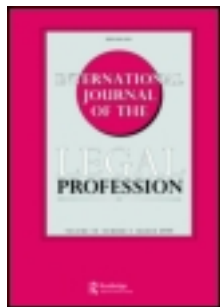


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Publisher: Routledge

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International Journal of the Legal Profession

Publication details, including instructions for authors and subscription information:
<http://www.tandfonline.com/loi/cijl20>

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Available online: 21 Jul 2010

To cite this article: Heather Rolfe & Tracy Anderson (2003): A firm choice: Law firms' preferences in the recruitment of trainee solicitors, *International Journal of the Legal Profession*, 10:3, 315-334

To link to this article: <http://dx.doi.org/10.1080/0969595042000228784>

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A firm choice: law firms' preferences in the recruitment of trainee solicitors

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Introduction

In the UK, of all the professions, law has some of the most demanding entry requirements and is one in which family connections and Oxbridge credentials ease the path to entry. At the same time, the popularity of undergraduate law courses at UK universities has rocketed in recent years and universities have responded by expanding courses. The result has been an increase in law graduates in the UK, particularly from new, post-1992 universities and in the number of young people pursuing a career in law. Partly because of the tradition of elitism within the profession, the growing popularity of law as an academic subject and career choice raises issues of access and equality of opportunity for prospective entrants. These issues have been addressed in previous research on a cohort of students (see Shiner, 1997, 1999), which found different rates of success in gaining a contract according to applicants' background and characteristics, including race and ethnicity, and evidence of bias in the allocation of the more prestigious training contracts in city and large provincial firms.

The firm in which a solicitor receives his or her training and early experience is important because it affects pay, conditions and career prospects. Even for trainees, the allowance in large firms in the UK can be almost twice the minimum allowance paid by many smaller firms.¹ In addition, most large firms recruit students at university, paying their fees and a maintenance grant during the Legal Practice Course (LPC), taken between graduating in law and starting a training contract. Many large firms also pay the costs for recruits without a law degree to attend the CPE course, already the most financially advantaged students, from higher social class backgrounds (Shiner, 1997). As Vignaendra points out, in contrast, less privileged students who are not supported by firms during their LPC are more likely to carry out paid employment, with implications for their performance on the course and for completion (Vignaendra, 2001). Indeed, the cohort study found that more than half of those who had not applied for a place on the LPC or Bar Vocational

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Course indicated that they could not afford this stage of legal training (see Shiner, 2000).

Few contributors to the debate on issues of equality in the legal profession argue that direct discrimination is responsible for the levels of disadvantage and differentiation in access to jobs and training posts. Rather, as several commentators point out (Boon *et al.*, 2001; Sanderson & Sommerlad, 2000), the focus of discussion has shifted from exclusion and discrimination towards differentiation and subordination within the profession. However, this does not mean that the 'blame' can be shifted from firms to individuals or to schools and universities. A number of findings from previous research raise questions about the practices of firms recruiting trainee solicitors. These include the advantage enjoyed by applicants with a close relative in the profession and who undertake work experience as a student; and the higher chance of recruitment into city and large provincial firms of Oxbridge graduates and those without law degrees, who take the Common Professional Examination (CPE).

The research on which this paper is based looked for explanations for such patterns of disadvantage in firms' policies and practice. Existing research on the allocation of training contracts covers the perspective of the student or trainee, while that of the firm, or training establishment has been largely ignored. Although one study surveyed firms on their preferences for skills and knowledge, it achieved a poor response rate, of just over 10%, and the sample under-represents city firms which recruit a significant proportion of trainees and which have received most criticism for their recruitment practices (Birmingham & Hodgson, 2001). The current research was explicitly intended to redress this gap in research, by looking at the recruitment practices of a cross-section of firms, including some of the largest recruiters. As well as following up findings of the cohort study, the research was timed to allow for consideration of the effects on recruitment of developments in higher education. These include the erosion of the 'binary line' between universities and the former polytechnics, which took place in the UK from 1992; and the change in the law curriculum at new universities. Such developments might be expected to change the practices of law firms that have targeted old universities.

The focus of the research was therefore explicitly on equal opportunities. In particular, it aimed to find explanations for inequalities in the allocation of training contracts according to gender, ethnicity, social class, university and route of entry (in particular the CPE route), and greater access to the more prestigious training posts by Oxbridge graduates, who are less likely than other graduates to be from ethnic minority backgrounds or lower social class groups. Because the earlier 'cohort study' found particular disadvantage among black and Asian applicants, practices in relation to these groups were a particular focus of the research. As a qualitative study, it did not aim to establish or comment on the extent of discrimination in recruitment practices but to identify reasons why firms followed particular recruitment practices.

The researchers conducted interviews with representatives of training establishments to identify the main practices used to recruit trainees, the reasons why firms use these, and with what results. Such methods are more suitable than survey methods for obtaining attitudinal data, on issues such as regulations covering

Table 1. *Range of firms by size and location*

Firms visited	London & South East	Birmingham & West Midlands	Leeds & West Yorkshire	South Wales & West Country	All
Small (1–4)	4	1	1	0	6
Medium (5–10)	0	0	3	1	4
Medium (11–25)	5	5	1	2	13
Large (26–80)	2	1	2	5	10
Large (81+)	9	2	1	1	13
Total	20	9	8	9	46

recruitment and on equal opportunities, because they allow the reasons behind the use of particular practices to be explored with the interviewee in a way which survey methods do not. What cannot be judged from using qualitative methods is whether the practices of participating firms are representative of similar firms. However, the selection of firms was carried out to ensure that, as far as possible, those that participated were representative of firms that recruit trainees, including city, large provincial and high street firms.

