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I am pleased to share the latest and final issue of the Bloomsbury Institute Working Paper series as Editor at large. This issue features six interesting contributions, five of which are articles from former students and Alumni of the Bloomsbury Institute and one by the current Head of the Foundation Degree and interim Head of the Business School. The first two papers have an explicit focus on the UK market following the decline of the Highstreet epitomised by the collapse of big retailers such as British Home Stores, and the disruptions to spending patterns orchestrated by bank branch closures and the rise of challenger banks with more innovative products and consumer touchpoints. The third paper touches upon the controversial topic of cannabis-based medical treatment and the legal questions surrounding the debate. Talking about legal matters, the next two papers are contributions of law graduates -- both with converging themes around politics (the Brexit issue) and policy (legal Aid matters). The final article brings the discourse nearer home -- i.e. the matter of dealing with contract cheating in higher education.

The first article by Chester Panganiban explores Employee Relations (i.e. motivation and retention strategies) in UK retail. This is an interesting topic considering the growing troubles in the sector from the collapse of Philip Green’s British Home Stores (BHS) to Mike Ashley’s Sports Direct debacles. This study sought to highlight how significant is the Role of Management in the Motivation and Retention of Employees in the UK’s Retail Industry? Consequently, the study aims to evaluate the role of management in motivation and retention of employees, in the UK’s retail industry. The specific objectives include an evaluation of the role of management in motivation and retention of employees, in the UK’s retail industry; Identify and analyse critical factors affecting motivation and retention amongst employees, in the UK’s retail industry; understand what employers can do to improve motivation and retention rates amongst their employees; and to compare and contrast different strategies UK retail companies use to influence the motivation and retention of their employees. Chester has been working as a Recruitment Consultant in Central London. His day-to-day tasks involve interacting with both clients and jobseekers.

The aim of the second article by Emeka Okeke explores “Consumer perception of UK Challenger banks”. This study resonates with an assessment of the cash versus cashless transactions assessment in the consumer behaviour module, where bank branch closures were seen to be rampant and digital banking platforms growing by the numbers. Indeed, the article captures, albeit not extensively, the rise of challenger banks -- a feature that was made possible by deregulation of the financial services sector in the UK. The article set about identifying main reasons that have prompted the rise of challenger banks and how consumers feel towards them. The scope of the study will be restricted to the population that use challenger banks in the UK. The main research question was “What are the major factors that led to the emergence of challenger banks and how have consumers responded to them?” The objectives of the study include the ability to get a better understanding of the subject of consumers’ perception of challenger banks, identify the most important “measurable” for challenger banks; and examine the recent major history happenings within the UK banking system.

Barry Omesuh, in the third article investigates a controversial issue on the mainstreaming of Cannabis in the UK. This article aligns with the legal systems of the UK vis-à-vis Europe. There have been numerous cases where UK residents have travelled abroad to seek Cannabis-based drugs for the treatment of ailments. The debate is still on as to whether these products would/ should be available on the National Health Service (NHS). Omesuh, delves into another controversial topic, Cannabidiol (CBD) is a natural substitute to sleeping pills and is legally available across the United States of America (USA). CBD works with the body’s endocannabinoid system, responsible for all the homeostatic functions within the human anatomy. CBD is an anti-anxietyotic, which helps to fight anxiety, insomnia and other irregular sleep patterns. The Medicine and Healthcare Products Regulatory Agency (MHRA) recently highlighted that the level of awareness and acceptance of CBD has been on the rise. The purpose of this article is to reflect upon an MBA business plan making the case for the adoption of CBD based on an extensive review of the literature and various other sources including personal interactions and a range of media and policy reports.

In the fourth article, Delon Jones takes a slightly different perspective by focusing specifically on what becomes of the freedom of movement in a post-Brexit Britain. His exploration is based on incidents prior to the resignation of Prime Minister Theresa May and the accession of Boris Johnson to the high office in July 2019. Jones argues that he EU’s greatest achievement would be considered the single marking that created peace in Europe. Although each member state has a different custom, culture and language, being a European citizen and allowing free movement, makes all citizens feel like they are living in one European country. The leave voters’ argument surrounding Brexit is that the UK must take care control of its boarders. It has been established that EU citizens and British citizens will lose their rights. Donald Tusk clearly stated that the free movement of persons/workers was an important part of the single market, that access to the single market is non-negotiable, and that the UK would have to accept all four freedoms because it cannot operate independently. Therefore, citizen will lose their rights if no deal is reached between the EU and the UK before 31st October 2019 – the case remains pending as at the time of this article going to press!
Based on the research, it is clear that the CARICOM (The Caribbean Community and Common Market) model would arguably be granting the Brexiteers what they voted for. If the UK and the EU agree on this model, it would allow the UK access to the single market and continue the free movement of persons/workers in a restricted manner. Should the UK opt for the Norway Model, it would become a rule taker rather than a rule maker. As discussed above, the UK would have to make payments into the EU budget to be allowed access to the single market. The UK would, therefore, have to accept EU rules without any vetoing powers. This would be considered a bad deal, because now the UK has access to the single market and vetoing powers. So, based on the research, for the Brexit result to be honoured, it is suggested that the CARICOM model would be perfect, because the UK will have control over its laws and boarders and still allow the free movement of persons/workers and have a common Court in case of a dispute.

The fifth article, Maria Steadman Greyson, is another entry from a Law graduate of the Bloomsbury Institute, which questions whether the current UK Legal Aid system was fit-for-purpose especially in relation to victims of domestic abuse and/or violence. She concludes that there was a need for an additional act – notably The Right to Justice Act. Greyson highlights issues surrounding ‘proper’ access to justice and the challenges faced by many due to legal aid reform. The discussion moves from a broader analysis of the current right to justice, to looking at the current practical situation for accessing legal funding, and then finally considers the impact this has on victims of domestic abuse. While she acknowledges that while ongoing reviews and reforms of existing Legal Aid legislation are most welcome, it was about time to introduce The Right to Justice Act, which ensures individuals are able to, without prejudice, access justice as a given right.

In the sixth and final article, following the previous contributions of former students, Anna Krajewska tackles another important question on higher education – i.e. contract cheating. Interestingly, this contribution has a bearing on legal matters – notably what constitutes contract cheating and what students think about the current situation and prevalence of this new pandemic. Krajewska reports on a study into the perceptions and attitudes towards eradicating contract cheating and collusion amongst widening participation Foundation Year students at Bloomsbury Institute in the UK. The study developed following a yearlong institutional Academic Integrity Matters (AIM) campaign designed to raise students’ awareness of academic integrity and to lower the levels of academic misconduct. Participants, including students who admitted to cheating or to considering to cheat, displayed good knowledge and a great awareness of the complexities of contract cheating and collusion, and provided ‘generous’ advice on measures that could eradicate the two cheating behaviours. This arguably indicates the effectiveness of the AIM campaign and shows student support of the institutional efforts in this area. The results also show that the majority of students advise more ‘implicit’ methods of combating contract cheating and collusion, including assessment redesign and broad teaching and learning initiatives, rather than ‘explicit’ educational ones, such as marketing materials discouraging students from such behaviours, or a student whistleblowing policy.
The Role Management on Employee Motivation & Retention in UK Retail

Chester Panganiban

There is a growing concern amongst businesses as turnover rates and retention difficulties increase, for example the turnover rate in the UK has risen from 10% to 16.5% from 2013 to 2016, and the retention difficulties in the customer service roles, rose to 18% from 12%, from 2009 to 2017 (CIPD 2017). It can be argued that the motivation and retention of employees play a huge role in sustaining a productive and satisfied workforce; the purpose of this project is to analyse and determine the role that management has on the motivation and retention of employees within the UK’s retail industry. This is of importance and relevance because the study will use the knowledge gained, alongside the existing materials to give recommendations to managers and employees an insight on how to implement strategies on order to have motivated employees who are retained. As a result, it may help to solve the growing retention difficulties within the UK’s retail industry. The project also aims to use quantitative data to support the recommendations made and some of the existing relatable theories.

It can be said that management already plays a huge role in the way employees behave within the workplace. They are responsible for the planning, organising, leading and controlling of the strategies and resources of the organisation, including the people (Boddy 2016). The processes and strategies that managers choose to pursue affect the nature of the workplace; this includes the motivation and retention of employees. It is suggested that a manager who is unable to motivate their employees end up with workers who are dissatisfied with their current roles in the organisation, which can lead to them under-performing or worse leaving. Many would argue that management is the most important factor, however this study aims to identify other factors and weigh them up against the role of management.

The main research question is how significant is the Role of Management in the Motivation and Retention of Employees in the UK’s Retail Industry? Consequently, the study aims to evaluate the role of management in motivation and retention of employees, in the UK’s retail industry. The specific objectives include the following:

- To evaluate the role of management in motivation and retention of employees, in the UK’s retail industry.
- Identify and analyse critical factors affecting motivation and retention amongst employees, in the UK's retail industry.
- To understand what employers can do to improve motivation and retention rates amongst their employees.
- To compare and contrast different strategies UK retail companies use to influence the motivation and retention of their employees.

Literature Review

The literature review is here to assess the subject of the study, which includes any relating theoretical background and a review of the studies. Before defining management and the significance, it has on motivating and retaining employees, the definitions of motivation and retention should first be addressed.

Motivation: The first definition to be highlighted is motivation. Motivation is the extent to which individuals commit effort to achieve goals that's they perceive as being worthwhile and meaningful (Johnson & Johnson 2003), it can also be said that motivation comes from an internal state which moves or prompts goal directed behaviour (Mayer 2011 & Renick 2007) and that it is the strength of a person’s desire to attain a goal (Schmidt et. al. 2010). These definitions although different they are similar, with this in mind we can interpret and define motivation as a mental characteristic which drives individuals to perform/behave, in order to achieve any goals or objectives.

Some authors believe that there are various factors affecting the motivation of an individual. Motivation can stem from a desire to fulfill needs; Maslow (1943, 1954) argues that the motivation of an individual depends on the levels of which a person's needs has been satisfied, from the bottom-up he lists the needs as, physiological, safety, social, esteem and self-actualization, he argued that as each need gets satisfied the level of motivation also rises; this is backed up by McLeod (2007, 2013), but he does state some limitations, such as the need for self-actualization which is described as subjective. Alderfer’s ERG theory (1969) argues that the level of needs can be categorised into three sub-groups, (bottom- up) existence, relatedness and growth, although both disagree on the categories of needs that an individual needs to satisfy to be motivated, it is inferred that the levels of needs drive motivational levels. It can also be argued that Maslow and Alderfer may have addressed motivational levels, but the study does not highlight how levels affect performance in the workplace, alongside any other factors that may sway motivational levels. However, their theories can be used as links to other factors, which is why it can be included in this study.

Arnolds and Boshoff (2002) concluded that managers should use Alderfer’s ERG theory as an aid to manage their employees, in order for them to remain motivated. It should also be noted that McGregor (1957) presents a theory that is relevant, his theory of X and Y employees, X being those who are lazy and have to be coerced to work, and Y are those who are motivated and have a good sense of self direction; this has been backed up by a study by Kopelman et. al. (2008), whom of which applied the theory both to managers, where theory Y managers were able...
to increase their employees’ creativity and work-unit performance. This seems like a logical theory, however Herzberg (1996) and Locke (1968) propose, a more realistic theory, where external factors are the drivers of motivation for employees rather than human nature. Herzberg’s Two-Factor Theory (1996) proposed that employees were affected by intrinsic factors1, like achievement and responsibility, and extrinsic factors2 3, like salary and job-security; he stated that intrinsic factors drive motivation more than extrinsic factors. Locke (1968), although agreeing with Herzberg on external factors affecting motivation, he suggests that it’s in fact, goals that drive motivation, stating specific goals motivate more than vague ones. It should be noted that, Herzberg (1996) and Locke (1968) are more relevant to the nature of the study, than McGregor (1957), who focuses mainly on the nature of employees rather than, management, which counts as an external factor that can affect motivation.

Retention

Just like motivation, retention plays a key part in producing a quality workforce. Retention defined is the process of which organisations can keep their employees working for them, whether that is through intrinsic factors or extrinsic factors, the occurrence where employees leave (opposite of retention), is referred to as employee turnover/withdrawal. McClelland (1995) suggested that factors affecting retention are sorted into three sub-groups (also known as the big three4), power, achievement and affiliation5; a study by Kehr (2004) also supports this theory. On the other hand, Capelli (2000) advocated that retention is influenced by much more than three factors some include, work environment, work-life balance, career opportunities, organizational image and existing leave policies. It can also be said that motivation plays a key role in retention as it influences the decision for employees to remain or withdraw from their current positions within the organisation (Ramlall 2004).

In relation to the study, similar to Capelli (2000), researchers suggest that management plays a pivotal role in employee retention. Some of the HRM factors that affect retention include, Work Benefits, which include monetary6 and non-monetary7 (Gardner and Nyce 2014), Training & Development, where employees can acquire new skills, which they can utilise in the future (Ramlall 2003), Quality of Work, meaning the satisfaction an employee gains through the work that they produce (Markey et. al. 2012), this also relates to Herzberg’s two-factor theory, where work quality falls under intrinsic factors.

These theories provide good insight towards the stimuli that affect the retention and turnover of employees within an organisation. McClelland’s (1995) theory of the ‘big three’ is a practical framework in which factors affecting retention can be categorised into. However, criticism can be found as other researchers have identified factors, which cannot be categorised into the ‘big-three’, for example training and development and work benefits. Nonetheless, all the aforementioned theories can be utilised in the study.

Role of Management within the Workplace

As the various definitions of motivation and retention have been identified and critiqued, the definitions and theories of management can be addressed, and how it can be linked to motivation and retention rates. Management involves the decision-making and practises that affect or influence the people who work for an organisation (Fisher et. al. 2005) it can also be said that management is a philosophy towards carrying out people-oriented organisational activities (Torrington et. al. 2005), following these definitions, it can be suggested that management is the process of influencing the people within an organisation, through strategic decisions which benefit both the organisation and the people involved.

There are different theories on how management can be implemented into the workplace. A prominent example includes Weber’s (1922) theory of bureaucracy; this is where managers establish a hierarchy within an organisation with standardised rules and processes to support it. The rules and regulations help aid the organisation to produce high quality work with high efficiency, some people argue that bureaucracy is an ideal way for managers to implement their strategies; this is done through, impersonality, hierarchy, authority, rationality, division of labour and rules & regulations. Boddy (2016), supports Weber by saying, bureaucracy is necessary for innovative organisations to ensure resources are used efficiently and effectively. On the other hand, some people argue that bureaucracy ignores the environment, for example Bennis and Nanus (1985) argue that bureaucracy is overly mechanical and ignores individual group behaviour; this is also supported by Follett (1924)8 who stated that the differences of individuals should be treated as opportunities for learning rather than turning people into clones, which bureaucracy can be seen doing. It can be said that Bennis, Nanus and Follett advocated that workers are social beings, in which

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1 Job content, things to do with the job.
2 Job context, things associated with a job.
3 Intrinsic and Extrinsic can also be referred to as Motivation and Hygiene Factors respectively.
5 Power refers to control e.g. a boss proposing a new business strategy, Achievement is when employees reach a new goal or standard, and Affiliation refers to when employees build strong relationships with their co-workers.
6 Money-based benefits, e.g. cash bonuses & profit sharing.
7 Benefits other than money e.g. inclusive healthcare & gym memberships.
8 A contemporary of Weber.
bureaucracy could not provide them with a sense of fulfilment. Given these claims, it is important to consider that organisational structures can affect the mindset of employees, which can affect motivation and retention.

Another concept that is relevant to the management of personnel within the workplace is Soft HRM (Human Resource Management) and Hard HRM. Soft HRM, places an emphasis for managers to focus on the ‘human’ side of employment and employee relations, this means treating employees as valued assets and a source of competitive advantage through their commitment, adaptability and high quality of skills and performance (Gill, 1999). Legge (1995) describes this HRM approach to develop more proactive employees rather than passive ones. In organisations that focus on a soft HRM approach, they place an emphasis on their employee’s needs/culture, employee T&D and a more democratic leadership style. In contrast hard HRM, is said to be more tough minded and calculative (Gill, 1999), its focused more on treating employees as resources, and have been termed as human asset accounting (Storey, 1987). There is more of a bureaucratic/autocratic style of leadership similar to Weber’s theory (1922). Hard HRM is the opposite and focuses on meeting organisational goals, performance management and an autocratic leadership style.

Given all the previously mentioned theories, it can be decided that there are many factors that affect motivation and retention. The study aims to determine the significance of management has (amongst the other factors) on motivation and retention.

**Methodology**

The study is using a positivist approach through deductive reasoning, with the use of existing theories it will test how relevant/reliable they are using business research. The reasoning behind using certain theories over others is due to the ease of implementation of any recommendations given to managers as a means to formulate strategies to motivate and retain their staff. My methodology is in accordance with the empiricist view that knowledge stems from human experience (Collins, 2010).

One theory the study is focused on is Herzberg’s two-factor theory (1996), this is because managers given the knowledge of what employees value more (within a workplace), intrinsic or extrinsic factors, they can develop and implement any strategies or features into their workplace. Some of my research intends to determine whether or not this is true, and whether or not employees place more significance on intrinsic or extrinsic factors. In light of this, it will provide some insight on how managers can implement strategies based on the knowledge gained.

In terms of management, the study places a focus on the approach to HRM, either soft or hard approaches; this is because it should be relatively easy to change their HRM approaches from soft to hard and vice-versa. The study intends to question participants on their values regarding workplace relations, this can help give insight to what relations managers should focus on in the workplace. The research has included open-ended questions in order for participants can give a more in-depth look into the significance of management within the workplace.

Finally, in light of motivation and retention within the workplace, the study also focuses some questioning on the contributing factors to a negative day for employees and the work quality of a normal working day. This is in line with McClelland (1995), Kehr (2004) and Capelli’s (2000) theories on retention. This can give insight to how managers can motivate and retain their staff.

**Justification & Data Collection Methods**

The study will answer the proposed question, by using primary research, through surveys. The main method of information collection will be quantitative, however some questions will be open-ended therefore, it can be said that the research consists of a mixed-method, both open and closed-ended questions. Due to the short nature of this research project, it can be said that the research being conducted is cross-sectional. The main research method is, quantitative rather than qualitative research because the data can be evaluated through statistical analysis and presented in which a correlation can be determined9, and it can help to discover any facts about social phenomena. I will do this using a short survey. Some negatives may be that; qualitative data is subjective, which can affect reliability and validity of the results and that quantitative research leaves participants answering questions without being able to explain their choices (Carr 1994) it can also be said that poor knowledge of application of the statistics can affect analysis and leave a negative/inaccurate interpretation (Black 1999). However, with this in mind, quantitative data is not subjective, meaning the results are rational and scientifically objective (Denscombe 2010), this is good for supporting and testing any existing theories. It can also be said that because quantitative data is numerical; the results are less open to the ambiguities of interpretation (Antonius 2003). This type of data will help me to test and validate existing theories, which were mentioned within the literature review.

The use of qualitative data is being done to combat some of the disadvantages of quantitative research. As mentioned, the qualitative data will be obtained through open-ended questioning and the target audience will remain identical. I believe triangulation of data will help to produce information that is more reliable and useful for the study,

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9 Can be done in form of charts, diagrams and graphs
and it's said to be a more balanced and detailed picture of the situation (Altrichter et al. 2007). Linking the various data collected, we can discover any emerging pattern, which is grounded theory, where theories are generated from data (Walsh et al. 2015). Primary research is more beneficial because the information is modern which negates any disadvantages of outdated material.

**Data Analysis Methods**

The study relied on the use surveys due to the fact that I can produce information (from results) based on real-world observations (empirical data), also if the data based on a representative sample, it can be generalizable to the population, surveys can also produce a large amount of data in a short period of time at a relatively low cost (Kelly et al. 2003). The main type of questioning I have chosen is simple close-ended questions, this is because it is much easier to collect data this way, in order to be able to collate and analyse the statistics much easier; it will also be easier to compare questions with others to aid in identifying any trends or patterns. I have also decided to include open-ended questions (question 9 and 10) in order to find out more than what is expected. It also provides a human element to the answers rather than a select amount of responses. This is key because unexpected trends and patterns can be detected.

