



University
of Exeter

Qualitative Interview Insights Report

Report prepared for the research funded by the Solicitors Regulation Authority on the potential causes of differential outcomes in legal professional assessments

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Introduction

To better understand the phenomenon commonly referred to as the minority ethnic attainment gap in the context of legal professional assessments, the University of Exeter research team undertook an extensive Systematic Literature Review (SLR), [published June 2023](#), of academic research in this field.

The following are some of the findings of, and gaps in, current research, which were revealed in the SLR (Workstream one). This information was used to guide our subsequent empirical research with qualitative methods.

- The challenges of racial and ethnic categorisation were highlighted by the reviewed literature as varied, inconsistent, limited and limiting. We explored these issues in the empirical research. Throughout this annex we do not use the previously ubiquitous term 'BAME' (or Black, Asian and minority ethnic), unless in verbatim quotes, but refer to the more inclusive descriptive of 'minority ethnic' individuals.
- The SLR revealed different terms used to describe the 'attainment gap' in different national and educational contexts. This alerted us to responses to the term in our research. Once it became obvious that the term 'attainment gap' was considered inaccurate and potentially offensive to some of our interviewees, exploration of this also then became part of the research. Throughout this annex we have adopted the term 'differential outcomes'.
- In reviewing varied literature, we concluded that differential outcomes are a multilevel problem (individual, organisational, and societal) with causal factors identified at close and distant proximities. Although the UK academic literature engages with contextual factors, a systemic multilevel approach is not common and so we adopted this multilevel approach in our empirical (or primary) research.
- Much of the literature reviewed in the SLR was very siloed by academic discipline, and very little was available on differential outcomes within legal qualifications. Therefore, our team of academics, comprised of scholars from law, management, organisation studies and psychology, all worked together on both the quantitative and qualitative research to gain a more holistic perspective.
- Much of the current literature takes a cross-sectional approach – meaning taking data at one time point. Therefore, our empirical research takes a 'life cycle' approach, across timeframes and experiences, from early education through university and potentially the start of individuals' legal careers.
- Surprisingly, much prior literature analysed in the SLR on professional assessments has not looked to the professional and employment context for

potential causes. Therefore, we explored if career expectations and perceptions of the profession impact outcomes in assessments.

- A notable gap in much prior literature is the voices of those individuals being researched. Therefore, the qualitative empirical work conducted (and described in detail in this report) gives priority to exploring and explaining the individual lived experiences of minority ethnic candidates of professional legal assessments. We also purposefully oversampled individuals involved in legal education who are themselves from a minority ethnic background. This means there are intentionally more minority ethnic individuals in our sample than one would expect in the general population, because we want to access their particular knowledge and experience.
- Social Cognitive Career Theory (SCCT), highlighted in the SLR, is a promising explanatory framework. It considers how specific social interactions and individual cognitive processes interact to influence career choices and education outcomes. Whilst quantitative (survey) data is usually used to test SCCT, we were conscious of its potential relevance in our qualitative (interview) research. This included a focus on the social interaction experiences within legal education as well as the social identity experiences of how minority ethnic candidates perceive themselves as being potential members of the legal profession.

The aim of the empirical Workstream two (where we conduct new qualitative and quantitative research using interviews and surveys) is to better understand the underlying causal factors and mechanisms leading to differential outcomes between majority and minority ethnic individuals taking legal qualifications, and thus to enable improvements. The combination of the exploratory approach of qualitative methods and the confirmatory approach of quantitative methods allowed us to gather knowledge and understanding around the different outcomes by ethnicity with both generalisability and depth.

Aims of qualitative interviews

The research question for the qualitative interviews was: What are the individual and social processes influencing the lived experiences of minority ethnic candidates through their legal education?

In order to address the research gaps and challenges identified above, the qualitative empirical work has three aims:

1. **Minority voices:** To incorporate the voices of minority ethnic individuals, as most prior studies of legal professional assessments in England and Wales have not done so.
2. **Multi-level and life-cycle approaches:** To provide more understanding of how different factors potentially contribute to differential outcomes in

legal education, by using a multilevel and life-cycle approach. By doing this, we also aim to identify where interventions can make the most impact.

3. **The role of the profession:** To consider any links between the actions and perceptions of the legal profession and minority ethnic candidates' performance in legal professional assessments. Knowledge of the context of legal professional assessments is currently lacking in literature, and the potential role of the profession itself within these issues has largely been overlooked.

What we did

To achieve these three aims, we conducted 59 semi-structured qualitative interviews with three stakeholder groups:

- Eighteen interviews were conducted with 'Candidates' who have recently taken, are preparing or are planning to pursue postgraduate professional courses to qualify as solicitors. The majority of Candidates were either at Trainee Solicitor (six) or Associate (eight) level. In addition, there was one law undergraduate (LLB) student and one student doing a masters in law (LLM) who planned to take the Legal Practice Course (LPC) or the Solicitors Qualifying Examination (SQE), one LPC Candidate and one with a training contract who was currently preparing for the SQE.
- Twenty interviews were conducted with individuals closely involved in legal education, at undergraduate and postgraduate level, including preparatory courses for future solicitors (henceforth referred to as 'Educators').
- Twenty-one interviews were conducted with individuals holding senior positions within law firms or working in close partnership with them (henceforth referred to as 'Seniors').

In this study, 34 of 59 (58 percent) interviewees self-ascribed as being of minority ethnicity. Specifically, all of our Candidate interviewees self-ascribed as minority ethnic. This addresses prior omissions, allowing for in-depth representation of the lived experiences of those facing these issues and their consequences. This means the sample is intentionally not representative of the population as a whole. It should be noted that the two other interview groups included both minority and majority ethnic groups, as did the Candidate survey data in the quantitative research. For further detail on the different interviewee groups, please see Appendix 1.

The interview schedule for each group varied slightly. They all focused on multiple factors (internal and external to the individual) contributing to Candidates' potential performance at various stages of legal education, and how these may be impacted by the actions of various people and contexts surrounding them. Each group was asked

about the role of the other groups in the potential causes of and solutions to the problem. The one-on-one interviews were semi-structured, allowing both parties the flexibility to focus more on some areas than others depending on what was prevalent in the interview.

The 59 interviews produced over 1,000 pages of professional transcriptions which averaged 9,390 words and 17 pages per interview. Each transcript has been read multiple times by the various researchers and coded both descriptively and thematically to address our research question.

Findings

In reporting our findings below, it is important to remember that we are recounting what the interviewees said. These are not the opinions of the research team or the SRA.

Our findings are divided into three main sections.

In the first we briefly consider findings regarding awareness of, and terminology and data used to define, the issue of differential outcomes.

In the second section we extensively cover our interviewees' perceptions of potential causes of the issue, which we organise into:

- background context or pre-university challenges
- causal factors during higher, postgraduate, and professional education
- organisational causes.

We close the second section with descriptions of the consequences of these causal influences and how these might impact on educational outcomes.

The third section of our findings looks at the various initiatives described by our interviewees to address the challenges pre-university, during higher and professional education, and at the transition into organisational life.

Awareness, terminology and data

We found differing levels of awareness amongst our interviewee groups. One of the first questions to answer is whether and to what extent Candidates are aware of the issue of differential qualification outcomes. This is important as the SLR revealed that it may influence their behavioural response, for example in terms of motivation.

Awareness

There were differences in the level of awareness of differential outcomes between the groups we interviewed. Several Candidates were unaware of the issue of differential outcomes at undergraduate level in legal education. One Educator noted undergraduate

students' lack of awareness and the students' surprise at its existence, in focus groups they ran. Another Educator noted that this lack of awareness can be problematic as students:

“don't understand that they are struggling in ways that other people aren't.” (Educator).

However, Educators from other institutions found students were aware of differential outcomes due to the publication of statistics and conversations within their own universities, as well as the involvement of Student Unions.

However, our interviews with Candidates showed that there was a clear awareness of differences by ethnicity in terms of entry into the legal profession and a lack of career progression to senior roles for minority ethnic solicitors:

“So even if I didn't know about the attainment gap, I know that Black people are not as privileged to come into the profession like white people are.” (Candidate – Associate)

“I mean, I know that people especially ethnic minorities, they get to a certain level and then they can't rise, so they just leave the industry.” (Candidate - Trainee Solicitor)

This awareness of educational and professional differences is something that Educators also corroborated with examples from their own students.

A smaller number of Candidates were aware of differential outcomes in legal education; for some, this awareness led to extra steps to ensure they achieved good grades, mostly during their undergraduate law degree (LLB):

“Yeah, I would say I was made aware of it... So, coming into university, I was also aware that I need to constantly put more effort into my academics and look for the best way to position myself.” (Candidate - LLB student)

Indeed, Educators also noted that students who are aware of different outcomes by ethnicity tend to express disappointment that this is the case, but at the same time try to distinguish themselves from the norm. Another Educator mentioned that:

“there's a real sense that the system is a bit stacked against them.” (Educator)

All of our Senior interviewees were aware of differential outcomes in legal professional assessments, and most immediately cited recent public SQE data. In addition, most were also aware of their own firms' historical lack of recruitment of minority ethnic candidates, particularly to training contracts, often based on undergraduate exam results from 1st or 2nd years. Several assumed that differential outcomes also existed at undergraduate level, and all mentioned distinctions between state and independent schools. Similarly, Educators noted that this feeds into the legal profession, but also builds on pre-existing issues at earlier stages of one's education:

“They're all part of the same journey that is leading to the wrong outcomes.” (Educator)

Terminology

When asking all interviewees about differential outcomes by ethnicity, definitional or ethnicity categorisation issues were raised repeatedly both by Seniors and Educators. For example, the term 'BAME', whether as an acronym or the words it stands for, was critiqued as too broad to be useful, resulting in oversimplification of the issue, and the population it encompasses. Others noted that the term is no longer used because of those reasons:

“It covers such a wide range that I don't think it's particularly helpful.” (Senior)

“I think the notion of a BAME attainment gap over-simplifies the issue.” (Educator)

Educators pointed out that some students are aware of and consider problematic the way they are being grouped together. They highlighted the inconsistencies that lead to classifications on the basis of skin colour for some, and on the basis of their country or subcontinent of origin for others. The term Asian was also found too broad to be useful in that regard.

Some Educators and Seniors in our earlier interviews were not comfortable using the commonly used term 'the attainment gap' and so in subsequent interviews we described the term 'attainment gap' and stated it may also be referred to as 'the awarding gap' (a term used by an Educator):

“So I'm going to call it the awarding gap, because, based on what I've seen here, I would say it's offensive to try to frame it in that term, using that term [attainment gap].” (Educator)

The rationale centres on the range of factors that contribute to differential outcomes, and which are not captured by the former term. The term 'awarding gap' (which we also found in the SLR) was proposed by the Educator as better capturing the complexity of the problem and avoiding emphasising individual attainment. Similarly, another Educator cautioned against using the term imposter syndrome because it assumes that the problem lies with the individual, and not their environment.

The choice of different language is also reflected in university programmes that were designed to address differential outcomes. They were described by our interviewees as avoiding using the term 'gap', and instead focusing on academic excellence in their communications with students. A minority ethnic Educator mentioned that they talk about underrepresentation with their white colleagues, but not about differential performance citing that:

“perhaps that would be too uncomfortable for us to talk about.” (Educator).

Data

In addition to issues with terminology, Educators and Seniors consistently raised issues about the use of data. There were multiple calls for data on legal qualifications to be more disaggregated to understand better the nuances affecting minority ethnic students. For example: more detailed breakdown of ethnicity, class, gender, financial

condition, and type of university they attended. Some also called for disaggregated data on those entering with high A-level grades and with the Widening Participation (WP) programme, as well as home (UK) and international students. For example, most interviewees assumed that differential outcomes were largest for Black candidates (with Educators noting this especially for those UK-born), with a few Seniors also noting Pakistani and Bangladeshi candidates, particularly women, in legal qualifications. A few interviewees assumed Chinese and Indian candidates did not experience such problems, but did not necessarily have those data. Other Educators noted data showing that at least at school level, they were aware of students from East and South East Asia (Japanese, Chinese, South Korean, Cambodian, Vietnamese, Singapore) outperforming the median white population. There was also some discussion about some larger, more established minority ethnic communities in particular areas in the UK (one example given was of Pakistani communities in Birmingham) having very different experiences to more recently established, smaller communities (eg Somali in Bristol), in terms of language and resources.

Educators and Seniors called for looking separately at the performance of home and international students to better capture the linguistic and cultural dimensions of differential outcomes. There were also comments that data on minority ethnic individuals who were either privately educated or educated abroad should also be distinguishable, as it was believed these individuals faced very different personal circumstances growing up than did those who were of minority ethnicity and nonselective state-school educated in the UK (for example, those educated privately and often international students have benefitted from plentiful resources in earlier education). This feeds into broader calls for disaggregation, including on the basis of class, gender, financial circumstances, university attended, etc.

Some Educators and three Seniors raised the issue that small sample sizes are often given as a reason for a lack of disaggregated data. Their response was that this should not be an “an excuse to ignore the issue” but that institutions or organisations should seek more qualitative data from interviews or focus groups. Regarding the LPC, it was also suggested that it is important to look at differential outcomes between the different providers.

Challenges and discrepancies around measurement were also raised as means of institutional resistance to acknowledging or addressing issues. One Educator noted their experience at a university where minority ethnic students comprised the majority leading to the institution not engaging with comparisons. Their university cited the white minority being too small a group to meaningfully compare. For them, this was an institutional way to avoid the issue. They also mentioned that another institution tried to dilute the scope of a research project on differential outcomes, making the point that there might be institutional obstacles to researching the issue.

Another Educator noted the importance of taking a more granular look beyond degree classification. They had analysed their own data to explore differences between AAA students (at A-level grades entry classification) and those entered on a WP basis. Although the majority attained a 2:1 degree, there was clear clustering of

AAA students at the top and WP students at the bottom of the 2:1 grade. Drawing on this, they were confident that some correlation would exist between ethnicity, attending nonselective universities and resits or performance in professional legal assessments as well.

Overall, being nuanced about the specifics of the group that is being examined is essential, in order to avoid blanket assumptions about minority ethnic students and their circumstances.

Causes of differential outcomes

Findings from the interviews identified different stages of influencing factors of differential outcomes by ethnicity, some similar to those that emerged from our SLR. These are expanded on below and include:

- i. background context or pre-university challenges, including schooling, leading to a disparity upon entry to university
- ii. causal factors experienced during university and professional legal education experience
- iii. causes at the organisational (ie professional) level.

Feelings of exclusion, and other related emotions, were singled out by our interviewees as the overwhelming outcome of the various influencing factors they raised. The sections below will address these factors in turn.

In addition, the complexity of the potential causes was acknowledged by all interviewees, with almost all Educators and Seniors noting multiple intersectional dimensions of differential outcomes by ethnicity. Most also talked about it being a multilevel issue, with:

“the entire ecosystem that disadvantages them.” (Educator)

Educators also mentioned that it is important for the multilevel and intersectional character of differential outcomes to be acknowledged as such. Some believed that all too often academics can fall back on reasons that are less uncomfortable (eg poor schooling), rather than addressing harder issues. These include factors present in their own institutions, such as privilege or the ‘myth of meritocracy’ (ie that upward social or professional mobility through one’s own merits regardless of one’s social position is widely unachievable in capitalist societies – see page 39 of the SLR). Because of its complexity, and the fact that it tends to run across life cycles, it is difficult for people to pin down exactly how factors influencing differential outcomes are operating. In turn, this makes it hard for people to know how to effectively address the causes.

