate recommendations on
possible ways forward for the SRA WBL programme
(Phase 15)

Nov 1st 2010 Writing and presentation of final report to SRA (Phase 16)
Appendix 5
Data gathering and analysis detail

Analysis detail for each phase of the evaluation

- a system of mixed methods was used.
- quantitative for benchmarking information.
- qualitative in the form of interviews and thematic analysis of questionnaires.
- thematic analysis was the organisation of themes over time into superordinate = themes with high consensus and subordinate = themes with a lower consensus but still important in response to specific areas and set ups. Issues raised with no consensus were omitted or used for describing individual problems.
- all the themes in the body of the final report and on which the conclusions and recommendations are based were consistently superordinate and high subordinate in Phases 3 and 4 of the evaluation exercise
- a system of triangulation of data was used: each data stream (surveys, interviews, portfolios, literature, policy documents, quality assurance documents from the various set ups) was analysed and checked against each other till the distillation produced confident superordinate themes (high consensus) and subordinate themes (lower consensus but high significance for certain participants)

Phase 1
i. Benchmarking survey of candidates in the scheme across all set ups March 2009

Phase 2
ii. Interviews with a selection of candidates May – July 2009
     Interviews with EAOs and small number of IAO’s May – July 2009

Interim Report November 2009
iii. ongoing literature research on education and diversity

Phases 1,2 (also see Interim report 1 available from SRA)
Note: highlighted boxes denote themes or concerns still relevant in Phase 4

Candidates

<table>
<thead>
<tr>
<th>bench mark survey to all candidates (79) wide range of questions about the pilot and detailed info on themselves</th>
<th>Overall response</th>
<th>Male</th>
<th>Female</th>
<th>Non white (self stated)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>47</td>
<td>18</td>
<td>29</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>selection for interview</th>
<th>total</th>
<th>male</th>
<th>female</th>
<th>Non white</th>
</tr>
</thead>
</table>
based on:  

<table>
<thead>
<tr>
<th></th>
<th>19</th>
<th>11 (7 white)</th>
<th>8 (6 white)</th>
<th>1 male 5 female</th>
</tr>
</thead>
<tbody>
<tr>
<td>nature of response to ‘any other comments’</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>availability/willingness</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ensuring cross section of environments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reps from paralegals (NLS)</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reps from IAOs</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reps from LawNet OXILP</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summarised to demonstrate the analyses

<table>
<thead>
<tr>
<th>Outcomes which emerged from themed analysis of recorded interviews (Interim Report 1)</th>
<th>operational improvements to WBL pilot needed</th>
<th>revise learning outcomes as there are too many</th>
<th>better guidelines on levels, advocacy and PSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>marked difference between paralegals and others</td>
<td>in motivation, purpose of qualifying, personal circumstances</td>
<td>in opportunities for areas of law, support at work, time, work demands</td>
<td></td>
</tr>
<tr>
<td>both found it costly in terms of time</td>
<td>paralegals found it financially costly as well</td>
<td>concerns in both groups over future prospects</td>
<td></td>
</tr>
<tr>
<td>significant difference in trying to get a training contract</td>
<td>non paralegals reported having little difficulty (average 3-5 applications) Degree level 2.1 or 1st good universities</td>
<td>paralegals encountered several difficulties (10 to over 100 applications) citing socio educational issues as common barrier Degree level 2.2 new universities/former tech colleges, night school for LPC etc</td>
<td></td>
</tr>
</tbody>
</table>

Recommendations at this stage

<table>
<thead>
<tr>
<th>operational improvements</th>
<th>relevance of WBL in all set ups</th>
<th>what can WBL do that is not already being done</th>
</tr>
</thead>
<tbody>
<tr>
<td>explore relationship between WBL and LPC</td>
<td>revisit learning outcomes and relevance in all set ups</td>
<td>future consideration to accrediting prior learning/experience</td>
</tr>
</tbody>
</table>
**Professionals**