Interviews were conducted during 2001 with senior staff with an active role in recruitment in 46 firms. The establishments ranged from sole practices to international firms with hundreds of partners, and recruiting from one trainee per year up to 160. They were located across four UK regions: London and the South East, Birmingham and the West Midlands, Leeds and West Yorkshire, and South Wales and the West Country, with some recruiting for offices in more than one region. These regions were chosen to include a range of locations, and to include areas with a relatively strong representation of black and Asian trainees, an important consideration given the study's focus on equal opportunities. Firms in London and the South East were over-represented because more than half (59%) of all training contracts in England and Wales are offered by firms in this region (see Cole, 2000). The distribution of firms in the study, by size and location, is presented in Table 1.

The research findings

The recruitment cycle

The research found that the advantage enjoyed by some applicants over others is unlikely to be the result of recruitment 'through the backdoor' based on nepotism or other personal connections. While such methods may have been commonplace in the past, most firms had rejected these, not for reasons of good recruitment practice, but because they were not securing them the best candidates. Therefore, most firms had developed systematic approaches to the recruitment of trainees. Some were in the process of introducing more structured or rigorous recruitment processes, again largely from concern to attract better candidates, who were seen to prefer firms which use such methods, and also to select the best applicants. Like other graduate recruiters, many of the firms used a range of selection methods in addition to interviews, often packaged into an 'assessment centre'.²

But not all firms had systematic methods of recruitment. Those describing their methods as 'informal' were smaller firms with very few trainees and no regular recruitment cycle. For example, one firm reported that a number of small firms in the area exchanged information on current para-legal staff who were looking for training contracts and recruited these 'as and when'. Some examples of poor recruitment practice were found among firms, such as the following approaches used by three medium-sized firms:

- a Christian firm recruiting from personal contacts in churches and community centres;
- a firm recruiting all its trainees from one university, without considering any of the 500 speculative applications it receives;
- a firm recruiting entirely from students on summer placement, without interviewing at any stage.

Representatives of these firms were aware that their practices might be considered unfair, but reported reluctance to change from within their firms. Although we cannot be sure from a sample of 46 firms, such poor practice does appear to be fairly unusual, and most firms were using or developing systematic and fair means of selection, thereby considerably reducing the possibility of direct discrimination in the recruitment of trainees.

The large firms in the city of London and the provinces work to a recruitment cycle geared according to the earliest dates specified by the Law Society for offers to university students³ and therefore recruit two years in advance of entry. The main reason given by firms for early recruitment was to secure the 'best' candidates. This competition to recruit early mainly involves the larger firms. Smaller firms practising 'late' recruitment reported little difficulty in recruiting trainees, although their requirements for academic achievement were, however, somewhat lower (see later). Vacation placements are an important part of the recruitment cycle for many large firms, and many recruit a high proportion of their trainees from students on these schemes. Some firms carry out interviews and assessment days as part of the vacation placement, infringing the Law Society guidelines, and are therefore able to make early offers of training contracts to participants. A number of firms said they made offers before 1 September, between the second and third year at university, the date specified by the Law Society for when interviews can begin. Other firms felt they lost out by sticking to the rules, and were planning to change this by adapting their vacation schemes to increase recruitment through this route. Some recruiters were opposed to this practice, on the grounds that a vacation scheme should provide a 'genuine experience' of the work, and not a stage in the recruitment process. Consequently, a number of firms therefore felt that the Law Society should enforce its guidelines on the date from which the offer of a training contract can be made. Large firms expressed diverse views on this issue:

We hope that by the end of the [vacation placement] week we will get a really good assessment of them and that we would have identified the ones who are most suitable to be trainees with us . . . our ultimate aim would be to fill most of our [training] places with people who had been on placements.

Last year when we started recruiting in September we found that by the time we got to second interview stage, many of the trainees had already accepted offers. . . . Many of the students that we've interviewed said that their recruitment went back to the summer placement scheme. So that was quite annoying, we were already recruiting two years in advance and then found that the good ones were being snapped up in advance.

Either [the Law Society is] saying that this is a genuine opportunity to let people have a glimpse at what working in a city law firm is about or [it] accept[s] that it is all part of the recruitment process, in which case let's acknowledge that and know what we're doing.

The importance of work experience and personal contacts

Work experience places are, in theory at least, open to all applicants but, while nepotism may be unusual in recruitment to training places, it still operates in the allocation of work experience placements. Most firms regularly received requests for work experience from family members of clients or colleagues and felt obliged to interview these applicants, despite their concerns about fairness. Personal contacts may at least ensure an interview and a number of firms, small, medium and large, gave at least some of their work experience placements to personal contacts of partners or staff as a matter of course. One large firm formally allocated three of its ten vacation placements to relatives of partners or clients, referring to these as 'marketing spaces'. Another firm, of medium size, had given its three work-experience places to a partner's son, another partner's god-daughter and an assistant's cousin. While there is no evidence that training places are allocated on this basis, such practices give individuals with relatives within the legal profession some advantage over those without such contacts because work experience is a key criterion for short-listing and selection.