“I do think we’re all connected up so there’s us [law firms], then you’ve got the law schools, then you’ve got the universities, then you’ve got the schools; Everyone plays a part in it.” (Senior)

i Background contextual challenges leading to disparity upon entry to university

All Educators acknowledged that there was likely to be some degree of disparity between many minority ethnic students and their white peers at entry to university. As already mentioned, the issue is complex and so every student is likely to face a unique intersection of circumstances. These disparities are based on a potential lack of educational, social, cultural, and financial capitals (see page 31 of the SLR for further explanation), possibly combined with the bias of years of low expectations from others, potential experiences of discrimination and feelings of fitting in.

Schooling

When talking about interactions with teachers during the LLB and LPC, Candidates indicated that past experiences with teachers during early education may influence them. Particularly focused on any racial/ethnic element, any negative experiences from Candidates in early education may still be important during university education or beyond (for example, students may be less open to interacting with university tutors if their experience with teachers in early education was negative).

Educators and Seniors highlighted the type of school a child attends (independent vs state, selective vs nonselective) as being likely to impact their performance. An Educator noted that privately educated students are more practised at working under exam pressure:

“Students from independent school backgrounds have been drilled from the age of five: This is how you pass assessments, this is how you deal with them, this is how you plan, these are things you need to work on.” (Educator)

These experiences also go beyond exam preparation, influencing the linguistic ability of students, including punctuation, grammar, essay writing skills, critical analysis, presentations and a broad overall range of educational and cultural experiences and skills, adding to their social and cultural capitals. These are all important for doing well in law. Educators also observed that the entry qualifications that students arrive at university with can make a difference in their integration into higher education. In other words, Educators suggested that, as evidenced in the Office for Students’ (OfS) data, it is a greater leap between school and university for BTEC students, compared to A-level students.

Schooling experience was noted as being important in terms of the cultural and social capital of students, and the confidence they develop. Levels of confidence are particularly high for those coming from independent schools in comparison to students from inner-city comprehensives according to our interviewees. Candidate interviewees also reflected on their lived experience to discuss how, particularly for low socioeconomic status (SES) and/or minority ethnic children, low expectations from teachers can have negative impacts from an early age:

“...I think coming from an ethnic minority, specifically being Black, from a young age, they kind of, not put you in a box, but they assume you’re not to be super

smart or not to behave well or not to engage well with class and things like that. So you have to work two times harder than everyone else, even when you're small, to make yourself known and I'm actually not a naughty kid." (Candidate - Trainee Solicitor)

Related to cultural capital, interviewees suggested that the school attended may influence a student's university choices. According to Educators, some schools lack appropriate career advice services, compounding the information asymmetry for disadvantaged students, especially for those whose family also lacks resources and knowledge. In addition, nonselective state schools may not prepare students for the transition to university. We also heard examples of Educators' experiences of certain schools dissuading minority ethnic students from applying to certain universities, either because they thought they would not be a good fit, or because the school assumed the student would not be supported once admitted "because society is against you" (Educator).

There was an instance of a minority ethnic Educator, whose own child was achieving high grades at school but was dissuaded from applying to high ranked universities, because the school did not think they would get in, and they provided a lacklustre supporting reference to the child. This is an example of bias and the low expectations several Educators mentioned in relation to the primary and secondary schooling experiences, particularly of British-born Black students.

Another Educator also mentioned teachers, especially young women, feeling intimidated by teenage Black boys, despite presenting the same behaviours as white teenage boys, resulting in certain assumptions about them and negatively influencing their education. These low expectations can result in a low self-belief mentality among students, who, according to Educators and Candidates, may end up making poor choices for their higher education and career:

"...I think definitely in high school, the prejudice, prejudice is a strong word, but assumptions are made earlier on. So in year seven, year eight, as a Black student, they don't expect you to be smart at all. And I think that definitely showed in terms of my school in that they, this sounds harsh but it's true, they didn't think I was smart until I took my GCSEs. And I think if I was a different race or class or anything like that, then I guess they wouldn't have made that assumption so early on. There was a big surprise when I got my GCSE results. And it was like 'oh wow, you're actually smart.' Even though I did put in the work and I did do all my work and whatnot... But I was able to break through that, A-levels and obviously making it to a good university. But I've seen through cousins and things like that, they succumb to that early made decision for them. (Candidate - Trainee Solicitor)"

Socioeconomic status and family background

Educators stressed the importance of socioeconomic status (SES) in terms of succeeding in law education and entry to the profession, regardless of ethnicity. Some assumed that a larger proportion of minority ethnic students come from lower socioeconomic backgrounds, whereas others noted that self-funding international

minority ethnic students tended to belong to higher socioeconomic backgrounds. Talking about UK students, another Educator contended that:

“you can’t look at race independent of socioeconomics; it’s essential.” (Educator).

Most Educators and Seniors (discussing legal studies) noted that financial worries and the need for employment would limit the time students can dedicate to their studies, thus impacting performance. The financial circumstances of students can also stop them from entering higher education, with a decrease in applicants from low SES noted by our interviewees. Educators also observed higher numbers from low SES deferring or dropping out due to financial reasons. Educators noted that home (UK) minority ethnic students struggled more with access to laptops and internet access in comparison to international students. An Educator noted the struggles of candidates on WP or diversity scholarships who do not have family wealth to fall back on.

Other relevant aspects of family background include parents’ occupations and networks to the profession. Our interviewees identified family background, particularly in terms of SES, as another contributing factor in all of the above points regarding social and cultural capital, with family literacy potentially also influencing performance. As one Educator noted:

“It’s the layers of disadvantage that come with the backgrounds, and those are accentuated if you are first-generation [English] literate.” (Educator)

As mentioned already, our interviewees linked SES to upbringing and cultural capital. Some also noted that cultural capital is linked to the notion of ‘first-generation literate’ (referring to whether parents are fluent in English language), with parents who may not be able to navigate the educational system for their child or support them in their studies, university choices and applications. Overall, quite a few Educators mentioned that it is the parents’ level of education and type of employment that influence the cultural capital of a student.

Students with parents who went to university are also considered, by Educators, better prepared to get a First-class degree, and to navigate their education journey in general.

Family aspirations are also an influential factor:

“Different backgrounds have different cultures around education.” (Educator).

Examples were given of Indian and Pakistani students whose families value either the medical or the legal profession, supporting and sometimes even exerting pressure on them to follow that route. Educators sometimes associated family pressure to study law with coping difficulties for students. This might be, as another Educator noted, because, despite the encouragement and/or pressure, these parents may not know how to support their children during their studies. All the Senior interviewees discussed challenges of the impact of historic SES in terms of a lack of professional role models within one’s family/community, negatively impacting social, human, and cultural capital:

“A lack of parental knowledge and encouragement and instruction on what’s out there in the world of work, what’s available, what you have to do to get there.”
(Senior)

Our interviews revealed that significant importance has traditionally been placed by legal firms on work experience which can provide opportunities to be exposed to how lawyers think and talk, as well as “soft skills”, including deeply engrained issues of “how you speak”. This may further exclude those students who did not grow up in professional households and have not had these experiences before attending university, perpetuating disparities.

Intersectionality

It is important to note that, according to our interviewees, candidates may face unique intersections of challenges that feed into later stages of one’s education and beginning of professional life. Ethnicity, race, gender, SES, religion, class, whether English is their first language, whether they are first generation migrants or not, were all deemed pertinent.

During our interviews, having caring responsibilities or financial needs that push students to work was frequently raised as having a negative impact on their educational engagement which, coupled with a lack of support at home and relationships with peers, results in students struggling academically.

Several Seniors singled out added bias against, and unrecognised burdens of, Muslim women based on particularly gendered role assumptions. In addition, our interviewees thought that the intersections of candidates’ characteristics and experiences, alongside perceptions of the legal profession, can influence the choice of practice area. One Educator noted for example that Muslim women tend to end up in high street firms practising family law. It was very rare, if at all, for them to encounter one who wished to, or was, working for one of the top prestigious multinational law firms in London. This was given as an example of how the intersection of religion and gender impacts choices, options and trajectories.

ii. Causal factors from university and professional legal education

During the interviews, it became obvious that all Educators, irrespective of whether they taught on undergraduate or professional courses in law, shared similar experiences and observations. Furthermore, some of them teach on both academic and professional courses. On that basis, this section draws on their insights without distinguishing between academic and professional courses unless necessary or stressed by our interviewees.

A big transition

Educators stressed the importance of the first few months of one’s higher education journey in shaping a student’s experience. Particularly for those from less high-achieving schools, the leap from school to university can be substantial and daunting. According to our interviewees, the structures of the university, including in relation to teaching delivery, do not take into account the experiences of students who do not fit

the white middle-class 'norm', ie those who traditionally attend university. Educators observed how integrating well early on, both socially and academically, helps boost confidence and improve performance. Educators remarked that this integration can take longer for international or minority ethnic students, particularly in circumstances where they make up a small minority of the student population.

Educators also noted how university 'orientation' programmes tend to assume everybody arrives with the same levels of knowledge, experience, and confidence – but as shown in the section above this is often not the case, particularly for students from minority ethnic or nontraditional backgrounds (“traditional candidates” were described in interviews as white, middle-class, often privately educated in the UK). Among those, students with financial pressures may miss out on relevant extracurricular activities or early study help due to paid work. Students are then studying new subjects with complex concepts in law. Those without relevant experiences are more likely to fall behind, impacting their performance.

Educators and Seniors noted that this then impacts their chances of being recruited by large law firms, which tend to choose their trainees based on the first-year grades. They also stressed how the support gained from having a training contract early on, not only boosts students' confidence during the remainder of their degree, but also helps materially during later professional assessments, playing into improving outcomes. The opposite may be experienced for those who do not get recruited at this stage or at all.

Along the same lines, an Educator noted the jump between undergraduate and preparatory courses for professional legal assessments.

“there's actually a big leap from university to the SQE, still. And so it's the practical, it's the practical element that is the biggest leap, for the students.” (Educator)

Drawing on the insights from our interviewees, the leap from university to professional legal qualifications was experienced as more challenging for those without prior connections into the legal profession. The social and cultural capital described above breeds familiarity with the subject, the language, and the practical application of knowledge of the law:

“A lot of the time I think there's a knowledge gap, people just don't know what to expect. And [...] you can't expect someone who has never been in the legal industry, doesn't know how to compete, with someone who has a father that has worked in the City in law firms all their life, knows the entire process from back to front ...I think it's massively unfair.” (Candidate – Trainee solicitor)

Indeed, one Educator wondered about the support LPC and SQE-preparation providers offer to students from nontraditional backgrounds. Reflecting on their own institution, they said that it is unlikely that the support varies depending on the background of the student at professional courses. This was corroborated by several Educators who mentioned that “handholding has gone” at postgraduate level and students are on their own.

Talking about the training contract period, several Seniors understood that even at postgraduate level, individuals arrive with varying experiences, but that often treatment and expectations were uniform.

Massification of higher education leading to institutional constraints

The massification of higher education has been described by Educators as the huge increases in student numbers in certain university subjects, since the numbers cap was removed in 2015. This has occurred alongside the increase of fees and substantially diminishing staff to student ratios. The realities of the higher education sector have led Educators to emphasise the limited financial and academic support that can be offered, especially when trying to remedy disparities that arose prior to entry. Educators cited the lack of intensive teaching (eg one to one teaching and/or tutoring) as detrimental, especially for students who struggle.

Law schools and business schools have become increasingly popular as potential entry routes to professional careers. With numbers uncapped, universities have taken advantage of these schools being cheap to provide (ie no expensive lab costs per student) and have expanded their course numbers hugely, treating them as “cash cows” for the university. In this vein it is not uncommon for law school lectures to have 500 to 600 students. Increasing student numbers were cited by Educators and Seniors to describe the undergraduate course as “a factory”.

While increasing student intake at undergraduate level has diversified the student body, adapting the support needed for the now diverse student body has proved problematic. One Educator explained that the support offered is insufficient to deal with earlier causes of differential outcomes. Offering individualised support is viewed as resource intensive and not something that can be offered to everyone. Indeed, the high student numbers make it hard for staff to recognise the students, let alone know their names, with the effect that:

“these students just drop off the radar without anybody noticing.” (Educator)

In addition, Educators and Seniors believed that nontraditional candidates were less likely to ask for support or help, even when facing more challenging circumstances, or just struggling academically:

“I worry that ethnic minority students have been taught not to speak up in a way that their white counterparts have been if they’re struggling, that they have felt like they can’t speak up. I think many of them have been taught in schools institutionally that – very wrongly, I might add, that they are sometimes seen more as problem students because of biases, especially when they’ve been to schools where it’s predominantly white students, they see white students getting a lot of the attention.” (Senior)

“I see this at undergrad and I can imagine it applies at postgrad as well – students who are maybe first-generation to higher education do not always understand that rules are there but rules can be flexed, and people from middle-class

backgrounds whose families have been through education and have been through professions understand that there are rules, but you can ask for an extension, you can ask if this can be shifted slightly, you can go and speak to somebody and if you've got a good report they'll probably make some accommodations for your scenario, and if you flag things in advance you might get some support." (Educator)

The increased staff workloads associated with the massification of higher education also stifle efforts to use different forms of assessments, which might suit students from different backgrounds. According to our interviewees, staff are forced to rely on well-trodden forms of assessment due to the lack of time to develop new ones, and a lack of more individual consideration. Innovation is discouraged due to increasing workloads. The massification of law in higher education has also chilled the relationship between law schools and the profession, since, given that there are now too many law students for them all to become lawyers, law schools:

"don't necessarily define themselves now as places where they are producing lawyers."
(Educator)

Relatedly, an Educator raised concerns in relation to the increasing number of preparatory courses for legal professional assessments, which the Educator believed can impact the quality of education certain candidates receive:

"there's non regulation really, of the prep courses going on, from what I can see. So there's an opportunity for people to profit from these prep courses ... without any guarantee that they're going to actually successfully get candidates through." (Educator)

Some of the Seniors were also aware that university education today is very different from when they attended. For example, one Senior who described themselves as coming from a working-class nontraditional background believed it was harder today for people with similar backgrounds to succeed:

"Universities are just so big now, what is the student experience? In my day, I had a tutor. There were five of us and they knew me intimately. And that really brought me on. The only place you'd go and get that now would be Oxford or Cambridge." (Senior)

Another Senior articulated how the current education system constrained Educators' ability to help those struggling:

"I do just think it's [education is] like a factory, and it's about timing and it's about how much it costs, and just producing people that conform and tick the box of... It's all a bit the same ... wouldn't it be nice if people had a bit more flex in the system to spot those who have the potential and support them to reach their potential?" (Senior)

An Educator mentioned that universities had only recently recognised differential outcomes on the basis of ethnicity as a cause of concern, due to the increased student numbers (ie that previously the numbers of minority ethnic students were too small

for it to be a recognised problem) and were initially complacent in addressing the problem. Our purposeful sample of Educators recognised:

“that institutionally, there are things that we’re doing that is causing the problem.”
(Educator)

They also stressed that the institutions still need to go beyond a superficial understanding of the issue. Several contrasted the more tailored efforts of certain academics or groups of colleagues, with those of central administration which, due to increasing student numbers, tends to focus on one-size-fits-all solutions to the problem. Educators mentioned how institutions are not prepared to act flexibly on requests from students and that accordingly:

“they end up really just discriminating against these students because they struggle to be adaptable to their needs.” (Educator)

Several Educators related this to the differing approaches of equality versus equity (the former being less sophisticated and based on a belief of treating everyone the same; the latter recognising that by doing so certain groups are discriminated against).