<table>
<thead>
<tr>
<th>professionals interviews</th>
<th>2NLS</th>
<th>2 OXILP</th>
<th>2 IAOs</th>
</tr>
</thead>
<tbody>
<tr>
<td>feasibility of an e portfolio</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>EAOs</th>
<th>IAOs</th>
<th>Both</th>
</tr>
</thead>
<tbody>
<tr>
<td>why participate</td>
<td>opportunity for more consistency in the system by helping experienced paralegals to apply</td>
<td></td>
<td>to influence the final form of the WBL</td>
</tr>
<tr>
<td></td>
<td></td>
<td>WBL or something similar was inevitable and wanted to be ahead of the game</td>
<td></td>
</tr>
<tr>
<td>process of ‘signing up’</td>
<td></td>
<td>Paperwork clear</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lack of clarity over seat rotation</td>
<td></td>
</tr>
<tr>
<td>whose decision to participate</td>
<td></td>
<td>training partner and/or HR</td>
<td></td>
</tr>
<tr>
<td>how many trainees participating</td>
<td>together over 40</td>
<td>average 2 with training contracts running along side those doing the experimental WBL</td>
<td></td>
</tr>
<tr>
<td>clarity of roles</td>
<td></td>
<td>not entirely clear at the outset</td>
<td></td>
</tr>
<tr>
<td>learning outcomes</td>
<td></td>
<td>level attainment not clear, concerns about advocacy, legal ethics, client contact, appreciation of business</td>
<td></td>
</tr>
<tr>
<td>other concerns</td>
<td></td>
<td>culture change for</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Supervisors, more work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cost seem higher, cost of software</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Confidentiality</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Greater objectivity of criteria, better rounded.linear lawyers, impeded development of specialist knowledge</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Replacing existing contract</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Some concerns, undecided</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>What they wanted SRA to know</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clarify different aspects</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Revisit problematic outcomes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Consider the management costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Do not impose a system that only involves external evaluators</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Phase 3**

Phase 3 (see Interim Report 2 for fuller breakdown)

i. the development and delivery of a key questionnaires. The questionnaire had two versions, one for participants and the other for professionals. Both were consistent in the themes being explored. The questionnaire was delivered online using SurveyShare. The aim of the key questionnaire was to address

   - key issues which had arisen in Phases 1 and 2 and evidenced and presented in Interim Report 1
   - key issues the SRA wanted addressed which had arisen from its monitoring of the scheme and its ongoing consultations with and support of professional participants
   - issues that the scoping document had highlighted as important for any future decision making on policy

ii. ongoing research into diversity in education and in WBL and competency models for the professions which informed the questionnaire and would inform an interpretation and positioning of the findings

iii. the engagement of two independent critical advisers, Dr Stan Lester on WBL and the professions and Maureen Spencer from the MU Law School to advise on the questionnaire and other aspects of the evaluation methodology
SRA Final Report

It was important to the SRA and to the evaluators that this questionnaire should aim for a high response rate. With extending the deadline twice an overall response rate of 86% was achieved. The sections of the questionnaire were designed along themes and were analysed thematically using a combination of e software and in depth individual analysis of each response.

**SRA Key Questions to Professionals involved with the WBL pilot scheme extracted from the SurveyShare electronic delivery device**

**Section 1: Your experience of WBL so far**
1. What is/are your WBL role/s within your organisation?
2. Have you seen any benefits of WBL so far?
3. If you have what are they?
4. Do you feel you receive adequate communication and clarity from the SRA regarding the WBL pilot?
5. If no, please describe how it could be improved.
6. Do you feel that the SRA's WBL handbook could be improved?
7. If yes, please describe how it could be improved.
8. Do you feel improvements could be made to other materials provided by the SRA to guide your work as an involved professional?
9. If yes, how could these materials be improved?
10. Do you feel improvements could be made to other materials provided by the SRA to guide your candidates?
11. If yes, how could these materials be improved?
12. Do you feel you receive adequate communication/support from the external assessment organisation, if this applies to you?
13. If no, please describe how this can be improved.
14. Do you feel improvements could be made to any other materials provided by an external assessment organisation?
15. If yes, what improvements can be made?
16. Do you think the electronic portfolios could be improved?
17. If yes, please suggest what improvements could be made?
18. Is there anything else you think needs to be improved in relation to the WBL pilot? Please suggest ways they can be improved.
19. Do you think the Work Based Learning Outcomes should be modified in any way?
20. If yes, what modifications do you think are needed? Please be as specific as possible. We would also welcome drafting comments on the wording of the Outcomes.
21. If in your organisation you are able to compare the WBL scheme with the standard training contract, what things about WBL are BETTER?
22. What things about WBL are NOT SO GOOD?