Although only a minority of firms in the study offered work experience to individuals with personal connections to their firm, if the practice is widespread it may help to explain why ethnic minorities, those from lower social class groups and students at new universities experience particular difficulties getting work experience (see Shiner, 2000) because they are less likely than white middle class students to have personal contacts in the profession. It has more serious consequences because having a personal contact in the profession is known to increase the probability of gaining a training contract in a city or niche firm, and reduces the probability of working in a high street practice (see Shiner, 1999, p. 28). The importance of work experience is not confined to law: one of the strongest messages to come out of a longitudinal study on UK graduates' career paths concerned the importance of work experience in enabling graduates to obtain appropriate employment (see Purcell *et al.*, 1999). Because law is a popular career choice, work experience places are limited. Therefore, a considerable advantage may be gained by individuals who can obtain work experience through relatives, family friends or contacts.

The advantages enjoyed by applicants for training contracts with contacts

within the profession are unlikely to be confined to greater opportunities for work experience. Rather, they may result from the greater knowledge about routes into a legal career. Applicants with contacts within the profession are likely to receive advice and information about when and how to apply for training contracts, the criteria used by firms to select candidates and other useful information. In view of the importance of parents as a source of careers information and guidance, those with parents in the profession are likely to benefit most from such assistance (see Witherspoon, 1995; Connor *et al.*, 1999; MORI, 2002). Research on graduates' career paths has also found that those from professional and managerial backgrounds are more likely to consult family and friends when considering their career options (see Purcell *et al.*, 1999), possibly because of their greater knowledge of professional career routes. They are also more likely to access information sources such as league tables (see Connor *et al.*, 1999).

Other sources of information about careers in law are also likely to benefit young people from middle class, professional, backgrounds to a greater extent than those from lower social class groups. These include the stronger links that appear to exist between law firms and selective and independent schools, compared to comprehensives. Participating firms with strong links with schools invariably had made these with independent and selective schools rather than their local comprehensive. For example, one public sector organisation visited a group of selective schools in its locality because, as the Training Principal explained, "Basically, quite a lot of the trainees we've had in the past have come from those schools and it gets our name known". Other firms were involved in initiatives organised by the independent schools careers association, ISCO, which assists private schools in their careers education programmes.

Students at independent schools may be in less need of information on careers in law, because they are more likely than others to have a relative in the profession. The cohort study found students from independent schools were twice as likely to have a relative in the profession than students at comprehensives (Halpern, 1994). It could be argued that the careers service to schools and careers teachers should assist pupils in acquiring the knowledge needed to pursue a career in law. However, existing research suggests that UK students following an academic route to university are given relatively little guidance on choice of university and course (see Connor *et al.*, 1999). In addition, because of changes in legal education in England, for example the introduction of the new 'City' LPC course,⁴ current practitioners in the profession may be better equipped to provide a potential entrant with certain information and advice than careers advisers. The effects on a young person's confidence in knowing someone who works in their chosen career may also have some influence on their decision to apply to study law and where they apply to do it.

Targeting of old universities

In the UK, only the smaller firms simply advertise training contracts and wait to see who applies. Larger firms, which recruit 100 or more trainees each year, actively seek applicants through a range of activities centred on their preferred universities.

These activities include attending law fairs, holding presentations and workshops and sponsoring clubs and events. Many firms see regular contact with universities for such activities as a more effective way of marketing the firm to students than advertising or entries in publications. Through activities such as presentations and workshops, some firms are involved in dispensing detailed advice to university students on how to secure a training contract in their type of firm. The universities targeted by firms for this work are invariably Oxbridge and old universities, including those with prestigious law schools, and those in proximity to regional firms. Few firms have links with new universities for recruitment or other career-related work, for the simple reason that they prefer to recruit from old universities. Therefore, if a large provincial firm had a choice of conducting 'careers' work with an old or new local university, it would invariably chose the old university for such activity.

This targeting of old universities for marketing and careers activities undoubtedly puts students studying law at new UK universities at a disadvantage. They are less likely to have the same extent of knowledge about firms than those at old universities but, more importantly, they are disadvantaged by the lesser contact with the larger and more prestigious firms. They are likely to be less aware of useful steps towards obtaining a training contract, for example applying for a vacation placement, and the importance of 'tailoring' their applications closely to the firm. The more limited access to such advice for students at new universities may account for the lower level of interest found by the cohort study among this group in working for a city or large provincial firm (Shiner, 1999). Lesser contact with firms is likely to compound the effects of other sources of disadvantage, such as having no personal contact within the profession and having lower 'A' level grades. The advice available from university careers services does not appear to compensate for such disadvantage: research on graduate career paths in the UK has found respondents from post-1992 or new universities less likely than those from traditional universities to have sought help from their careers service, and those in vocational areas such as medicine or law to be less likely than students on other courses to do so (see Purcell *et al.*, 1999). This may be because, as they suggest, university departments assume responsibility for careers advice (see Watts, 1996). However, it may also be because students believe they do not need advice, and therefore miss out on valuable information, for example on the timing of applications for vacation placements or training contracts.