Financial constraints

Financial pressure as well as pressure from home were cited by Educators as possible factors that influence performance in legal professional assessments. They note this is compounded by the additional costs of resitting and/or limited funded opportunities such as training contracts.

Candidates from low SES, who may be from any ethnic background, might also have caring and other family commitments, which prevent them from attending some of their classes.

Educators noted that personal circumstances and financial pressure can affect the engagement of students with their studies, including their participation in extracurricular activities, which can have negative impact on their employability and their overall education experience:

“There’s lots in their lives above and beyond university but which did have an impact on their ability to succeed at university because their attention was kind of spread across so many different things and sometimes the pragmatic approach was you just need to do what you can to get through this year, for example, and you are not going to get the marks that you could achieve academically if none of this other stuff was going on.” (Educator)

Candidates who do not have the financial support end up working while studying, which takes up a lot of their time. According to our interviewees, by not working in a legal environment, they lack the reinforcing support that could help them in their studies. They may also be worried by their debts.

Financial constraints may also prevent students from gaining relevant work

experience beyond their local law firms, whereas the more traditional candidates may be targeting large City firms, considered more relevant if the Candidate is hoping to gain a training contract with such a firm. This can perpetuate inequalities as explained above, as having the paid training contract allows the candidate to focus more on their legal qualification studies rather than having to take paid work alongside:

“they [low-SES minority ethnic candidates] also have the aspiration to go to the big City, the big firms in London. But the drawback of that is that they’re not going to be able to afford to go and do a placement for a week because you have to stay in London to do that; they’re not going to have the money.”
(Educator)

Staff-student interactions and expectations

While Educators noted that undergraduate law tends to be more diverse, in terms of student characteristics, than other disciplines, they also discussed instances of “racialised interactions”. These are interactions influenced by race (see examples elaborated below) between staff and students and among students in the classroom. They also observed that how a module is taught can influence student engagement and therefore influence performance. Educators mentioned how, despite efforts to support diverse learning needs of particular students, if there are negative group interactions in the classroom, this can have a detrimental impact on their effectiveness.

In-class interactions

Educators described how students tend to self-segregate, with one Educator observing that this happens more for international than home students:

“One of the issues is integration of students. And when you go into a classroom, it’s a bit like going back in time, to South Africa. And you’ll get clusters of the Black students working together, the Asian students, white students. It could be on class, the lines could be on the basis of gender as well.” (Educator)

In providers of professional education, it was noted that segregation can happen in seminars, but imposed by the institution. For example, Candidates who have or had training contracts outlined how the classes were separated by those who had training contracts, across different firms, and those who hadn’t. One Candidate who spoke of this was from a larger firm and believed this was intentional on the part of the larger firms for the Candidates to enhance their networks of similar others.

In discussing their own responsibility, Educators gave examples of ‘micro aggressive’ and discriminatory interactions between students, with minority ethnic students being left out and their abilities questioned by their peers during groupwork. Minority students are aware of how their ethnicity might affect interactions with their peers, according to Educators – they have lived with it all their lives – but it can impact class attendance:

“One of them has told me they stopped going to the seminar because there was a

situation where one of the students made what they considered was a racist comment and then their white seminar leader did not intervene, and then when they tried to talk to the seminar leader – and it took a lot for them to do this – they did not feel supported, and then they didn't feel safe, and then they just stopped showing up.” (Educator)

Feeling comfortable with staff is important, because it enables students to get additional feedback and ask questions, something that Educators observed minority ethnic students tend not to take advantage of as frequently as their white peers. However, these “feedback loops” are a two-way responsibility. A Senior gave an example which they had witnessed in an education environment but explained also happened within the professional domain:

“We give feedback to those who are similar to us in a more direct manner because we trust that we think we know how they'll react ... which can very quickly mean that ... a performance gap is a reality, because it's like the upward spiral, right? 'I invest some time in you, I think you're good, I want to work with [Name], she's great, I'm going to tell her direct feedback because I think she looks and sounds like me,' spiral upwards in your performance. On the flip side, 'I work with someone, they don't make a good first impression, because they don't sound and look like me I'm not sure whether I want to give them that feedback, they don't get the feedback; I can choose to not work with you, they plateau.' In 18 months, there's a performance gap.” (Senior).

Many Educators drew on their experience noting that minority ethnic students have difficulties in classroom interactions, particularly due to their lack of confidence. This holds them back from contributing in class, and they feel terrified and intimidated when they are being called on. An Educator mentioned that students fear they would be “othered” if what they say is inappropriate. The lack of confidence can also lead to students doubting themselves. Likewise, the lack of engagement can lead to underperforming in exams.

Several Educators expressed concern about the lack of understanding of diversity issues amongst their university colleagues. One minority ethnic Educator had experienced derogatory behaviours from their colleagues, and as a result were worried about staff interactions with minority ethnic students:

“If my experience with colleagues is indicative in any shape, form or fashion, I can only imagine what office hour conversations are like.” (Educator) – (office hours are dedicated time for teaching staff to be available for students).

Educators spoke of colleagues' either ignorance or laziness in not effectively understanding and dealing with nontraditional students:

“people aren't careful enough, they assume we all homogeneously have the same background, and therefore can interpret the question in the same way. So people may not be sensitive enough to that.” (Educator)

Another Educator brought up the example of certain staff being overly conscious in

their interactions with minority ethnic students. They may not say their name because they are cautious of how it is pronounced. But this leads to them almost ignoring minority ethnic students in class, making it harder for the student to fully engage.

A Candidate complained about LPC tutors being insensitive in the classroom setting to minority ethnic students:

“... I didn't think they were very sensitive. For example, in my tutorial group... there were quite a lot of non-white people in my group. There were four Chinese girls and two Nigerian boys... And our teachers would ... put pictures of the students on the register so that the teacher can spot who it was, but they would always mix up all the Chinese girls with each other. But I was, like, ‘We look so different in person. Some people wear glasses and some people don't wear glasses. I'm taller than most of the other girls... we don't look anything like each other. And you're still constantly mixing us up.’ And then, you know, [name] as well, I don't think his name is that hard to pronounce, to be honest, but we had teachers who just couldn't get it right most of the time. And then after not getting it right a number of times, she's, like, ‘Oh, I'll just call you ‘guy in the cool pink shirt’ or something.’ ...out loud in class, and, like, thinking that was funny, but it wasn't actually funny.” (Candidate - Associate)

In terms of the interaction between staff and students of the same ethnic background, one Educator noted that sometimes minority ethnic staff can be harder on students of the same ethnicity:

“sometimes when you see someone like yourself, you are harder on them actually because you think, well, I did it and I got here, and what's your problem? Because you can do it as well.” (Educator)

However, more commonly, Educators noted the affinity of some students towards staff of the same ethnic background. Many Educators noted that they try to create a safe space for all students in their classroom, while acknowledging and being conscious of, rather than ignoring their ethnicities.

Lowered expectations

A Candidate talked about the limit (or lowered expectations) put on their attainment during their LLB. Specifically, they felt discouraged by a tutor telling them that they were not going to be able to get a first-class degree as that was for select students and that they had to settle for an upper second-class:

“...I really wanted a First and I feel like there wasn't a massive push to help people get to the next grades. So I remember I used to go to everyone and be like, ‘look I really want a First.’ And no one gave me specific advice to how to do that. I remember one tutor said to me, ‘sometimes only specific people will get a First. You just have to accept that you're going to get a 2:1 and you can't get to that level.’ And I was like, ‘first of all that's not true. And that's demotivating because I know I'm going to need help to get to that stage.’” (Candidate - Associate)

Moreover, an Educator talked about a credibility gap, framing it as the assumptions

staff hold that certain students are not good enough and have to prove that they belong in the classroom. Educators pointed out instances of bias from teaching staff, which translates in them having lowered expectations for minority ethnic students.

“There is one, conscious prejudice, in relation to students, not in terms of dislike, but just assumptions as to what students can achieve. And those assumptions are racially formed. So there’s a little bit of that, but there’s a real sense that some tutors have lower expectations, if you like, and those low expectations are manifested in how their students are treated.” (Educator)

Such assumptions were also noted to be related to students’ accents.

For another Educator, this can also lead to stereotyping, with minority ethnic students characterised as “having an attitude”, whereas similar behaviours from their white peers are seen as ambitious and assertive:

“You’ll be in a room and then there will be mention of a student and the fact that she’s got an attitude. But then you’ll mention the fact, well, she doesn’t have an attitude with me. And then when you explore the identity of the student, it tends to be a student of colour. Whereas if it’s a white student, ‘oh they’re really ambitious. They’re assertive.’ Yes. ‘They want to do really well.’” (Educator)

Relatedly, an Educator mentioned instances where minority ethnic students noticed white academics paying more attention to white students, again feeling alienated and not able to ask questions freely. Examples were given where the lack of interactions resulted in disciplinary procedures for matters that could have been resolved informally; and there were also instances of minority ethnic students in such procedures being questioned “more ruthlessly”. In turn, this impacts the messaging to these students:

“that they can’t achieve, they don’t deserve to be there, the sort of imposter syndrome that can affect achievement too.” (Educator).

Educators observed that white tutors can be scared of having conversations about race and that staff from privileged backgrounds have more difficulties in effectively interacting with minority ethnic students, due to the lack of prior interaction during their own education.

Educators also brought up cases where staff avoided considering whether they were also part of the problem:

“I interviewed the tutors who were involved in the reverse mentor project, and when I was saying, ‘Why do you think they are performing less well?’ The answer was always, ‘It’s to do with their upbringing, they’ve been to less good schools etc, etc’ Sure, maybe, but there was never anything about our institution and our way of teaching and what we were doing.” (Educator)

Educators noted that things have improved compared to 20 or 30 years ago, but a bias still exists among many staff.

Personal tutoring and accessing support

Building strong relationships with personal tutors (who in most universities are just normal teaching staff) is key for students, but personal tutor allocation is often random, and does not take into account student characteristics or needs (ie that some students may require more support to flourish than others). Educators pointed out that there is lack of training on how to engage with students from different ethnicities. Again, due to sheer volume, this system makes it challenging for staff to build meaningful connections with students. If students have negative experiences in their interactions with staff, then they may not take advantage of office hours and any support opportunities.

According to our interviewees, having a good personal tutor relationship may also influence mitigating circumstances and access to reasonable adjustments for exams. If such a relationship is lacking, then students may not be sufficiently supported to perform well in assessments. For example, a tutor might not pick up extenuating circumstances. In addition, the way extenuating circumstances' policies are drafted and interpreted by each university might exclude certain students from falling within their remit. For example, they might not be able to plead problems of a more long-term nature, because the policies in place do not cover those. As a result, their performance can end up being disadvantaged.

Educators noted how the higher reporting rates of mental health problems and learning difficulties by white students compared to their minority ethnic peers can end up disadvantaging the latter, as exam boards will only take into account extenuating circumstances for those students who have declared any issues. Several Educators also noted that white middle-class students were more likely to pursue having their special circumstances recognised, understanding the systems and services that exist to support them, much more so than minority ethnic students. This may come from the ability of parents to have paid for assessment privately earlier in their education and/or an understanding of how higher education systems work. According to one Educator, this might also be because minority ethnic students:

“sort of see it as having to go there because they are not doing well enough, because they are failing in some way.” (Educator)

Overall, most Educators expressed concerns about how students from lower entry routes and backgrounds were supported at university, despite the hive of activity and support that most universities now claim is available. Critically, Educators were clear that there is a difference between making support available and creating an environment where those who need it feel confident to access the relevant support. Again, this may be related to whether students have familial experiences of accessing support in education.

“I think some of them, they are very resilient with all the things going on in their lives, but they are less resilient with what they see as failing or not doing as well.” (Educator)

In that regard, an Educator talked about the support gap, and stressed the difficulties

in addressing it:

“... at [University], we’ve started talking about the support gap. There’s a group of people we’re not teaching well enough, we’re not supporting them well enough, to achieve the same results. So you have to take it seriously, and you have to think, ‘What are we doing that is causing this? What else can we be doing? How can we be more sensitive?’ And I think it’s going to be slow. It’s going to be slow, because there’s always resistance from the white men who feel threatened already.” (Educator)

Notwithstanding the above, several Educators highlighted that, while at undergraduate level support is not perfect, tailored support stops at postgraduate and professional programmes, including professional legal education, and this was likely to have some impact on students.

Lack of diversity of academic staff and impact on approaches to teaching

The limited minority ethnic representation in parts of the profession (which is discussed in more detail later in the report) feeds into legal education. This is not least due to the high number of legal professionals, who tend to be white and middle-class, teaching particularly on preparatory professional courses. Overall, academic staff (faculty) lack diversity, and this creates problems in terms of representation:

“there’s that sense of how well do students see themselves reflected in the institution, like who are their lecturers, who are the other students, what are the materials based on?” (Educator)

In relation to preparatory professional courses, Educators stressed students inevitably notice the lack of diversity of the teaching staff at that level, which can negatively impact on their sense of belonging, particularly as they prepare to step into the profession.

While the diversity of students, particularly at undergraduate level, may have increased significantly over the past decade, the diversity of faculty has not. The Candidates were very aware of the lack of staff of similar ethnicities to themselves.