The ranked questions (questions 5 and 6) allowed the study to find out which factors have the most influence on the participants, providing a more in depth look at the way participants respond/react to certain concepts or questions. The majority of the time ranked questions have a unique value. The method in which I collected and analysed the ranking results is through a scoring system as follows:

1. Collect answers to the ranked questions.
2. Identify how many respondents ranked a factor the same, e.g. for Question 5, 28 respondents ranked ‘salary’ first, 12 ranked ‘salary’ 2nd etc.
3. Times the number of respondents for each rank by the corresponding value, e.g. 1st would be multiplied by 8, 2nd by 7, 3rd by 6 and so on and so forth.
4. Once multiplied, total the values.
5. Divide the total of the values by the number of respondents, who ranked the factor. The answer is the score.
6. The higher the score the higher the factor is valued.

A whole example can be seen below, for the factor ‘Salary’ in Question 5.

Number of respondents = \( n \)

Total number of respondents = \( \Sigma n \) = 53

Corresponding value = \( C = -1r + 9 \)

Score = \( S = \Sigma (n^*C)/\Sigma n \)

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\( \Sigma (n^*C)/\Sigma n = 366/53 = 6.91 = S \)

The overall ranking score for salary is 6.91

In terms of the actual context and reasoning behind the questions, it goes as follows.

**Questions 1-4 (Target Audience and Demographics):** These questions were asked to identify my target audience, which were people who have worked in retail. The gender, age, time worked in retail and roles held, were asked in order to identify any trends or patterns amongst certain demographics. For example if more females preferred a soft HRM approach, to men; it may be an indication for managers that a workplace with predominantly should be managed with a soft HRM approach.

**Questions 5 (Intrinsic vs. Extrinsic Factors):** This is focused on the intrinsic and extrinsic factors that are addressed by Herzberg’s Two-Factor Theory (1996). The question includes a set of intrinsic and extrinsic factors (4 each), where the participant is asked to rank the factors in order of value. The rankings are used to determine any patterns and common occurrences for the workers involved. This has been asked in order to identify what retail employees value more, intrinsic or extrinsic factors, as a result it can help managers provide the necessary information to tailor the job/work of an employee.
Question 6 (Retention and Motivational Factors): This question is focused on the motivation and retention of employees. Participants are asked to identify the factors that contribute to a negative day at work and rank them in order to significance. The theories involved behind this question includes, McClelland (1995) and Kehr (2004) who state that factors affecting retention are categorised into three sub-groups (power, achievement and affiliation) and Capelli (2000) who states that retention is influenced by a range of factors not just three. The results of this question will be used to evaluate the previously mentioned theories and see if they are relevant in order to help managers improve their retention rates.

Questions 7-8 (Management and HRM Approaches): The purpose of these questions is to directly find the link between management and employees. For example, question 7 identifies the preferences of employees when it comes to HRM approaches and question 8 places a focus on the value of employee relations with each other and with the management.

Questions 9-10 (Work Quality and Criticisms of Management): These are the qualitative questions, where participants are able to offer a more in-depth look into management and the work quality within retail. This has been done to understand the feelings and value of the employees, which they might not have been able to express in the previous questions. The information gathered from these questions will be used in order to address the general quality of a working day within retail, and how managers can improve it.

Sampling
The study is using a probability sampling technique. For research purposes, it has been decided that the sampling method is stratified sampling. This has been done to represent the demographics of retail workers in the UK as best as possible. There was a sample size of 54, which is seen as strong, as the probability of error is minimised. The demographics of the retail sector include the female to male ratio, which is 58:42 (=1.38), in the research I collected; the ratio was 56:44 (=1.25). It is also noted that 18% of retail staff are managers and senior staff, in my survey around 20% of my sample size are managers.

Findings and Discussion
The findings of the study are categorised following the research objectives and questions where appropriate. These are presented starting with the demographic profile of respondents – notably their age and gender. This is then followed by the motivational factors i.e. intrinsic versus extrinsic.

Target Audience and Demographics
It is important to identify the demographics of the respondents; this will aid later analysis on any emerging patterns or trends that are relevant to the theories mentioned in the later questions. The respondents’ ages and genders are displayed in Figure 1. As previously mentioned, the ratio between females and males is closely representative of the whole number of retail workers within the UK. This is beneficial in gathering accurate information.

![Figure 1. Respondents’ Age vs. Gender](image)

**Intrinsic vs. Extrinsic Factors**
As previously mentioned, question 5 was targeted to analyse and evaluate Herzberg’s *Two-Factor Theory* (1999). I decided to include 8 factors in relation to the work in retail and its intrinsic and extrinsic factors. The included extrinsic...
factors are, the salary, promotions, fringe benefits and the physical work environment, and the intrinsic factors are, enjoyment within the workplace, recognition, work freedom/autonomy and satisfaction with accomplishments.

Respondents were asked to rank the various factors in order of value. As seen in Figure 2, there is a huge placement of value for extrinsic factors; for example, out of the top 50% of valuable factors in the workplace, 3 out of 4 factors were extrinsic, and 3 out of the bottom 4 factors were intrinsic. As mentioned by Herzberg (1999), workers will become demotivated if extrinsic factors are not met, this is evidently clear in the data collected, as the respondents placed value in factors that drive satisfaction for a job. Work in retail is generally filled with simple tasks; therefore the factors that place emphasis on job satisfaction are valued higher.

Intrinsic factors have less value due to their emotional and less tangible nature; this is because retail work is less demanding in terms of mental/physical challenges in comparison to jobs where high skill is required (such as athletes and architects); the work in retail is more taxing in terms of hours put in, due to the repetitive nature of the tasks given. In addition, the work done in retail is does not place huge weight on career development and job empowerment, which is why recognition, work autonomy and satisfaction with accomplishments are valued low. However, that being said, the second highest valued factor was ‘enjoyment within the workplace’, which is intrinsic. As Herzberg (1999) identified, intrinsic factors tend to empower the individual, and enjoyment within the workplace is a major key in motivating employees. With the information gained, management within retail should focus on investing their resources into mainly developing extrinsic factors with a smaller focus on intrinsic factors, in order to keep their employees satisfied, this in turn keeps levels of motivation high, which as a result increases the probability of employees being retained.

Figure 2. The Value of Intrinsic and Extrinsic factors.

Retention and Motivational Factors
The theories relevant to retention are the ones stated by McClelland (1995), Kehr (2004) and Capelli (2000). It was decided to list the top 5 factors, which contributes to a negative day at work for retail employees (see Figure 3).

In terms of McClelland (1995) and Kehr’s (2004) theory, they addressed three main factors that affect retention, power, achievement and affiliation. In terms of the factors listed the three that fall under McClelland and Kehr’s ‘big-three’, are ‘lack of communication/understanding and/or help from managers’ for ‘achievement’ as those who crave achievement, likes to receive regular feedback on their progress and accomplishments, ‘toxic co-workers’ is in relation to those who crave ‘affiliation’ as they want to be part of a group and get along with them, and finally ‘lack of praise and recognition’ in relation to ‘power’, is because those who crave power in the workplace like to be recognised for the hard work they have done. The other two factors, ‘workload being unreasonable and boring’ and the ‘uncertainty of the workplace’s vision, strategy and future’ fall outside of the big three, which is theory that is more representative of Capelli’s (2000).

In terms of the results gained, the top three ranking factors, which all scored above three, are the ones that fall inside the ‘big-three’ factors, power, achievement and affiliation. This indicates that management should place an emphasis on tailoring the work and the workplace in relation to the big three. As these are negative factors listed, managers have to find solutions to solve them. Managers having open discussions with their employees regularly in order to help address any concerns or struggles can rectify lack of communication. Secondly, toxic/negative co-workers can be eliminated from the initial stages through the recruitment and selection process by hiring employees that are a good culture fit, they can also initiate team-building exercises to develop a tightly knit culture. Lastly, the lack of praise can be improved by including rewards and bonuses for those employees who have performed well; an example includes some in-store vouchers.

It should be noted that ‘boring/unreasonable workload’ scored relatively high (almost 3), so managers should pay some attention to improving work quality too, this relates to Figure 1, where enjoyment in the workplace was valued.
high. Some managers can make the workload enjoyable by making tasks less repetitive and giving the employees more autonomy in the workplace. In terms of the least scoring factor ‘uncertainty of the workplace’s vision, strategy and future’, was due to the number of basic level employees (e.g. sales assistant) making up around 88% of the workforce, and generally manager and senior level staff are the ones concerned about the workplace’s vision, strategies and future, for this reason managers do not need to focus a huge focus on this factor especially in order to satisfy the lower level employees.

**Figure 3. Negative Daily Factors within the Workplace**

![](image)

**Management and HRM Approaches**

As previously mentioned, questions 7 and 8 were designed to identify the existing links between management and employees. The need for information gathering on the demographic of the sample, is to help to find any apparent themes that can be applied to management strategies. In both Figure 4 and Figure 5, the genders of the respondents have been included.

**Figure 4. Preferences to HRM Approaches**

![](image)

Some prominent figures that are of significant values are number of respondents who prefer a soft HRM approach, just over half (53%), and the number of respondents who value both employee-to-employee relations as much as employee to manager relations (81.5%).

Some assumptions that can be made is that managers should create strategies that focus on a soft HRM approach, since only a small amount of people actually prefer hard HRM (6/54). That being said, those who chose hard HRM were predominantly male, so in some cases a male dominated workplace may react positively to a hard HRM approach. The majority of males have no preference on the different HRM approaches, and respondents who prefer a soft HRM approach were almost equal to those who prefer a hard HRM approach, so managers have more leeway in their choice of management styles, in a male dominated workplace.

In terms of females, a large majority (78.57% of females) prefer a soft HRM approach within the workplace. Without any doubt, managers in charge of a female dominated workplace should place a large emphasis on tailoring their strategies towards soft HRM.

Finally, in terms of a workplace that has a roughly even mix of males and females, management should still place an emphasis on having a soft HRM approach, this is because the majority of males have no preference to what HRM
approach is implemented and females prefer a soft HRM approach, therefore logic dictates that a soft HRM approach will be the approach most accepted by the majority of workers.

In terms of what retail workers value more, there is a landslide majority (81.45%) that share the philosophy that both employee to employee relations is just as valuable as employee to manager relations. With this in mind, managers should focus in integrating an open culture where all voices/opinions are shared. This is in line with Bennis & Nanus (1985) and Follett (1924) who advocate that workers are social beings, and workplace bureaucracy is counter-productive.

**Figure 5. Values on Workplace Relations**

<table>
<thead>
<tr>
<th>Employee to employee relations</th>
<th>Employee to manager relations</th>
<th>Both are equally as important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Female</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

**Work Quality and Criticisms of Management**

In terms of information, I have decided to identify key underlying themes and buzzwords in order to display the information in diagram form. The qualitative data allowed the study to gain information that was beyond expectations, and provide a more in-depth look at the thoughts and feelings of the workers in retail. The results from Questions 9-10 as illustrated in Figure 6 on the typical day work quality and the role of managers.

**Figure 6. Typical Day’s Job and Management of Work Quality**

As seen above there are many underlying themes that retail employees mentioned. Some prominent themes in terms of the work quality in retail is that it is boring, repetitive, simple (unchallenging) and busy, and the prominent examples of how management could improve work quality is through communication, rewards/incentives and a soft HRM approach.

The factors that were used to describe the work quality in retail were predominantly negative, negative factors were mentioned 50 times in comparison to positive work factors which were mentioned 7 times. This is an indication of why there is a growing concern with turnover rates rising from 10% to 16.5% from 2013 to 2016 and the retention
difficulties in the customer service roles rose to 18% from 12%, from 2009 to 2017 (CIPD 2017). Some answers on the work quality included (question 9):

“A regular day doesn’t have much going on, foot traffic is average around 150-200 people a day, where 10% purchase products, the work is the same, not too challenging” [Respondent 24]

“The work is boring and repetitive, with not much responsibility” [Respondent 40]

“Always on your feet, tasks are simple but repetitive” [Respondent 45]

These responses should encourage managers to find new solutions on how to improve the work quality of the retail industry. Following this there is number of solutions that the respondents suggested in order to create high quality work within the retail sector. Some quotes from the respondents included (question 10):

“Actually build relations with employees, thus creating not only a form of loyalty with them but an environmental comfortability in which employees can optimise results and their own ethic within the workplace” [Respondent 14]

“Creating an open platform for conversations, as often employees can feel intimidated by managers, this is key for communication which contributes to the quality of work in addition to other factors” [Respondent 22]

“Make work more enjoyable for employees, can be done through rewards and having a positive work culture” [Respondent 35]

For managers they have a wide array of opportunities to improve their employees’ experiences at work. The responses are in line with the previously mentioned theories, such as Herzberg’s Two-Factor Theory (1999), where reward/incentives fall under extrinsic factors and the majority of the themes identified for the work quality of a working day in retail falls under enjoyment within the workplace, which is intrinsic. The highest-ranking theme in which suggestions were made to improve the work quality (by managers), was communication, which was the highest-ranking factor in question 6, this indicates a strong value of communication (or lack of) within the workplace. It should also be noted that the 3rd most prominent theme in is to implement a soft HRM approach.

Conclusions

Before drawing the conclusion from this study, it is worth highlighting some of the ethical consideration and limitations of the study. First, in order to conduct business research that is ethical, I have taken measures to ensure that the research project has been conducted ethically. The participants of the survey were volunteers, who had full control of their participation, they could withdraw at any time, and their participation was not coerced. Their answers to the survey were consented, and they have full awareness that their answers were used within my business research project. Their identities have all remained anonymous; this is especially relevant in terms of questions 6, 9 and 10, where they were asked to value negative factors and comment/criticise retail managers, anonymity allows them to be completely honest without fear of any negative consequences. Questions were strictly focused on the retail industry and the work associated, there were no offensive, derogatory or intrusive questions involved.

Second, and in terms of research limitations there are a few factors that affect the study. The resources that was lacking were funds, which is why I had to opt in using free software for surveys, where in which I was only limited to 10 questions, which limits the amount of information that could potentially be gathered. Also the sample size, although mentioned as sufficient, could be much larger, this is due to the fact that the larger the sampling size the smaller the occurrence of sampling errors, also the retail sector has about 2.9 million employees, which is significantly larger than the sample size I obtained, this then limits the information I gathered because the 54 participants may not represent the majority views as the whole 2.9 million retail employees in the UK. Although these limitations may be prominent, I believe the right application of research methods and sampling has been sufficient to provide credible information in terms of the study at hand.

Overall, however, the results have found that management plays a significant role in the motivation and retention of employees within the retail industry, in the UK, this is due to the fact that managers have the power to dictate the numerous factors that affect employees, including, the HRM approach, the quality of work, intrinsic and extrinsic factors. The most central/important points based on the knowledge gained include, in relation to motivation and retention of employees within retail:

- Within retail, employees value extrinsic factors more than intrinsic factors, therefore managers should aim to develop strategies in accordance.
• There is a larger preference on a soft HRM approach within retail, so managers should focus on developing/implementing a soft HRM strategy.
• Three main areas of improvement for managers are communication, rewards/incentives and HRM approaches.

Some recommendations for future research in this area of study should be to expand on the sample size, in order to generate a more accurate representation of the beliefs of retail workers. Another recommendation is to gather more managerial perspectives, rather than having a large number of respondents who are at the employee (sales assistant) level.

References


Appendix

“Motivation/Retention within the Retail Industry” – Survey Results *(Platform used: SurveyMonkey)*

**Total Respondents: 54** (*r* = respondents)

**Q1: What is your gender?**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Number of Respondents (Percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>24r (44.44%)</td>
</tr>
<tr>
<td>Female</td>
<td>30r (55.55%)</td>
</tr>
</tbody>
</table>

**Q2: What age category do you fall under?**

<table>
<thead>
<tr>
<th>Age Category</th>
<th>Number of Respondents (Percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-25</td>
<td>28r (51.85%)</td>
</tr>
<tr>
<td>26-30</td>
<td>13r (24.07%)</td>
</tr>
<tr>
<td>31-40</td>
<td>9r (16.67%)</td>
</tr>
<tr>
<td>41 and over</td>
<td>4r (7.41%)</td>
</tr>
</tbody>
</table>

**Q3: What is the total amount of time that you have worked within the retail industry?**

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Number of Respondents (Percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 6 months</td>
<td>13r (24.07%)</td>
</tr>
<tr>
<td>6 months to 1 year</td>
<td>13r (24.07%)</td>
</tr>
<tr>
<td>Over 1 year to 2 years</td>
<td>12r (22.22%)</td>
</tr>
<tr>
<td>3 years to 5 years</td>
<td>8r (14.81%)</td>
</tr>
<tr>
<td>Over 5 years</td>
<td>8r (14.81%)</td>
</tr>
</tbody>
</table>

**Q4: Which roles have you held in retail?**

<table>
<thead>
<tr>
<th>Role</th>
<th>Number of Respondents (Percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Assistant</td>
<td>39r (72.22%)</td>
</tr>
<tr>
<td>Manager</td>
<td>5r (9.26%)</td>
</tr>
<tr>
<td>Both (Sales Assistant &amp; Manager)¹⁰</td>
<td>6r (11.11%)</td>
</tr>
<tr>
<td>Other</td>
<td>4r (7.41%)</td>
</tr>
</tbody>
</table>

¹⁰ Not a response in the survey, but respondents were able to select more than one option.
Q5: Rank what you value more in a job. (1 being most valuable)

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>Total:</th>
<th>Score:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Salary (and what it can buy)</td>
<td>58.83%</td>
<td>22.64%</td>
<td>7.55%</td>
<td>5.66%</td>
<td>5.66%</td>
<td>1.89%</td>
<td>3.77%</td>
<td>0.00%</td>
<td>53r</td>
<td>6.91</td>
</tr>
<tr>
<td>Enjoyment within the workplace</td>
<td>24.53%</td>
<td>37.74%</td>
<td>11.32%</td>
<td>1.89%</td>
<td>9.43%</td>
<td>1.32%</td>
<td>3.77%</td>
<td>0.00%</td>
<td>53r</td>
<td>6.17</td>
</tr>
<tr>
<td>Promotions (and its trappings)</td>
<td>3.77%</td>
<td>5.66%</td>
<td>20.75%</td>
<td>15.09%</td>
<td>26.42%</td>
<td>13.21%</td>
<td>9.43%</td>
<td>5.66%</td>
<td>53r</td>
<td>4.40</td>
</tr>
<tr>
<td>Fringe Benefits (e.g. pension plans, health insurance, company car, etc.)</td>
<td>5.56%</td>
<td>3.77%</td>
<td>16.67%</td>
<td>24.07%</td>
<td>12.96%</td>
<td>9.26%</td>
<td>9.26%</td>
<td>14.81%</td>
<td>54r</td>
<td>4.30</td>
</tr>
<tr>
<td>Physical Work Environment (e.g. cleanliness, spaciousness, etc.)</td>
<td>3.70%</td>
<td>5.56%</td>
<td>18.25%</td>
<td>18.52%</td>
<td>12.96%</td>
<td>9.26%</td>
<td>11.11%</td>
<td>18.52%</td>
<td>54r</td>
<td>4.06</td>
</tr>
<tr>
<td>Recognition (being renowned at work)</td>
<td>5.66%</td>
<td>5.66%</td>
<td>16.98%</td>
<td>16.32%</td>
<td>22.64%</td>
<td>18.87%</td>
<td>13.21%</td>
<td>24.53%</td>
<td>53r</td>
<td>3.77</td>
</tr>
<tr>
<td>Work Freedom/Autonomy</td>
<td>3.77%</td>
<td>11.32%</td>
<td>3.77%</td>
<td>16.98%</td>
<td>11.32%</td>
<td>13.21%</td>
<td>15.09%</td>
<td>24.53%</td>
<td>53r</td>
<td>3.57</td>
</tr>
<tr>
<td>Satisfaction with accomplishments</td>
<td>1.92%</td>
<td>3.85%</td>
<td>5.77%</td>
<td>7.69%</td>
<td>11.54%</td>
<td>19.23%</td>
<td>28.85%</td>
<td>21.15%</td>
<td>52r</td>
<td>2.98</td>
</tr>
</tbody>
</table>
**Q6: Rank these factors, which contribute to negative day at work. (1 being the highest)**