A number of firms also referred to the university attended as a criterion for selecting applicants, particularly at the short-listing stage, with larger firms expressing the stronger preferences. They based these on a number of beliefs about old and new universities, which did not include the type of law course or its content. The main considerations were therefore:

- perceived quality of applications and calibre of recruits;
- position in Times league table;
- belief that universities with higher entry requirements will deliver more demanding courses and graduates will be better;
- image of the firm.

A common reason for a preference for old universities was a belief that universities with the highest entry requirements will deliver the more demanding courses, and that their graduates will be better equipped for the profession. This belief is based on league tables of entry requirements and teaching quality, and little further assessment of course content or quality. Recruiters had very little knowledge of the content of courses in university law schools, including those from which they regularly recruited.

It has been suggested that prejudice or conservatism also plays a part in the preference of law firms for graduates of old universities. A small number of large firms expressed the view that recruiting from Oxbridge in particular gave them a special status among law firms. Therefore, as a graduate recruitment manager in one large firm explained,

There is a general consensus that you can never get enough Oxbridge people and although I would never want just Oxbridge people here ... I do think it's important to keep a certain proportion of them as Oxbridge or even from the top universities abroad. There is something to be said about a firm that can attract candidates of that calibre, it's just as simple as that really.

It has been argued that firms like to recruit 'in their own image'. As the Scottish Legal Action Group states,

... there certainly will be firms who would prefer 'one of us' rather than better qualified candidates from what they might still regard as 'technical colleges' (2002).

This may not even be restricted to firms with a genuine 'image'. Some participating firms whose partners did not attend the elite institutions still liked to identify with them for recruitment. As a representative of a small firm stated,

Obviously we prefer Oxford or Cambridge University as opposed to some of the other ones and we would prefer someone from an older university. It reflects the partners' backgrounds: [one partner] had the option of going to Oxford and [the other partner] *could* have gone to Cambridge, so it probably reflects their background.

Law firms may not be any different from other graduate recruiters in their targeting of particular universities and law schools. A survey for the Association of Graduate Recruiters found that 60% of firms targeted particular departments or courses (Barber & Perryman, 2001). Their selection was based on the universities, departments and courses that were known to be the source of good quality candidates, through either reputation or previous applications. However, law firms appear to make a clear distinction between 'old' and 'new' UK universities when targeting their recruitment activities. Such targeting undoubtedly results in a less diverse intake, because students at older universities, who are encouraged to apply, are more likely than their counterparts at new universities to be white and middle class (see Coffield & Vignoles, 1997). Of those studying law, 13.5% of students at old

universities are from ethnic minorities, and 29% of those at new universities.⁵ A number of firms in the study wished to increase the diversity of their intake, but were not considering extending their careers activities to include some new universities where students are from most diverse backgrounds.

Academic performance is a key criterion in selection of trainees

Firms of all sizes used similar criteria for short-listing applicants, particularly academic achievement, work experience and relevant interests. Academic record was used to make an initial sift by most medium-sized and large firms. This accords with the findings of the cohort study that an applicant's chances of gaining a training contract, and of working in particular types of firm, vary according to their academic performance at 'A' level and at university (Shiner, 1997, 1999). Firms felt that strong academic ability is necessary to cope with the demands of legal practice. Therefore, many firms, particularly those of larger size, require applicants to have a first or upper second class degree. Many recruiters use academic achievement to shortlist applicants and law firms are clearly not unusual in using this criterion (see Barber & Perryman, 2001). Firms' responses to questions about the relative importance of university and academic performance suggest that large firms place most value on the university and therefore that a less outstanding performer at a preferred institution, particularly Oxbridge, will be favoured over a strong performer at a new university. One possible explanation for this is that firms trust the selection methods of a 'good' university. As a firm stated,

It's harder to get into those [Oxbridge] universities so, if you get in, they've spotted something. It's calibre rather than anything else.

Most large firms practising early recruitment of law students cannot, however, use degree class as a criterion but rely instead on 'A' level grades. Many firms looked for A and B grades at 'A' level, although the requirements of smaller firms tended to be lower. This practice inadvertently favours student at older, more prestigious, universities. 'A' level achievements are known to some extent to reflect standards of teaching and access to resources rather than ability (see Metcalf, 1997). Consequently, some ethnic minority groups in the UK perform less well than white students at 'A' level (see Coffield & Vignoles, 1997). Students from lower social class groups may similarly lose out, even though 'A' level grades are not a good predictor of university performance (Metcalf, 1997). Although it is clearly a problem, this source of disadvantage is difficult to overcome when firms receive hundreds of applications and feel that they must base their initial shortlist on objective criteria. It is a particular problem in access to the legal profession because of the practice of early recruitment. While law firms continue this practice, and while law remains a popular career option, those with high 'A' level scores will continue to have an advantage over those whose grades are lower.

It might be considered good news for fair selection that many firms emphasised that applicants who show evidence of other achievements and qualities than high academic performance are given serious consideration. Indeed, a number of firms

said they did not want to recruit ‘boffins’—academics with few other abilities. However, it was apparent that they were referring to the very highest achievers from elite universities. Students at new universities are unlikely to find such redemption since their very presence at a new university rules them out of ‘boffin’ status in the eyes of most law firms.