Moreover, the lack of diversity of teaching staff has an impact on the way students are taught according to the Educators we interviewed. Educators pointed out that, particularly in the past, where attention was not paid to differential outcomes, staff perceived education as “meritocratic”, which helped them assume that they treated and assessed everyone the same, even though there may have been biases in place. One Educator called this teaching:

“... colour blind ... pretending that there’s nothing going on there when you’ve got students from very different backgrounds.” (Educator)

This is particularly relevant considering the university staff’s primarily white middle-class background, which can result in unconscious or other forms of bias, according to our interviewees. As an Educator noted:

“they don’t know what they don’t know, right? Because it’s socialised bias, it’s the

water they swim in.” (Educator)

One minority ethnic Educator spoke of the difference they noticed in terms of students’ interactions, which they knew to be based on their ethnicity, as they had asked the students:

“The students, the students of colour speak in class. They come up to me after and ask questions, ask to meet me in office hours. Yeah, it absolutely makes a difference [having a minority ethnic lecturer]. It makes a difference visually, but also in terms of, you know, ‘Can I ask you a question?’” (Educator)

Even at institutions that are more diverse, there is what one Educator called “the ice cream cone effect”, meaning the higher up in the hierarchy, the whiter it is. According to them, the fact that there is little to no diversity amongst the decisionmakers can be problematic for decision-making on matters that affect a diverse student population. Not only that, but the diverse staff base, who are not part of any strategic decision-making, feels silenced and not supported in their efforts to instigate change. This impression was shared by another Educator:

“It’s appalling in terms of ethnicity, in terms of representation in those senior roles.” (Educator)

Curriculum

“We are studying something that’s been designed by predominately white people to serve predominantly white people over hundreds of years and so there’s that element that feels a bit exclusive just in terms of its structures and knowledge base.” (Educator)

Most Educators were aware that having often been marginalised by the law, minority ethnic individuals’ understanding and lived experience of the law and its enforcement may act as a barrier to studying and working effectively in law. Educators observed something similar for white students with low SES. They also noted that international students might feel alienated on the basis of the examples used, which at times are only familiar to those coming from or living many years in the UK. The contradictions between what students are taught and what they may experience may pose additional challenges to students endeavouring to “fit in with the law”:

“This is a huge undertaking and you will have so much resistance because whatever you tell them in class, they step out into their way of life and they see different things.” (Educator)

There has been much discussion about decolonising the curriculum across institutions, which refers to activities that address imbalances in course content that are dominated by white, Western authors, assuming their positive contributions. Content can instead be adapted to acknowledge ideas from a broader range of writers of all nationalities, ethnicities, and cultures. However, one Educator noted that the autonomy in curriculum-setting meant that there would be discrepancies between institutions and even modules. Another Educator mentioned that when they started teaching, after being in legal practice, they were appalled to come across scenarios

that consistently included Black or Asian individuals most frequently as the criminals, including in the LPC textbook. Educators noted that students from minority ethnic backgrounds were aware that the curriculum in law is white centric, and some talked about consciously broadening the diversity of characters used in cases across multiple characteristics, not just ethnicity, in both undergraduate and professional levels.

Although not necessarily institutionally imposed, one Educator noted the prevailing view that law teaching has to be done in a certain way (focusing on studying legal texts, eg case law, statutes and other legal resources, that are more geared towards the final assessments) in order to prepare students for professional assessments. They noted how student performance improves in elective modules, and cautioned against seeing the SQE as mandating a particular way of teaching and designing modules. They acknowledged that this is not mandated by the regulators or professional bodies, but that this is a prevailing view among universities.

The pedagogical (methods and practices of teaching) constraints are often viewed as institutional and with little room to deviate for those teaching on professional courses, such as the LPC or SQE-preparation. One Educator noted in particular how prescribed the assessment methods and order are, preventing them from innovating or trying different approaches that could potentially help improve performance for less advantaged groups.

Assessment

Educators noted the disparity among students regarding their familiarisation with university marking criteria, which was a problem especially for first-generation university students. This is important, as understanding the marking criteria and how they apply in an assessment can improve performance.

Relatability of assessment questions was also raised as important for diverse student bodies. The expectations of assessments are such that sometimes for minority ethnic students to succeed, they have to replicate views they do not agree with. They even need to write in a certain way, which again might disadvantage certain groups (eg one Educator gave the example of Caribbean students with different writing styles, which read differently to those educated in the UK). Referring to both LLB and professional courses, Educators noted that the way law is assessed discourages independent thinking. Such expectations are particularly present among white, middle-class academics and assessors, according to our interviewees. This can then lead to unconscious bias in marking, despite the scripts being anonymised.

Educators mentioned that essay-based assessments at university, which are popular in law, tend to create advantages for students from good schools and high SES, who are well-versed in this type of assessment. They write more consistently in line with the marking criteria and expectations. One Educator suggested that problem-based assessments were a better fit for UK-born minority ethnic students from nonselective state schools compared to essay questions.

Certain Educators were also concerned about oral assessments, given that students from deprived areas are more likely to go to schools that do not offer mootings or

debating activities widely.

Several Educators said that disparities in outcomes on their courses reduced during the Covid years, when open-book online assessments became the norm (however, as these were qualitative interviews, we did not see any data relating to this). Educators believed that timed conditions, closed-book and in-person exams might disadvantage certain students who have not been so well-prepared to deal with the pressure of these types of exam throughout their whole education. They also felt such assessments had less validity. In other words, they were viewed by Educators as unrelated to how good a lawyer someone could become. They found them not representative of the different roles someone can assume in the legal profession. Relatedly, narrow approaches to assessment that focused on one or two methods were also subject to criticism, because they tend to dis/advantage particular groups. In other words, a diversity of assessment types is more likely to give a fuller, more accurate assessment of someone's capability.

Educators were concerned about the suitability of multiple-choice questions (MCQs) as an assessment method, believing it not to be an authentic assessment but a "memory test". They questioned how this related to someone's potential as a solicitor and referred again to exam coaching that privately educated or tutored candidates may have experienced.

However, some Educators could understand the rationale behind the introduction of MCQs, in that it addressed cultural capital issues associated with essay-writing. In addition, anecdotally, MCQs have become more popular in LLB courses as they are an easy way to say that the course incorporates SQE elements. At the same time concerns were expressed as to whether MCQs were best suited to reflect tasks drawn from professional practice. Unless they want to become litigators, one Educator noted, it is unlikely that future solicitors would be asked to make snap decisions, questioning the validity of the assessment:

"they are not going to be answering multiple choice questions ever in their lives."
(Educator)

Another noted along the same lines:

"We are asking them to sit assessments that do not authentically represent the skills that the job requires." (Educator)

Although Educators acknowledged that the MCQ format is unlikely to only disadvantage minority ethnic candidates, it was still considered flawed from a pedagogical perspective. Because of that, it may disadvantage candidates from underprivileged backgrounds, and, by association, minority ethnic candidates who share such characteristics, who may have more limited time and resources.

Although MCQs are designed to avoid bias in the marking, Educators were concerned that unconscious bias can still exist when writing the questions. Some Educators also cautioned that the questions also made it hard for candidates to imagine the actual context, for those who lacked professional experience at the SQE1 stage.

Considerable concern was expressed by several Educators and Seniors about the perception of lower pass rates in the first sittings of the SQE in comparison to the previous LPC assessment. This is perceived to be impacting more candidates from diverse backgrounds. Several Educators believed that a more pressured exam seemed to suit a particular type of student (ie white and from privileged backgrounds), who is well-versed in assessments under pressure. Given that such students' marks tend to cluster at the higher grades and less privileged students' grades tend to cluster at the lower grades, with a lower pass rate, this will result in a less diverse pool of successful candidates.

Answering MCQs in legal exams was considered a particular skill that requires tailored coaching and support. As question banks become more developed, Educators hoped that people would get more confident in answering MCQs. In sum, although the Educators could see how a focus on MCQs (although used in other legal qualifications) can alleviate conscious bias, there was a belief that the one-size-fits-all approach will unavoidably disadvantage already disadvantaged candidates, for reasons articulated above.

In relation to legal professional assessments more broadly, one Educator noted how sometimes students from all backgrounds underappreciate how difficult legal professional assessments can be:

“students massively underestimate the amount of time and effort it takes to pass the Barrister Training Course (BTC) or the LPC or the SQE. I think it’s a big, big jump from undergraduate teaching and I think this is where they really find it hard, and I think they need to be prepared for this.” (Educator)

Educators also highlighted that the introduction of the SQE was unlikely to change the financial pressure on disadvantaged students in relation to the costs associated with preparing for legal professional assessments. Quite a few noted the very high fees associated with such preparation courses, but that attending a good provider, and presumably paying more for this, was important in order to improve the chances of passing legal professional assessments. However, there is no evidence currently for this as student outcomes by provider have not yet been published at the time of writing.

iii. Organisational

Relating to the difficulties in identifying single causes of differential outcomes, several of the Senior interviewees referred to firms being “at the end of the line”. In other words, after 15 plus years of school, university, and legal qualifications, it might be difficult to identify an obvious and direct impact of the profession on differential outcomes in legal professional assessments. However, given our purposeful sampling (ie that the Seniors all had knowledge or experience of, or responsibility for either diversity and inclusion (DNI) and/or trainees), our interviewees believed that part of the problem lay within the profession itself (eg see sections on the potential impact of a lack of representation or the recruitment into training contracts that fund preparatory courses for legal professional assessments discussed below). And all

acknowledged that everyone at each stage has a responsibility to positively act to counter the differential outcomes experienced by minority ethnic groups:

“I get a little bit upset when people say, ‘That’s too big for me to solve.’ But we choose collectively how we select lawyers, that’s like suggesting none of us have accountability for our individual and collective actions. I don’t really agree with that statement, even on a micro level. I think if we suggest that we don’t have any part to play in it, then it’s a cop out. It’s also just a collection of lawyers that design it ... Obviously there are loads of other factors at play but we have to own our own issues so unless I can say I’ve done absolutely everything possible to ensure that this person can thrive at work, I can’t blame the structural or systemic or other factors that aren’t within my gift.” (Senior)

Perceptions of inaccessibility

Many of the Seniors discussed the “perception of elitism” and “the legal profession being inaccessible” to particular minority ethnic groups. This was especially assumed to be the case for individuals from lower socioeconomic backgrounds.

These perceptions of inaccessibility can also rise from the initial contact or prior experience a minority ethnic candidate had with a firm. An example was given by a minority ethnic Candidate who had undertaken some legal placements to better their career prospects.

Based on their experience, they became aware of discrepancies between different firms about how serious (or not) they are in their efforts to diversify their staff base. Some Educators viewed the profession as dictating who they want, which perpetuates a vicious cycle, despite efforts at the education level to diversify the field. This further bolsters the view of the profession as inaccessible for certain students.

Lack of representation

Lack of representation as an organisational issue starts early. For example, the lack of representation at career events was noted by Educators as an area that can dissuade people from choosing to practise law. Relatedly, another Educator talked about how social media exacerbate this feeling for minority ethnic students, with a lot of white middle-class students dominating such platforms to share their successes in getting a training contract:

“if people don’t see people in positions that look like them, they will not think it’s accessible.” (Educator)

Seniors acknowledged that the historical lack of representation and elite white cultural norms that have been slow to change are problematic for the early careers of minority ethnic individuals joining their firms. They also understand that awareness of this is likely to negatively impact individuals’ desire to apply, resilience during study and tenacity to pursue legal careers. This is demonstrated in the following quote by a Candidate:

“... the fact there's not many Black people in the firms. That would scare me, like ‘Oh gosh, there's no one on the website.’ Why are they going to give me a training contract? I'm not sure if this is somewhere I want to be.” (Candidate – about to commence a training contract)

Relatedly, an Educator recalled the example of a Black trainee at a big law firm who was:

“absolutely fed up because he is literally trotted out on every sort of marketing leaflet.” (Educator)

Lack of representation in the profession also affects the sense of belonging of students, leading them to question their abilities, and can impact their performance in their studies. A Senior reflected on their interactions with students:

“I know from talking to many of especially our Black trainees that some of them feel that they have only been hired as a sort of diversity hire, which is easy for me to sit here and say it's ridiculous because I know that's not the case, but when they are told time and time just offhanded microaggressions by family members, by peers, by friends from school that ‘Oh, maybe you're a diversity hire,’ that then they feel that they can't speak up and make it sound like they don't deserve to be there. And like I say, it's easy for me to say, ‘That's nonsense,’ but of course I'm not living that and it's what they are experiencing.” (Senior)

Underrepresentation of multiple ethnicities at senior levels means a lack of role models and several Seniors cited the trope “you need to see it to be it”. An Educator noted that even if there is a minority ethnic individual at senior level, their social and financial background may be a barrier for representation purposes.

Some firms with good data analytics were aware that the attrition rates of their Black junior lawyers are also significantly higher than those of white lawyers and described a shift in thinking from individualised causes to issues within their firm. They were also aware that this contributes negatively to the perceptions of the firm and profession. Other firms did not have the data and acknowledged their focus was really only on recruitment. This focus on entry numbers is an understandable starting place. However, the extent to which Seniors were able to speak about what the firm was doing to ensure retention and progression to change the face of the profession varied.

Explanations for lower retention focused on culture, a lower sense of belonging, and microaggressions. For example, an account was given of a team celebrating a piece of work which included giving team members bottles of alcohol. When a Muslim member pointed out he did not drink alcohol, his bottle was replaced with a box of liqueur chocolates. Another example was given of a team skiing weekend (ie assuming everyone knew how to ski and had the relevant attire).

This lack of cultural awareness was also demonstrated in the informal parts of the selection process. For example, a Muslim student undertaking an internship during Ramadan could not partake in any of the lunches and drinks, which are a big part of internships. These longstanding historical cultural norms are still frequently witnessed and experienced. Despite firms' discourses about increased diversity, minority ethnic

and other nontraditional individuals continue to feel like “misfits” and “othered”. Such embedded cultures are hard to change without substantial shifts in demographic representation:

“Because candidly, when you look at the longevity of the industry, the focus on this has started in a meaningful way in a relatively short period of time. And so, I totally understand the cynicism and the scepticism some people bring to this. I get it. And I think it's valid and I think it's important that we continue to address that scepticism.” (Senior)

Training contracts

Training contracts that covered the fees of and/or provided financial support during the LPC were important for most Candidates, as they substantially cut the cost of their LPC. Acknowledging that not all firms that offer such contracts pay for all fees, our Candidate interviewees referred to both the financial support and the perceived kickstart a training contract can give to their career trajectory. They felt that having a training contract lined up before the LPC gave them apparent career security and a clearer pathway into the legal profession:

“I don't think I would have done the LPC if I didn't have a training contract because it's too expensive.” (Candidate - Associate)

Securing a training contract was coupled with the practice of applying early while studying for their undergraduate degree. This was often a surprise and an additional challenge for those minority ethnic Candidates already struggling to adapt. Seniors also noted the relevance of having a training contract early on for remedying differential outcomes through the means of informal pastoral care and support networks:

“I keep coming back to the role that the profession performs in making available the training contract opportunities. That one there [training contract opportunities] is probably a more direct link with the academic attainment gap [...] it does create a support network for anybody who might be struggling on the academic course, as well. You are a group of the [name of law firm] students studying the legal practice course at [LPC provider], as was the case previously, and so there is a reporting back from the university to the firm if there's anybody who is struggling. We can put in place interventions to be able to support that student, but even if it isn't flagged by the provider themselves, then there is a group that they can be speaking with, that they know they're going to be future trainees with, and they can provide a degree of support.” (Senior)

From the Seniors there was almost unanimous acknowledgement that Candidates without a training contract in place before they started the LPC and/or one that does not cover (parts of) the cost of the LPC have a decreased chance to succeed in legal qualifications, due to financial pressures, lack of study time and a lack of pre-created support groups/networks:

“I think the impact of economic insecurity is massively underestimated.” (Senior)

Several Seniors requested that data on differential outcomes on the basis of ethnicity in legal professional assessments are intersected with having/not having a training contract before starting the LPC, as well as having/not having one that funds the LPC.

Educators, drawing on their experiences, expected those with family members already in the profession to be more likely to get a training contract. They mentioned that the whole recruitment process feels more feasible for such candidates. Whereas candidates from nontraditional backgrounds, who lack insider information and struggle to secure a training contract quickly as a result, get consumed and distracted by a protracted application process, which takes considerable time away from their studies, impacting their academic performance.