<table>
<thead>
<tr>
<th>Factor</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Total:</th>
<th>Score:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of communication, understanding and/or help from managers</td>
<td>44.23% 23r</td>
<td>25.00% 13r</td>
<td>11.54% 6r</td>
<td>17.31% 9r</td>
<td>1.92% 1r</td>
<td>52r</td>
<td>3.92</td>
</tr>
<tr>
<td>Toxic/Negative Co-Workers</td>
<td>24.53% 13r</td>
<td>32.08% 17r</td>
<td>22.64% 12r</td>
<td>7.55% 4r</td>
<td>13.21% 7r</td>
<td>53r</td>
<td>3.47</td>
</tr>
<tr>
<td>Lack of praise or recognition for the work you have done</td>
<td>18.87% 10</td>
<td>20.75% 11r</td>
<td>20.75% 11r</td>
<td>22.64% 12r</td>
<td>16.98% 9r</td>
<td>53r</td>
<td>3.02</td>
</tr>
<tr>
<td>Workload is unreasonable and/or boring</td>
<td>13.21% 7r</td>
<td>16.98% 9r</td>
<td>26.42% 14r</td>
<td>33.96% 18r</td>
<td>9.43% 5r</td>
<td>53r</td>
<td>2.91</td>
</tr>
<tr>
<td>Uncertainty of the workplace’s vision, strategy and future</td>
<td>0.00% 0r</td>
<td>3.70% 2r</td>
<td>20.37% 11r</td>
<td>18.52% 10r</td>
<td>57.41% 31r</td>
<td>54r</td>
<td>1.70</td>
</tr>
</tbody>
</table>

**Q7: Which statement do you agree with the most?**

<table>
<thead>
<tr>
<th>Statement</th>
<th>Agreement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>I prefer a hard HRM approach (High Focus on: meeting organisational goals, performance management and an autocratic leadership style)</td>
<td>6r</td>
<td>11.11%</td>
</tr>
<tr>
<td>I prefer a soft HRM approach (High Focus on: employee needs/culture, employee training &amp; development and a democratic leadership style)</td>
<td>28r</td>
<td>50.00%</td>
</tr>
<tr>
<td>I have no preference on either HRM approach</td>
<td>20r</td>
<td>38.89%</td>
</tr>
</tbody>
</table>

**Q8: What do you value more?**

<table>
<thead>
<tr>
<th>Value</th>
<th>Agreement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee to employee relations</td>
<td>4r</td>
<td>7.41%</td>
</tr>
<tr>
<td>Employee to manager relations</td>
<td>6r</td>
<td>11.11%</td>
</tr>
<tr>
<td>Both are equally as important</td>
<td>44r</td>
<td>81.48%</td>
</tr>
</tbody>
</table>

**About the Author:**

Chester has been working as a Recruitment Consultant in Central London. His day-to-day tasks involve interacting with both clients and jobseekers. He considers himself fortunate enough to be partnered with multi-billion dollar companies spread around the world. Although he graduated in the summer of 2018, he has found that many aspects of his BA (Hons) Business Management still play a part of his daily work-life, including aspects like consumer behaviour, talent management and marketing.
Consumer Perception of UK Challenger Banks

Emeka Okeke

Introduction

The 2008 banking and financial crisis was a turning point in retail banking in the UK: from public attitudes towards banks to government reforms within the sector especially which opened up the sector to new competitors, which would come to address the dominance of the leading banks. The IMF (2014) identified some of the causes of the financial crisis as including rapid financial expansion, the inflation in house prices and deregulation and lack of oversight. To prevent another likely reoccurrence and to limit the damage another crash might cause, policy-makers sought to enact large reforms, which changed the way commercial banks operated, and in the UK, this allowed regulation to be established that allowed challenger banks such as Monzo and Starling Bank to come into operation (Binham, 2017). These new banks have brought about new competition that the traditional banks have never encountered, especially amongst younger people. A quarter of UK adults under 37 have a challenger bank account (Howes, 2018) and although the main banks in the UK have 87% of current accounts, their future growth is in doubt. 44% of respondents to the 2018 Crealogix survey have opened accounts in the past five years and this goes up to 80% of under 25s opening accounts in the last five years and customers under 25 are three times more likely to open challenger bank accounts when compared to the rest of the population (Howes, 2018). Although their current positions face little threat, the preference of challenger banks by younger consumers challenges the future growth of traditional banks. This is compounded by the fact that the UK has become the world leader in the emergence of challenger banks right at the doorstep of traditional UK banks, which further complicates their problems.

Challenger banks in this context refers to mobile-only, branchless banks that looks to challenge the big four traditional banks in the UK (which include Barclays, Lloyds Banking Group, HSBC and Royal Bank of Scotland) post 2008 financial crisis (Cavaglieri, 2019). Some industry analysts such as Chiara Cavaglieri do not regard banks such as Tesco Bank and Sainsbury’s Bank as challenger banks because even though they are mobile only and do not have physical branches, they were set-up before the financial crisis in 2008. In addition, Metro Bank is not qualified in the category of challenger banks because they have branches (Cavaglieri, 2019).

The rise of challenger banks can also be attributed to the growth in Financial technology (Fintech) is used to describe new tech that seeks to improve and automate the delivery and use of financial services. Fintech is rapidly changing the world of finance for customers and financial service providers in innumerable ways. It describes the use of technology to deliver financial products and services to customers. This includes opening bank accounts online, using a phone for making in shop payments and viewing bank details (Central Bank of Ireland, 2016). All traditional banks all use Fintech for their services but challenger banks make it their cornerstone, rather than using technology to support their primary service of financial services, the primary service is providing technology (Central Bank of Ireland, 2016).

The aim of the study is to identify the major reasons that led to the rise of challenger banks and how consumers feel towards them. The scope of the study will be restricted to the population that use challenger banks in the UK. The main research question was “What are the major factors that led to the emergence of challenger banks and how have consumers responded to them?” The objectives of the study are:

- To understand the consumers perception of challenger banks.
- To identify the most important measurables for challenger banks in relation to consumers
- To identify and examine the recent major history happenings within the UK banking system

The UK is the world’s highest exporter of financial services with London regularly cited as the financial capital of the world (Dsouza, 2019). Banking leads this within the financial services sector. The UK is also the world leader in Fintech, including challenger banks and affiliated services and there has been over £4.5 billion worth of investment within this sector over the past two years. Most challenger banks in the world are established for the UK market (FinTech Futures, 2019). This study will be looking at the growth – if any- of challenger banks in the UK and how traditional banks will react to this competition or whether they regard it as competition or just a phase they will have to ride out. The study will look at how consumers view challenger banks and their services and who is most likely to use their services. In addition, it will see if consumers who use challenger banks use them as their main financial institution or in conjunction with traditional banks.

The coming of new entrants into the banking system who are solely based on technology (with the exception of Metro bank), there has to be a market they aim to target, and these targets must be willing to accept a new way of banking (Andreasyan, 2018). This is a very interesting topic because it also adds a new dimension of how the economics and business is conducted especially when involving technology. FinTech and challenger banks are an extremely
new concept and there has been little research done in how the population reacts to them or their popularity versus traditional banks.

The next section following is the literature review where the background is discussed in further details. Some models are introduced, and hypotheses made. In the third section, the methodology is discussed as well as the limitations. In the fourth section, data evaluation and analysis will be done followed by a conclusion and recommendations in the final section. This section has introduced what challenger banks are and has briefly given the background to what led to their emergence. The section also introduced the aims, objectives, scope and rationale.

**Literature Review**

There was a growth of challenger banks after the 2008 financial crisis when the regulatory agencies changed rules to allow for more competition as the result of the relaxation of entry barriers for new banks from the UK Treasury and the Bank of England. In addition, many consumers lost trust in many traditional banks and challenger banks are considered an alternative (Rooney, 2018). The crisis was caused by many factors which intertwined together to cause a catastrophic effect on the economy such as too much money and debt within the system and this money was not adequately used, but rather went to giving out mortgages for residential and commercial property and to speculate on the financial markets. Just 8% of the money was actually given out to businesses that were not in the financial sector and this pushed up property prices, which rose faster than wages (Salaam, 2015).

This, along with the loose monetary policy caused global financial imbalances added fuel to an already precarious situation (Salaam, 2015). The effects on the UK economy was especially devastating with marks still felt till this day since the UK had no big manufacturing base and the growth in previous years was fuelled financial services and high house prices (Richards, 2019). There was a reduction in bank to bank lending and if banks lent each other money, the rates were high (Richards, 2019). House prices plunged, and consumers were struggling to pay mortgages as well as an immediate fall in sales. Many well-known companies saw their demise such as Woolworths, MFI and Blacks (Richards, 2019). In addition, one of the biggest impacts was the rise of joblessness. As businesses’ sales reduced and consumer spending decreased, businesses collapsed, redundancies and job losses accelerated, and this affected tax revenues for the government (Richards, 2019). Between 2008 and 2010, 1.3m people lost their jobs as a result of the recession with 6.2m new people applying for Jobseekers Allowance between April 2008 and November 2009 which showed the struggle people has finding permanent job (The Guardian, 2010).

Customer trust and expectation have been extremely low since the 2008 financial crisis, which many people blame on the greed of bank as the main cause of the crisis (The Guardian, 2012). To remedy this, the UK government wanted competition to challenge the Big Four. Through the Bank of England, Competition, and Markets Authority, they opened up the market to new competitors that would challenge the reign of the bigger banks (Todd, 2018). “This system also known as “open banking” is the concept that allows the market disruption through the challenger banks that aims to better customer choice and service. Today there are more than 70 challenger banks in the UK (Todd, 2018). The British Bankers Association (BBA) (2014) also see greater competition to improve services and products that customers get. They also called for the reduction and deregulation of the capital to debt ratio that hindered challenger banks from operating and competing and access to payment platforms to be addressed (Todd, 2018).

The issue of trust has been central in the move to challenger banks especially amongst younger consumers. A 2016 poll suggested that about 50% of 18-24 did not trust traditional banks and doing transactions with them (Hill, 2016).
An advantage that challenger banks have in relation to traditional banks is the affiliation to Financial Technology also known as Fintech. What makes them attractive to consumer is their integration of technology as part of the products. Rather than traditional banks in the UK that use technology to help deliver financial products and processes, challenger banks are as much of a technology company as they are a financial company. This allows them to beat the forefront of all technological improvements and additions, which allow them to offer products in a quicker and more efficient manner (Yabstone, 2019). About 95% of people between the ages of 16 to 24 have smartphones, which are the primary medium of challenger banks (Statista, 2018). As mobile technology has improved, challenger banks can now offer extra services such as budgeting and monitoring of finances in real time (Yabstone, 2019).

Consumers now accept that technology is vital for them to succeed. Using the model of technology acceptance model, it can be shown how technology and the proliferation of smartphones have had effect on how consumers deal with banking. Consumers can do many things on their mobile devices and the push by challenger banks to be digital focused has helped to ingrain to customers that they are useful and easy to use as well as been convenient. By been perceived to be useful as - they do most of the traditional bank functions- and been easy to use attitudes to mobile banking and challenger banks have greatly improved. This along with the other consumer feedback to their family and friends more people have favourable intentions towards challenger banks and this gives challenger banks opportunities to grow and expand (Phan & Daim, 2011).

Many analysts see challenger banks as an idea that will cause a dent and disruption in the current banking sector that will a permanent mark sector. Challenger banks can also go for areas that are underserved by banks that are more traditional. Using technology as a base, they make transactions easier and can personalised services for customers (Cox, 2019). Challenger banks use supreme customer service to attract customer and to keep them. Before the deregulation of the banking sector, customers switching current accounts across the big four banks was low as the service rendered in each bank was similar. Challenger banks topped customer satisfaction surveys in 2018 according to Which (Business Matters, 2018) which they use to attract customers.

Other analysts consider challenger banks as a non-threat to the main banks. One of the reasons is that customers feel more confident with their money in the Big Four rather than challenger banks. When it comes to sensitive things such as finance, customers tend to be loyal and go for what they know which is in this case traditional bank. The consumers will be more cautious when dealing with new banks. (Ozcan, et al., 2018). The big four have also responded to challenger banks by opening up their own or by investing in other challenger banks (Cox, 2019).

**Technology Acceptance Model (TAM)**

The technology acceptance model will be central in the research as it flows along a line of attempt to understand a consumers’ behaviour along a specific trajectory. The technology acceptance model theorises that the use of a specific technology is determined on the perceived usefulness and perceived ease of use. This also holds for challenger banks whose main differential is its focus on technology and mobile. The combination of the perceived ease of use and perceived usefulness affects the variable of acceptance of the technology and use of the technology (Boakye, et al., 2014). When users are presented with new technology, how and when they use it is influenced by a number of factors (Lala, 2014).

Even though the technology acceptance model has been heralded as an excellent way to gauge and predict the acceptance of technology, there has been criticisms and limitations attributed to the model. One of these is these limitations is that what underlines the behaviour of an individual in the use of a technology cannot be reliably or effectively quantified in a research due to various subjective factors such as the values and norms of the society and the individual as well the different personalities of the individual (Ajibade, 2018). This allows for the argument that peer pressure and family can influence how much a person accepts a technology (Ajibade, 2018).

Another criticism is the scale that is used to measure or assess an individual in relation to their acceptance for technology. There is no defined method to analyse how the technology helps the consumers. The consumers utilise the technology differently and so will respond in varying degrees to it (Salovaara & Tamminen, 2009). Understanding that users of a technology may have different interpretations also reveals other implicit assumptions that the technology acceptance model cannot measure (Salovaara & Tamminen, 2009).

Rocker (2010) even suggested that the technology acceptance model is not future-proof as already, networked computers and artificial intelligence can proactively anticipate needs of consumers and even carry out talks on their behalf. Consequently, aspects such as ease-of-use, which has been used to predict the adoption of technology, will not be suitable for use anymore. Simultaneously, other factors which may have an important role in the “revised” technology acceptance model would not have been considered therefore making predictions difficult and research unreliable (Röcker, 2010). Despite all the limitations, the technology acceptance model is the one of the most popular research model used to predict consumer acceptance of technology (Surendran, 2012).
External Variables
According to Holden and Rada (2011), “External variables are essentially a variety of variables that are expected to influence users’ technology acceptance behaviour.” These influences may include age, level of experience, convenience, technology self-efficacy and awareness of technology amongst others (Holden & Rada, 2011). Convenience and the ability to do banking transactions on the go and without the need of a brick and mortar branch is big external influence when correlated with the technology acceptance model. Consumers do not need to line up in a bank or waste their time when most transactions can be done via mobile devices. This is especially noticeable amongst the younger generation who have grown with the technology as opposed to learning it like the older generation (PwC, 2019).

H1: Convenience has challenger banks viewed in a positive manner

Perceived Ease of Use
Perceived ease of use describes the degree that a user of a technology feels that using that technology should be effortless (Boakye, et al., 2014). Perceived ease of use is important for a consumer because if they find out the technology is within their ability to understand, they build up a positive perception towards it and with this, their self-efficacy. If the technology is difficult to use or has a high learning curve, consumers will be discouraged from attempting to use that technology (Boakye, et al., 2014). In the technology acceptance model the perceived ease of use leads -along with perceived usefulness- to attitudes towards using (Holden & Rada, 2011; Affronte, 2019; Chong; 2019).

H2: Perceived ease of use has a substantial positive outcome on consumers using challenger banks

Perceived Usefulness
The perceived usefulness of a technology is the indicator of the extent a consumer of a technology believes the technology is useful to them and increases their effectiveness. There is also suggestion that perceived usefulness is the strongest determining factor in the use of technology triggering its acceptance by the consumer (Boakye, et al., 2014). The technology must solve a problem that is was created to solve better than the previous alternative that are available otherwise it loses its usefulness. This is closely aligned with the convenience that challenger banks offer versus traditional banks and whether or not challenger banks are just as useful or not (Jubran & Sumiyana, 2015).

H3: Perceived usefulness is a great motivating factor in selecting challenger banks

Technology has transformed the way most consumers conduct their business and lives and organisations including financial service providers have come to depend on technology to deliver services to their customers (Boakye, et al., 2014). As a result, technology and IT services for banking use have been developed and modelled on the ease of use, usefulness and whether or not they solve any issues. They help to determine the user decision making and how willing or not consumer will use challenger banks (Boakye, et al., 2014). This section has delved into challenger banks and what consumers think about them and traditional banks. It has also identified the TAM as a suitable model to carry out the research and proposed three hypotheses in the study.

Methodology
The key objectives of this project are to understand the consumers’ perception of challenger banks, identify the most important measurables for challenger banks in relation to consumers and identify and examine the recent major history happenings within the UK banking system. Consequently, this section will show the steps that were used to carry out the research and show the path will be best suited given the limitations in the research. For the research to be carried out as accurately and effectively as possible, it is best to follow the research paradigm, which guides the researcher in the best way to achieve and capture the most correct information (O’Gorman & MacIntosh, 2015). The ontology for the research can be either objective or subjective. The objective perspective can see reality as a quantifiable article and tests can be made on it. It believes that reality is existent without the researcher. In contrast, the subjective perspective will look at reality through the lens of other objects and how they see things. It believes the researcher reality is what shapes society (O’Gorman & MacIntosh, 2015). In the course of this research, the objective ontology was followed.

Epistemology concerns itself with the way information is gathered. O’Gorman and MacIntosh (2015) identified four epistemological positions, namely: positivist, critical realist, action research and interpretivist. Positivism relates to when the researcher acknowledges there is a world outside their mind and they work by collecting data and statistics externally and that the data measures the reality (Weber, 2004). Interpretivism on the other hand allows the researcher to have a socially constructed notion of their environment through a lived experience where reality is not separated from themselves (Weber, 2004). It takes into account the different realities individuals have and the contexts in which they face these realities and allows the focus to be on what is happening rather measuring it.
This study will use positivism because the researcher assumes that there is a reality that has to be captured using the data that will be collected.

Critical realism is the assumption of a reality that exist independent of perceptions of humans, but access of this reality is limited by our physical perceptions and ideological perceptions. Action research involves working with members of an organisation on matters they are sincerely concerned about and want to take action on it.

The approach to theory development is divided into inductive and deductive. Deductive method is the moving from a general theory or idea to a specific one. It entails getting a broad hypothesis, testing and revising the hypotheses as per the results. Induction method involves moving from a specific theory to a more general one when observations have been made (Jaana & URS, 2018). This research will use deductive method because there are is already theories that are known that can be refined and adjusted as more data comes in.

When discussing methodical choice, they are classified into quantitative and qualitative data. Quantitative method is when the data is expressed and measured numerically basing it on the pure statistics. Values are computed and counted. Qualitative choice on the other hand is when the research and data are not in the form of numbers but assume a negotiated and dynamic reality and based on the on perspective of the observer (McLeod, 2017). The study will use quantitative method to carry out the research because the data collected from the survey will be used to compare with the model.

The methodology strategy is either the survey, the interview or big data amongst others. Interview is usually having a few open ended and in-depth questions that is done in person or over the phone that can capture complex data from a participant, usually requiring time and effort whilst the survey is usually short and scaled. It captures information in numerical or short-text form and is usually easier to fill out (Irvine, 2018). This study will conduct surveys because the aim is to poll data and values in a quantitative manner and surveys offer the best method. The survey is a structured method of asking the same questions to different respondents that gives a large database of information. They offer policy related data, the quantity is easily communicated and understood and it can cover a wide variety of activities and attitudes. The limitations of a survey the response rates are usually low interaction and some respondents might miss some questions. Sometimes the respondents can misunderstand the questions been asked.