For many weaker candidates, the route to training as a solicitor is indirect, and involves working as a para-legal worker for a period of a year or more. Some firms regularly recruited internally for trainees from para-legal staff who had completed their LPC training. A number of firms recruited some applicants for training posts initially to para-legal positions, thereby creating an internal pool of candidates who can be transferred on to training contracts at short notice. A key motivation for firms was to reduce the costs of training, since staff with relevant experience gained as a para-legal can undergo a shorter training contract. A further consideration of firms was the opportunity to check an applicant’s suitability for the work. One small firm referred to a “waiting list” of its own legal executives and assistants wanting training contracts within the firm. As the training manager explained,

We have a hierarchy of whose next in the firm so I probably won’t take anyone from outside for two years.

Some firms also gave part-time training contracts to current non-qualified staff. Firms reported that these were less likely than trainees entering by the standard route to be white and middle class. More widespread use of this practice might increase diversity in the profession, even though it involves a delay in enrolment and a longer period on low pay for prospective solicitors.

Do law firms favour non-law graduates?

The cohort study found that having taken the CPE rather than a law degree was associated with an increased chance of securing a training contract, even when other factors are taken into account. Those entering through this route were also found to have a greater chance than the law graduates of securing a training contract in a city firm, and a slightly higher chance of gaining one in a large provincial firm or a niche firm. Ethnic minorities and those from less privileged social class backgrounds were concentrated among those taking the law degree route (Shiner, 1999) and therefore were disadvantaged by the apparent preference for CPE entrants among law firms. Because ours was a study using qualitative methods, we could not confirm these findings by judging the extent of such preferences among firms of different size, but aimed instead to establish the reasons why firms had these. However, it was by no means clear that large firms do prefer candidates without law degrees. Many participating firms said that they like to recruit a mixture of trainees from both backgrounds, and that recruits through the CPE route are always kept to a minority, partly because the costs of their sponsorship are higher.

Diverse views were expressed on the relative merits of law and non-law graduates by firms of all sizes. Some recruited non-law graduates with expertise useful to the firm, for example in foreign languages. However, some firms said that the supply of

good law students is insufficient to meet demand, which is puzzling when roughly 12,000 students graduate in law in the UK each year, and only 5,000 are recruited to training contracts. However, more than half of all law students in the UK are at new universities which, as explained above, are not targeted for recruitment and are not favoured by law firms when selecting applicants for interview. Therefore firms which complained of a shortage of good law graduates were ignoring the possibility that such candidates might be found in the new universities. This is likely to be a key factor in the under-representation of black and Asian trainees in some firms, since ethnic minority students are more than twice as likely to study law at a new university than an old one. As Bermingham and Hodgson (2001) state, law firms want "Good students from Good universities", defined by recruiters as Oxbridge or Redbrick and the apparent preference for CPE graduates may be because such candidates are selected on the basis of their degree performance rather than on the route they had taken.

Who do firms recruit?

Participating firms were asked for information on the characteristics of applicants, and on those of recruits, and for reasons for any differences between the two. It was apparent that, for some firms, the issue of trainee characteristics is a sensitive one, particularly issues of race and ethnicity. Representatives of a number of firms showed reluctance to discuss such issues, and some said they could not even estimate the proportion of trainees from an ethnic minority group, although they regularly supply such information to the Law Society. For example, the graduate recruitment manager of a medium-sized firm stated,

I've never worked out whether we are more black than white. We just go for those who we think will fit in with [the firm]. Honestly, I really don't know, its something I've never thought about [laughs].

A reluctance to discuss the ethnic background of trainees was found in firms with both low (or none) and some ethnic minority trainees, and in firms of varying size but, because it was found where the respondent was white, rather than from a minority ethnic group, it may have reflected individual attitudes rather than firms' practices. Where firms recruited a relatively high proportion of their recruits from ethnic minority applicants, this attitude was rarely found and these firms were happy to discuss the characteristics of their applicants and recruits.

Although the claim of some recruiters to have no idea how many black and Asian trainees were in the firm is hardly credible, it is highly probable that some firms may be unaware of how well their numbers reflect those of applicants to training places, compared with white applicants. This is because few firms were involved in equal opportunities monitoring of applicants. In most cases, firms' equal opportunities policies were statements of good intent, rather than working documents. It was predominantly the large firms, particularly those that recruited a substantial number of trainees, which monitored their applications and selection process by analysing the data collected. Only a few firms visited used data on

applicants to assess the fairness of their recruitment processes and it was more often used for marketing purposes, for example to see which universities had produced most applicants. Firms were not actively engaged in identifying possible sources of disadvantage and discrimination in selection.

Firms explained the attributes of their trainees, particularly gender and ethnicity, with regard to the preferences of applicants, the preferences of other firms, and their own geographical location. Of these, they were strongly inclined towards explanations relating to the preferences of applicants and of other firms. However, some acknowledged that their marketing and recruitment activities, for example in selected universities, were a strong influence on who applies to them for a training contract. A number of small and medium-sized firms remarked on the high proportion of women among applicants for training posts. This was also reported by many large regional firms. Some respondents in firms experiencing an increase in applicants from women in recent years felt that this was accounted for by the higher proportion of women studying law. Others believed it reflects a preference of men to work in larger firms or to leave law altogether for jobs in the finance sector or 'dot-com' business, resulting in a higher proportion of female applicants. As well as being the majority of applicants to many firms, female applicants were reported to be generally better than male candidates, according to such criteria as presentation and maturity, and this was seen as a major cause of their predominance among trainees. This point was made by recruiters from large firms, where women are not generally in the majority, to those in smaller practices where they are:

The males do not present themselves as well as the ladies. Their application forms are not, in general, as tidy as the ladies, and they do not show as much maturity, at the time. They do perhaps speed up their maturity at a later stage.