Educators highlighted the training contract process as “absolutely terrible for diversity”, due to the recruitment process being “riddled with biases”. Others had heard of a number of minority ethnic LPC candidates being employed by firms for a number of years, who were not offered training contracts. Instead, the firms continued employing them under a different capacity, opting to offer training contracts to less qualified candidates. Even for those minority ethnic candidates securing a training contract, Educators noticed anxiety about being employed afterwards, suggesting that simply having a training contract does not solve all the other potential issues. Although the SQE has allowed for wider work experiences to count as qualifying work experience, the interviewees’ insights remain relevant as some of the big law firms have adopted a similar format to that of the training contract under the LPC in order to incorporate the SQE training.

Hiring practices

Educators lamented the selective recruitment by most major firms, often feeling restricted in terms of how much they could actually help their students, even though firms say that they recruit from a diverse list of institutions. Relatedly, one Educator mentioned law firms sending very new and inexperienced staff to career fairs of universities perceived as less prestigious, taking this as an illustration of a lack of serious intention. Some questioned the profession’s motivation to make the process more inclusive and diversify their recruits, citing their purely financial focus, not based on values and inclusivity. One Educator’s perception of law firms’ approach or thinking is:

“Why do I need to go to the other universities, why do I need to make sure my interview practices are completely equal and fair, because I don’t really need to because I’m still getting decent lawyers at the end of it that are going to churn out a lot of moneymaking work.” (Educator)

It should be noted, this was not at all what came through from the interviews with the Seniors, albeit that they were a sample purposefully selected for their involvement with DNI issues. There was, however, clear recognition from the Seniors of previous hiring practices perpetuating a homogenous white, middle-class workforce, and

discussions regarding significant work to address this.

Most Seniors acknowledged that recruitment processes are biased towards pre-existing performance. This was explained as the focus on what was being assessed, how, and even when it was assessed skewing the chances of success for different groups. For example, one of the Seniors discussed how the fact that firms recruit at second or even first year undergraduate level (as opposed to waiting until degree completion) was likely to exacerbate greater success rates for those from middle-class, privately educated backgrounds. This was explained by a Senior with experience in higher education as well as the profession. He described how students accepted onto Russell Group law courses with contextual admissions (reduced offers for certain students from underrepresented groups), even with support programmes in place, are not likely to show their full potential by the time of their first-year exams, after many years of less achievement-focused education:

“When the sector looks at them in their second year, they’re still on an upward trajectory.

So ... if you looked at them in the third year, you’d be looking at somebody whose attainment level is quite different from the level that they would in the second year, when they will compare adversely with people who’ve come through more traditional routes. And I don’t think that’s widely known.” (Senior)

Educators also concurred with these views. It is important to note, however, that this may contradict more generic university data from the Higher Education Statistics Agency (HESA), which may not show such upward trajectories. But HESA data are from all universities and all courses, as opposed to high grade entry courses at top universities.

Seniors and Educators both discussed the problems of the firms hiring for “polish”, rather than potential:

“I think that’s one of the things we’ve been looking at ourselves is the way in which we assess people and evaluate them in terms of their social skills, in terms of their reasoning, in terms of all those other things. Is that prejudicing against people who haven’t, it’s the point about elitist, they haven’t been exposed to social events where they have to present and do all those sorts of things.” (Senior)

Educators also noted how the lack of support from the university can impact on the employability of minority ethnic students. For example, an Educator noted that a high performing – academically and professionally – student struggled to get a job. This was because their application required a lot of adjustments to do with language and structure, but of style not substance.

All of the Seniors acknowledged that historically their firms had restricted the hiring pools to the top Russell Group universities. They noted that not only did this limit access to minority ethnic students but worked against students applying from other universities, who may not have the same resources:

“You are coached within an inch of your life at the [University name] and the likes

of an [University name] and [University name] from a careers service point of view, they invest a lot of time and energy.” (Senior)

“Are you prepped to pass those assessments? So do you even know what a Watson Glaser test is? Have you done loads of those things?” (Senior)

In addition, there was acknowledgement of questioning capabilities stemming from stereotyping and/or bias. For example:

“So if you’ve got someone from say South London with a strong accent that doesn’t sound like the ‘typical law student’ or solicitor, then there is sometimes a stereotype and I think they are then judged as not being as bright.” (Senior)

A few data-driven Seniors were looking into whether questions in their assessment procedures were biased. For example, one firm noted how a question on civil liberties, which was about cycling:

“... had a big scoring gap by ethnicity... And also by gender as well. As cycling is a white, middle-class man pursuit, even though you didn’t need to know anything about cycling whatsoever, was there just a general lack of engagement because of the association of the topic...” (Senior)

Interestingly, they also noted they had questions causing differential outcomes against white candidates as well:

“Conversely, we’ve had questions like parent company liability for overseas subsidiaries and our white candidates scored the lowest there because we had a lot with links to Africa, Asia who knew the cases we’d done with this and [they] aced those questions at a much higher rate than our white candidates. We’re mindful about that but it’s very difficult to pick the right topics.” (Senior)

There was a recognition that by hiring minority ethnic students only from Russell Group universities, this may also be contributing to issues experienced during the legal qualifications:

“I think that where we don’t hire from a diverse enough range of universities, we probably are contributing to the attainment gap because then we’re putting them onto courses that teach in the same way that these institutions that were historically built for white privileged students have attended.” (Senior)

The Educators corroborated the findings from the Seniors, observing that the latter tend to look for people having gone through similar experiences. In this context, this often means coming from independent schools and Russell Group universities, with internships at the larger City firms. This, one Educator argued, feeds into a skewed idea of excellence, a particular version of merit, leading to a vicious cycle of reproduction. However, Educators noted how recent societal events have had an impact on hiring practices, and commitment to DNI from law firms, which a number of Seniors confirmed was really only post George Floyd’s killing in 2020.

In relation to elite firms that give scholarships to diversify their pool, Educators

suggested it was hard for the firms to relate with their scholarships' recipients. Having said that, one of the Seniors described how one of the best consequences of their firm being involved with scholarship programmes was the impact it had on their senior lawyers spending time with the "incredibly impressive" young Black candidates:

"... who were often the most interesting person in the room." (Senior)

Exclusion

In the sections above, we discuss findings from all three interview groups concerning causal factors they felt impacted minority ethnic candidates' ability to perform in legal professional assessments. These included:

- 'distal' or contextual influences such as factors occurring pre-entry to university
- more 'proximal' factors regarding the undergraduate and professional qualification educational environment, and
- factors regarding their experiences and perceptions of the legal profession itself.

A significant and additive effect of all these factors is a story of exclusion. Candidates actively experienced exclusion, and "disaffirming cultures in the classroom", caused by a myriad of behaviours by staff and students, at the interpersonal level, conscious and unconscious, direct and indirect, that constantly reminded candidates that they "did not belong". Their negative experiences do not necessarily stop them from pursuing legal education or from trying to qualify, but certainly create additional hurdles throughout this journey.

Lack of belonging

One Educator noted that from the start of their legal education:

"I think a lot of them start with the feeling of being imposters in the classroom, they get a sense that they don't belong, and those who think they belong often get the feeling this is not going to take them very far." (Educator)

Candidates, having felt alienated during earlier stages of their education, have the feeling that legal education would also be an alienating experience. The overarching institutional structure, referring to all aspects of the university experience from teaching to accommodation and extracurriculars, may all contribute to their lack of belonging making it difficult for them to integrate quickly in this environment.

This feeling is further compounded by them feeling socially and culturally isolated. Their racially based interactions with students and staff also lead them to constantly doubt the motives and reasons behind such interactions. Overall, they do not feel part of the whole educational experience, according to several of the Candidates and Educators we interviewed. Talking about interactions on their LPC course, one Candidate said:

"There were disadvantages in the sense that it was difficult for me to make friends. People just really gravitated towards people that looked like them. I made friends, don't get me wrong, but it was difficult for me to make genuine

connections.” (Candidate - Associate)

Even when social class or type of education were similar, race or ethnicity still separates these Candidates during their LLB:

“I just felt like I didn't really belong, because sometimes I would be in white spaces and it's like ‘we like you because you relate to us in the sense that you went to boarding school and private school. But. You know, we're not really going to accept you because you are African and you're Black.’” (Candidate – Trainee Solicitor)

“But, yeah, university was... I just felt like I didn't really fit in anywhere.” (Candidate – Trainee Solicitor)

This lack of a sense of belonging could come from simple behaviours like students' or staff's unwillingness to learn how to pronounce names:

“I think when I got to university... my name... tricky one to pronounce, people would just not bother trying to learn my name and just, sort of, look at me and be, like, ‘Hey.’ And that is all very othering. I think instead of trying to make an attempt to be like, ‘Oh, how do I pronounce your name?’ or, like, referring to me by name instead of, ‘Oh, that Asian girl.’ You know, that made me always feel a bit like I didn't quite fit in.” (Candidate - Associate)

Educators stressed how important it is for students to feel part of a student body and a student community. A lack of social support can impede performance as it restricts the formation of study groups and social learning opportunities, as explained by one minority ethnic Educator who had fought the same battles a generation earlier.

The dynamics experienced at university are explained and compounded by what Candidates see when they look at the profession:

“I think so many of my friends felt there was... maybe not because they were ethnically different, as I say, they probably look white or they're white-passing, but you don't fit into a certain, I guess, like... I don't even know what it is. It's not socioeconomic, but you don't fit into a certain mould, and it's very... I think law, and even now, even though it's better, but law still has people predominantly from a very particular demographic, and they're not really used to people who are different. And so it may not be malicious, but they definitely exclude you and it doesn't feel good.” (Candidate - Associate)

Moreover, when looking at career pathways into the legal profession from the LLB, the lack of sense of belonging exacerbated by the low representation of minority ethnic solicitors, served as a discouragement for one Candidate to apply for a training contract:

“Looking back, one of the most important things for me was I didn't feel that sense of belonging. My mindset was looking at those firms and not seeing anyone who looked like me. It didn't seem possible at all. There's so many people applying,

and no one so far has secured an opportunity who looks like me. Why would I be that person who's different?" (Candidate - about to commence a training contract)

Another Candidate from a majority Black inner-city secondary school described how, knowing that their chosen profession was predominantly white, had chosen specifically to apply to a university with a very low representation of Black students in order to acclimatise and almost test themselves during the LLB.

The lack of belonging was even more keenly felt at postgraduate and professional qualifications level for those minority ethnic Candidates with training contracts, from interactions with both staff and other students. This was often more of a shock for international students:

"Going for the LPC was a bit of a shock to the system because most of the people there were like, white, privately educated, and I never really met the character of people like that before in my life. I had no clue how to act or behave. And I remember that there was this one time when I tried to speak to this person on my LPC and she just completely ignored me. She was white British, and she just completely ignored me like I didn't exist, and I was talking to her. And yeah, so I was just like, wow, okay." (Candidate - Associate)

International Candidates, for the most part, had not grown up with such microaggressions, having previously been an ethnic majority in their home country:

"But when I was on the LPC, I definitely felt very keenly excluded because I was not white and not from a middle-class upbringing. So I didn't enjoy that at all. And I know that there were a lot of other people who had a similar experience to me, who felt the same way, and we all became friends and we were all international kids. So I guess that says something." (Candidate - Associate)

Another Candidate experienced biased and racialised treatment from one of his lecturers. Such experiences, from an expert and someone they are trying to learn from, can reduce a student's self-belief in their competence and abilities:

"...I noticed..., as a Black person coming from Nigeria, my contributions to discussions in class were not respected, especially if I linked it back to my experience in Nigeria. So if I said something as a result... of my knowledge as an African lawyer or as someone who studied in Africa or in Nigeria, my lecturers will try to shut it down or try to encourage me not to use those type of examples because they just feel like... it was inferior... That happened in [elite university], that happened also when I was doing my law school... after the classes the lecturers, like, 'Can I have a word with you? I would advise you not to make reference to Nigeria whenever you're explaining things in class.'" (Candidate - Associate)

Minority ethnic students feel like they do not belong both within their educational space, but also within the profession, creating "a sense of doubt" in their abilities at every stage of trying to become a legal professional, according to an Educator we

interviewed. The lack of belonging can manifest itself also when minority ethnic or other disadvantaged students are asked to apply for scholarships. An Educator at an institution that teamed up with a City law firm for a scholarship scheme noted that they had received very few applications because students could not see themselves working for that firm.

Not only that, but the emphasis on commercial and corporate law as proxies for a successful career has led another Educator to question the message that is sent to people who want to pursue other areas of law, eg because they want to help people. This exacerbates feelings that minority ethnic individuals are already marginalised by the way that they experience the law in their everyday life.

The lack of belonging is not something constructed by the students. It is created and imposed upon them by the institutions they attend. As mentioned above, an Educator talked about the credibility gap. They also noted that most discussions around belonging assume that the problem is with students:

“... when the reality is that the environment keeps reinforcing that you are not supposed to be here, or that you don’t really belong.” (Educator)

Lack of confidence

This constant messaging impacts on the candidates’ sense of confidence. Both the Candidates and Educators named individuals’ lack of confidence as causally contributing to their differential outcomes. It is important to understand this not as an individualised characteristic but recognising that it may come from minority ethnic individuals’ backgrounds or environments.

“I think one thing I’ve noticed in my training contract is, people from private schools, they just have a different level of confidence. And I think that gets them a lot further in their careers. Because they know how to talk the talk. And I don’t. I definitely don’t have that and I know a lot of people from my kind of background don’t have that. I think that’s a big cause of it as well.” (Candidate - Associate)

If students feel like they do not belong, then they will lose confidence:

“And that in itself is an obstacle to achieving. Because then you feel less sure of yourself. You’re not given the validation, so you feel that even the things you know, you worry you don’t really know. And that will impact on your exam performance for sure.” (Educator)

University and professional education staff’s lowered expectations and assumptions about minority ethnic students also have a detrimental impact on the latter’s confidence. The lack of confidence also impacts their interactions inside and outside the classroom. They internalise that they are not good enough, according to an Educator, and this can become a negative learning spiral.

“They would not voluntarily offer to contribute until you call on them to contribute, and then when you call them to contribute, they are genuinely terrified and

intimidated with the fear that they don't belong and that whatever they say will be inappropriate. And so the level of interaction is very minimal, unless you're an experienced enough teacher to know how to steer them into being part of it." (Educator).

One Educator cautioned against victim blaming, because this just puts the onus on students to 'fix' themselves, and not recognising the responsibility of the environment they find themselves in. However, several Candidates spoke about the academic pressure in relation to the differential outcomes and being a minority ethnic individual, which may not be beneficial to academic performance:

"...there's just always this idea or narrative, but it is true in a way, that Black people, for example, have to go the extra mile to demonstrate that they're actually capable. And a lot of it has to do with history and how people have been viewed over the years.

And so from A-levels, it always felt like there was this, sort of, self-inflicted pressure to do really well and prove yourself and show that you can achieve the best possible grade and get into an amazing university and do well. So that has always been in the back of my mind." (Candidate – LLB Student)

For another Candidate, this pressure brought the mental burden of carrying their community on their back and representing them through their achievements in legal education and by extension the legal profession. This seemed like a pressure they would have been happy not to have:

"It feels like being responsible for other people's futures. And it feels like you are the manifestation of other people's hopes and dreams that didn't come into fruition. So you're not only carrying the burden of your predecessors, you're also carrying the responsibility for those that come after you.... So there's not a lot of space to just be your own because you've got an entire community that you've got to either represent or justify or make proud or whatever it is like. It's always about more than you." (Candidate – Associate)

Identity shifting

Candidates' perceptions of the negative evaluation of their minority ethnic identity and culture, may clash with the expectations of legal education and the legal profession, resulting in what is known as identity shifting. Identity shifting occurs when an individual perceives that aspects of their identity are negatively evaluated or unwanted, which then leads to them trying to substitute those negative aspects with aspects from the dominant (or accepted or positively evaluated) culture. This can lead to them living what one Educator called "kind of parallel lives ... as a Black person to survive in the Law". An Educator noted how students confided in them the pressures they feel to conform to be like those that are seen as successful and who talk, dress, and behave in a particular way.