In terms of data collection for sampling there is a choice between probability and non-probability. Probability sampling is when there is a sampling frame to choose from and all have an equal chance of been chosen, and they can be randomly chosen without missing portions of the population. Non-probability sampling is different as the full sampling frame is unavailable and therefore people cannot be chosen randomly, and certain elements are considered (Howard, 2018). The research will use non-probability sampling because it is convenient sampling. Due to limited time and finance it will be the easiest to use and it will be the most convenient to apply.

Data analysis was undertaken using descriptive and inferential statistics obtained using Excel or SPSS. A vital part of the data collection was the ethical considerations. All surveys sent out and received were anonymous and confidential. Respondents were not required to put any private details such as name, address or exact income earned. All data collected was kept on a single computer system and deleted after use.

There were serious limitations of time, which did not allow the researcher to send more surveys and inform more potential respondents, and the number of respondents was relatively small. The questions asked were limited and could not properly capture the intangibles from the respondents. Overall, this section has looked at the various methods in capturing and recording data as well as looking for the best method for this research.

Research Findings and Analysis

The results and findings of the survey is presented. A range of questions was sent out to participants that would assist in the answering research question. Participants of the study were randomly chosen from those who had challenger bank accounts. A total of 44 respondents were able to get back the survey completed successfully.

One of the limitations of the survey is that banks like Metro Bank and Tesco Bank may be confused as challenger, which for the case of this research, it is not. Even though this was addressed to participants, there may be a chance that when responding, some participants might have the above examples (and their likes) in mind when responding to the questionnaire. Microsoft Excel and SPSS Statistics and Google Forms were critical in gathering information and presenting them. The gender of the respondents was skewed towards the males. It was identified that this arose most likely from the respondents the researcher knew and that could respond. In terms of age classification, most respondents were between 18-24 and 25-34 (Figure 1). No respondent from ages 55-64 and 65+ were recorded. This follows the accepted assumption that younger people are more likely to use technology than older people are. It can also be identified that the medium that the survey was sent with (usually e-mail) made it more difficult for older respondents to answer.
A majority of the respondents earned between £20,000-£34,999 (Figure 2). Only 13.6% of the respondents earned higher than £35,000 and this can be reflected in the age of the respondents with a majority been young.

When the question on how respondents became aware of challenger banks, 34.1% and 29.5% heard about challenger banks through social media or family and friends Figure 3). This shows the importance of technology or the trust of others in delivering information to potential customers.

All respondents still have an account in a traditional bank or non-challenger account showing that even though challenger banks may be popular, they are a compliment to other banks and not a replacement. The following data show responses for perceived ease of use, convenience and perceived usefulness respectfully.
From the data in Figure 4, it can be inferred that the respondents find challenger banks extremely convenient, easy to use and useful. It could be said that the challenger banks are actually fulfilling the technology acceptance model, but this might be that all the participants already have challenger banks and that the main reason they went for them was that they felt it could fulfil the needs.

Using SPSS software program and Excel, T-Test were carried out to look further into the data received. Using the T-Test, the gender of the participants and the perceived usefulness of challenger banks were correlated. The T-Test showed there was no significant difference. Further T-Test were carried out to relate the gender of the participants and the convenience and perceived ease of use. Both tests showed there was no significant difference. Anova test was carried out to determine correlation of the age of the participants and the usefulness of challenger banks. There were no significant differences. Anova test were also carried out to answer if participants found challenger banks easy to use in relation to their age and concluded that there was no significant difference.

In the evaluation of the data, even if many of the hypothesis many anomalies and challenges arose that would negatively affect the research. A major factor was that all participants already used challenger. The questionnaire did not ask them for how long and to what extent they had been using challenger banks. Because of them already owning challenger banks, their responses to the usefulness, ease of use and convenience where all slanted towards the “agree” and “strongly agree” on the scale. The number of people who participated in the survey was of a
significant number. Only 44 participants cannot appropriately capture what is necessary to give a more comprehensive result. Another of the problems were the questions asked in the survey. It did not capture more of how the external environment could have influenced participants’ in how they made their decisions and choices. It was too linear. There were only 10 questions in which to capture a more detailed and wide-ranging reasoning influence is extremely difficult.

Hypothesis Evaluation

The first hypothesis predicted that challenger banks will be seen as positive and the data has shown that. 92.2% of participants agreed or strongly agreed that challenger banks where convenient. This led to 100% of participants agreeing or strongly agreeing that a challenger bank can be recommended to a friend or family.

H1: Convenience has challenger banks viewed in a positive manner

One of the main aims of getting a challenger bank is the convenience it offers. 4.8% of respondents stated a neutral position and from the analysis of the data, both respondents were in the 35-44 years age group. This suggest that also most participants find challenger banks convenient or very convenient, the very few who were not on the extreme end of the scale tended to be older.

The second hypothesis predicted that consumers of challenger banks would find them easy to use. The data shows that 100% of respondents agree or strongly agree with this.

H2: Perceived ease of use has a substantial positive outcome on consumers using challenger banks

The third hypothesis predicted that participants find using challenger banks useful or very useful. The data aligns with the hypothesis although there were exceptions. 4.5% of the participants had a neutral view of this. Looking at the data, it could been seen that the ‘anomaly’ came from the 35-44 year age group who have not been completely satisfied that challenger banks can do what they need.

H3: Perceived usefulness is a great motivating factor in selecting challenger banks

The shortcomings of the technology acceptance model and the survey aside, the products challenger banks offer align itself with the technology acceptance model. From the data, technology, convenience and the ability to do all bank transaction relatively easily, this the driver of consumers using challenger banks.

The majority of respondents were young people, the 18-24 and 25-34 age groups. As earlier stated in the literature review, younger people were more likely to adopt new technologies and have more trust to these new technologies compared to the younger people. As they have been more likely to have “grown” with technology as opposed to learning to use it, it has become more natural for them. This section has analysed the data received through various mediums. Young people are more likely to use challenger banks but all respondents regardless of age still traditional banks. TAM clearly fits with the hypotheses.

Conclusions

The major factors that led to the emergence of challenger banks have been identified. The financial crisis and the fallout thereof were the catalyst that led to change in policy from regulators that allowed for the rise of challenger bank. That was partially answered in the research question. The part of the question that considered consumer reaction was partially fulfilled. The respondents were already biased towards challenger banks and the data would not have been comprehensive and unbiased. As challenger banks continue their growth and as they add more services, it will be difficult in the current climate to measure how consumers view them. Many consumers are still getting to know about challenger banks and any views held now will change as challenger banks grow (KPMG, 2016). Challenger banks are relatively new to the banking sector and there have been limitations and opportunities associated with them. Many consumers do not know about the various challenger banks and the limits their services can offer in relation to the licences the can obtain and limitations of the law.

There has been very little research on challenger banks or how consumer behaviour can be influenced by the and vice versa. There is also a limited amount of information and predictions on how the long-term health of the UK banking system and landscape is in relation of challenger banks and the traditional banks, hence the importance of this research to be properly and effectively conducted to capture the correct details. This information if properly captured can be used by challenger banks (competitors who wish to compete with the traditional banks) and have a to find a way to differentiate themselves and used by government agencies to improve services, avoid and prevent future challenges and as a gauge to improve the banking system. Although the report has many limitations in terms, it has successfully applied the technology acceptance model -in a limited way- against challenger banks to great success.
Challenger banks must continue their technological focused route but should not disregard older consumers who might be willing to use the product but have reservations. Research should be done with a bigger sample size using different and better strategies to meet more respondents. As challenger banks continue to grow, further research should be done to find out whether they have the possibility of displacing traditional banks. Finally, research should be made to see if a repeat of the 2008 financial crisis were to reoccur, will the challenger banks be able to survive.

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Developing a Small Business Plan: An Elevator Pitch for Cannabidiol (CBD)

Barry Omesuh, MBA

Cannabidiol (CBD) is a natural substitute to sleeping pills and is legally available across the United States of America (USA). CBD works with the body's endocannabinoid system, responsible for all the homeostatic functions within the human anatomy. Generally speaking, CBD is an anti-anxiolytic, which helps to fight anxiety, insomnia and other irregular sleep patterns. The Medicine and Healthcare Products Regulatory Agency (MHRA) recently highlighted that the level of awareness and acceptance of CBD has been on the rise. The purpose of this article is to reflect upon an MBA business plan making the case for the adoption of CBD based on an extensive review of the literature and various other sources including personal interactions and a range of media and policy reports.

**Keywords:** Cannabidiol (CBD), Hemp Tea, Business Plan, Teaching Resource

**Introduction**

The Medicine and Healthcare Products Regulatory Agency (MHRA) recently highlighted that the level of awareness and acceptance of CBD has been on the rise. The number of people now using CBD to combat several ailments and medical conditions, as well as an aid to relaxation and to quit nicotine (McBride, 2016; McBride, 2016), is also attributable to CBD usage. According to Hanf-Zeit Ltd, there products rich in CBD oil are derived from the European Union (EU) allowed legal industrial hemp Cannabis Sativa L, (hanf-zeit.com, 2018), with licenced context and written authorisation from the Home Office (Herts Hemp, 2017). Demand for the product increasing everyday as people are looking for self-medication therapies and alternatives to the pharmaceutical products, which are made with different chemicals.

Products rich in CBD oil are available all over Europe where it is legal to sell when you have a registered company. The number of users in the UK has grown extensively, but it is largely underground as it still illegal in the UK where a special license must be obtained from the Home Office to sell the product (Walter, 2017). My company Senior Benson intend to take advantage of the huge market and obtain a license in Germany to sell the product and it will mainly be sold online.

This business plan is a new entrepreneurial venture, which includes the business and analysis of the market and industry. It also considers the customers, finance for set-up, marketing strategy, operation plan, management, milestone, resources and the risk. A Business plan is a game plan or road map is a functional plan for marketing, finance, manufacturing, and human resources, that helps to addressing both short-term and long-term decision making for the first three years of action. According to Deakins and Freel (2012), it serves as a strategic planning document for entrepreneurs (Deakins & Freel, 2012).

The CBD industry is being driven positively from the lifestyle sector, because of the health benefits recently discovered in cannabis derivatives, especially Cannabidiol (CBD) (Cards, 2018). Before the illegalisation of cannabis in 1937, key pharmaceutical companies produced assortment of cannabis-based medicines, but cannabis has been used as a medicine for some years (Leonard-Johnson & Rappaport, 2014).

Although it has a long history, the recent discovery (1992) of the body's widespread endocannabinoid system (ECS) has thrust cannabis back into the public interest again as a practical medicine (Leonard-Johnson & Rappaport, 2014). According to Forbes Magazine, Brightfield group said that Hemp-derived cannabidiol (CBD) sector in the next three years would be a billion-dollar market (FinancialBuzz., 2018). The in-depth analysis of the company's product and services, strategies for marketing, the infrastructure and supplies will be shown in this document. Senior Benson will kick-start a worldwide awareness and healthy campaign highlight the benefits by of CBD Oil by selling Senior Benson Tea, (100% Hemp Tea, rich with CBD Oil) in the UK.

The remainder of the article consists of a sample business plan, where I highlight the ingredients for this product including in an elevator pitch to potential investors and other stakeholders. The sections document issues related to product sourcing, market and funding, the legal and/or regulatory environment for Cannabis in the UK and the implications of these.
The Elevator Pitch

Our Products are (100% Natural Hemp) rich with original CBD Oil.
We do not deal in Synthetic Cannabinoids (SC) or fake CBD Oil.
(Leonard-Johnson & Rappaport, 2014)

According to Forbes, Brightfield group that Hemp extracted cannabidiol (CBD) in three years will be a billion-dollar business (FinancialBuzz., 2018; Team Cilitech, 2017). The strength of the venture in relation to financial needed of the business is good, since the consignments of EU certified Hemp Tea will be sent on credit (Leonard-Johnson & Rappaport, 2014). Reflected in this business plan is the desire to launch an alternative to traditional medicine with the online business of CBD a product that has no psychoactive effects. CBD is among one of 70 cannabinoids originate in cannabis and is not harmful and not inebriating. CBD has seemed to be an anxiolytic, an anti-cancer-causing agent, an antioxidant, and is additionally ready to diminish seizures and reduces the effects of spasticity (Leonard-Johnson & Rappaport, 2014).

Objectives
The mission of the business is to have the wholesaler supply with massive quantities and the repackaged into the businesses own packaging and in so doing get the product cheaper for buying in bulk.

The Business
With the amount of people, using CBD growing yearly, the Cannabis Traders Association UK noticed that the number has doubled to 250,000 (Young & Oppenheim, 2018) recently we noticed that Holland & Barrett are already stocking the CBD products. Industry and market forecasts - according to Technavio, a leading global technology research and advisory company, report the global CBD oil market is set to grow at the compound annual growth rate (CAGR) of more than 39% in the next three years (Technavio, 2017). The product is rich in CBD oil and the active ingredient Cannabidiol is non-psychoactive, not scheduled and is found in all hemp products.

Many people mistake CBD for THC, the primary psychoactive ingredient in cannabis that gets a people high. Cannabidiol CBD and Tetrahydrocannabinol (THC) are both by-products of cannabinoids found in cannabis, while THC may give you a “high”, CBD will not give you a high. Now legal CBD-rich hemp oil can be bought over-the-counter, without a prescription (Walter, 2017). Despite these ill-advised judgments, CBD is legal worldwide and is totally protected. Likewise, of unbelievable significance, CBD appears to be an anti-anxiety, an anti-cancer-causing agent, an antioxidant and is additionally ready to diminish seizures and reduce the effects of spasticity. In today's reality with the cannabis civilization developing quickly, weighty exploratory tests are starting to be done everywhere throughout the world and we are finding out that there are more important things to be found out of the substance of this supernatural plant.

The commodities are GMO free, Vegan and 100% Natural. They use CBD that has been extracted from natural hemp. Their oils are fastidiously made up from an array of astounding CBD Hemp types developed inside of the EU and Stateside. To aggravate this issue, CBD is likewise a standout amongst the most misconstrued dietary substances. According to the Hemp Business Journal (2017), guesstimates the hemp industry will raise to $1.8 billion in sales by 2020 (Borchardt, 2016), controlled by hemp food, body up keeping and CBD products. Our target market will be adults who suffer from Arthritis or any related illness.

The Market
As the USA and its surroundings continues to make moves towards validation of cannabis, the demand for pure cannabis extracts for THC &CBD oils are steadily rising at a quick pace. Cannabis operators and purveyors are acquiring advanced licenses and other assets to gain an edge on competitors in the race to improve higher grades of cannabis enriched and CBD extraction methods as the demand rises across the whole of America and worldwide.

The product will be bought from wholesalers in Europe, especially in Germany where our central office is going to be located. The product will be repackaged in Senior Benson (100% CBD oil products straight from the farms) packages. With a website online, customers will be able to order, and we will deliver products globally. All packaging will provide customers with the products medicinal benefits. The range of products will vary from CBD oil; CBD tea; Cookies; Chocolates etc.

The negative history or connotation of Cannabis is going to put people off CBD products, just by association, which will be difficult to overcome, but with awareness of the benefits of trying Senior Benson product the company will work hard to overcome the problem by constant repackaging and remarketing the product.

According to the CBD Merchant account (CBDMA 2016), products derived from Hemp, cannabis plant is a lucrative business, and the products range from CBD medical oil and fabrics and the popularity is due to peoples understanding of the benefits. A report by Walter (2017), which saw CBD prescribed on the NHS to an 11-year-old boy, was the first of its kind in the UK. With Holland & Barrett already seeing the market and thus opening the door
for other entrepreneurial that understand the market like The Senior Benson Company to jump on the ban-wagon (Guardian, 2018). The price for the CBD product varies £3.50 to £80 depending on the product. The business intends to trade worldwide with a robust distribution system in place.

The Team
The team includes the author with experience gained from using the product for medicinal purposes and the intensive investigation put into the research of CBD. Other team member will include Jürgen from Germany who has worked in the industry for many years with over 15 years’ experience. Jürgen has already informed the customers he dealt with before about the new business start-up and many are very interested in trying out our products. Another team member is Stevens who is from UK (see CBD-Rich Hemp Oil: Cannabis Medicine is back - 2014), and he has the experience as a pharmacist which according to the UK law, only people with medical background can offer the product to the public (Leonard-Johnson & Rappaport, 2014; Walter, 2017). A partnership with DHL is vital for worldwide delivery. Been based in Germany should be an advantage in low cost delivery (DHL 4, 2015).

The Marketing Plan
With just a matter of time before the UK follow other European countries in legalising the CBD, and according to Walter (2017), this has opened the door for others with chronic illness to receive the prescription from their GP. As Hemp products, cannabidiol, and marijuana uses continue to branch out, the quickly growing market for different Herbal call outside of recreational and traditional medicinal tradition will continues to grow at a fast rate. New partnerships for companies (e.g. DHL, Wholesales of Hemp products) and areas of specialization will continue. By branding the three company vans with 100% advert of the products and web address of the company, and with Circular Economy (CE) in mind, we can lease out the van and still gain awareness and free advertisements.

The highest priority for the business is to give around 70% of its marketing to target the UK market where the product can help many people like, drug addicts wanting to come of drugs or chronic illnesses. Moreover, researchers have free favourable data in the character of CBD in the Rapid eye movement (REM) sleep phase and believe CBD is successful in controlling the rapid eye movement. This is exciting news for insomnia sufferer. CBD can also have an effective affect in sleep regulation and can be less addictive when compared with tolerance-building sleeping pills (PRNEWSWIRE 2018). As these are initial results pointing towards CBD being a natural sleep supplement that need more studies and research to be trialled on humans.

As the business will be receiving the CBD from the wholesaler at a lower rate, and after repackaging, the business intends to offer the array of products at lower price initially to entice potential customers and hold on to them. Most of the marketing will be done on the company van and the businesses web-site and other sites (Wilson & Gilligan, 2005), for example, Google AdWords where every new customer will cost the business around £1,50, including dropping adverts through letter boxes not just about the products but also its medicinal attributes. My experience in the business also shows that many little shops like barbershop (see Omeshu, 2019), door 2 door, car boot at Dagenham market as well as shops that will stock the product.

The Production Plan
The business itself will not be producing the product at this early stage of the business. As mentioned above, all the products will be coming from wholesalers but repackaged by the business into its own brand and offered to clients under the brand of the business. One person will be needed to do this part of the repackaging. The product will be coming directly from wholesaler in Germany

Financial plan
The business will need capital for assets and acquisition in order to be able to finance the operation in its initial year. Start-up capital required for the business is relatively minute compared to wanting to grow and produce the product yourself. The start-up budget is around £120,000.00 and this is mainly for the facility needed for repackaging and the initial inventory. Another £20,000.00 for legal and the accounting, £10,000.00 for the website, and another £10,000.00 for contingency. The highest that will be initially needed is for the first batch of order and repackaging in the businesses name and logo plus the German activities (Redesign and Logistics). For this, the sum of £50,000.00 will be needed. A five-year capital plan has been planned and the business intends to have cash flow that is positive in the 6th month.11

The sale of the product will start after 2 months including the arrival of inventory and packaging and the business will achieve a positive cash flow and profit in the first year of trading.

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11 Assumptions: With my experience in business, for receivables, a 30 day will be allowed before collection and inventory turnover is expected to be 50 times. An allowance of 20% for receivables financing at an interest rate of 8%. A yearly growth rate of approximately 25% has been assumed and the sales price is included.
### Table 1.

