

STUDENT EXPECTATIONS FOR EARLY LEGAL CAREERS OFTEN NOT MET

By Adam Whitcombe

Recent survey results from the Law Society may surprise law school students and new grads as they contemplate the next several years of their lives.

Naturally, a student's first year out of law school is consumed with finding articles, completing the Law Society's admission program and passing the exams necessary for admission to the bar. But based on the results of the Law Society's annual survey of students enrolled in the mandatory Professional Lawyer Training Course, students' expectations for what their careers will bring them do not always come to pass.¹ While most of the questions in the survey relate to the course and to instructors, several preliminary questions ask students about their career plans, their salary expectations and their motivation to become a lawyer in the first place.

CAREER PLANS

In the most recent survey, completed in March of this year, 85 per cent of students indicated that they plan to be in private practice after articling, while 10 per cent plan to work for government or as in-house counsel. Men were slightly more likely to say they expected to practice law in a firm/private practice, while women were slightly more likely to express a preference for working in government or as in-house counsel.

Students were also asked to project what they will be doing five years after articling. Interestingly, only seven out of ten students expect to be in private practice after five years, and about 20 per cent expect to be practising with government or as in-house or corporate counsel. When compared with the students' initial expectations, it is clear that some students intend to engage in private practice only for a while before leaving for other types of practice.

In fact, student expectations are somewhat similar to what actually happens. Five years after call, about 70 per cent of the lawyers who remain practising are engaged in private practice and about 30 per cent are engaged in-house or with government. However, what the responses do not reflect is the roughly 20 per cent who will be either non-practising or former members five years after their call to the bar.

Perhaps most surprisingly, when students were asked whether they were interested into going into another profession at some point in their career, slightly more than half (51 per cent) said yes.

EXPECTED CHALLENGES

Students were queried as to what they expect the biggest challenge of their practising careers will be. More than three quarters said it would be balancing their professional and personal lives.

While women were slightly more likely to say that balancing professional and personal life would be an issue (80 per cent) than men were (73 per cent), the difference was not large. About one in ten stated that making a reasonable income was also a concern.

HOURS OF WORK

The survey asked students to estimate how many hours a week they would be working after five years in practice.

Slightly more than seven out of ten indicated that they thought they would be working somewhere between 36 and 55 hours a week, and just over one in five envisioned more than 55 hours per week.

In fact, based on data from the Law Society's annual practice declaration, which is completed by all practising lawyers, after five years of call about 66 per cent of lawyers report working between 36 and 55 hours a week and only about 11 per cent report working over 55 hours. So it appears that students have an exaggerated notion of the amount of time they will have to put in after five years in practice.

SALARY EXPECTATIONS

Students reported what they thought their annual income would be after five years in practice. Only about 10 per cent thought their income would be less than \$75,000 per year, and 16 per cent thought it would be \$150,000 or more. In fact, data from the 2006 census indicates that just over 40 per cent of lawyers report earn less than \$75,000.² On the other hand, almost 20 per cent report earning \$150,000 or more.

The census results are consistent with self-reporting from the voluntary surveys of lawyers conducted by the Law Society from 2002 to 2004, where 35 per cent of practising lawyers reported income less than \$75,000 per year and 21 per cent reported earning over \$150,000 a year.³ Based on these results, 68 per cent of lawyers with one to five years of experience reported income less than \$75,000 a year in 2004. Therefore, it would appear there is a significant likelihood that earnings expectations will not be met for many students. This may be a factor in the departure of some new lawyers from the profession during their initial years.

GEOGRAPHIC PREFERENCES

The overwhelming majority of students would like to practice in Metro Vancouver, with Victoria and Kamloops/Okanagan being second and third choices respectively. More students indicated that they would like to practise outside B.C. than said they would like to practise in Northern B.C. or the Kootenays.

Looking at where new lawyers are currently practising in their first five years of practice, we see that more are practising in the Lower Mainland than selected that choice, while fewer are practising in Victoria and outside B.C. than they indicated they would like. Otherwise, the actual locations tend to be similar to the students' expressed preferences.