**Section 2: WBL and your organisation**
23. Do you think the introduction of WBL will have or has had an impact on the culture/ethos of your organisation?
24. What obstacles do you think may be encountered in your organisation if WBL were to replace the training contract?
25. Does WBL require any time and resources on the part of those supervising training beyond those you would associate with a standard training contract?
26. If yes, please estimate what these are per candidate and list the types of tasks involved.
27. In your opinion, do you think using a WBL approach helps candidates to be more proactive about getting exposure to areas of law. Please elaborate on your answer.
28. If WBL were to be adopted as the standard approach to the qualification of solicitors, would this change your expectations of what a newly qualified solicitor will be capable of doing? Please elaborate on your answer.

Section 3: WBL assessment and evidence
29. If you carry out assessment within your organisation, do you foresee any issues of consistency between candidates assessed by their employers and candidates assessed by external providers?
30. If yes, what do you think is needed to ensure assessments are comparable and consistent across all the organisations in England and Wales involved in WBL?
31. If a WBL scheme is adopted, do you anticipate that there will be difficulties relating to the confidentiality of evidence produced by WBL candidates? If so, how do you think such difficulties would arise and how do you think they could be overcome?
32. In the case of a successful candidate who cannot transfer the evidence due to the need to preserve confidentiality, what type of summary document would convince you, as an employer, that they have demonstrated the achievement of the outcomes. What would the document need to contain?
33. Were a portfolio to be used as the primary assessment form for WBL, what template from the options below do you think is the most appropriate and useful:
   - electronic
   - paper-based
   - combination of above
34. Would you be in favour of a single mandatory portfolio template for all candidates? Please give reasons for your answer.
35. Apart from portfolio do you think there are any other assessment methods that would be more useful or ‘fit for purpose’?

Section 4: Recruitment: Selection for interview and interviewing criteria
36. Do you know what criteria your organisation’s HR or recruiting department is using to select potential candidates for an interview for a training contract?
37. If yes, can you please state up to five of the top criteria?
38. Currently, when interviewing an individual for a training contract, what are the criteria you use to assess their suitability? Please list up to five starting with the most desirable
SRA Final Report

39. Does/would the fact that the candidate was a successful WBL trainee have any impact on the decision making in your organisation with regards to an individual's suitability for jobs in your organisation?

40. If yes, please describe in what way.

Section 5: WBL generally

41. Research has shown that in some professions there may be barriers to entering and succeeding based on: GENDER, RACE, DISABILITY, AGE, and OTHER DISCRIMINATION FACTORS. Do you feel that any of these barriers can be addressed by the introduction of the WBL philosophy and model of learning. Please tick as appropriate.

Gender
Race
Disability
Age
Other discrimination factors

42. If you stated yes for gender, please describe how WBL can address this barrier.
43. If you stated yes for race, please describe how WBL can address this barrier.
44. If you stated yes for disability, please describe how WBL can address this barrier.
45. If you stated yes for other discrimination factors, please describe what these might be and how WBL can address these.

46. Research has also shown that in some professions there may be barriers to entering and succeeding based on the factors below. Do you feel that any of these barriers can be addressed by the introduction of the WBL philosophy and model of learning?
   (1) An individual’s social and educational background
   (2) The classification of his or her degree
   (3) The classification/number of his or her A levels or equivalent
   (4) The reputations of institutions of higher education

47. If you stated yes for barrier (1) in Q.46, please describe how WBL can address this?
48. If you stated yes for barrier (2) in Q.46, please describe how WBL can address this?
49. If you stated yes for barrier (3) in Q.46, please describe how WBL can address this?
50. If you stated yes for barrier (4) in Q.46, please describe how WBL can address this?

51. If WBL is adopted as the standard approach to the training contract, what effect, if any, do you think it will have on the structure and composition of the legal profession? How does this compare with how you think the profession needs to develop?
52. Do you think candidates should be accredited for/have 'time to count' for previous legal practice-related experience?
53. If yes, what evidence would you require to be assured that the accreditation is merited?
54. What do you see the role of an external being if the WBL scheme were to be introduced? You may select more than one option.

An assessor
A moderator
A verifier
An adviser/consultant

55. Is there any other comment you would like to make?

SRA compulsory questionnaire for candidates on the WBL pilot scheme

Section A: Background information
1. Where are you doing WBL?
   A legal firm
   Another organisation
2. Have you had difficulty getting a training contract in the past?
3. If yes, please say if you felt there were any particular reasons in YOUR case.
4. Also, if you answered yes to Q.2, were you given any reasons for not being accepted?
5. If yes, please state the reasons and whether they were in response to your application or after you had had an interview. Feel free to list as many incidents and provide as much detail as you wish.