Students and candidates have to make an effort to overcome any bias and stereotyping about their abilities, or as an Educator put it, to make themselves:

“recognisable to them as being excellent; because their vision of what’s excellent is actually quite limited.” (Educator)

They have to become visible, and this is often achieved through identity shifting. An Educator also noted that those choosing to sit professional legal assessments:

“must in [their] mind psychologically have got over this kind of psychological barrier of they don’t look like me, so I’ll never succeed.” (Educator)

The overarching exclusionary feelings of students and candidates, together with the coping strategies they might adopt to address those, can influence socio-cognitive factors that may impact on their performance – in other words they internalise the messages from the external environment. The fact that minority ethnic individuals tend to experience these situations to a higher degree, at least according to our interviewees, can then lead to questions about the extent to which feeling excluded contributes to the problem of differential outcomes.

Initiatives currently taken to address the gap

In this section we focus on initiatives that interviewees described to us as already in place, as opposed to suggestions about what should be done. It is not surprising therefore that most of the voices in this section come from either the Educators or the Seniors.

As academics, the Educators tend to work quite independently and so a number of the initiatives discussed were things they had individually implemented themselves and were not institution-wide.

Most of our Senior interviewees had some sort of DNI remit or responsibility. Because of that, when asked about initiatives, they discussed changes to practices or policies they had introduced or implemented in their organisation. All Senior interviewees focused on changes to selection processes that enabled more diverse candidates to succeed in entry to the profession often via training contracts or other entry points. Some also outlined additional support once young lawyers are in role. However, in several of the organisations, once the solicitors were in the firm, additional support diminished.

As our study takes a multilevel and life-cycle approach, our subject matter experts had a lot to say about initiatives already underway and so we divide this section into six subsections:

- Initiatives to increase accessibility and aspirations.
- Initiatives aimed at individual support, at the start and throughout their higher education journey and into legal qualifications.
- Initiatives to address disaffirming cultures in higher education.
- Initiatives regarding curriculum and assessments.

- Recruitment initiatives, including contextual recruitment, use of targets and alternative routes such as the solicitors' apprenticeships.
- Data-driven initiatives at the firm level.

Initiatives to increase accessibility and aspiration

According to Senior interviewees, addressing issues of aspiration and accessibility amongst what were described as “nontraditional” candidates means “helping in terms of raising awareness and ambition.” Almost all the Senior interviewees discussed outreach and support schemes they either run themselves or are involved with, such as programmes in secondary schools, internships, open days, work experiences, at secondary school or first year undergraduate level. Local examples included:

- working with a state school to get 16-year-olds into the law firm's office for two days work experience;
- working with a city council to organise work experience for young people from the more deprived areas of the city;
- giving young people help writing application forms and CVs and preparing for law firm assessment days.

Not all work experiences or internships were paid, some were expenses-only. It was recognised by some that running these fully paid makes them more accessible to all.

In addition, several Seniors also mentioned being a part of larger external programmes aimed at getting underrepresented groups to consider applying to law and helping familiarise them with what it takes to successfully apply. These programmes include ‘10,000 Black Interns’ or ‘Aspiring Solicitors’ and working with the organisation RARE Recruitment. Other firms offered individual Black Student Scholarships that pay undergraduate fees. Both the Educators and Seniors mentioned the Linklaters’ Stephen Lawrence scheme for Black lawyers. Several Educators positively commented on the fact that the scheme takes class and SES into account. Being means-tested, they argued, the scheme helps those most disadvantaged to succeed.

Several Candidates were also aware of such programmes supporting minority ethnic candidates to get into the legal profession:

“I know there's a mentoring platform called Aspiring Solicitors. And there's RARE Recruitment. So there definitely has been more consideration given to those who may not necessarily have had the opportunity to fully demonstrate their abilities.” (Candidate – LLB student)

Candidates spoke about the success and benefits of participating in schemes run by organisations which are geared towards introducing them to pathways into the legal profession, thereby increasing their opportunities and chances of being recruited. More specifically, several Candidates talked about participating in pathways schemes at secondary and university education that provided knowledge,

understanding of and work opportunities in the legal profession. For example, a Candidate talked about being introduced to schemes and outreach programmes after their GCSEs and how that helped them successfully get into the legal profession:

“...after doing Pathways to Law and things like Social Mobility Foundation and different outreach programmes like that, you get insight into what it’s like to study law and do work experience in a law firm.” (Candidate – Trainee Solicitor)

“...I think genuinely, if it wasn’t for my work experience of being exposed to that other side, so those schemes and outreach programmes, I don’t think I would have been a lawyer. I don’t think I would have...I probably would have studied law, but I don’t think I would have progressed it further.” (Candidate – Trainee Solicitor)

Another Candidate talked about being first-generation university educated and how the Sutton Trust Pathways to Law scheme helped them gain access to the legal profession during their secondary school and A-levels. They also talked about how the Sponsors for Educational Opportunity, London gave them support during their university education.

Altogether, they attributed the success of their entry into the legal profession to participating in such schemes:

“... towards the end of my A-levels I was on these schemes for people who were the first in their family to go to university so throughout my A-levels, throughout the two years, I was on the Sutton Trust Pathways to Law scheme, and a couple of times a term I would get the train to Southampton – which was a big deal for me, I’d never been on a train before – so I’d get on the train, I’d meet lawyers, I did some work experience...” (Candidate – Associate)

Another Candidate talked about the success of joining a DNI scheme conducted by RARE Recruitment to gain employment at a law firm. They indicated that such practices adopted by law firms help minority ethnic candidates get a fairer chance at gaining legal employment:

“...RARE Recruitment agency, ... they helped me with all my applications, interviews, everything, from the beginning to the end. So, that was very, very thorough. And I feel like that played a huge part in getting in... I think [law firm] uses them, actually, for that specific reason, to get... so it’s a diversity and inclusion scheme ... because, on their own, you might try and say, ‘Okay, you are recruiting fairly,’ but you don’t really know if you are. I mean, half of the recruiters are white, so, what does fairly mean to you guys?” (Candidate – Trainee Solicitor)

All the Seniors from law firms we spoke with are actively engaging with such programmes, either motivated by attracting more underrepresented groups to their own firm, and/or to be seen to engage with particular communities around raising aspiration. There were also one or two examples from Educators where universities and law firms were working together specifically to provide placements for either low SES or minority ethnic students. Some Educators expressed frustration that there

were not more such opportunities.

While the individual numbers on these programmes may sometimes appear quite small (ie single figures), Seniors believed that starting from a very low base and with small intakes overall of training contracts, proportionally this would make a difference. As mentioned above, one Senior articulated the significant impact of getting much larger numbers of current lawyers engaged with and being impressed by minority ethnic candidates, changing people's perceptions by "learning through stories". This starts to address inclusion within the firm, rather than just focusing on diversity numbers.

Initiatives aimed at individual support

As described above, law firms and charitable bodies are working on increasing the aspiration of nontraditional candidates to apply for a law degree. This, combined with the universities' programmes of WP, has increased the diversity of undergraduate law students, according to Educators. It is important to note that WP programmes are not specifically aimed at minority ethnic students and that by no means are all minority ethnic students entering university on WP contextual grades. However, Educators' comments were varied about how successfully their institutions supported nontraditional students once in higher education.

Getting students off to a good start

To ensure all eligible students are considered for scholarships or other support schemes while at university, one Educator described best practice from their institution in relation to making it easier to access grants:

"We get information after students start with regards to ethnicity and other kind of areas. So, we will have a criteria, and then, if they tick the boxes, they will automatically be put forward for the grant, and they will be advised, they will be offered the grant if they meet the criteria, as opposed to them having to apply." (Educator)

Educators also gave the example of schemes where their institution paired up with a big law firm, offering paid internships during undergraduate study, and mentoring to the selected students. Another Educator talked about a scholarship scheme offered by a City law firm that covers tuition fees for three years, SQE fees and paid work experience in the summer which will count toward the SRA's qualifying work experience requirement, as well as a training contract.

In addition to financial support, Educators emphasised the importance of supportive initiatives from day one of the undergraduate course, to prevent students falling behind. For example:

- Induction courses being mandatory to attempt to level the playing field, to avoid stigmatising and to ensure those that need them attend.
- Close monitoring of attendance and early intervention to find out why certain students may not be attending.

- Ensuring systems are in place to diagnose learning difficulties among the student body. Drawing on examples from their own institution, some Educators noted that a large number of students had undiagnosed dyslexia, ADHD, or other neurodiversities. Comments were made about support sometimes not being in place in time for first assignments, which immediately puts these students at disadvantage.
- Students who do not have family or other contacts with prior experience of law school or university more broadly, may struggle with time management, planning, knowing the importance of particular essays, how to have the self-discipline and create that, how to monitor whether their approach is working and change it. Some universities are working with external organisations such as RARE to offer this kind of mentoring and support that others may get from family members:

“It’s not extra help, it’s the same help your counterparts are getting, they just get it from their family and you’ll be getting it from [RARE], and that way we’re levelling the playing field.” (Senior)

Skills development throughout the degree

As students settle into their course, Educators were conscious to note that differential performance is a systemic issue, and that emphasis should not be placed solely on the individual to solve it:

“The danger is that by acknowledging [issues] ... you are almost saying to that student you have to work extra hard to succeed in a broken system ... why should they be expected to either work extra hard or to try and change the system?” (Educator)

Having said that, Educators were happy to work with students to strengthen their study skills throughout their degrees. Several Educators mentioned specific approaches, which may seem obvious, but are often aimed at levelling up skills for those students or candidates who have not received such training in their school education. For example:

- Helping students or candidates to be able to identify their own strengths and weaknesses, so that they know what it is they have to improve and seek advice on how to do so.
- Identifying specific skills (eg critical analysis) that will shift their grades from low to high and improve their performance in exams.
- Encouraging them to speak to seminar leaders/tutors to get a clear sense of expectation.

“I have a Black student who I’m coaching right now who told me she’s terrified of doing that. One of the tasks that we’re working on is just to get her to send an email to her seminar leader, because she doesn’t quite understand why they would want to talk to them, there is a huge discomfort there.” (Educator)

- Talk through how to stay on top of the learning but know how to manage

their workload over the period:

“to make sure that they are really motivated, and it’s a marathon, it’s not a sprint.”
(Educator)

- Check they know exactly the format and expectation of assessments. For example, what does a good/bad answer look like? Encourage them to practise exam questions and write essay plans. Practising was particularly mentioned in relation to MCQ type of assessments like the SQE:

“get hold of any past papers, past assessments, dummy-run assessments, formative assessments of that type, and practise them.” (Educator)

“I know that is not always possible for that to happen, so my advice would be try to get time if at all possible, try to really see what resources are available to try to help you really practise for these tests.” (Educator)

- Encourage students or candidates to ask questions well in advance of an exam, and to speak up and participate in class.
- Help them to understand the connection between a specific assessment type and the transferable skills it offers for the workplace. For example, problem questions are similar to offering advice to clients, whereas essay questions are similar to presenting arguments in court.

A small initiative that has worked for one Educator was trying to make themselves more available by arriving early for class and hanging around at the end, in order to let students ask questions one to one. They noted that often it is the minority ethnic students who take advantage of this opportunity to get support. Of course, this only works if timetable and room allocation allow for it.

As several Educators noted segregation between social groups in their classrooms, initiatives that encourage mixing in the classroom were also seen as positive, since teamwork is an important aspect of social integration in the learning environment. One noted they have:

“a deliberate policy of mixing up students and initially there was this reluctance to want to mix but after week four to six, they were mixing. And the research results indicated that it had greatly enhanced their confidence to work with people from different backgrounds. They also felt more confident in terms of employability.” (Educator)

In addition to engineering mixing, raising awareness of difference was mentioned by another Educator. They mentioned a programme they initiated with undergraduate law students that looked at inequalities and diversity in the profession, to get them thinking about unconscious bias and how they can overcome it.

“So what we’ve tried to do is then work with them to identify what they can do to address at least some of those challenges, whether it’s that lack of opportunity to network, lack of opportunity to access work experience, or even just to

understand what the whole professions are about. It's that if you are the first generation to uni, if you are an international student, if you have like socioeconomic barriers as well, what is it that's going to help you get to where you want to be in terms of career aspiration?" (Educator)

Mentoring and coaching

Educators referred to various mentoring and coaching initiatives, such as:

- a programme of academic coaching, where there are biweekly meetings with students offering them support
- purposefully singling out, for additional coaching and/or support, students who were attending all classes but getting average grades
- providing individualised coaching, tutoring and support for minority ethnic students.

Mentoring or academic coaching was seen as important to make up for the lack of knowledge, confidence, social and cultural capital by students, but Educators noted that assumptions around the mentoring needs of minority ethnic students should be avoided. One Educator gave an example where they sought feedback from students specifically about their lived experience, and what it is like to be a student at that institution.

All cautioned that such schemes are resource intensive, requiring significant amounts of resources to instigate positive change. This is also difficult to scale up in a massified higher education, as mentioned above:

“people usually expect something that's very cheap, which is we just diversify things a little bit and then we're going to see this success. I don't think so. I think that if you really want to make meaningful change, as we did, it took investing in about 17 or 18 academic staff in our law school who participated in the programme for the whole year.” (Educator)

Educators stressed how important it is for internships, placement and work experience schemes targeted at minority ethnic and low SES students to be accompanied by mentoring from a professional within the firm, so that students understand the cultural capital of different law firms.

Educators set up reverse mentoring between minority ethnic students and faculty and the profession as a way to ensure that students feel represented and valued. However, it was noted that its impact is not reflected in academic performance. Reverse mentoring was also seen as transformative both for students and tutors by another Educator, leading to some of them becoming friends. Yet another claimed that diversified mentoring relationships fostered cultural exchange and enabled each party to learn about the culture of their counterpart.

Finally, one Educator noted how having minority ethnic alumni networks, in their case a Black law alumni network, helped students to network with professionals. This works more effectively when the activities of these networks are funded, by the university or

student's guild.

Notwithstanding the problems for minority ethnic students and candidates to gain work experience in the legal sector, Educators observed a clear correlation between students who did volunteering, work placements, internships in law and their overall academic performance. Making the most of all university opportunities was common among most high achieving students and this could turn around a lower achieving student. Educators stressed how crucial it is they encourage students to attend open days and "learn how to market themselves."

For work experience, they wanted to emphasise to firms how important it was for those to have clear developmental aims:

"Can you make sure that when you offer these internships, it's a learning exercise, kind of a social exposure, it's not simply a recruitment exercise." (Educator)

Support during legal qualifications

Overall, while there were several examples of good supportive initiatives at undergraduate level, several were often implemented by individual faculty. Interestingly, as noted earlier, most Educators confirmed that the additional support mechanisms available at undergraduate level disappear at postgraduate/legal qualification level. Seniors confirmed their firms often step in at legal qualifications level to provide additional support for those on training contracts who need it. However, for those not in training contracts, this appears to be another disadvantage.