<table>
<thead>
<tr>
<th>Assets</th>
<th>Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock/Inventory</td>
<td>60,000</td>
</tr>
<tr>
<td>3 Used Transit Van</td>
<td>30,000</td>
</tr>
<tr>
<td>Office Rent (Germany and Lagos)</td>
<td>15,000 (2 years)</td>
</tr>
<tr>
<td>Office equipment</td>
<td>14,000</td>
</tr>
<tr>
<td>Personal Computers</td>
<td>2,000</td>
</tr>
<tr>
<td>Mobile phones</td>
<td>1,000</td>
</tr>
<tr>
<td>Web Design Etc.</td>
<td>10,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>132,000</strong></td>
</tr>
</tbody>
</table>

### Sales Forecast

This assumes that our product will be sold online successful and banning any drastic unforeseen effects, like change in the Law on the Land

<table>
<thead>
<tr>
<th>UNIT SALES</th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>HEMP TEA</td>
<td>30,000</td>
<td>40,000</td>
<td>50,000</td>
<td>70,000</td>
<td>100,000</td>
</tr>
<tr>
<td>UNIT PRICE (£5)</td>
<td>150,000</td>
<td>200,000</td>
<td>250,000</td>
<td>350,000</td>
<td>500,000</td>
</tr>
<tr>
<td>SALES (£)</td>
<td>120,000</td>
<td>160,000</td>
<td>200,000</td>
<td>280,000</td>
<td>400,000</td>
</tr>
<tr>
<td><strong>DIRECT COST (Unit Cost of 4 Euros)</strong></td>
<td><strong>£30,000</strong></td>
<td><strong>£40,000</strong></td>
<td><strong>£50,000</strong></td>
<td><strong>£70,000</strong></td>
<td><strong>£100,000</strong></td>
</tr>
</tbody>
</table>

### Projected sales forecast

This is assuming our products are sold quickly due to the high demand, a price variation allowance of 20% for material and a 1% wastage.

### Break-even analysis

The initial monthly fixed cost for the first year is £12,000 and for variable unit cost is around 25%, the business will need around 2500 units every month (30,000 for the first year) produced and sold to break even. Exchange rate is a vital factor, since the raw material is coming from the Euro Zone, a forecast and drive to get cost of producing Senior Benson Tea at around 4 Euros and sell at an average of £5 will help in my target of making 40p from each transaction. With this assumption, the business should break-even after the end of the first year.

### Project profit and Loss

It is estimated that the two initial years of sales, will see an increase in sale and the first reason will be the effect the product is having on people’s health and the price. This increase in sales therefore allows for the projection of the gross margin, moreover other products will come on stream.

### Cash flow

The business should see a positive cash flow after a year of operation, ten months into funding.

### Risk Analysis

Resources is the backbone of any business and if this resource dries up the business will be in trouble or collapse (Mason & Stark, 2004). As the business depends on the wholesaler to deliver the CBD, the businesses hands will be tied if for some reason the wholesaler cannot deliver. The Government will play a key role in the business if for some reason they find the product is not healthy for human consumption or pass a legislation to bar the product (Guardian, 2018), which can bring the business to a stand-still in the UK alone.

Furthermore, due to the image marijuana has in the eye of the public, the business could be subject to campaigns, which could eventually have a negative consequence on the business. Another case is countries which now has no restrictions on CBD, if decides for some reason to make it illegal, this could make prices go higher because of demands from countries where the product is not allowed, therefore, this could have a knock-on effect on the business whereby it has raised its prices.

### Conclusion

CBD is an excellent choice of product and the company will have to communication with the masses on the opportunity. This is in addition to some further information on what technology would be required to commercialise the product in question. Cannabis is being legalized throughout the United States thanks to its many scientifically verified health benefits. Meanwhile in the UK, the drug is still considered dangerous because of the ingredient THC, a psychoactive compound. CBD, or cannabidiol oil, is a close relative of THC without any psychoactive part, making...
it legal for use in the UK. The active ingredient Cannabidiol is non-psychoactive, not scheduled and is found in all hemp products. With the aid of cannabinoid therapeutics and supplementation, many conditions are being researched that CBD may be helpful, namely Acne ADD/ADHD Addiction AIDS ALS (Lou Gehrig's Disease) Alzheimer’s Anorexia Antibiotic Resistance Anxiety Atherosclerosis Arthritis Asthma Autism Bipolar Cancer Colitis/Crohn’s Depression Diabetes Endocrine Disorders Epilepsy/Fibromyalgia Glaucoma Heart Disease Huntington’s Inflammation Irritable Bowel Kidney Disease Liver Disease Metabolic Syndrome Migraine Mood Disorders Motion Sickness Multiple Sclerosis Nausea Neurodegeneration Neuropathic Pain Obesity OCD Osteoporosis Parkinson’s to name a few (Leonard-Johnson & Rappaport, 2014).

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Brexit and Free Movement: A Legal Perspective

Delon Jones

Introduction

In 2013, David Cameron, the then British Prime Minister (PM), gave British citizens the opportunity to decide whether the United Kingdom (UK) should remain within the European Union (EU). On the 23rd June 2016, the British electorate and the Gibraltar British overseas citizens voted 51.89% to 48.11% in favour of leaving the EU. This phenomenon is referred to as Brexit (a combination of “British and exit”). This referendum is considered to embody the dissatisfaction of the British people with the EU.1 The UK joined the European Economic Community (EEC), now the EU, on 1st January 1973.2 Article 50 created the legal mechanism for any member state to leave the Union with its own constitutional requirements.3 This was triggered by Theresa May4, which gave both the EU and the UK two years to negotiate the withdrawal agreement. The UK was legally scheduled to leave the EU on 29th March 2019. However, this period was extended until 31st October 2019.5

Immediately after the vote, there was uncertainty for EU citizens’ rights (especially free movement) in the UK and UK citizens in the other member states, and also the future of the UK and the European single market.6 The EU was formed in 1993 with the single market considered as the best way forward for Europe, which services over 510 million citizens.7 The single market was developed to homogenise the laws in all the member states.8 The free movement of workers is one of the four fundamental principles of the EU single market along with the free movement of goods, capital and services. This enables citizens of the EU to move freely throughout member states.9 The UK voted to leave the EU but still wanted access to the single market, without accepting this free movement of workers.10 However, after the vote, the other 27 European leaders held an emergency meeting on the 27th June 2016 and made it clear that if the UK wanted access to the single market, it must accept all the four freedoms.11 The discussion concerning the future relationship between the EU and the UK remains open. It is essential to analyse the legal aspects and potential implications of the free movement of workers post Brexit.12 European citizens can move to the UK and British citizens are equally free to move to the other 27 member states.13 The UK leaving the EU means that European citizens may lose their rights to move freely, work and conduct business in the UK, and the same will apply for British citizens in the EU.14 This is complex to untangle because the UK has been a member of the EU for over 40 years. The UK and the EU would have to find a solution to address the concerns of the 512.6 million citizens and achieve the best deal possible on free movement.15

Having a single economy and free trading block has been one of the EU’s fundamental goals.16 The single market was created to allow trade among member states.17 The single market functions so countries can trade without any obstacles.18 This is considered one the greatest achievements of the EU. To understand the single market better, one must understand the background of free movement of persons/workers.

Since the Second World War, the EU member states wanted to ensure and secure lasting peace, and thus created the European Coal and Steel Community. The Treaty of Rome created the European Economic Community (single market) in 1958.19 The main objective was to allow the free movement of capital, services, goods and persons.20

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2 European Communities Act 1972.


4 Prime Minister at the time of this research.


6 Tom Moore and Matthew Field, ‘The profession takes stock as Brexit vote sends UK crashing out of EU ... and into years of uncertainty’ [2016] Legal Bus 266.


12 Bernard Ryan, ‘Negotiating the right to remain after Brexit’ [2017] JIANL 197.


20 Dunne (n 7).
The new provisions were adopted by the Single European Act 1985, which reinforced the four freedoms into the single market\(^2\), which removed internal frontiers and reinforced the free movement of goods, persons, services and capital according to the Treaty.\(^2\) The free movement of persons was further recognised as a fundamental right for EU citizens and was therefore included into the Treaty of Maastricht.\(^2\) The single market is one of the pillars of EU economic integration.\(^2\) This is considered one of the best aspects of the EU as it opened up internal borders, allowing the free movement of capital, goods, services and people,\(^2\) and allowing for mobilisation within member states and created common policies and standardised rules within all member states.\(^2\) However, as time passed, the single market has been constantly developing and has faced many technical and political challenges.\(^2\)

The focus of this article is the protection of free movement of workers post Brexit, and an analysis of the impact of Brexit on the free movement of people and workers. Chapter One outlines the history behind the European Single market “free movement of persons/workers” as set out in the Treaty of the Function of the European Union (TFEU). Chapter Two examines the free movement of persons. Chapter Three looks at alternative future options for the UK and the EU's to protect the free movement of person/workers. Finally, conclusions are drawn, and recommendations made.

**Movement of the People (Exodus) and the Treaty of Rome**

The history of free movement of persons within member states will be analysed in this section. Article 48, Treaty of Rome, initially allowed the free movement of persons for economically active persons.\(^2\) The Treaty of Rome allowed European citizens free movement (now art 45-66 TFEU).\(^2\) The EU focussed on the single market rights rather than just having a normal customs union.\(^2\) If a member state leaves the EU that state has no access to the single market unless there is a trade agreement in place.\(^2\) Article 26 stated that the internal market should not be compromised when it comes to the free movement of goods, persons, services and capital, and this has been protected by the treaty.\(^2\) The free movement of persons is also protected under Article 2, which states that all citizens should be entitled to freedom, equality, respect for human rights and dignity, and must have the same protection as a national of a member state.\(^2\) The EU also aims to protect the well-being and peace of its citizens based on Article 3.\(^2\) It also grants its citizens freedom, justice and security without any hindrance. Protection of EU citizens is ensured within the treaty\(^2\), and its values must be promoted.\(^2\) Therefore, citizens have an individual connection to the free movement of persons because it is the right of all citizens of the EU.\(^3\)

The free movement of persons is key in promoting European integration.\(^4\) Although it can be difficult, free movement is a citizen's fundamental right and it would be considered unacceptable to remove those rights.\(^4\) The President of the European Council, Donald Tusk\(^4\), clearly stated that the free movement of citizens is non-negotiable if the UK wants to continue having access to the single market post Brexit.\(^4\) This was echoed by both the German and French leaders.\(^4\) If the UK wants access to the single market, it must honour the free movement of persons.\(^4\) If the UK is allowed access to the single market and is allowed to restrict the free movement of persons, this could be harmful for the EU and would set precedent for other member states.\(^4\) The single market's aim is to allow the citizens of Europe to increase and contribute to the prosperity of the EU and develop close ties within member states.\(^4\)

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\(^21\) Single European Act 1985

\(^22\) Lonbay (n 13).


\(^26\) Trevor C Hartley, ‘Constitutional and institutional aspects of the Maastricht agreement’ [1993] ICLQ 213.


\(^28\) Treaty of Rome 1957, art 48. “Established the free movement of workers”


\(^32\) TFEU (n 3) art 26 (ex-article 14 TEC).

\(^33\) TFEU (n 3) art 2 (ex-article 17 TEC).

\(^34\) TFEU (n 3) art 3.


\(^40\) Was the President of the European Council at the time of this research and was replaced by the recent EU election.


\(^44\) Donegan and Teo (n 10).

Allowing access to the single market without the free movement of persons would be contrary to the objective of the single market. The UK willingly signed up for this when it joined the EU.46

European leaders have stated that it is unquestionable that if the UK wants access to the single market, it must allow all four freedoms.47 A perfect example is Switzerland who is not a member state of the EU but has access to the single market and accepts the free movement of persons/workers with restrictions.48 The EU fully respects the free movement of persons/workers and if a third country wants accept the single market, all free movement of persons/workers must be accepted.49 The trade deal negotiated by the PM covers the free movement, and it can be argued that the UK may have access to the single market and have a bilateral relationship such as Switzerland’s.50 If the UK wants to continue to enjoy the benefits of the single market, all the freedoms must be accepted and the United Kingdom must compromise for economic growth and citizens’ rights.51 The four freedoms must be kept connected because they are fundamental citizens’ rights, they harmonise the member states, and they remove barriers to free movement.52 The four freedoms cannot operate independently because member states who are against immigration, would pick and choose which freedom they are willing to accept. This is against the purpose of the single market to abolish restrictions to free movement of persons, services, capital and goods.53

Europe and the United Kingdom

The EU and the UK are working together to find a solution to the free movement of persons/workers post Brexit. There are some reasons why a solution has not been found yet.54 This chapter will evidence the present situation surrounding the free movement of persons/workers and will also analyse the possible impact of Brexit on the free movement of persons/workers and the jurisdiction of the Court of Justice of the European Union.

According to Luxembourg Prime Minister, Xavier Bettel, the UK has a lot of opt-outs and post Brexit is willing to have a lot of opt-ins.55 The UK has certain restrictions in areas such as boarder control, the UK has opted out in areas such as the Schengen Agreement, which abolished border controls between member states. When an EU citizen wishes to enter the United Kingdom, a passport or National ID card is required with no visas. It looks likely that these rights currently enjoyed by EU citizens and British citizen will come to an end. Considering the Prime Minister of Luxembourg’s statement, it can be argued that when the UK joined the EU it received the same benefits with all the opt-outs by the negotiation made by the then PM.56 Craig stated that citizens of Eastern Europe member states, such as Poland and Romania, are worried they may not have the same deal as the developed countries such as the Netherlands, Belgium, Germany and France when it comes to the right to enter and residency post Brexit.57 However, the EU commission clearly stated that negotiations for all European citizens mean that family members in respect of their nationality rights would be protected and carry on living and working in the United Kingdom.58

The purpose of the EU is to bring the countries and citizens together and to unify the EU in the single market.59 The European Union wants to continue to be united; thus, the single market was extended to the European Free Trade Association states (EFTA) of Norway, Liechtenstein and Iceland who are not member states of the EU.60 The legal concept of who is a EU citizen was enshrined under Article 20 TFEU,61 which allows EU citizens the right to reside subject to conditions according to Article 21.62 Article 6 allows citizens to reside up to three months without

48 Wolfgang Deselaers and Anne MacGregor, 'EU - agreements with Switzerland.' [2002] Int TLR 32.
50 Nikolay Mizulin and Edouard Gerandom, ‘Five possible outcomes for EU-UK trade relations’ [2016] Lawyer, Supp (Brexit Briefings), 12.
53 Wolfgang Münchau, 'Europe’s four freedoms are its very essence' (Financial Times, 12 November 2017) <https://www.ft.com/content/49dc02dc-c637-11e7-a1d2-6786f39e6f75> accessed 26 July 2019.
59 Cousins (n 9).
60 Julio Baquero Cruz, ‘Free movement and private autonomy’ [1999] EL Rev 603.
61 TFEU (n 3) art 20.
62 TFEU (n 3) art 21.
formalities. However, if any citizens wish to reside in another member state for more than three months, they must either be a worker or self-employed or have enough resources for themselves and their family, including health insurance, or be a student and also have health insurance. This is a perfect deal, because it does not allow citizens to become a burden on the hosting member states welfare system, although they have the same rights. If there were a failure to comply with the formalities, EU citizens would not be deported, as was evident in Royer.

Currently, the UK has several safeguards with the free movement of persons, because they are not a part of the Schengen agreement. Citizens cannot travel freely without immigration checks, but in continental EU, citizens can travel throughout with no passport control. If this should continue post Brexit, the other EU member states should also reciprocate to safeguard the free movement of persons.

**Workers’ rights**

Currently, EU citizens have the right to enter and seek employment as stated in Article 45 (1) and the rights will be secured in the EU. This is considered a perfect step to harmonisation and equal treatment for all citizens. However, there are some restrictions according to Article 45(4), which states that in public service, work can be denied only if it involves the interests concerning internal or external security, as per Sotgiu. Citizens cannot be discriminated against based on their nationality as per Article 18. Collins reinforced Article 18 allowing EU citizens the same benefits as a citizen of the host country. This clearly shows that the Court of Justice wants to grant all citizens equal rights so no one feels superior. The protection of EU citizens and family members against discrimination is also enshrined in Article 20. Regulation 492/2011 aims to secure and guarantee for migrant workers and family members the equal treatment with national workers, and access to the same tax and social advantages in the hosting member state.

The term “worker” was clarified by the Court of Justice in Hoekstra, which stated that it was a matter of European law not for the member states. The court reinstated that it does not matter if the person is employed or seeking work, a worker is a worker. This proves that even if for any reason a citizen’s circumstance changes, whether for illness or retirement, the rights are protected. This was later litigated in the Court of Justice which gave a general definition to the term “worker” as anyone who is economically active and providing a service in return for financial gain, as in Lawrie-Blum. The work does not have to be full-time; part-time work is also taken into consideration, as per Levin. Workers contribute to the member states’ economy because all workers are taxed and thus, improve the standard of living for all citizens. The Court of Justice took further steps in securing the rights of citizens working below the minimum wage as long as the work is genuine and effective, evident in the case of Kempf. This proves that the type of work does not matter and as long as it is genuine, the citizen has the right to residency in the hosting member state. In Steymann, the court stated that the payment does not have to be monetary. This fits in with society with the free movement of citizens. It can be possible for a family member to travel to care for another family member without any financial gain but just receiving meals and accommodation; it is not always about a salary.

In Bettray, the court held that therapeutic work for rehabilitation is not considered work. Unlike, in Levin, it was economic gain. It is arguable that although all citizens have equal rights, the court does not want a citizen to become a burden on the hosting member state’s social system. The Court of Justice expanded on the definition of worker in terms of job seekers and stated that European citizens travelling to another member state to seek employment are covered by Article 45. However, they do not have the full rights of workers, as was clearly stated in Antonissen.

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64 CRD 2004/38 (n 63), article 7.
67 TFEU (n 3), art 45.
70 TFEU (n 3), art 18.
73 CRD 2004/38 (n 63), art 20.
74 Council Regulation 492/2011 on freedom of movement for workers within the Union [2011] OJ L 141/1, article 7(2).
75 Case 75/63 Hoekstra v Bestuur der Bedrijfsvereniging voor Delailhandel en Ambachten [1964] ECR 177.
85 Peter Oliver, ‘When, if ever, can restrictions on free movement be justified on economic grounds?’ [2016] EL Rev 147.
86 TFEU (n 3) art 45.
The Court went on to say that three months was considered a reasonable time to find employment, as was upheld in Commission v Belgium.\textsuperscript{88} It is clear that although all citizens have the right to live and work in any member state, for that right to be granted, they must engage in some economic activity, and cannot be a burden on the state.\textsuperscript{89} The Court of Justice granted the rights to EU citizen but also limited the rights of member states, thereby allowing EU citizens to abuse the local system. This is evident in the UK where EU nationals are abusing the welfare system and the British government cannot do anything because of the EU law.\textsuperscript{90} The Court of Justice went to bit far when it comes to part-time work. Under national laws part-time work does not constitute work for immigration purposes, but under EU law it does.

**Family members’ rights currently**

EU law protects family members of EU citizens. Directive 2004/38 also allows family members of European citizen to reside in the hosting member state with their partner. This was set out in Article 2(2) that defines what a family member is. It can be either a spouse, registered partnership, or direct descendant of the partner and an EU citizen.\textsuperscript{91} The law also made provisions for unmarried parties of European citizens to take up residency in the hosting member state.\textsuperscript{92} Irrespective of the nationality of the family member, the law will also protect them. Not all EU citizens choose to marry or enter into a civil partnership, so this law seems fair and makes accommodation for all citizens.\textsuperscript{93} In Bangr, the Court of Justice enforced the right of citizens stating that once they have exercised their treaty rights and can prove a durable relationship with the unmarried partner, the hosting member state must facilitate entry and residency of the family member.\textsuperscript{94} Therefore, there might be implications to unmarried non-Europeans and spouses and civil partnership family members post Brexit.\textsuperscript{95}

**Brexit vote**

Since the Brexit vote, there has been significant uncertainty in areas such as free movement of workers,\textsuperscript{96} which could be lost post Brexit.\textsuperscript{97} Citizens and their family members who are residents in the UK for five years will be granted settled status, while citizens who have been living in the UK for less than five years will be granted pre-settled status.\textsuperscript{98} The application for settled status and pre-settled status is very easy and only proof of National ID card or passport is required, and if possible documents proving 5 years of residency.\textsuperscript{99} The UK government wants the process to be easy and straightforward without any cause of breaking up families by having EU citizens following immigration rules.