Recruiters in large firms reported that, although they do not necessarily receive more applicants from women than from men, the standard of applications from women was higher, and they perform better on assessment days. Some firms recruiting a year or more in advance of the start of training said they "made allowances" for men, on the grounds that they would mature in the intervening period. As the recruitment partner of a niche firm explained,

Women are much more mature. Men are boring blobs but they will catch up when they are solicitors. Women win at every stage [of the applications process] for personality, and we only correct that by employing older men.

There were also reports of higher refusal rates from women of offers from large firms. It is possible that women make a higher number of applications, but one large firm felt it was out of concern for a "work/life balance". As the personnel manager explained,

There were more women who were worried about what would be demanded of them, I think not as they were trainees, but once they were qualified and thinking of having families.

Some medium-sized firms said that the number of applicants, and trainees, from ethnic minorities had increased in recent years and a number referred specifically to increased applications from British Asians. Most respondents did not know the reason for this change, although a few referred to such factors as the rise in academic achievement in this group and increased financial resources. Some firms said that although they received many applications from ethnic minorities, they were more likely to be weaker than those from white applicants, resulting in a higher rejection rate. However, a number of firms commented that the supply of 'good quality' applicants from ethnic minorities has increased in recent years, which they believed was a consequence of their increased participation and achievements in higher education. Some firms remarked that the majority of their ethnic minority applicants, and recruits, were Asian, including British Asian, and some were African, but that very few were African-Caribbean. It is not surprising that firms came across few Afro-Caribbean applicants, since HESA data for 1997/8 shows them to be only 1% of law students at old universities.

Preferences of applicants and preferences of other firms

Firms were acutely aware of a 'pecking order' among training establishments, with city, national and large provincial firms at the top and high street firms at the bottom, reflecting pay, status and career prospects (see above). A number of small and medium-sized firms felt that their supply of applicants, and therefore recruits is shaped at least in part by the practices of larger firms who are able to take the 'pick of the bunch'. This was seen to explain the relatively small number of applicants to some firms by Oxbridge students and graduates. Some medium sized and smaller firms also remarked on the relatively high number of mature applicants they attract, which they believed were rejected by larger firms.

Smaller firms also believed that Oxbridge students prefer to work in city or large provincial firms, as well as having greater opportunities to do so, echoing a finding of the cohort study (Shiner, 1999). A number of small firms which attracted a relatively high proportion of ethnic minority applicants also believed that this was because some applicants, particularly men and white candidates, 'bag' these places early so that others have lesser access to these posts and greater opportunities elsewhere, in smaller firms where competition is less intense.

It is difficult to assess the relative importance of firm's own preferences and those of applicants themselves in determining the attributes of trainees recruited. For example, because large firms say they recruit few older trainees, and small firms say they recruit many, this suggests different preferences between these firms. However, previous research has found a stronger interest in smaller firms among mature applicants than among those of conventional entry age (Shiner, 1999). But the issue of applicants' own preferences is not straightforward because, as Shiner observes, some applicants may apply only to firms where they think they have a realistic chance of being recruited, rather than those in which they particularly want to work, and discrimination was widely anticipated by applicants (see Shiner & Newburn, 1995). We know that access to information about careers in law is greater

among students at old universities (see above). Therefore, preferences of applicants may also result from different access to information about job opportunities resulting from the extent of contact with firms and people within the profession.

In general, firms located in areas of the country with an ethnic minority population were found to recruit higher proportions of trainees from minority ethnic groups than those in areas with small ethnic minority populations. Some firms said they have few ethnic minority applicants because of their location in areas with little ethnic diversity. However, regional firms also said they preferred recruits with local connections, through family or university, on the grounds that these were more likely to stay with the firm in the longer term. Given that ethnic minorities and training places are unevenly distributed across England and Wales, this practice may unintentionally disadvantage ethnic minority applicants for training contracts. This could be a source of discrimination, although unintended since firms were apparently unaware of the problem.

Increasing diversity within the legal profession

A number of larger firms were aware that their recruitment practices, and particularly the targeting of old UK universities, might be a relevant factor in the under-representation of ethnic minority trainees. However, they felt their preference for graduates of old universities was legitimate since, as stated above, it was based on an assessment of the intellectual demands of the work. Many firms referred to the lower entry requirements of new universities, which they believed resulted in a less able student intake. Therefore, they felt that, rather than change their own practices, changes were necessary to the education system to enable more ethnic minority students to realise their potential and to go to 'good', older universities. As directors of personnel of two large firms stated:

I think you've got to look at the education system. This sort of firm is looking for people with particular academic attainment. It's too far down the line, you've got to go back and change things at the level of primary and secondary education.

We found a difficult area was the issue that city firms only recruit white Anglo Saxon, middle class people, when the reality is that Afro-Caribbeans are so disadvantaged in secondary education.

Consequently, some large firms were opposed to the Law Society's recommendation that roughly 10% of trainees and fee earners are from an ethnic minority on the grounds that such practices risk rejecting stronger candidates in favour of weaker ones. A number of recruiters were adamant that the responsibility to increase diversity within the profession was not at their door, a view reflected in the following statement from a graduate recruitment manager of a large firm,

There is no problem attracting applicants from Asia but there is with black Caribbeans, although we do have some coming though now. There is a really bright chap who got a scholarship to Eton and then went to St John's Oxford, but they are hard to find.