Section B: Access to the legal profession
6. Research has shown that in some professions there may be barriers to entering and succeeding based on the factors below. Do you feel any of these have applied to you?
   Gender
   Race
   Disability Age
   Other discrimination factors
7. If you stated yes for gender, please explain further.
8. If you stated yes for race, please explain further.
9. If you stated yes for disability, please explain further.
10. If you stated yes for age, please explain further.
11. If you stated yes for other discrimination factors, please explain further.
12. Research has also shown that in some professions there may be barriers to entering and succeeding based on the factors below. Do you believe any of these have applied to you?
   1) An individual's social and educational background
   2) The classification of one's degree
   3) The classification/number of one's A levels or equivalent
   4) The reputation of the higher education institutions from where one has received their qualifications
13. If you answered yes for barrier (1) in Q.12, please explain further.
14. If you answered yes for barrier (2) in Q.12, please explain further.
15. If you answered yes for barrier (3) in Q.12, please explain further.
16. If you answered yes for barrier (4) in Q.12, please explain further.

Section C: Your experience of WBL so far
18. Do you feel you receive adequate communication and clarity from the SRA regarding the WBL pilot?
SRA Final Report

19. If no, please describe how it could be improved.
20. Do you feel that the SRA’s WBL handbook could be improved?
21. If yes, please describe how it could be improved.
22. Do you feel improvements could be made to other materials provided by the SRA to meet your needs as a candidate?
23. If yes, how could these materials be improved?
24. Do you feel you receive adequate communication/support from the external assessment organisation, if this applies in your case?
25. If no, please describe how this can be improved.
26. Do you feel improvements could be made to any other materials provided by an external assessment organisation?
27. If yes, what improvements can be made?
28. Do you think the electronic portfolios could be improved?
29. If yes, please suggest what improvements could be made?
30. Is there anything else you think needs to be improved in relation to the WBL pilot? Please suggest ways they can be improved.
31. Do you think the Work Based Learning Outcomes could be modified in any way?
32. If yes, what modifications do you think are needed? Please be as specific as possible. We would also welcome drafting comments on the wording of the Outcomes.
33. If in your organisation you are able to compare the WBL scheme with the standard training contract, what things about WBL are BETTER?
34. What things about WBL are NOT SO GOOD?

Section D: Your reflections on WBL

35. Within your efforts to obtain professional qualification as a solicitor what are the main things (if any) you feel you have learned through WBL beyond what you learned on the legal practice course?
36. Has WBL involved you in any personal costs, either in terms of money or personal sacrifices?
37. If yes, please say what, and (if you can) whether you think the same costs would have applied on a standard training contract.
38. Assuming you qualify as a solicitor, will the WBL programme change your prospects or the nature of the work you do or are likely to be asked to do? Please explain the reasons for your answer.
39. Do you expect the WBL programme to have an influence on your economic value in the job market? Please expand on your answer.
40. Are there any other issues regarding the WBL pilot scheme which have not been covered but which are important to you and may be helpful to others?
Thematic Findings for candidates (summarised as an example of the analysis)