Prime Minister (PM) May’s Government stated that no legal changes would be introduced to an EU citizen entering the UK post Brexit during the two years’ planned transition period.\textsuperscript{100} The European commission stated that British citizens would enjoy similar rights post Brexit for up to 90 days.\textsuperscript{101} Arguably, PM May’s Government is fighting to protect the current rights EU citizens have. The British Government stated that all European Directive and Regulations would become British laws post Brexit. Therefore, EU citizens should continue to enjoy some of the benefits they currently have, while treaty articles will cease to exist. EU citizens could risk becoming third country citizens similar to British citizens in the EU. Therefore, EU citizens and British citizens should continue to have the right of free movement.\textsuperscript{102} It is unsure how this will work in practice because the Treaty of the Function of the EU will no longer be valid.

PM May’s resignation on 7th June 2019 created further uncertainty as Boris Johnson, a strong Brexiteer and Eurosceptic, assumed office in July 2019.\textsuperscript{103}

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\textsuperscript{88} Case C-344/95 Commission v Belgium [1997] ECR I-1035
\textsuperscript{89} ‘Case Comment: Right to reside (income-based jobseeker’s allowance): A8 accession - worker registration scheme’ [2014] JSSL D94.
\textsuperscript{90} Matthew Evans, ‘EU migrants, abuse and access to welfare’ [2015] 29(3) JIANL 273
\textsuperscript{91} CRD 2004/38 (n 63), art 2(2).
\textsuperscript{92} CRD 2004/38 (n 63), art 3(2).
\textsuperscript{93} “Right to residency of a family member of an EU national considered” [2008] ILT 200.
\textsuperscript{94} Case C-89/17 Bangr v UK [2018] ECLI:EU:C:2018:570.
\textsuperscript{95} Alison Harvey, ‘Brexil’ [2017] JIANL 192.
\textsuperscript{96} Richard Clayton, ‘Facing up to the Brexit uncertainties’ [2016] Fairplay 38.
\textsuperscript{100} Gov.uk, ‘Visit Europe after Brexit’ <https://www.gov.uk/visit-europe-brexit> accessed 13/06/2019
The EU leaders have concluded that the UK might be heading for a no-deal Brexit and free movement will immediately stop on 31 October 2019. The reason behind this conclusion is that Boris is a hard line Brexiteer and thinks that the UK should walk away without a deal and then strike a deal using World Trade Organisation rules. However, Mr Johnson has previously stated that the rights of EU citizens living in the UK and British citizens living in the EU should be protected no matter what the outcome of the negotiations. Being a Brexiteer, it is unsure whether this promise made by Mr Johnson will be kept if he becomes Prime Minister.

EU citizens contribute £26.9bn to the UK economy, while British citizens travelling to certain European countries make up those member states GDP, such as Spain, with a spending of €14billion. Therefore, it is in the best interest to both the UK and the EU to protect right of the free movement of persons, and this right must be protected even in the event of no deal scenario post Brexit. Moreover, it is unclear who will act as the judge in an event of a dispute. At the moment, Article 267 grants national courts and tribunals the right to apply to the Court of Justice for interpretation of European Law. This is a final decision of EU Law, without the scope of appeal.

Leaving the EU means that the Court of Justice may not have the right to interpret EU law. The British Government Withdrawal Bill stated that the Court of Justice would have no jurisdiction in the UK post Brexit. The EU's Chief negotiator Michel Barnier, who stated that any deal must include the continued role of the Court of Justice to guarantee citizen rights, rebutted this.

Legal experts agreed with Mr Barnier's statement that the United Kingdom should propose a relationship with the EU and allow the Court of Justice as the last appellate court. PM May proposed an "independent arbitration panel" in the event of a dispute between the UK and the EU in her UK/EU withdrawal Agreement. The "independent arbitration panel" would deal with disputes between the UK and the EU. Mrs May's suggestion might be appropriate because the independent panel will be acting for either the UK or the EU's best interest. Therefore, no parties can be considered bias toward anyone and would only decide who is wrong, and who will be compensated. The decision would be binding upon both parties, so this would become the final decision-making body.

It is unclear who will interpret EU legislation in respect to workers’ rights and protection post Brexit if the British government changes legislation in relation to workers’ rights. It is essential that the Court of Justice, or any independent body dealing with any disputes, protect the fundamental rights of workers. However, there are already and claims that workers may lose their rights post Brexit.

**Alternative options post Brexit to protect the free movement of workers: CARICOM**

The possible alternative options for the UK to retain access to the single market, in particular the free movement of persons/ workers are the focus of this section. The options include are the Swizz Model, the Canadian option, and World Trade Organisation rules (WTO rules). However, this article will focus on two other models. The first option is a free trade agreement such as The Caribbean Community and Common Market (CARICOM) Single Market and


109 TFEU (n 3) art 267.

110 European Union (Withdrawal) Act 2018, s 6(4).


Economy (CSME), and the second is the Norway Model. Only the area of free movement of persons post Brexit is discussed in this article.

With the UK schedule to leave the EU on the 31st of October 2019, it is difficult to decide what the UK’s future relationship would look outside of the EU. The UK has been a member of the EU for more than 40 years. The British Members of Parliament (MPs) voted down all the alternatives options. The first option that will be discussed is the CARICOM Single Market and Economy (CSME).

The Treaty of Chaguaramas established CARICOM on July 4th 1973. It was established to promote economic integration and cooperation between 14 countries that were former British colonies. The idea for CARICOM came from the Single European Act. The Treaty of Chaguaramas was revised on the 4th February 2002 and CSME was created. The CSME allowed the free movement of labour, common currency, goods and services and capital. Under Article 45, CARICOM citizens are allowed to travel freely throughout member states and within member states. When it comes to the free movement of citizens, the Treaty only allows the free movement of skilled workers, for instance, media workers, university graduates, sports people, artists and musicians. Therefore, anyone applying must qualify under one of those categories and must apply for a special permit with proof of income. The legal framework of the CSME also created the Caribbean Court of Justice (CCJ), which is the final court of appeal within the CSME. Member states can apply to settle not only disputes between member states but also civil and criminal matters. Therefore, it can be considered that the member states are very integrated.

All member states are independent and have authority over their sovereignty and the single Caribbean economy inter-governmental cooperation and harmonisation avoided any infringement of national sovereignty. Although those member countries have harmonisation legislation in areas such as finance and customs, harmonisation would be needed if a single market is to be created; if not, countries would focus on individual national preferences. This harmonisation created opportunities beyond member states’ borders and also developed the uniformity of CARICOM laws and reduced compliance costs. Consistency throughout the region was produced, according to the Caribbean council. The CARICOM member states’ leaders are even pushing for more integration and allow member states to continue to be independent to have trade deals with the world. More importantly, the Prime Minister of Antigua and Barbuda (who chairs the Caribbean council) shares that idea, because of the advantages to those that have small economies.

Now those countries have a trade deal and allow free movement of persons/workers with restriction. That would arguably fit into the leave campaign argument to take back control of the UK’s boarders and trade deals. This would allow the UK to have trade deals with other countries and allow the free movement of persons/workers with restrictions and enjoy the close relationship with the EU and the EEA.

The Norway Model

Another alternative model post Brexit is the Norway Model. When the UK leaves the EU, to have access to the single market and the free movement of persons/workers it has to join the EEA. The EEA is an agreement signed between the EU and Norway, Iceland and The Principality of Liechtenstein in 1992. This granted those member states the same rights i.e. the “four freedoms” (the free movement of good, capital, service and persons) that are granted in the EU single market. Thus, those countries are not a part of the EU but enjoy free trade with the EU.

116 Jenkins (n 56).
119 The member states of CARICOM are Antigua, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Lucia, St. Kitts, St. Vincent, Suriname, and Trinidad and Tobago. https://caricom.org/documents/4905-original_treaty-text.pdf (accessed 29/06/2019)
121 Treaty of Chaguaramas 1973, art 45.
128 Ibid
Article 28 secured free movement so that Norwegian citizens and EU citizens are allowed free movement in the EU and within the EFTA member states. Citizens can study, work, and set up a business without any immigration restrictions. The EEA agreement also covers non-discrimination and equal rules thought the EEA area according to Article 28 (2). The EEA agreement does not cover a customs union, common trade policy, common foreign and security policy, justice and home affairs, and economic and monetary union. However, the only time Norway adheres to EU law is if it is pertaining to the single market. Norway is a fully independent country that is responsible for their own affairs.

The EU is Norway’s biggest trading partner, with Norway to EU trade amounting to €53.9 billion and EU export to Norway amounting to €83.8 billion. Norway pays €447 million to access the single market. This seems fair for not being a part of the EU but enjoying almost the same benefits as a member state and also enjoying the freedom to have trade deals with third countries. Norway is not a part of the EU customs union, and they can trade freely, and exports must meet the EU duty free standard. However, when it comes to the single market it can be considered that Norway is fully integrated but has no right to veto EU laws.

If the UK adopted this model post Brexit, it would protect the free movement of persons/workers and access to the single market by accepting all four freedoms. The UK would still be fully integrated in the single market. The UK would have opt-out from law making and opt-in to follow the law they have no part of drafting. The Brexiteers would argue that the UK is losing Parliamentary sovereignty to the EU.

The UK’s withdrawal from the EU would result in losing access to the single Market. 44% (£274 billion) of the UK’s exports is to the EU, while, 53% (£341 billion) of the UK’s imports is from the EU. Leaving the single market without a trade deal would leave a deficit of -£42 billion in the UK’s economy. Therefore, it is in the best interest of both the EU and the UK to maintain close ties and allowing access to the single market is vital. Additionally, the UK would be allowed to strike trade deals with other countries.

Prime Minister Theresa May suggested this model, and the Labour Party backed it which would allow the UK access to the single market and continue the free movement of persons/workers, and have control of their own trade deals. Jeremy Corbyn, leader of the Labour Party, has argued that a Norway Model of Brexit would protect and continue the free movement of workers, because the UK would have access to the Single market and would still be partially under the Court of Justice of the EU.

However, Boris Johnson has clearly rejected any possibility for the UK joining the EEA because of the main argument of maintaining control of its boarders. He has clearly stated that a Norway style model would mean that EU and EEA citizens would still be allowed to live and work in the UK. Boris Johnson is a strong Brexiteer and argues that the UK should leave the EU without a deal and end the free movement of workers. This was also echoed by the British

131 Agreement on the European Economic Area [1994] OJ L 001, art 28
132 Agreement on the European Economic Area [1994] OJ L 001, art 28(2)
145 Slaughter and May (n 140)

Government to control its borders and reduce net migration. Boris Johnson went on to say that the free movement of workers would not have a damaging impact on the UK’s economy because if he is elected Prime Minister, he will introduce a so-called Australian-style point system, which is a key promise of the leave campaign. This would end the free movement immediately with a lot of uncertainty for EU citizens although the British government has implemented the pre-settled status and settled status. Conversely, it seems like if Boris Johnson becomes the new Prime Minister, he will seek to end the free movement of persons/workers, which may damage the UK’s economy.

What most of the Brexiteers are forgetting is that the UK is made of four different countries and Northern Ireland and Scotland do want to remain in the single market and continue to allow the free movement of persons/workers, while England and Wales want to leave. With all the uncertainties, Scotland has even proposed leaving the UK and joining the EU to gain access to the single market and allow Scots the free movement to live and work in the EU.

Brexit and Free Movement

The free movement of persons/workers is a major factor in the Brexit negotiations. This article also describes possible options the UK can adopt post Brexit to maintain close ties with the EU. The free movement of persons/workers gained so much political and media attention during the UK Brexit debate, and it was one of the first questions that came up when the PM triggered Article 50. Therefore, Norway, which is not a member of the EU, still accepts a lot of EU legislation when it comes to the free movement of persons. In the EU and EEA agreement, the free movement of persons is a fundamental part of the integration of Europe.

In the Norway Model, they accept free movement and pay into the EU budget without a say in the laws they must follow. The Brexiteers campaigned to leave the EU with no close ties. According to Jacob Rees-Mogg, a no deal Brexit is giving the British people what they voted for and allows the UK to be sovereign again. With all the arguments around the leave campaign, Brexiteers such as Nigel Farage’s suggestion that the UK should leave the EU and trade on WTO terms to end the free movement of persons and the local courts can protect the rights of EU citizens living in the UK. This is different from the EEA and the UK would not have to accept any EU rules or contribute to the budget.

Theresa May’s government proposed that EU citizens be added to the Immigration Act 1971 for future immigration arrangements, which seems that the free movement of persons would come to an end. David Davis, also a Brexiteer, stated that the Norway Model would be good for the UK to retain access to the single market, which would continue the free movement of persons/workers just to avoid a no deal Brexit.

The British Labour Party clearly stated that they would only vote for a Brexit that would allow the UK to remain a part of the Single market to protect jobs and the free movement of persons/workers. The Liberal Democratic Party shares the same belief as the Labour Market to protect citizens’ rights and the economy.

David Lammy, Labour MP went even further to say that the UK Parliament should revoke Article 50 to protect the single market especially the free movement of persons/workers. In fact, a majority of MPs are in favour of staying in the single market.
Additionally, the Scottish government believes that access to the single market and the continuation the free movement of persons/workers, even in a no-deal scenario, will benefit the UK enormously from the contributions made by EU citizens and Scots in the EU.\(^{161}\) Based on the Scottish government’s argument, it is clear that the free movement of persons/workers is very important to their local economy. That is the reason they are fighting to protect the free movement of persons/workers.

With the arguments surrounding Brexit, it is only a minority of politicians that support leaving the EU and access to the single market. These politicians still believe that the UK does not need the free movement of persons/workers and citizens’ rights will be protected post Brexit. With so much support to remain in the single market, it is arguable that remaining in the single market would be the only way to protect the free movement of workers; however, this will come with the financial burden of access to the single market.

**Conclusions**

The EU’s greatest achievement would be considered the single market that created peace in Europe. Although each member state has a different custom, culture and language, being a European citizen and allowing free movement, makes all citizens feel like they are living in one European country. The leave voters’ argument surrounding Brexit is that the UK must take care control of its boarders.\(^{162}\) It has been established that EU citizens and British citizens will lose their rights.\(^{163}\) Donald Tusk clearly stated that the free movement of persons/workers was an important part of the single market, that access to the single market is non-negotiable, and that the UK would have to accept all four freedoms because it cannot operate independently.\(^{164}\) Therefore, citizen will lose their rights if no deal is reached between the EU and the UK before 31\(^{st}\) October 2019.

Based on the research, it is clear that the CARICOM model would arguably be granting the Brexiteers what they voted for.\(^{165}\) If the UK and the EU agree on this model, it would allow the UK access to the single market and continue the free movement of persons/workers in a restricted manner. Should the UK opt for the Norway Model, it would become a rule taker rather than a rule maker. As discussed above, the UK would have to make payments into the EU budget to be allowed access to the single market.\(^{166}\) The UK would, therefore, have to accept EU rules without any vetoing powers.\(^{167}\) This would be considered a bad deal, because now the UK has access to the single market and vetoing powers. So, based on the research, for the Brexit result to be honoured, it is suggested that the CARICOM model would be perfect, because the UK will have control over its laws and boarders and still allow the free movement of persons/workers and have a common Court in case of a dispute.\(^{168}\)


\(^{162}\) Leave Campaign (n 124)

\(^{163}\) Parliament (n 102)


\(^{165}\) Elias-Roberts and Hanoman (n 126)

\(^{166}\) Norway government, (n 137)

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What fractures political unions? Failed federation or successful regional integration? The European Union is a complex entity, with a long legacy of EU citizens' rights after Brexit. The right of free movement and the single market have been central to the EU's success, but also to its challenges.

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The Right to Justice: Making the Legal Aid system work for victims of domestic abuse

Maria Steadman Greyson

We live at a time when the rule of law is under attack. Too many powerful institutions pay lip service to the concept of access to justice without having sufficient regard for what it actually means. It is, after all, fairly simple: unless everybody can get some access to the legal system at the time in their lives when they need it, trust in our institutions and in the rule of law breaks down. When that happens, society breaks down.¹

Introduction

The words of Willy Bach, written in September 2017, would ring true to so many individuals in our society. Many people struggle to access and gain the justice, which they deserve. As far back as the Magna Carta, the rule of law is to be valued and respected² in accessing justice. This article highlights issues surrounding ‘proper’ access to justice and the challenges faced by many due to legal aid reform. The discussion moves from a broader analysis of the current right to justice, to looking at the current practical situation for accessing legal funding, and then finally considers the impact this has on victims of domestic abuse. The article is split into three broad sections. Section 1 explores access to justice versus right to justice and analyses the role of the Access to Justice Act in accessing legal aid. Section 2 defines legal aid and provides a historical overview and current commentary on the UK legal aid system, with regards to the access and right to justice, looking at how the current system ‘allows’ access to justice, but in some respects restricts it. Section 3 looks at the changing non-statutory definition of domestic violence and explores the impact on victims of not being able to gain adequate access to justice. The analysis will centre on the current state of law concerning accessing legal aid funding, following from the recent reforms and subsequent key changes made to fair access to justice. The article concludes with suggestions on making the system fairer and how it could be reformed by creating a new Right to Justice Act.

Access to justice versus Right to justice

Access to Justice is likened to a ‘community’ in which everyone feels they have the freedom to partake securely without fear of being undermined.³ Francioni⁴ suggests that access to justice in the true sense is giving individuals the right to be represented formally in court. It secures a more comprehensive cohesive framework, which considers the obstacles faced by many individuals seeking justice within the legal system. Lord Bingham states that access to justice is a fundamental element of the rule of law. When people are incapable of resolving ‘interpersonal’ issues, the law is there to ensure that there is proper provision in accessing justice.⁵ This access remains paramount, as justice must remain accessible to all demographics in order to ensure that a fair and civilised society is maintained.

The right to justice is a natural right that is apparent by human reason and is unanimously acknowledged throughout the world. However, history imparts to us that such a right exists, at best, sporadically: the reality is an indeterminate plethora of concepts of right or justice instead of uniformity.⁶ Increasingly, the law is becoming meaningless unless individuals are supported in exercising their right to justice. If people are to exercise their right to justice, then access to justice has to be comprehensive in order to consider all those who seek to access representation within the courts.

The Access to Justice Act⁷ was introduced by the UK parliament to change the legal aid system that covers England and Wales. The purpose of the Act was to redesign the funding system, to reshape and regulate legal aid funding, and to cut the cost to the government. The Act aimed to ensure that only those eligible would have access to justice,

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² Magna Carta (1215), Clause 40, ‘We will not sell, or deny, or delay right or justice to anyone’. Legislation.gov.uk <www.legislation.gov.uk/aep/Edw1cc1929/25/9> accessed 1 March 2019.
⁵ Tom Bingham, The Rule of Law (London, 2010).
and ultimately funding. The Act also established a Legal Service Commission. This body was appointed to transform the provision of legal aid.

The changes to legal aid saw access to justice being divided in two, to focus specifically on criminal and civil cases.

Unfortunately, the effects of this were felt among the poorest people in society, who now had to fight to obtain legal aid for legal representation, as many did not have the capability to represent themselves, for example, in situations involving child abduction, forced marriages, and domestic violence. Arguably, these changes were handled poorly, as the fundamental purpose of the legal aid system is to ensure that justice is obtainable by all citizens, by considering and upholding the rule of law.

What is clear is that many people who seek legal help through the legal aid channel are people in desperate need, and not just irresponsible individuals ‘teaching’ on an already overburdened system. The Access to Justice Act seemed to introduce great disparity between those who are financially eligible for legal assistance and those able to pay privately for legal aid. If individuals are restricted in the way in which they can access justice, there will not be equality under the law and ultimately the right to justice is removed. If everyone could afford representation, then access to justice would not be an issue and everyone would have a ‘sense of security’, albeit perhaps false, in believing that they have a right to justice being able to afford representation does not grant enforcement human rights.