SIZE OF FIRM

Almost none of the students expressed any interest in practising on their own, while 60 per cent indicated that they would like to practise in firms of 2 to 20 lawyers. Less than 20 per cent indicated that they would prefer to practise with large firms of more than 50 lawyers.

In fact, nearly 12 per cent of lawyers in their first five years of practice are on their own, and just over 25 per cent are practising with large firms. Both of these outcomes are contrary to the students' preferences. The percentage practising with firms of 21 to 50 lawyers is about half the percentage of students who selected this preference, but is consistent with the percentage of firms that are of this size.

MOST STUDENTS CITE INTERESTING WORK AS THE PRIME MOTIVATOR

To better understand what motivates young lawyers to choose to practise law, the Law Society asked students to indicate their reasons for practising law after articling. Despite the commonly held stereotype that money is the primary motivation for choosing to pursue a career as a lawyer, 60 per cent of the respondents cited the chance to do interesting and challenging work as their prime motivation. Only 15 per cent named the desire to earn a good income as their top reason, while 13 per cent want to help others, 9 per cent want to make a difference and the remaining 4 per cent had other responses.

These results are similar to findings in other research into the motivations of law students generally.⁴ Of the other responses provided, the most common was "All of the above." Other responses included "Don't want last seven years to go to waste", "Pay off debt" and "It's just a job."

NEW LAW SOCIETY RULES ALLOW STUDENTS TO PROVIDE LEGAL SERVICES

In a related note, articling students now have the opportunity to do some of that interesting work earlier than ever before. For the first time, students are permitted to provide certain legal services to the public provided they are well supervised by their principal or another lawyer. Effective September 1, 2011, rule changes were made as part of ongoing efforts by the Law Society to help make legal services more accessible and affordable for the public. The initiative has received encouragement from the Provincial and Supreme Courts, and discussions are continuing to ensure the expanded role for articling students aligns with judicial requirements.

According to the new Rule 2-32.01, an articulated student may provide all legal services that a lawyer is permitted to provide, with some exceptions, but the supervising lawyer is responsible for ensuring that the student is competent and properly prepared. One exception is appearing as counsel in complex litigation, but subject to approval by the courts, which the Law Society hopes to secure in due course, students will be allowed to appear as counsel if they are directly supervised by a practising lawyer in the following proceedings:

- an appeal in the Court of Appeal, the Federal Court of Appeal or the Supreme Court of Canada;
- a civil or criminal jury trial;
- a proceeding on an indictable offence, unless the offence is within the absolute jurisdiction of a provincial court judge.

Students are also allowed to give or accept an undertaking if the supervising lawyer has also signed or accepted the undertaking.

Since the authority granted to practising lawyers under s. 60 of the *Evidence Act* does not extend to articulated students, they are not permitted to act as commissioners for oaths.

The rule changes do not expand the roles for students enrolled in temporary articles, who will continue to be governed by Law Society Rule 2-43.

PRINCIPALS AND SUPERVISING LAWYERS RESPONSIBLE FOR STUDENT WORK

The need to supervise articling students who perform legal services will be critical. Essentially, provided a student is supervised, anything the student does will be as if the work had been done by the supervising lawyer. Solicitor/client privilege will apply to client dealings with a supervised student, and the principal or supervising lawyer will be on the hook for any complaints filed with the Law Society and any deductibles that have to be paid in the event of a claim with the Lawyers Insurance Fund.

For more information on the new rules, please contact a practice adviser at the Law Society.

ENDNOTES

1. In total, there were 1,148 student responses over the five-year period, representing about 60 per cent of the total possible responses.
2. Statistics Canada bases earnings or employment income on the total income received by persons 15 years of age and over during calendar year 2005 as wages and salaries, net income from a non-farm unincorporated business and/or professional practice, and/or net farm self-employment income. Net non-farm income from unincorporated business and/or professional practice refers to net income (gross receipts minus expenses of operation such as wages, rents and depreciation) received during calendar year 2005 from the respondent's non-farm unincorporated business or professional practice. In the case of partnerships, only the respondent's share was reported.
3. The Law Society's voluntary surveys asked lawyers to identify the range within which their net annual income before taxes from the practice of law fell.
4. Susan Daicoff, "Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism", *American University Law Review* (June 1997) at 10.