<table>
<thead>
<tr>
<th>Candidates</th>
<th>Superordinate</th>
<th>Subordinate</th>
<th>Individual</th>
</tr>
</thead>
</table>
| stream 2   | **Discrimination** on the grounds of socio/educational background | | (stream2 )
<p>|            | gender age nepotism | | |
| stream 2   | no consideration for the effort and struggle and what that shows about commitment to stay in law | | |
| both       | fairer system to have this entry route for paralegals | | |
| stream 2   | | credit for previous experience should be considered, view tempered by this being a pilot | |
| stream 1   | No discrimination stated | | (stream1) WBL a very bad idea |
| both       | <strong>Communication</strong> too many changes during the scheme | Satisfaction generally with clarity from the SRA but tempered because this was a pilot | |
| stream 2   | Lack of clarity on PSC on who is paying | | (Both) Several individualised suggestions reflecting individual needs |
| stream 1   | | lack of clarity on PSC in terms of relevance and repetition with LPC | |
| both       | <strong>Outcomes</strong> too many outcomes, time consuming, repetitive, suggestions: merge, make more relevant | | |</p>
<table>
<thead>
<tr>
<th>To situations, soft skills challenging to achieve, more guidance needed on evidencing</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>stream 1</td>
<td>tick boxing exercise too prescriptive</td>
</tr>
<tr>
<td>both</td>
<td>good support</td>
</tr>
<tr>
<td>stream 1</td>
<td>eportfolios if tailored</td>
</tr>
<tr>
<td>stream 2</td>
<td>evidence to prove that I can do something</td>
</tr>
<tr>
<td>stream 2</td>
<td>eportfolios if tailored</td>
</tr>
<tr>
<td>two</td>
<td>Advantage of WBL qualification at last</td>
</tr>
<tr>
<td>stream 1</td>
<td>nothing a standard training contract couldn’t have achieved</td>
</tr>
<tr>
<td>both</td>
<td>proactive about getting work needed to fulfil outcomes</td>
</tr>
<tr>
<td>both</td>
<td>evidence to prove that I can do something</td>
</tr>
<tr>
<td>both</td>
<td>not portable/transferable as supervisors potential employers won’t read it or it will be redacted too much to mean anything</td>
</tr>
<tr>
<td>stream 2</td>
<td>Assessment worrying because don’t know what is required, don’t know what levels mean, not sure what needs to be done to prove you are good enough</td>
</tr>
<tr>
<td>stream 1</td>
<td>evidence to prove that I can do something</td>
</tr>
<tr>
<td>stream 1</td>
<td>Don’t know what all the levels mean but not worried about final assessment as supervisors have given us a good idea of where we stand and we have very much been following standard of the firm anyway</td>
</tr>
</tbody>
</table>
Thematic Findings for professionals from key questionnaire (summarised as an example of the analysis)

<table>
<thead>
<tr>
<th>professionals</th>
<th>superordinate</th>
<th>subordinate</th>
<th>individual</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standardisation and consistency:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>high levels of consistency in responses although respondents from a range of set ups</td>
<td>assessing performance against standardised outcomes is key</td>
<td>unclear about a monitoring and assessing strategy that would ensure consistency across all set ups</td>
<td></td>
</tr>
<tr>
<td></td>
<td>common standard worthwhile goal as long as not set to the lowest common denominator and has flexibility</td>
<td>not necessarily a guarantee of quality</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>WBL framework</strong></td>
<td>a tick box exercise</td>
<td>standards more stringent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>repackaged training contract</td>
<td></td>
</tr>
<tr>
<td></td>
<td>WBL does encourage the candidate to be more proactive and self managed</td>
<td>encourages reflection, doesn’t necessarily achieve it</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>not sure what WBL means by reflection</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Barriers to entry</strong></td>
<td>fairer system</td>
<td>meritocracy and market forces will be how barriers are resolved</td>
</tr>
<tr>
<td></td>
<td></td>
<td>academic excellence will remain a top criterion in a market where jobs are being lost and firms have to survive in highly competitive market</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Costs</strong></td>
<td>time consuming</td>
<td>costly</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Adopt a WBL scheme</strong></td>
<td>not in its current form but it has good ideas</td>
<td>not a lot of choice but it needs work on it</td>
</tr>
</tbody>
</table>
Phase 4

i. Due to the late completion of the assessment period, the evaluation team took a decision to interview a range of key professionals on the processes, experiences and outcomes of assessment which would complement and inform the examination of portfolios and summative assessments in the event of not being able to see as many as it would have liked in the remaining time before the submission of the final report. This decision, although time consuming and costly, increased the validity of the whole exercise as it was during this phase that the distillation of the main issues were more informatively articulated and complemented the examination of the portfolios.

ii. To further increase validity of any findings it was decided to do face to face interviews with a magic circle firm, a medium London firm and a small to medium regional firm which were not participants in the WBL scheme. An adapted version of the questionnaire was used.

iii. An examination of the portfolios

These 17 semi structured interviews took place from September to November 2010.
3 non participants in person, recorded and summarised
Of the remaining 14
50% were in person 50% by phone, all recorded
50% were fully transcribed 50% summarised
All were thematically analysed

<table>
<thead>
<tr>
<th>NLS</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>OXILP</td>
<td>1</td>
</tr>
<tr>
<td>City Councils</td>
<td>2</td>
</tr>
<tr>
<td>Firms outside scheme</td>
<td>3</td>
</tr>
<tr>
<td>IAO’s</td>
<td>5</td>
</tr>
<tr>
<td>LawNet</td>
<td>4</td>
</tr>
</tbody>
</table>

The questions were uniform for reliability and consistency but allowed flexibility depending on the various set ups. They were informed by the results of the key questionnaire and by the ongoing literature searches specifically on assessing competences in the professions.