The Department for Constitutional Affairs stated that they wanted all stakeholders and practitioners to work collaboratively together in doing their best to manage future changes to ensure a system of ‘best value’. However, Lord Wilson reiterated that the change to legal aid has created barriers for individuals accessing justice. He further stressed that this change has caused lawyers to be unwilling to undertake free legal aid work because the remuneration levels set by the government were not profitable. The idea that legal aid lawyers should perform such tasks for a lower level of remuneration seemed to suggest that lawyers should accept less pay as a way of ‘giving back’ to society rather than to make a ‘comfortable’ living. If the focus is to be on the full range of citizens, then the Access to Justice Act was detrimental in this regard: the majority of lawyers would rather, understandably, take on clients that have the means to pay them substantially, and ‘neglect’ those who do not. Leaving lawyers to balance how much they will earn against how many people they can help, is clearly placing obstacles in the path of individuals’ right to justice.

The Bach Commission report found that for many, legal aid is ‘so tightly means tested that it is frequently out of reach for even those on modest incomes’, and the current system has failed in many areas to deliver to those who are already marginalised by lack of finances. The report highlights that the state has a duty to ensure all citizens are provided with fair access to justice. The underlying principle is affirmed in the European Convention on Human Rights (ECHR), which specifies how imperative it is to guarantee that rights are realistic and able to produce useful results for citizens. The UK Human Rights Act 1998 enshrined in law the principles of the ECHR, but it seems that barriers in the current systems that are ‘applying’ the law, are preventing individuals gaining the rights that the law allows.

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8 ibid, Part. 1 s 1, 2.
9 ibid, 1999c. Explanatory Notes Summary, [20-22] looks at the new schemes replacing the existing legal aid system.
17 Fabian Society (n 1).
The ECHR examined certain facts and conditions of respective cases regarding access to justice, to determine the individual’s eligibility for legal aid funding, and found that changes to access to justice were unlawful. The ECHR looked at the significance risk the person was facing, how complex the case was and the course of action to be taken, especially in circumstances when it is compulsory by law to have legal representation. It also considered how well an individual can successfully manage their rights in accessing the courts. For instance, in Airey v Ireland, the claimant challenged her right to legal aid. It was found that there was failure in providing a reasonable system to ensure a fair hearing, and the court held that it was a violation of her human rights. This was confirmed in Director of Legal Aid Casework v IS. However, on appeal a year later, LJ Bridge held that in Director of legal aid Casework v IS, Exceptional Case Funding (ECF) was lawful, although there were some difficulties. The judge, however, highlighted that the operation of the legal aid system was a learning curve and improvements had been made since its inception. This was a case in which the appeal courts decided that IS could actually represent himself as Litigant in Person (LiP), with the help of the Judge.

However, the opposite was true in Write v Wright, a case that took longer than expected, due to both parties acting as LiPs. In this case, Sir Alan Ward highlighted two worrying issues when dealing with LiPs: trying to bring order to the chaos, which is created by LiPs, and that judges should not have to micro-manage cases. Additionally, the increase in numbers of LiPs is found to be costing the courts and tribunals more in resources because fewer people are less able to qualify for early advice and representation, and in which case mediation was insufficiently meeting the needs. This is attributed to the financial requirement of victims whose income might be slightly above the threshold.

The Court of Appeal suggested that the European Court of Human rights doctrine establishes the significance of the assurance of ‘access to justice’. Therefore, the overarching principle should continue to incorporate realistic and valid rights of individuals in accessing the courts. Moreover, individuals should be provided with the necessary legal aid funding to present their cases in an adequate and competent manner in front of a court of justice, and equally in general court proceedings.

Therefore, restricting access to legal aid funds by way of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), is failing to give victims the right to a fair trial under Article 6 and the right to their private life under Article 8. It also potentially is allowing the abuse to continue as considered under Article 3. The implications of this for victims of domestic violence is discussed in Section 3.

Access should be clear and just in order for individuals to understand proceedings. They should be given properly balanced support to enable them to present their case without being placed at a disadvantage. Such support goes beyond financial and includes challenges such as navigating online forms when trying to access legal aid.

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20 European Convention on the Human Rights 1998, Article 6 and Article 47 of the Charter of Fundamental Rights of the European Union. Although these were immigration cases, sometimes domestic violence would also be a result of cases going before the court. The Court firstly very importantly concludes that in some circumstances, legal advice to the litigant in person may be more important than legal representation at the hearing for ensuring effective access to justice. The Court therefore suggests that exceptional case funding be ‘provided for early legal advice even where it is not considered to be necessary for representation at the hearing’.

21 [1979-80] 2 E.H.R.R. 305, the court held that the claimant’s Article 6 rights were breached because due to the nature of her case it was impossible for her to represent herself effectively, although she got assistance from the judge, she also needed legal aid for proper legal representation.

22 European Convention on the Human Rights 1998, art. 6.8

23 [2015] EWCH 165 (Admin)

24 [2016] EWCA Civ 464

25 [2016] EWCA Civ 464

26 [2013] EWCA Civ 234. The question the court asked was whether mediation should be considered obligatory.

27 Controlled work, Guide to Determining Financial Eligibility for Controlled Work and Family Mediation April 2018 (updated September 2018). Under Regulation 7(4) for all forms of civil legal services the client’s gross income must be £2657 per month or less; for clients with more than four child dependants (for whom they receive child benefit) a higher gross income limit applies (see paragraph 6 below). If the client’s gross income exceeds this level, then they are financially ineligible for civil legal aid and the application must be refused.

28 [2014] EWFCC 38. A case in which a mother with speech, hearing and learning difficulties had no legal representation. Judge Bellamy stated that the local authority breached the rights of the parents under ECHR Article 6 and 8; however, in Coventry City Council v C, B, C and CH [2013] 2 FLR 987, the local authority accepted that they were in breach of the mother’s human right. The mother herself had learning difficulties but did not consent to her child to be in foster care.


30 Human Rights Act 1998, Article 3: no one should be subjected to torture or inhuman or degrading treatment or punishment, this includes physical assault, psychological interrogation, cruel or barbaric detention conditions or restraints serious physical or psychological abuse in a health or care setting, and threatening to torture someone, if the threat is real and immediate.
In a nutshell, access to justice can be fragile, even if secured under the law, and to secure it, the right to justice must be equally considered; a right that should be enforced as a fundamental human right to freedom and to life.\textsuperscript{31}

## A Background to Legal Aid

Legal Aid is a type of public funding that was created to ensure that all members of society have the means to access legal advice and representation. Legal aid was developed for citizens who were unable to reasonably claim or defend a legal right, and to allow legal representatives and solicitors to be paid for the services they provide.\textsuperscript{32} The legal aid system has a long history.

It was created in Europe after World War Two and was later introduced in the mid-sixties in Australia and North America, on the back of a revolution, which inspired a new awareness in civil rights, Garth and Capelletti.\textsuperscript{33} Historically, the legal aid system was a way of developing a means through which a citizen’s human rights could be safeguarded. The underlying principle was to provide the resources to ensure that all citizens would have proper access to legal advice or proceedings, regardless of their social, economic, and political beliefs, Peysner\textsuperscript{34} and Luban.\textsuperscript{35} As the state has made the decision to provide protection for its citizen’s welfare, the duty then lies with said state to furnish the resources to resolve individuals’ legal issues. Before the legal aid system was developed, access to justice was seen as a middle-class fundamental privilege for which the government did not have to take responsibility.\textsuperscript{36}

Carter suggested\textsuperscript{37} and a Constitutional Affairs Committee\textsuperscript{38} supported further reform was needed to improve profitability to ensure that the supply of legal aid was more sustainable. It is understandable that within any business, there is a need to consider financial viability and how to deliver efficiently a service, minimising cost and time. Therefore, the decision to decrease spending on legal aid has a rationale aim; however, it has to be implemented in a way that does not infringe the rights of citizens. The Ministry of Justice\textsuperscript{39} (MOJ) was formed in 2007 to provide access to justice and to increase confidence in the justice system. However, in pursuing those goals, it has along the way reduced access to legal aid funding by governmental enforced reduced spending. Despite its reforms to legal aid, it continues to overspend. According to the government, it was still costly, and our legal aid system is one of the most expensive in the world.\textsuperscript{40}

Further reforms introduced by the MOJ included The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)\textsuperscript{41}. As a result of this Act, many citizens who would have previously had access to funding were no longer eligible. This includes people who sought redress in some private and family law cases such as, immigration, debt, housing and benefits laws. Under LASPO, only in certain cases is someone eligible to be granted legal aid funding; these are known as exceptional case funding (ECF).\textsuperscript{42}

Individuals are still able to access justice if they decide to represent themselves in court, known as Litigant in Persons (LiP), or by funding their own case. However, in some cases, for example domestic abuse, when both parties face each other in court, each representing themselves as LiPs, the impact of having to face the perpetrator for the abused person is immense. Under such circumstances, ECF could be granted for reasons such as a fear for the victim and his/her children’s lives, and/or because, the LiP is not able to understand the complexity of the case, as a result of learning difficulties/disability.\textsuperscript{43}

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In MG v JF, which neither parties had access to legal aid, Mostyn J highlighted how impossible it was for parties to comprehend accurate and legal issues to be able to sufficiently represent themselves in court. Mostyn J further suggested that there is an enormous inequality and a violation of one’s human rights under Article 6, 8 of the Human Rights Act. These breaches further infringe individuals’ right to enjoy their human rights without discrimination based on their economic status. The government needs to reconsider further reforms to make legal aid available to organisations that normally provide early help and advice to individuals. This help may be for cases that may not have a real prospect of success in the court but could be resolved in other ways. Such reform should provide help to people with different forms of disability with tasks such as filling in forms and early and appropriate advice from legal representatives. It should include victims of domestic violence whether or not there are recorded incidents they should still be entitled to obtain legal aid funding ‘small or moderate’, to enable access to justice as an automatic right to justice.

Before LASPO, the availability of legal aid included most areas of law, with some exceptions. However, Part 1 of LASPO changed the eligibility for funding by only concentrating on significantly reduced areas being eligible for legal aid. LASPO had a particularly negative impact on family, employment and welfare benefits law. According to Hill and Bowcott, LASPO resulted differently from what the original intention was. Due to the continuous disproportionate reforms, it seems that the government is fixated on limiting legal aid, according to its proposal, to save cost, to individuals who require it most.

In the 21st century, the government should be mindful that a legal aid system is a modern-day method of response in dealing with individual’s legal problems and must be seen to reflect this. As discussed in Section 1, access to justice is not only about being funded for the purpose of going to courts, but also about giving citizens the opportunity to resolve legal concerns through other means, such as dispute resolution. However, the rationale that led the coalition government to cut legal aid seemed to be cost rather than principle based. In 2010, it was found that the UK legal aid expenditure per head in relation to other European Union countries, taking into account the size of the economy, was disproportionate. For example, in England and Wales it was estimated at €39 per head, in contrast to France and Spain at €5, Sweden at €15, and Norway at €31. However, according to Hynes, as quoted by Moore and Newbury, the comparison can be misleading, as, for instance in Sweden, the reason for the lower spend is due to a lower number of criminal cases being dealt with in the courts.

The cuts to legal aid reduced government budget within this area by £1bn, and it is estimated that by 2019-20 the MOJ will have realised a cut of up to 40%. The Law Society conducted a review four years after LASPO and found that many people no longer qualified for legal aid, and, as a result, had no realistic access to justice. Flynn and Hodgson, and Palmer, and Cornford et al also noted that the MOJ’s £350 million reduction in the legal aid budget was successful, but at a price too high. In the aftermath of persistent cuts, The Law Society expressed their view unequivocally regarding its dissatisfaction with these reforms. It suggests that access to justice has become more

44 [2015] EWHC 564 (Fam); [2016] FLR 424.
47 Department for Constitutional Affairs, Transforming Public Services: Complaints, Redress and Tribunals (Cmd 6243, May 2004).
48 Henry Brooke (n 31) 5.
51 Henry Brooke (n 31) 5.
56 The Law Society (n 48).
57 Asher Flynn, and Jacqueline Hodgson. Access to Justice and Legal Aid: Comparative Perspectives on Unmet Legal Need. (Hart Publishing 2017)
difficult for citizens, as not only are there cuts to legal aid, but other matters have also impeded individual’s, such as the closing down of courts. Justice Bodey remarked on how ‘shameful’ 60 the cut to legal aid was. Justice Francis also responded to the cut as it being ‘remarkable’. 61 when referring to the Charlie Gard case, in which they were not eligible for legal aid. Lady Hale described the cuts as ‘a false economy’ 62 emphasising that early advice could help in resolving numerous legal issues before the point at which an individual would go to court. Mind 63 called the LASPO cuts ‘an unjust system’, and Gilbert 64 described it as ‘deserts’, which likens LASPO to a punishment.

Because of the cuts, the services that normally allow legal aid lawyers to provide support and advice to people in solicitors’ firms before they go to court have been greatly reduced. The Low Commission report 65 found that before LASPO, there were up to 10,000 public funded solicitors offering legal advice. The solicitors were supporting Citizens Advice Bureau (CAB) agencies (operating out of 721 offices nationwide), and Law Centres. Currently, the number of services offering civil legal aid is below 2,000, and even fewer provide social welfare advice.

There are currently only 338 CABs operating, with only 21 of these offering expert civil legal aid advices in comparison with 200 before. The evidence from campaigners such as the Legal Action Group and The Law Society 66 state clearly, how the MOJ’s actions have caused great difficulties for the general public, and the rights of women in particular.

Barristers, solicitors, and charities are all feeling the strain placed on them by the cuts to the legal system. According to Gauke, Lord Chancellor, ‘criminal defence advocates play an important role in upholding the rule of law and should be rewarded accordingly.’ 67 Although the Lord Chancellor believes in reasonable rewards, he decided to cut the Litigators Graduated Fee Scheme (LGFS). 68 In making the decision, the Lord Chancellor considered the case of Napper. 69 However, the Law Society applied for a judicial review into his decision to reduce these fees under the LGFS in which the court held that the regulation was unlawful and would be overturned. 70

Adler’s 71 research investigated the impact of acquiring pre-hearing advice against not having access to such advice. His finding was that the outcomes (i.e. the probability that litigants would be successful) of those who received early advice improved considerably. Marshall, Harper and Stacy 72 agree that the cuts to legal aid have produced extra hurdles that block individuals’ right to access justice and have reduced access to advice for family law issues. Some of the cuts to legal aid saw a reduction in attaining advice despite individuals meeting the criteria, or in situations where they could apply for ECF. For example, in M v Director of Legal Aid Casework 73, and Gudanaviene v Director of Legal Aid Casework 74, the court held that the Lord Chancellor’s guidance on access to funding proved to be incompatible with civil and immigration cases and the ECF should have been granted. In R v Secretary of State 75, the court held that the resident’s test into eligibility for legal aid was defective. The justice committee stated that the MOJ’s failure to consider the wider impact ‘harmed justice’. 76

66 The Law Society (n 48).
67 Ibid.
68 Criminal Legal Aid (Remuneration) (Amendment) Regulations 2017. This new regulation was introduced to reduce the maximum number of pages of prosecution evidence, which could be counted in fixing graduated fees under the LGFS in criminal prosecutions, so regardless of the time spent working on a case the defence litigator was only entitled to a fixed fee.
69 [2014] 9 WLUK 130. This case had broadened the circumstances in which electronic evidence could be counted as evidence pages for prosecution cases (PPE). This case considered the irrationality test. Irrationality - The test applied in Napper was not a licence to count electronic evidence as PPE even if it was of little relevance to the case and electronically searchable.
74 [2015] 1 W.L.R.
75 [2015] EWCA Civ 1193.
One goal of LASPO was that LIPs, which, arguably, would increase access to justice, could replace solicitors and legal representatives. This clearly could only be possible if people are competent enough to represent themselves in court. For instance, using the McKenzie77 friends’ system, which was established in the early seventies. Another goal of LASPO was to promote mediation as an option for early advice. However, statistics evidence that for family law, this desired goal has not been achieved.78 Additionally, as noted by Moore and Newbury,79 the fine line between giving information and giving advice makes the role of the mediator difficult and can result in the mediator not realistically being able to replace legal advice.

Nevertheless, Maclean and Eekelaar80 found that although the government was willing to fund mediation, there was a drastic reduction in available legal advice by lawyers. The consequence they suggest, was the lack of understanding on the part of the government that lawyers play, and the lack of appreciation of this could not be substituted by mediation. Also, the creation of ‘advice deserts’ has led to grave consequences which impacted on those who needed it most as their needs are not being completely met. The objective for LASPO to target legal aid to those who need it most was not being achieved and there was clearly a need for a review and reform of LASPO.81

Legal Aid Access Challenges

The availability of legal aid can have an impact on all sectors of society, especially ‘marginalised’ groups. This section looks at how domestic violence victims have been affected by an inability to access legal aid, and the effect of not being able to exercise their ‘normal’ human rights.

Domestic violence is, of course, more than just a legal problem: it falls within the social aspects of community and society as a whole, and it should be a concern to everyone. The UK is a developed and relatively affluent democratic state in which no one should have to fight to obtain services that should be easily available and accessible through the legal system. However, if the government fails to support the less advantaged in society, it will not be able to facilitate the rights of its citizens effectively.82

Up to 2013, the non-statutory definition of domestic violence was limited to ‘incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality’.83 Organisations, such as local authorities and charities, working in this area had to operate within this definition, and ‘neglect’ areas that fell outside of it.

However, in 2013, through consultations with Her Majesty’s Inspectorate of Constabulary (HMIC) a review was conducted into how the police responded to domestic abuse.84 The HMIC in March 2014 found significant failings in which the Home Secretary called for an immediate change. Further review was also conducted in which the government recognised that there was a gap in the law in relation to repetitions of abuse in existing relationships, the consultation was in favour of closing the gap.85 The government decided to help tackle the issue of abuse by enhancing the definition.

The definition has been extended to include ‘any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass but is not limited to psychological; physical; sexual; financial; and emotional abuse.86

77 [1971] P 33. Mr McKenzie, in a divorce proceeding lodged an appeal on the grounds that the judge refused him access to limited assistant from a friend who was a barrister from Australia. The appeal succeeded as the judge had a mistake in not allowing him to have a friend sitting beside him in court to assist and motivate him quietly.
79 Sarah Moore, and Alex Newbury (n 53).
80 Mavis Maclean, John Eekelaar, Lawyers and Mediators: The Brave New World of Services for Separating Families. (Bloomsbury UK 2016).
82 Mandy Burton, Legal responses to domestic violence (1st edn, Routledge Cavendish, 2008).
86 House of Commons Work and Pensions Committee (n 82).
Controlling behaviour is a variety of acts intending, for the perpetrator’s self-interest, to cause one to feel inferior and/or subservient, by separating victims from sources of help and support, and depriving victims of their resources and abilities.\(^{87}\) Coercive behaviour comes in the form of an act or pattern of inflicting assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or scare an individual.\(^{88}\) This can deprive the victim of the means to be independent, and/or to enable them to resist abuse or to escape.\(^{89}\) Definitions of domestic abuse have now been broadened beyond relationships between couples, to include parental abuse among adolescents or older children, siblings, honour-based abuse and wider extended family members including the elderly.\(^{90}\)

The government is now moving forward in introducing the Transforming the Response to Domestic Abuse 2019 draft bill, which is looking at implementing nine measures that require primary legislation, one of which will be a statutory definition of domestic abuse.\(^{91}\)

Since the change in the non-statutory definition with regards to domestic violence was introduced, in cases that could have progressed to court, the data received by the BBC from 33 police forces in England and Wales between January 2016 and July 2018 has shown that, of the 7,034 arrest only 1,157 were convicted. This in part is due to the insufficient amount of training for police in this area, not enough funding, and the lack of understanding in interpreting the scope of domestic violence.\(^{92}\)

The difficulty of such findings is that some victims end up being afraid to report abuse just in case they are not believed as they may not be able to show enough evidence for the police to prosecute.\(^{93}\) Often, victims end up back in the same situation and sometimes worse because perpetrators believe that they can escape justice without paying the penalty.\(^{94}\) Although the indication may be that the police are not doing enough to help victims, since the broadening of the definition of domestic abuse to include controlling and coercive behaviour, much has been done to ensure victims are protected. Police forces have improved the way they identify and record domestic abuse incidents as crimes. This enables victims to be more open in reporting abuse, which has led to an increase in offenders being brought to justice and successful convictions.\(^{95}\)

For victims of domestic violence, the ability to access legal aid is a means to escape from the hands of their abuser; however, LASPO changed for the worse how victims can access legal aid funding. As a result, these changes saw capital and income levels below which funding can be accessed. Victims who are on low income and those receiving benefits are being asked to contribute towards their legal aid cost. This leads to many victims remaining at further risks because they are not able to afford to pay a contribution towards their legal aid. This decision taken by the government means that the perpetrators could remain in the victims’ lives indefinitely and victims could continue to be at risk if they are not able to access legal advice and representation.\(^{96}\)

LASPO introduced additional challenges for victims, as they were now required to produce one or more pieces of evidence such as a related unspent convictions or police cautions for domestic violence offence against them within the 2 years (which was then extended to 5 years) immediately preceding the date of application for civil legal aid.\(^{97}\) The problem victims face with this time limit is that if the perpetrator has left the home but eventually returns after the time limit has ‘expired’,\(^{98}\) the victim can no longer rely on the evidence.