Of course, this is not surprising given that black Caribbeans are almost entirely absent from the law schools of old universities where the large firms recruit. While some recruiters blamed inner city deprivation and under-resourced schooling, others expressed the view that young people from ethnic minorities are likely to receive less encouragement from their parents than other young people and that this was a source of their under-achievement. As a recruiter in a large firm stated,

The problem doesn't apply with the recruiter. There needs to be a change in cultural attitudes. Ethnic minorities are not given sufficient opportunities or think they can't do it. It isn't clear cut that they will go to university, there isn't that same cultural background.

This view is also held by writers on higher education, for example Smith who argues:

Very able working class children will come forward when the level of encouragement provided by family and school improves ... Educational deficiency has much more to do with family than with school and begins before the children even reach school (Smith, 2002).

This is based on assumption, since there is little evidence that parents from ethnic minorities or lower social class groups are any less encouraging of their children than their white middle class counterparts. It is also insidious because, by emphasising the role of 'encouragement', such arguments seek to blame disadvantaged groups for their own situation and ignore the very real differences in opportunity. In the case of entry to the legal profession, these include access to information, as well as the advantages of having a relative or other contact within the profession which are quite clear (see above). Recent research on ethnic minority young people in Bradford found that parents had a strong interest in and respect for their children's education, but that many lack the social and information networks that some parents use to get advice and help for their children (see Katz, 2002). As the research recommends, parent's enthusiasm might be 'harnessed' so that they are able to provide their children with practical help.

Although the predominant view among firms was that they cannot accept responsibility for inequality in access to training posts, there were signs of a willingness among some large firms to have a more diverse intake by recruiting from a wider base. Therefore, a number of firms which had traditionally recruited a high proportion of their trainees from Oxford and Cambridge said that they were changing this practice, in order to achieve a more diverse intake, which they believed would benefit their business, particularly among client firms with staff from more diverse backgrounds. Pressure from the Law Society was also a factor in such change. As the representative of one of the largest firms explained,

I think 20 years ago the number of non-Oxbridge people we were recruiting you could count on the fingers of one hand, whereas now Oxbridge recruits are probably around half of our intake ... We've had to become more politically correct which is a good thing, and we've had to force ourselves to look at people from a wider range.

Other firms also pointed to a range of benefits of a diverse intake, including business benefits in working with ethnic minority businesses, and the dynamics of the working environment itself.

Discussion of findings

This paper draws on research intended to explain inequalities in access to training contracts in law firms by exploring firms' approaches to recruitment. Few contributors to the debate on issues of equality in the legal profession argue that direct discrimination is responsible for the levels of disadvantage and differentiation in access to jobs and training posts and the focus of discussion has shifted from exclusion and discrimination towards differentiation and subordination (see Boon *et al.*, 2001; Sanderson & Sommerlad, 2000). However, this does not mean that the 'blame' can be shifted from firms to individuals or to schools and universities. The practices of the larger firms, while not intended to exclude ethnic minorities or applicants from lower social class groups, are effective in doing so. As Sanderson and Sommerlad (2000) argue in relation to the entry and progression of women, it is "subtle and institutionalised constraints" rather than voluntary choice or acts of discrimination which result in differentiation and disadvantage. These include "exclusionary norms and practices" (2000, p. 165).

Among these exclusionary practices is the preference for old universities and particularly the elite universities, favoured by the larger firms. Previous research, from the perspective of students and trainees, found evidence of bias towards graduates from Oxbridge and older UK universities, and greater prospects in gaining a training contract among applicants with higher 'A' level grades and degree classification, and among those with a relative or close contact in the profession (see Shiner, 1997, 1999). The current research sought explanations for these, and other inequalities. Interviews with law firms confirmed that they look principally for the following qualities and attributes among applicants for training places:

- high 'A' level grades;
- attendance at an old university;
- strong academic performance;
- work experience in a law firm.

Although they also look for other qualities, such as evidence of team working ability and 'personality', these four criteria are often used in the initial sift so that applicants without these may not reach the first shortlist and interview stage.

The recruitment practices of law firms disadvantage young people from ethnic minorities and lower social class groups in a number of ways and at a number of stages. Young people from ethnic minorities and lower social class groups achieve lower scores at 'A' level because they attend less well resourced schools with lower standards of teaching (see Metcalf, 1997). As a result, they are less likely to gain places at old universities where entrance requirements are higher, and more likely to attend new universities. Young people from these groups are also less likely to have personal contacts in the legal profession, although the proportion of solicitors from ethnic minorities has risen in recent years. Some firms allocate at least some

of their work experience places to contacts of staff. This may explain why young people from ethnic minorities and lower social class groups have difficulties finding work experience placements. Young people with contacts in the profession may also benefit through having greater access to information about routes into law, criteria used by firms to select trainees, and more generally in confidence in their approach to their applications. In view of the role and influence of parents in young people's career choices and in providing practical help (see Witherspoon, 1995; Connor *et al.*, 1999; MORI, 2002), these benefits are likely to be particularly strong for children of practising lawyers because of the access this gives them to work experience.