Some, but not all, Seniors spoke of additional support for candidates specifically while completing legal qualifications and training, such as mentoring/reverse mentoring, coaching and subject support, financial support and support particularly aimed at Black students – sometimes again through the external organisation, RARE.

"If we can see, for example, that somebody is struggling on a particular subject, we might be able to offer them some tuition support from the firm on that subject ... If they're having to deal with maybe a bereavement, maybe caring responsibilities, maybe they're having to hold down a job in order to pay their way, even with the maintenance grant that the law firms give. So we may be able to offer some kind of financial support or counselling support to those kinds of people." (Senior)

Finding a network and a mentor in firms can be especially challenging for individuals when they are training and demographically belong to a minority. One Senior discussed an initiative that takes two junior minority ethnic lawyers and places them in an "instant network" with eight other individuals of varying levels of seniority. This "bubble" creates an instant support network, with potential mentors, into various groups and levels within the firm.

Another Senior described finding ways through mentoring and affinity groups for minority ethnic trainee solicitors "to have the cheat codes for success", implying that more traditional individuals acquired these through their backgrounds and tacit knowledge.

A small number spoke strongly of positively changing culture within the organisation and cultural competence being key, led from the top and being everyone's responsibility. In terms of financial support, Seniors listed many different types. Some just paid the preparatory courses' fees, some included a living bursary in addition. Away from the large City firms, training contracts that fully fund preparatory courses for legal professional assessments are less common:

“for most people that's not enough because if you're going to these courses you essentially need to do them full time. They're getting what would cost about £13,000 paid for, but it's very difficult to work during that time as well. We haven't gone as far as being able to afford to extend this.” (Senior)

Seniors from smaller firms were talking about paying the SQE exam fee and there was discussion about the associated costs of that (eg travel to certain examination centres which also probably incurs overnight accommodation). But it is obvious that there is substantial discrepancy financially between what the large and small firms can offer. A Senior interviewee from a large multinational firm talked about a scheme launched in an overseas office aimed at “diverse scholars” and which they contemplate replicating in the UK. The scheme provided significant levels of financial support for law school students alongside engagement with the law firm and its clients, in order to improve their opportunities.

Initiatives to address disaffirming cultures

Several of the Educators expressed their beliefs that some of their colleagues lacked real understanding of issues and experiences which sit behind differential outcomes. Therefore, their starting point was initiatives to raise awareness of the current “disaffirming cultures” before then trying to introduce affirming behaviours:

“a couple of my colleagues had done some work on asking about racism at university, both staff and students, and then literally when we played some of the quotations and some of the findings from that little bit of research, I think it had an impact on staff in terms of their willingness to think about what they did in their classrooms and what their materials looked like and stuff like that.” (Educator)

In the postgraduate setting, one Educator noted more generally how their institution runs a development programme for tutors, to ensure their support and pedagogical approaches are up to date, to support an inclusive classroom experience:

“We are a teaching institution and we spend a lot of time developing our tutors, observing our tutors, training our tutors, putting them through a teaching qualification, sponsoring them through masters, M.Ed's so that they are reflective practitioners, [pause] and I'm proud of that because I think that's really important. Because it's so vital that the classroom experience works for success in the assessment. But as you can see, it's still not moved the dial.” (Educator)

Several individual initiatives were described by Educators to counter

microaggressions and alienating interactions among students in the classroom. For example, an Educator stressed how important it is to affirm the person speaking, by validating and referring back to something they said in class. Other Educators spoke of staff training on how to respond to instances of microaggression and racism in the classroom, as colleagues often felt they did not know what was appropriate.

One initiative that was deemed to be very important by a few Educators, and certainly addresses issues mentioned by several Candidates, is the *Say My Name Campaign*. One's name is critical to affirmation and combatting a sense of alienation:

“We need to be able to speak to the student and make the student feel that they're not 'dear student' but they're 'dear Ade' and they know how to pronounce Ade's name.” (Educator)

One Educator pointed out that a list of phonetic spelling of names is provided on the graduation day register at the very end of candidates' time at university. And they wondered why it could not be provided to all lecturers on day one. Educators in undergraduate or professional legal education who have implemented this spoke of immediately noticing a difference and an appreciation from students:

“The students are beginning to say to me, “Wow, I really notice that you make an effort to use our names. I've never had that at any teaching organisation I've been to before.” (Educator)

One Educator emphasised the importance of similar role models for minority ethnic students. They run a legal practice conversation series, where they invite legal professionals, and are very mindful to have some from minority ethnic groups to act as role models. They argue this improves candidates' sense of belonging, fit and belief in their future success. They see candidates appreciating that and engaging with the invitees. This was corroborated by other Educators, who noticed how encouraging it was for students to see someone like them succeeding. Similarly, when inviting speakers, but also at careers fairs, Educators stressed the importance of these being:

“...representative of different career paths and different opportunities or different interests.” (Educator)

Having role models with relatable journeys was key for students and candidates, according to an Educator:

“so that it feels like a profession that absolutely they were just as entitled to as anyone else.” (Educator)

Finally, one Educator drew on a recent experience with a scholarship scheme targeting minority ethnic students to think about how to encourage nontraditional candidates to apply. Their suggestions included positive and affirming messaging, as well as invitations to bring friends and family to accompany them to the scholarship event where the scheme is presented, so that family and friends can then encourage them to apply afterwards.

Initiatives aimed at curriculum and assessments

Educators, drawing on conversations with their students, noted how important making the modules interesting and relatable was for student motivation:

“if you can match the module, its content, the way you deliver it to a student’s internal motivation, that then drives them to actually invest a lot more time and to prioritise it as something that they need to do.” (Educator)

One way undertaken to diversify the curriculum by several Educators, is the inclusion of diverse names assigned to various capacities that students can associate with. Even ensuring that the words used can be understood by all students was seen as important. For example, one Nigerian Candidate with English as their first language mentioned certain “peculiarly English words” such as ‘borough’. Educators talked a lot about making sure virtual learning environments and problem scenarios reflected diversity and boosted inclusivity. Other Educators talked about teaching cases with diverse aspects, such as religion or ethnicity, and highlighting the relevance of these aspects for how the law is applied. Contextualising how the law operates and the diversity of the profession also represents good practice that Educators noted is happening more at universities.

Educators highlighted that it is important to create:

“a space for students to be able to speak and bring their lived experiences into the module.” (Educator)

This, they have found, has led to increased student engagement. However, some Educators noted that just focusing on curriculum change is insufficient to remedy the issue of differential outcomes, but should be undertaken alongside other interventions:

“let’s assume whatever that looks like, an increasingly decolonised curriculum, I still think we’d have the attainment gap. I still think we would have white students doing better at these decolonised modules.” (Educator)

One Educator gave the example of how a module that had elements of SQE preparation could also be designed in a way that increased the uptake of minority ethnic students:

“[I was] asked to lead on a module which was called Access to Justice. So we were told to ensure that it had elements of the SQE. But we then used it as a platform to address other issues in there. So there were elements of the module that looked at law and race, law and class, law and women, law and disabilities as well. And it was interesting in terms of there was more of an uptake by BAME students.” (Educator)

Educators noted the benefits of having skills-focused modules at the undergraduate level, as discussed in previous sections, which can contribute to students’ career development. It is about “trying to educate people to go into practice.” (Educator)

They also lauded the benefits of clinical legal education, in terms of providing relevant practical experience alongside their studies, noting that such initiatives should be implemented at every law school.

An Educator from a provider of professional legal education noted how in their practical courses they use role playing, as if they were trainee solicitors:

“That’s how we teach them. So we are trying to align it, the content of the curriculum and the workshops, with the assessments, with what they’ll do realistically when they get into practice.” (Educator)

In relation to assessments, an Educator noted the benefits of diversifying assessment methods away from traditional assessments. For example, they put forward reflective journals, group and creative exercises, as assessment methods that decreased differential outcomes. Another Educator noted though that assessing on the basis of reflective journals should be done with caution, in that students from certain backgrounds might find it difficult to express themselves in reflections.

Educators spoke of how differential outcomes of Black students, in particular, decreased at their institution during the pandemic, with the switch from in-person to remote exams, citing that this gave students more time and alleviated the pressure of the exam room. Another also noted how giving more time for students to complete an assessment:

“allows the examiners to really see what the student is made of.” (Educator)

Recruitment initiatives

Contextual Recruitment

The Seniors had a lot to say about changes made regarding recruitment targeted specifically at underrepresented groups, specifically minority ethnic groups. Several of the Seniors cited the term 'contextual recruitment' and a few specifically mentioned the RARE Contextual Recruitment tool (CRS), which manages the process for them. These tended to be the larger firms, due to the cost.

Contextual recruitment entails a move away from recruiting based purely on past performance towards a better gauge of potential. For example, a student who achieves 3 B-grades at A-level in a school where the average grades are 2 Cs and a D, is achieving higher than another student getting 3 B-grades in a school where the average is 2 As and a B. The assessment of the student takes the learning context into account when assessing the achievement levels.

While universities have been using this approach for a while, it is relatively new for law firms. And because the law firms are making training contract offers early in an undergraduate degree course, sometimes before first-year exams, A-level grades are often still the benchmark.

“We ... use the RARE CRS to adjust those scores accordingly depending on flags and personal indicator scores... so you can somewhat quantify the advantage

that some people will have depending on various circumstances, socially, economically, educationally, personal life wise.” (Senior)

“So, we are able to invest in not just being aware of what the barriers are, but the expertise that allows us to look at what those results mean... so we are trying to ameliorate the artificial barriers than if we just look at it through one lens.” (Senior)

A few Seniors brought up the challenges of persuading colleagues of its necessity. Arguments can be and were made on both ‘justice’ and ‘utility’ bases (ie what’s fair versus ‘the business case’):

“Firstly, you do it because it’s the right thing to do. It’s the right thing to do to provide opportunities to people who may not have had the same advantages as anybody else, but also economically it’s the right thing to do because if you’re passing over this talent that is going to be in time better than the people that you are recruiting... That’s the argument. The argument is, to combat those who say that we always had a decent quality of trainees, to say we could get even better than that, because you’re not testing for the right things. You’re not testing for potential; you’re only testing for existing performance.” (Senior)

In terms of other practices:

- Seniors spoke of expanding the pool of universities from which they recruit, of being “institution neutral” in other words. This involved removing university and school names from applications. It was not clear how helpful that actually was on its own, if the definitions of merit remain the same (eg A-level grades and certain types of work experience).
- Positive changes made during Covid have been maintained in some firms:
“which I think is quite a positive, we have started to use online events a lot more. Which I think has created a bigger outreach.” (Senior)
- In terms of trying to increase representation across all levels of the firm to be more attractive to junior lawyers, Seniors spoke about invoking ‘the Mansfield Rule’, whereby one third of all interviewees should be from underrepresented groups.

Recruitment Targets

There were varying views on the use of ‘soft/internal targets’ for recruitment. A number of Seniors spoke of having them as an initiative for training contract recruitment, with a few stating an “overrepresentation” of minority ethnic candidates, for example 10 to 30 percent of new graduate recruits. In terms of numbers this was still very often less than half a dozen, but the proportion was the focus. A few Seniors also referred to varying internal targets across their firm levels. Many have had targets for gender proportions for several years, so this was not so novel. For others:

“We’ve grown quite a lot very quickly and have had a lot of external recruitment, but a lot of success with underrepresented solicitors coming in this year. I would put that down to ... Some of it is the firm actively wants to change. I wouldn’t call it positive discrimination; I certainly wouldn’t say we’re bringing in anyone who shouldn’t be in here but I do think... It’s a conversation I’ve had a few times with various partners.

Some partners think recruitment should be blind. Other partners will brazenly say ‘No, I actively want to manage the diversity of who we bring in.’” (Senior)

Interestingly, although universities have been using contextual recruitment for some years, there was less talk of, and less comfort with, the idea of targets at the higher education institutional level and nobody mentioned it at a departmental (ie law school) level. Within the sector, the conversation has been more focused on the proportion of students from private versus state school amongst the UK’s very top universities.

One Educator was critical of targets, on the basis of the lack of follow-up support or developmental opportunities once in:

“There’s no point building targets and bringing the numbers in so as to tick the box, if you’re not ready to support and guide them. If you change the structure of the way the system works then this [the diversity] will come in, you don’t need it [target]. I don’t believe that there are not bright Black and ethnic minorities out there. They are there, they’re just not coming to you, they’re not joining the profession because of the way the thing is structured.” (Educator)

On the other hand, another Educator, after balancing between the need to recruit the right person and to force change concluded:

“having talked about it for a minute, perhaps targets are the only way that you are going to change things enough.” (Educator)

Solicitor Apprenticeships

In addition to changes to their regular recruitment exercise, a few Seniors discussed the ‘new’ (to them) route to legal qualification via a solicitor apprenticeship. One Senior spoke of how they have pulled together a group of 50 City law firms that will all bring in solicitor apprentices over the next few years:

“We will find you, you’re talented, you’re in a school, and now I’m going to look after you and I’m going to make sure that I pay for you to go to a really good educational institution. ... I think that’s going to be absolutely massive. I think that will transform the industry. And we think we will increase our annual numbers in the City from 50 to about 100 to 150 [apprentices] in a couple of years. And then I think that’s just going to bring a... it’s going to be a new way of qualifying.” (Senior)

In fact, a number of Seniors explained they had already been using the solicitor apprentice route, finding it “great for addressing social mobility issues”, and that their first cohort were due to qualify this year after six or seven years. This period

covers the equivalent of a degree, the legal qualification, and two years' qualifying experience.

“I'm a big advocate of apprenticeships and I could see in the next few years, the balance between our trainee contracts and our apprenticeships changing... because they'll get a degree and they will qualify as solicitors, at the same time. But their route to qualification remains this SQE examination. And I'm not convinced about that either because I think there's a mismatch between the way in which apprenticeships are structured, which is you learn as you go along, and then at the end of six years you have an exam. I mean, hang on, who thought that one out?” (Senior)

(It is worth noting that, to date, the SQE data shows that those on apprenticeships are outperforming others.)