Interview Questions

<p>| What is your role in the pilot scheme? |
| Assessment Questions                 |
| Portfolios. What has been your view on this as an assessment tool? |
| Can you think of other ways or ways to complement a portfolio which in your |</p>
<table>
<thead>
<tr>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>opinion would more clearly demonstrate that the skills required to qualify as a solicitor have been acquired to an appropriate level?</td>
</tr>
<tr>
<td>What are the disadvantages of the portfolio?</td>
</tr>
<tr>
<td>Would you feel more confident employing a paralegal as a solicitor if they had a WBL portfolio?</td>
</tr>
<tr>
<td>What do you think the key criteria should be and what performance indicators do you think would most suitably demonstrate them?</td>
</tr>
<tr>
<td>What should the evidence trail be that this person is ready to practice law?</td>
</tr>
<tr>
<td>In your view what should the vocational stage of training comprise which is not already included in the academic and LPC (practical stages)?</td>
</tr>
<tr>
<td>What does a trainee lawyer get from vocational training that they do not get from the academic, the LPC and the professional skills course?</td>
</tr>
<tr>
<td>Can the professional skills course be subsumed into vocational training using learning outcomes as employed in the WBL scheme?</td>
</tr>
<tr>
<td>What are the key competences you are looking for generically and specifically for your firm/organisation?</td>
</tr>
<tr>
<td>What is the role of the SRA? Can it add value in the vocational training stages?</td>
</tr>
<tr>
<td>What are the reasons you have not kept someone on in terms of key criteria/competences/WBL learning outcomes?</td>
</tr>
<tr>
<td>Is the WBL any more effective than your standard training contract for addressing issues of competency?</td>
</tr>
<tr>
<td>Can training be standardised and at what level?</td>
</tr>
<tr>
<td>Do you see a way of standardising if that is desirable without reference to an external assessment organisation or auditing process to ensure standardised outcomes?</td>
</tr>
<tr>
<td>If not what would that auditing process be?</td>
</tr>
<tr>
<td>What have been the costs of the WBL pilot scheme in broad and specific terms?</td>
</tr>
<tr>
<td>In terms of training new solicitors, where do you see the profession going in the next five years?</td>
</tr>
</tbody>
</table>
The interviews were thematically analysed and the superordinate and high subordinate themes were checked against those from earlier phases. They were highly consistent with the findings of the questionnaire but interviews allowed the rationale behind views being explained in more detail. These along with the evaluators’ interpretations, observations and positioning of the findings within the wider sphere of work based learning constitute the findings of this report. A most interesting finding was that there was a high correlation between the answers of the non participants and the participants on challenges to assessment and what the attributes of a newly qualified solicitor should be.

Examining portfolios for progression and for formative and summative assessment.

A total of 26 portfolios were viewed representing the best and the middle to border line who successfully qualified as solicitors under the WBL scheme. Portfolios were viewed at IAOs (5), LawNet firms (OXILP assessed) and other organisations (NLS assessed)

The following guide was used.

Guide to assessing portfolios

| track for progression over first and second year |
| note feedback and how feedback was used e.g. how candidate recorded feedback and whether learning was evident |
| note quality of feedback from the supervisor/reviewer |
| types of evidence and how often used and for what outcomes |
| check reflection sheets for how these were used and if they evidenced anything beyond skills |
| general presentation of the portfolio |
| what final assessment is based on, correlation between final assessment and progression |
| what may be missing for a potential employer |
| if possible seek comparison with standard training contract |
| anything else such as the kind of language used, anomalies etc |

Some effort was made to compare WBL portfolios with standard training contract but not enough in number to make any significant conclusions. Differences which emerged have been included in the findings section of this report.

Results of the WBL pilot in terms of candidate success

Figures from SRA:

<table>
<thead>
<tr>
<th></th>
<th>No. Candidates</th>
<th>Passed</th>
<th>Revised Deadlines</th>
<th>Referred</th>
<th>Withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>NLS EAO</td>
<td>35</td>
<td>27</td>
<td>6</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>OXILP EAO</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>IAOs</td>
<td>36</td>
<td>35</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>79</td>
<td>70</td>
<td>6</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>