The Connexions Service and schools' careers teachers have an important role in assisting young people with an interest in law, through provision of information and guidance. This could provide some compensation for inequalities in access to information through contacts within the profession. However, there is evidence that young people attending independent and selective schools have better access to information about law through contact with representatives of the profession itself. Some participating firms said they prefer to work with such schools because they have historically been a source of recruits, some years later. In some cases, links may be forged between schools and firms through parents. Comprehensive schools may experience more difficulty finding such connections and their pupils may therefore lose out on careers information 'from the horse's mouth'.

Inequalities in access to information about careers in law do not end once students arrive at university, but are compounded by the greater involvement between firms and their favoured universities sustained by the firms themselves. The larger firms are especially active in making contact with the universities from which they prefer to recruit. Therefore, Oxford and Cambridge and other old universities with strong reputations for law, reflected in high rankings in the Times university league tables, enjoy regular visits from the largest, and most prestigious, law firms who in addition to providing sponsorship, study books and hosting drinks parties, dispense detailed information on how to apply for a training contract through presentations and workshops. Missing out on free sports kit and drinks may not be such a hardship, but students at new universities lose out on valuable information and advice on applying for contracts, and the opportunity to make informal contacts within firms. It is difficult for less prestigious institutions, particularly the new universities, to compensate for this advantage.

The system of two-track entry and training to the legal profession is a result of a culmination of inequalities. At each stage of the process, middle class young people attending independent or selective schools and with relatives or contacts within the profession are able to acquire the attributes which law firms value: high 'A' level grades, access to an old university and work experience. In contrast, young people from lower social class groups and ethnic minorities have less access to information and advice, and are less able to acquire the 'objective' attributes, such as high 'A' level grades and access to an old university. Of all sources of disadvantage, this last one, university attended, appears to have the strongest effect, as firms both target certain universities, and disfavour others, and make judgements on applicants' quality and potential on this basis. Therefore, as Bermingham and Hodgson (2001)

argue, it is necessary to improve access among lower social class groups to prestigious universities. Although this would undoubtedly open doors for some applicants, it may not be sufficient while law firms practice early recruitment based on high 'A' level grades. This source of inequality may be even more difficult to resolve, unless firms recruit on students' university performance and predicted degree results.

Some commentators have argued that tradition and prejudice are responsible for firms' preference for Oxbridge and older universities. In their defence firms referred to the intellectual demands of the work and the need for recruits to have a high standard of education. They referred to the lower entry requirements of new universities, which they believed resulted in a less able student intake. Recent studies have drawn attention to the effect of tuition fees on students' choice of university, arguing that highly qualified but financially poor university applicants may choose to study near home at a new university (see Thomas & Rees, 2000; Vignaendra, 2001). However, it is questionable whether firms will change their practices as a consequence, since they already recognise that good students are to be found in new universities, but believe they are in a minority. Moreover, tradition and prejudice play a more important part and these may prove to be more resistant to change.

Some firms were aware that, as a consequence of their preference for certain universities, they recruited fewer trainees from ethnic minorities and lower social class groups but they felt that rather than change their own practices, changes were necessary to the education system to enable more ethnic minority students to realise their potential and to go to 'good', older universities. However, some firms indicated that they would like to have a more diverse intake, for the potential benefits to the business. If they are serious about doing so, they should seek closer links with new universities and place less emphasis on the university attended in selecting applicants for short-listing and interview. Given the importance of vacation schemes in the recruitment process, they should also ensure that students at new universities are fully aware of the procedures for applying for places on such schemes.

Some firms suggest that destinations of students at old and new universities are not a result of firms' preferences, but of trainees themselves, and that changes in firms' practices are unlikely to be effective in increasing diversity within the profession. Reports from law firms suggest that the market for trainees is highly segmented, with higher proportions of men and Oxbridge students applying for places in the largest firms, and more women, ethnic minorities and mature entrants applying for training contracts in small firms. Previous studies, while not denying that firms have their own preferences, suggest that this reflects different interests among applicants for working in particular firms (Kornhauser & Revesz, 1995; Shiner, 1997,1999). The question is whether such patterns reflect real differences in interest or different expectations of success that arise from widespread acknowledgement that large firms favour Oxbridge graduates. It is not possible to answer this without more information on how applicants for training posts decide which type of firm to apply to, and their expectations of success in applying to different types of firm. Research on such issues might also identify gaps in knowledge and possible misconceptions about training as a solicitor, which could inform careers education and guidance for students with an interest in the law.

Acknowledgements

We wish to thank the Law Society which commissioned and funded the study and participating firms.

Notes

- [1] From August 2002 minimum starting salaries were £14,600 for central London and £13,000 for England and Wales.
- [2] The findings of a survey of members of the Association of Graduate Recruiters (see Barber & Perryman, 2001).
- [3] Firms are not permitted to interview undergraduates for training contracts before 1 September immediately prior to the student's third year at university. These restrictions are in place to promote fair competition among firms and to protect students.
- [4] The 'City LPC' has been specifically tailored by the top eight city law firms in the UK which identified a need for a more commercially oriented course. Students who have accepted training contracts at these firms or who wish to do so, must complete this particular LPC which is only available at three institutions.
- [5] Extracted from data on student entry for 1997/8 provided by the Higher Education Statistics Agency (HESA) for a study conducted by NIESR with funding from the Leverhulme Trust.

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