Describing themselves as from a working-class background one Senior said they would never have been able to contemplate taking on £50,000 to £100,000 debt in university and legal qualifications fees:

“The biggest equaliser is apprenticeships – earn as you learn. We are going into schools and helping folk think about how the law is for them. If the profession wholeheartedly embraces the apprenticeship scheme, that would make a huge difference. ... We're seeing, it's a step into the profession for someone who wouldn't otherwise find it accessible.” (Senior)

They did acknowledge that taking on apprentices at a very young age (eg 18 years old) required “more intensive pastoral care” and that the firm had “a big responsibility around developing those skills” but concluded that “the apprenticeship route is a great step towards diversity”. Interestingly, this Senior was so enthusiastic about it as a diversification measure, they suggested that the solicitor apprenticeship route should be protected for nontraditional candidates:

“It really opens up the opportunity of a good career in the City to those who might otherwise not have it, and by virtue of being looked after by the firm. My concern is actually protecting the apprenticeship route for the nontraditional candidates. My concern is that the middle-class white kids will soon realise this is a cheaper way in and will step into those roles, which I think should be protected.” (Senior)

Educators have also suggested the development of the apprenticeship route working with law firms, basing this on positive association with performance in the SQE (based on what they witnessed in their institutions). They attributed this at least partly to the learning environment and support of already working at a law firm. They also stressed the financial support provided, and the learning on the job as additional positive aspects, that could also help boost performance in legal professional assessments:

“I would definitely look at really boosting the whole apprenticeship aspect so more schemes to get BAME students in as apprentices. Because what we're seeing is that apprentices are doing really well in the SQE and they're doing well no doubt

because they've got the support of the firms. They're in that learning environment of working in a firm before they go and take their SQE." (Educator)

"... earning and learning, and while working, you've got probably a better chance of passing the exams because you are mixing in what you are learning one day with what you are actually doing in practice. So it's probably going to increase your chances of passing rather than doing the more traditional route of university, sadly, and then the SQE preparation courses or the LPC preparation courses." (Educator)

Accordingly, students and candidates spend a much longer period working at a firm, giving them more time to integrate and be appreciated by their employers, and to foster a sense of belonging.

Educators saw law firms starting to embrace this route and called for it to become more widespread. At the same time, they acknowledged that there are different types of students that are attracted to apprenticeships compared to the traditional route to qualification. To that extent, Educators cautioned that despite them showing great potential, they still have had apprentices failing legal professional assessments, because their experience did not fit well with the method and types of assessments.

Data driven initiatives

A very small number of firms appeared to be really focused on collecting and responding to diversity data within their firm, rather than generically addressing assumed issues and "confusing activity for productivity" (Senior), as can often be the case with diversity initiatives. In pushing for more data and evidence-based initiatives, one Senior said:

"Diversity issues are emotive and based on values and so we end up building solutions based on our experience and belief rather than facts. This cannot be the basis of strategy." (Senior)

As mentioned, all the Seniors described a focus on increasing nontraditional representation at recruitment. Going deeper and considering that representation at more senior levels is also important, only a few firms that were strategically utilising their data realised that where they had been successful for a few years in their recruitment, there was then a retention issue particularly with Black lawyers. For example, one firm found a retention gap of white lawyer tenure of seven years but Black lawyer tenure of 2.6 years and the realisation that:

"the key to promotion is getting the first four years right." (Senior)

One Senior said that disaggregating data for different ethnic groups, eg Middle Eastern, East Asian, South Asian and Black reveals differing issues requiring different inputs.

Another data-based initiative found that minority ethnic individuals were disproportionately likely to be the only minority ethnic person on the team. One of the

issues of wanting to increase nontraditional representation is that “each team wants one”:

“Actually if they were randomly assigned, you’d be six times more likely to not be the only Black person on the team.” (Senior)

The data also showed that if the Black new starter was a high/medium achiever, they were disproportionately more likely to leave if they were the only such person on the team.

Therefore, the firm was able to take an initiative to ensure such individuals were not so spread out.

Two of the Seniors discussed using external diversity consultancies to collect and/or analyse the data and then recommend initiatives to address issues uncovered. Questions about the use of data across several firms revealed differences in approaches: whether data was used mostly for accountability or whether it had a learning purpose to drive initiatives. One Senior specifically raised the issue, common with diversity initiatives, that they are driven by a need to be conducting “a shiny new project”, to be seen to be doing something. The obvious danger of this is that if it is not based on good data, it could be trying to tackle the wrong problem.

Although Educators talked about data, this was mainly done in the context of suggestions for better monitoring and analysis, and for raising awareness among staff, rather than on the basis of data-driven initiatives having already taken place. This may well be because they do not have access to the data and/or they are used merely for reporting purposes.

One of the Seniors passionate about data-based initiatives explained how too often without a sharp focus on analysing data, various “training” initiatives can end up blaming people and having negative impacts. Evoking solicitors’ razor-sharp focus on risk, the Senior explains how a language of blame around diversity ends up silencing individuals who should be allies, out of a fear of getting it wrong and so the safest thing is to do nothing.

“We end up adopting language and approaches that are just really counterproductive and miss the point. Actually, this is going to take everybody and, therefore, how are we empowering everybody in this conversation rather than explaining to some people why they are to blame and telling some people why they do not have to do anything? These are both wrong outcomes and they will give you nothing at the end of it. ... There needs to be a rigorous analysis of how we have ‘inclusioned people into silence’ and as a result, in the name of pursuing inclusion, we have ruined the careers of far too many people from minorities because we cut out their support base, we silenced their support base, we silenced their potential mentors all in the name of inclusion.” (Senior)

Summary of key findings

This qualitative element of the project sought to address the research question: *What are the individual and social processes influencing the lived experiences of minority ethnic Candidates through their legal education?* In doing so it purposefully privileges the voices of minority ethnic Candidates preparing for or having recently taken legal qualifications. In addition, it seeks the experiences and knowledge of both minority ethnic and white individuals who are closely involved with the education and early career success of such Candidates. Our enquiries into the perceived causes of differential outcomes in legal education take a socio-cognitive (considering two-way interactions between the individual and their social environment), multilevel and life-cycle approach.

Our findings are as follows:

Awareness, terminology and data

- Our purposeful sampling of Educators and Seniors meant that they were aware of differential outcomes by different ethnic groups, either at undergraduate level and/or in legal qualifications. Interestingly, not all of our Candidate interviewees had been aware of differential outcomes during their studies. Educators suggested that this lack of awareness can lead to individuals internalising the additional challenges they face as due to their own inadequacy.
- Several Educators refuted the use of the term “attainment gap” as it individualises what they saw as a systemic problem. Candidates and Educators also contested the use of the term ‘BAME’ as too broad to be useful and highlighted the inconsistencies that lead to classifications on the basis of skin colour for some, and on the basis of their country or subcontinent of origin for others.
- The complexity of the potential causes was acknowledged by all interviewees, with almost all Educators and Seniors noting multiple intersectional dimensions of differential outcomes by ethnicity. Therefore, there were calls from Educators and Seniors to further disaggregate minority ethnic outcomes in legal qualifications data, more precisely between ethnic groups, those internationally or UK-educated at school level, type of UK school, and those for whom English is a second language. Each of these aspects was believed to have differing potential impacts on outcomes and aggregating data into one group was not seen as meaningful.

Background contextual challenges leading to educational disparity pre-university

- UK-based Candidates tended to experience early and school-level differences based on their ethnicity or race. Often, they became aware of SES and family background issues later, particularly as they transitioned away from their local environments. International Candidates did not experience these pre-university issues in their home

country.

- The influential early years' factors of SES, family background, and type of school attended (at the risk of conflating ethnicity and class) were frequently emphasised as causal factors of differential outcomes by our Senior interviewees.
- Echoing findings from the SLR, Educators spoke knowledgeably of ethnicity and family background intersecting to influence school-level outcomes. These outcomes often place minority ethnic students at a disadvantage at the start of university.

The learning context – Support and financial challenges

- Educators were clear that skills and knowledge disparities exist between students upon entry to university, even within courses that tend to have high entry requirements, such as law. All of the Educator interviewees expressed concerns about how students from lower entry routes and backgrounds were supported at university.
- Despite the hive of activity and support that most universities now claim is available, Educators were clear that there is a difference between making support available and creating an environment where those who need it feel confident to access the relevant support.
- In addition, the massification of (legal) education means individual Educators no longer have the time or resources to support all those falling behind.
- The positive impact of additional support often does not materialise until later in the degree course, by which point training contracts or other law firm opportunities have passed them by.
- Seniors from nontraditional backgrounds expressed opinions doubting if they could be successful in today's environment, given the lack of individualised support and potential debt incurred.
- Financial constraints were highlighted by all three interviewee groups regarding impacting potential performance at both undergraduate degree and legal qualifications. Simply put, time and energy devoted to paid work takes away from that devoted to studies, thus impacting outcomes.

The learning context – Culture

- Within higher education, Educators brought up a number of racially based social and behavioural issues, such as student-to-staff and student-to-student interactions.
- A lack of representation of minority ethnic teaching staff, and students often segregating themselves along racial lines, can lead to disaffirming cultures experienced by minority ethnic individuals, influencing their

sense of belonging and motivation.

- A lack of understanding of diversity issues amongst staff can lead to lowered expectations of minority ethnic candidates, which prior research tells us can impact outcomes.
- Educators also highlighted how less-aware colleagues can fall back on more “acceptable” explanations for differential outcomes (such as poor schooling), rather than addressing harder issues, such as privilege or the myth of meritocracy present within their own institutions and behaviours.

The learning context – Content

- Most Educators were aware that minority ethnic individuals were more likely to have been marginalised through their lived experience of the law and its enforcement, which may act as a barrier to studying and working effectively in law. Educators observed something similar for white students with low SES. This dissonance between what students are taught and what they may experience poses an additional challenge to candidates endeavouring to fit in with the law. Educators also noted how international students feel alienated on the basis of the examples used, which at times are only familiar to those coming from or living many years in the UK.
- Several Educators said that disparities in outcomes across multiple nontraditional groups on their courses reduced during the Covid years, when open-book online assessments became the norm. This is increasingly being borne out by recent research in the higher education sector. Educators believed that timed conditions, closed-book and in-person exams might disadvantage certain students who have not been so well-prepared to deal with the pressure of these types of exams throughout their whole education.
- Opinions were also expressed regarding the face-validity (the extent to which a test is viewed as covering what it intends to measure) of some assessment methods – for example, they were unrelated to an individual’s potential to become a good lawyer. Very strong opinions were voiced both by Educators and Seniors about the format of legal professional assessments.

The learning context – Feeling excluded

- Minority ethnic individuals educated in the UK have often experienced years of exclusion, microaggressions, lowered expectations and alienation resulting in a strong sense of a lack of belonging. That lack of belonging was then exacerbated by a lack of representation in their targeted profession.
- International students who had not grown up with these challenges of not belonging expressed shock experiencing them when moving to the UK for their legal education.

- Findings illustrate these all work to create a sense of doubt in their own capabilities, which can cause a reduction in confidence and ambition.
- Their negative experiences do not necessarily stop them from pursuing legal education or from trying to qualify, but certainly create additional hurdles throughout this journey.
- There is no shortage of ideas from Educators on how to support individuals and on how to make cultural and institutional-level changes. As Educators work relatively independently, they can, and some do, implement their own ideas. Individual Candidates often spoke of some meaningful actions and support from individual Educators. However, they are constrained by a lack of time and resources, and while it may well help individuals, this leads to inconsistency across modules, courses, and institutions.

Organisational level (law firms and the profession)

- While at the end of several years of potential negative influences on individuals in the education system, our Senior interviewees nevertheless believed that the profession has its part to play in potential causes of differential outcomes at qualification.
- They acknowledged perceptions of elitism, inaccessibility, and a lack of representation of minority ethnic individuals within their firms were detrimental to minority ethnic individuals' belief that they could succeed in law.
- Previous hiring practices based on restrictive definitions of merit were acknowledged to play a significant part in fewer minority ethnic students and candidates being awarded training contracts and/or job offers.
- There was also a recognition that a lack of financial support during preparation for legal qualifications was likely to be detrimental to those from nontraditional backgrounds.
- All the firms we engaged with have implemented significant initiatives to increase the ethnic diversity of their trainee and associate solicitor intake, which all claimed have been successful. However, caution should be noted in that only a few spoke of continued support for minority ethnic solicitors once in the firm. These tended to be those firms that were aware of retention issues and that were specifically basing current and future initiatives on available data and evidence-based practice.

Appendix 1: The interviewees

The Candidate interviewees

Candidates selected for interviews had either undertaken or planned to undertake legal professional assessments and were happy to explore their journey through legal education and professional environments. The participants were 18 adults. Eight of the 18 completed school education in the UK. Of the 18 Candidates, seven were men, 11 were women. The table below shows their self-ascribed ethnicities.

Candidate's Self-Ascribed Ethnicity	Number of Candidates
Black African	5
African	2
British Nigerian	1
Black	1
North African	1
British Caribbean	1
Jamaican Caribbean	1
Chinese	3
British Pakistani	1
British Iranian	1
Indian	1

Table 1: Self-ascribed ethnicities of Candidate interviewees

The Candidate interviews were for minority ethnic individuals who had taken the LPC (eight Associates and six Trainee solicitors), or planned to take (one on a training contract, one LPC candidate, one LLM student and one LLB student) the LPC or SQE. The participants who had completed their LPC had all done so since 2018.

It is important to note that we did not interview any participant who failed the LPC (ie all participants who had taken the LPC were successful). Therefore, it is important to

consider the challenges they had to overcome to pass the qualifications and use this as a springboard to understand some of the challenges unsuccessful candidates might also have gone through.

The Educator interviewees

To provide more information on the context in which the candidates are learning and studying, we approached 27 individual senior educators, through our academic networks, including searches on LinkedIn: three declined and four did not respond. The remaining 20 were interviewed, giving a response rate of 74 percent. Our sample was purposefully selected to include individuals who were closely involved in legal education, with a particular knowledge or experience of or responsibility for the issues being researched.

Of the 20 individuals, nine were men, 11 were women. Seven used the term 'Black' in their particular self-ascribed ethnicity, nine used 'white'. The remaining four used various descriptions that would likely be aggregated in the term 'Asian', such as 'British Pakistani'. Sixteen used terms 'British' or 'English' to describe nationality and 13 of the 20 grew up in the UK.

Academic roles included from lecturer upwards with 10 at full professor and higher titles such as Dean/ Pro Vice Chancellor /Associate Dean. The Educators were from 14 different institutions: six were from for-profit universities commonly associated with the provision of professional legal education, five were from Russell Group universities, four were from the 1994 Group universities and five were from other universities.

The Senior interviewees

Interactions with legal firms are often an integral part of candidates' legal education journey (sometimes in schools, at university and often in trainee years while studying for the legal exams). Our 21 Senior interviewees are a mix of practising lawyers and not. They were purposefully selected for having knowledge or experience of or responsibility for either DNI and/or trainees, and within the law firms had titles such as: Chair, Senior Manager, Managing/ Partner, Chief People Officer, Head of/Senior Recruitment Manager, Global Head of/DNI Lead/Inclusion and Global/Head of/Talent Director. The term 'Senior' was chosen to reflect the diversity of senior roles held by the interviewees of this category.

We contacted 51 individuals, from our own networks, from the SRA's contacts and some 'cold' contacts. Twenty-five of those we contacted did not respond despite follow-up emails. Five individuals referred us to others within their organisation whom they felt may be more suited to the project. In total 21 interviews were conducted, a response rate of 41 percent.

Of the Seniors, 10 were women and 11 were men. Sixteen used the term 'white' in the description of their ethnicity and five used 'Black', 'Caribbean', 'Asian', 'African', or 'Indian'.

Our Senior interviewees came from 14 law firms plus one representative from a

professional body and two representatives from specialist recruitment firms focused on what interviewees referred to as “nontraditional candidates” and working with many of the participating firms (“traditional candidates” were described in interviews as white, middle-class, often privately educated in the UK). According to The Lawyer Top 200 Firms list (2021), of the law firms represented in our sample, four were in Top 10, seven were in Top 50, one was in Top 200 and two were not listed.