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\(^{87}\) Transforming the Response to Domestic Abuse, Consultation Response and Draft Bill (January 2019) [CP 15].

\(^{88}\) ibid.

\(^{89}\) Serious Crime Act 2015 (c.9) s 76.


\(^{91}\) Transforming the Response to Domestic Abuse, Consultation Response and Draft Bill (January 2019) [CP 15].


\(^{94}\) *ibid.* The latest figures from the Crime Survey for England and Wales show little change in the prevalence of domestic abuse in recent years. In the year ending March 2018, an estimated 2.0 million adults aged 16 to 59 years experienced domestic abuse in the last year (1.3 million women, 695,000 men).

\(^{95}\) ibid.


\(^{97}\) The Civil Legal Aid (Procedure) Regulations 2013, reg. 33.43.

According to Gill\textsuperscript{99}, the time limit for eligibility of evidence prevented some genuine victims from qualifying for legal aid. This was recognised in \textit{R v Lord Chancellor},\textsuperscript{100} in which the court held that the time limit required for evidence to prove domestic violence was invalid. This led to the government changing (in January 2018) the domestic evidence requirement.\textsuperscript{101} The removal of the time limit for evidence was welcomed by the Law society and other related organisations.\textsuperscript{102}

More recent research has indicated that even after the changes regarding eligibility of legal aid and required evidence became less rigid, many women still find themselves in situations where they cannot show the required evidence in order to receive funding.\textsuperscript{103} Besides income, eligibility and evidence, there are further factors that can prevent victims accessing justice. According to Alston,\textsuperscript{104} women are more affected by poverty, as the decrease in social care services can become burdensome on the main carer, who is often female. This can be made much worse in situations where a single payment under Universal tax Credit is paid to a partner, who is potentially an abuser.

In response to the Work and Pensions Committee,\textsuperscript{105} the government has started to look at the way in which they can help victims of domestic abuse by considering the splitting of benefits payment. This is a great move as victims will feel more in charge of their lives, being able to shop for own basic essentials rather than depending on their abuser.\textsuperscript{106} Nevertheless, some victims who do not have the faith in the police to help or protect them will often turn to the courts, seeking a non-molestation order or injunction. This kind of remedy gives victims a certain kind of comfort, in knowing that, the injunction will stop or deter the perpetrator from carrying further actions of violence toward them.\textsuperscript{107}

Alston also noted that the UK has become a ‘Digital Welfare State’. With the cuts to legal aid, many ‘face to face’ services are now been replaced with telephone advice. Charities and organisations such as CAB, which have undergone continued funding cuts, offer great support to their clients, and often this support is around ‘simple’ tasks such as completing online forms to access benefits, housing and debt issues. Towers and Walby\textsuperscript{108} highlighted how the severe cuts to such organisations resulted in a double impact of their clients not receiving the emotional support as well as the practical support in accessing funds. Six years later, in a submission to the Government, Rights of Women\textsuperscript{109} (a charity seeking to secure justice for women) summarised the wide reaching and devasting impacts of LASPO on individual women.

The failure to tackle domestic violence in a timely and appropriate manner have led to, and will continue to further the suffering of women. Some will end up dying at the hands of their abuser, whilst others will find themselves with criminal convictions bought on by the frustration of having to suffer in silence or not having the right support. This


100 [2016] EWCA Civ 91. See also Regulation 33 of The Civil Legal Aid (Procedure) Regulations 2012, as amended by the Civil Legal Aid (Procedure) (Amendment) Regulations 2016, in which the requirement of legal aid is set out due to domestic violence.


105 House of Commons Work and Pensions Committee (n 82).


107 Martins Evans, ‘Domestic abuse victims turning to civil courts because police are failing to enforce law’. \textit{The Telegraph} (15 September 2018) \texttt{https://www.telegraph.co.uk/news/2018/09/15/domestic-abuse-victims-turning-civil-courts-police-failing-enforce/}, accessed 19 March 2019. In the article Martin Evans explains that even if victims do not leave the relationship, they will still feel secure, knowing that if the abuse continues, they could invoke that injunction in order for the police to prosecute the perpetrator.


situation seems destined to continue unless the need for a Right to Justice Act is acknowledged and introduced, and funding is put in place to cover all areas of civil law, especially for domestic violence sufferers.\textsuperscript{110}

\section*{Conclusions}

As a result of pressure from various organisations, and after subsequent consultations, the MOJ has revised Part 1 of LASPO. This revision to LASPO, as stated by the MOJ, is ‘an action plan to deliver better support to people experiencing legal problems’.\textsuperscript{111} However, according to Hynes it is a ‘plan that has more warm words than action’.\textsuperscript{112}

Although the revision of LASPO is welcome news, no one knows how long individuals will have to wait for the changes to be enacted. Additionally, the promised revisions will need to be funded, which the government might not be willing to do, because one of the overall objectives of LASPO was to make significant savings.\textsuperscript{113} In Carter’s review,\textsuperscript{114} he emphasised that the type of legal aid that is being provided will be dependent on the amount of money lawyers receive, but his review also states that legal aid has to work with the budget set by the government.

Nicola Mackintosh QC believes that ‘the network that supported legal aid had been decimated’ and states that without the provision of representation, rights that are recognised are ‘theoretical in practice’.\textsuperscript{115} Richard Burgon (MP and Shadow Secretary for State for Justice) believes the ‘legal aid cuts have deliberately weakened people’s ability to challenge injustices and enforce their rights’.\textsuperscript{116}

The introduction of a new Domestic Abuse Bill\textsuperscript{117} will help to eliminate abusers from continuing to abuse by way of cross-examining their victims\textsuperscript{118} if they are representing themselves as LIPs. Additionally, the new Bill will make legal aid available in emergencies, and ensure high-quality advice is delivered in domestic abuse matters. Although the draft Bill has been welcomed, charities and campaigners, such as Women’s Aid, believe that the government still has a long way to go because there is insufficient legal aid funding and funding of domestic violence organisations, many of which are now fighting to survive or closing.\textsuperscript{119}

As has been discussed above, the current system is, in many instances, denying individuals access to justice, despite the existence of the Access to Justice Act. Those who ‘oversee the system’, for example, legal representative, solicitors, barristers and judges, are feeling the pressure of a system that is not functioning to the benefit of all. According to Willy Bach, ‘the right to justice is an ancient right enshrined in the Magna Carta’. It has evolved by the common law throughout generations, and further affirmed as a guaranteed right within the Human Rights Act. The Bach report outlined how a Right to Justice Act would establish ‘a new individual right to reasonable legal assistance, without costs individuals cannot afford’.\textsuperscript{120}

The Right to Justice Act would be enforceable through the courts and would include guidance on encouraging early legal advice and educating the public on legal matters. It would create a new self-governed body called the Justice Commission, which would advise, supervise and implement the right to justice. The Justice Commission’s duty and powers would include preparing guidance on how to implement the right to justice. It would monitor how the right to

\textsuperscript{110} Justice for Women, ‘Sally Challen’ Justice for Women <https://www.justiceforwomen.org.uk/sally-challen-appeal> accessed on 23 March 2019. Justice for Women campaigns for women behind bars for killing, husband/partners due to them being subjected to domestic abuse. One such woman whose conviction was overturned is Sally Challen.


\textsuperscript{113} Ministry of Justice, Reform of Legal Aid in England and Wales: Equality Impact Assessment (EIA) (2011) [15]. The EIA stated that LASPO was estimated to deliver a saving of £350 million to the public purse in 2014/15, against a scheme, which then cost over £2 billion each year, making it one of the most comprehensive, and expensive, legal aid provisions in the world.

\textsuperscript{114} Constitutional Affairs Committee (n 37).

\textsuperscript{115} Nicola Mackintosh, cited by Dominic Gilbert (n 63).

\textsuperscript{116} Richard Burgon, cited by Dominic Gilbert (n 63).

\textsuperscript{117} Despite the recent change of prime minister, the Domestic Abuse Bill remains as a main focus of the government. The objectives of the Bill were laid out within the Queens speech on 14th October 2019, some of which includes establishing a domestic abuse commissioner, enhancing public awareness, and providing a new domestic protection notice and domestic abuse protection order. The Bill passed its second reading on 2 October 2019, and if enacted it will be a ‘landmark legislation’ turning point for victims and those involved in deciding outcomes in domestic abuse situations. This is great news for those working within the sector, especially since it seems that ‘despite Brexit’, the government is moving forward and making progress with the Bill. However, even with the new Bill, the inevitable question will be raised: ‘Does the Bill go far enough to protect victims?’ Whatever the answer, thankfully charities such as Women’s Aid are continuing to help raise awareness within communities, and, crucially, continuing to train individuals to enable them to support people who are experiencing abuse to access the help they need.

\textsuperscript{118} Transforming the Response to Domestic Abuse, Consultation Response and Draft Bill (n 90).


\textsuperscript{120} Fabian Society (n 1).
justice is complied with and submit reports and proposals to parliament. It would be able to challenge any violation of the right to justice before the courts, and step in and support individuals with court proceedings that will implement and determine the right to justice in practice. The reviews and reforms of existing legislation are most welcome. However, the time has come for the introduction of a new ‘tool’ to ensure individuals are able to, without prejudice, access justice as a given right and this should be in the form of The Right to Justice Act.

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About the Author
Maria graduated with a BA (Hons) LLB from Bloomsbury Institute in the summer of 2019. Prior to and during her studies she worked as a volunteer for a charity that supports women experiencing difficulties and challenges within their domestic/family setting. Through this work, she gained considerable insight into the complexities and 'impenetrable legalities' for such people to access advice, support and funding. This work experience prompted her to explore further (through research) the issues her clients were dealing with on a daily basis. She is now undergoing The Legal Practice Course (LPC) – the penultimate phase of preparation for a career as a solicitor in England and Wales – at the University of Law and has just started work with a London based firm of solicitors, where she is working in the areas of immigration and family law.
Foundation Year students’ ‘initiatives’ for eradicating contract cheating and collusion

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This paper reports on a study into the perceptions and attitudes towards eradicating contract cheating and collusion amongst widening participation Foundation Year students at Bloomsbury Institute in the UK. The study was conducted following a yearlong institutional Academic Integrity Matters (AIM) campaign designed to raise students’ awareness of academic integrity and to lower the levels of academic misconduct. Participants, including students who admitted to cheating or to considering to cheat, displayed good knowledge and a great awareness of the complexities of contract cheating and collusion, and provided ‘generous’ advice on measures that could eradicate the two cheating behaviours. This arguably indicates the effectiveness of the AIM campaign and shows student support of the institutional efforts in this area. The results also show that the majority of students advise more ‘implicit’ methods of combatting contract cheating and collusion, including assessment redesign and broad teaching and learning initiatives, rather than ‘explicit’ educational ones, such as marketing materials discouraging students from such behaviours, or a student whistleblowing policy.

Key words: academic integrity, commissioning, contract cheating, collusion, Foundation Year, widening participation

Introduction and institutional context

The following paper presents and discusses perceptions on academic integrity matters, particularly relating to the potential effectiveness of initiatives aimed at combatting contract cheating and collusion. The paper was based on research with Foundation Year students at Bloomsbury Institute London (formerly known as London School of Business and Management (LSBM)).

Bloomsbury Institute is a small Alternative Provider (HEFCE, 2018) delivering undergraduate degrees (validated by the University of Northampton) in Business, Law and Accounting. Embracing the Widening Participation agenda (Hubble and Connell-Smith, 2018), Bloomsbury Institute is committed to the recruitment of non-traditional and diverse students who might not otherwise have the opportunity to enter higher education (HE).

Our student population of approximately 1,500 students is unique within the UK Higher Education sector with high proportions of students with underrepresented characteristics. For example:

- According to the institutional data submitted to the Higher Education Statistics Agency (HESA) for the academic year (AY) 2017-18, mature students, students over 21 years old on entry to HE (HESA, 2018a), constituted 80% of all our students (compared to the national average of 46% for undergraduates (HESA, 2018b)).
- In the same year, 50% of our students belonged to the Black, Asian and Minority Ethnic (BAME) group, which is more than double the UK average (ibid.)
- 16% of students at Bloomsbury Institute in AY 2017-18 declared a disability, specific learning difficulty or long-term health condition (2% more than the national average for undergraduates (ibid.))

Additionally, 74 nationalities were represented in Bloomsbury Institute in AY 2017-18. The largest proportion of students were of British (43%) and Romanian (27%) citizenship. Only 22.5% of our students were born in the UK (but only a very small proportion was classified as international students: most of non-British students have settled in the UK). Approximately 4.6% of our students came from countries in which English is an official language. Although we do not record data on whether our students are native speakers of English, an analysis of student nationalities and place of birth, along with ‘classroom observation’, indicates that a very high proportion of our students are speakers of English as an additional language. It is important to note here that all our students are of a minimum English language level of IELTS 5.5, or equivalent, on entry.

Bloomsbury Institute students, apart from having one or more underrepresented characteristics (LSBM, 2017), often come from low-income households. According to data provided by the Student Loans Company (SLC), in 2016-17,
96% of students who had submitted means testing information (i.e. 91% of all Bloomsbury Institute students), had a household income of £25,000 or below.

Nationally, students with underrepresented characteristics and from low-income households have higher dropout rates and lower achievement levels than ‘traditional’ students. For example, non-continuation rates for mature students are nearly twice as high as those for young students (Universities UK, 2018). In terms of ethnic minority students, there is a considerable attainment gap between white and BAME graduates, e.g. in 2015-16 the gap was 15.6% in England (Equality Challenge Unit, 2017). Financial circumstances also have a negative impact on our students’ lives and ability to focus on their studies (HEPI, 2017). Additionally, as the majority of our student population work as well as study, commute to classes and have young families, they are under additional pressure in comparison to young ‘traditional’ students (Maguire and Morris, 2018).

Providing such widening access opportunities to students is largely achieved through our Foundation Year (FY). As most of our students return to education after a long break or have no formal qualifications, they begin their higher education journey on a one-year ‘bridging’ course, which prepares them to study at a degree level. Many British universities offer such courses to their students in various forms (Prospects, 2019). At Bloomsbury Institute, the Foundation Year is the first year of the degree. The first validated delivery of our Foundation Year was in the AY2016-17.

In recent years, as many other HE providers worldwide, Bloomsbury Institute has observed a rising number of academic misconduct cases, and it seemed that the Foundation Year students were greatly affected. For example, in AY2017-18, 41% of all Academic Misconduct cases in the institution involved Foundation Year students (FY students constituted 49.8% of all students in the institution). We also observed an increase in the number of referrals made on the suspicion of commissioning/contract cheating and collusion.

**Literature review**

The term ‘contract cheating’ was first used by Clarke and Lancaster (2006) to denote a cheating behaviour of ‘the submission of work by students for academic credit which the students have paid contractors to write for them’. This definition has since been widely adopted in publications on the matters of academic integrity. As Bloomsbury Institute applies the Academic Integrity and Misconduct Policy of our validating institution, University of Northampton (2018), we often use the term ‘commissioning’ synonymously with ‘contract cheating’. The Glossary section of the policy specifies the close connection in the meaning of the two terms but points out that commissioning ‘does not necessarily involve a financial or non-financial reward’ (University of Northampton, 2018). Collusion, another type of a cheating behaviour, is ‘the act of collaborating with someone else on an assessment exercise which is intended to be wholly your own work, or the act of assisting someone else to commit plagiarism” (Maguire, 2003).

Although the definitions of contract cheating and collusion are distinct, the ‘practical’ relationship between contract cheating and collusion can be ambiguous, particularly in terms of classifying ‘offences’ for formal academic misconduct judgements. Without an admission of guilt from a student, a receipt of purchase or information from the person who was contracted to write a student’s assignment, it is nearly impossible to prove conclusively that student engaged in contract cheating based on the ‘usually available’ evidence (e.g. by comparing the suspected assignments to samples of student’s ‘real’ work). Nevertheless, many institutions will be satisfied with the ‘balance of probabilities’ when making an academic misconduct judgement (Times Higher Education, 2017), as recommended in the guidance issued to higher education institutions (HEIs) by Quality Assurance Agency (QAA, 2017).

Some students may follow the ‘guidance’ from the essay mills’ websites and make an attempt at re-writing the purchased work before submitting it (e.g. UKEssays, 2019), or may request revisions (e.g. ‘we will be glad to incorporate your feedback and/or your tutor's suggestions to further perfect it [the assignment]’ (Buyessay, 2019)). Students’ involvement/contribution to the writing process of the assignment can blur the lines between various types of cheating behaviours and may move the ‘classification’ of the offence closer to collusion depending on whether ‘the act of collaborating with someone else’ is understood as collaboration with someone ‘known’ to the student or with a service provider more generally (as in the case of those requesting revisions from essay mills’ websites). In the experience of Academic Integrity Officers at Bloomsbury Institute, students who ask their friends and family members to write their assignments for them (regardless of whether a ‘reward’ is involved), seem to be more likely to be ‘actively’ involved in the writing process at some point and to some extent – again, bringing some confusion as to what type of academic misconduct has taken place.
Another feature that ties contract cheating and collusion is the fact that in both cases students actively ask for help in completing their assignment and this signifies a struggle of some sort with the given assignment. Much of the practical guidance issued for HE providers on tackling contract cheating, and relevant literature, tend to make recommendations on tackling broadly defined plagiarism rather than contract cheating exclusively. For example, in Contracting to Cheat in Higher Education. How to Address Contract Cheating, the Use of Third-Party Services and Essay Mills (2017), Quality Assurance Agency for Higher Education in the UK, an independent body safeguarding standards and improving the quality of the HE sector, recommends ‘an approach where providers adopt a culture of academic integrity, underpinned by a strategy for encouraging scholarship and discouraging all forms of academic misconduct’.

Of course, parts of the guidance, similarly to QAA’s earlier publication, Plagiarism in Higher Education. Custom essay writing services: an exploration and next steps for the UK higher education sector (2016), do propose solutions aimed at eradicating contract cheating specifically. These include blocking access to essay mills’ websites, disrupting ghost writers’ opportunities to advertise, changes to institutional policies (e.g. introduction on whistleblowing policies for students) and legislative solutions. However, the last proposal is beyond the remit of individual institutions and the others have not been proven to be effective in combating contract cheating (Out-law.com, 2019).

Further comprehensive guidance was issued by QAA’s Australian counterpart, Tertiary Education Quality and Standards Agency (TEQSA) in 2017: Good Practice Note: Addressing contract cheating to safeguard academic integrity. Authors acknowledge the need for activities specifically addressing contract cheating and share good practice examples of changes in institutional policies including stricter penalties for contract cheating, raising students’ and staff’s awareness about contract cheating, communication of the penalties for contract cheating and removing essay mills’ advertising (similar to activities suggested by the QAA in the UK).

However, many of the other presented initiatives focus generally on academic integrity, and, therefore, aim to prevent many types of academic misconduct other than contract cheating, including collusion. For example, the creation of ‘individualised’ assessment tasks, including oral presentations, vivas or reflections, will make it more difficult for students to seek for external help, as only they will be able to respond to instructions. Similarly, support for students who speak English as an additional language (and are slightly more likely to commission assignments (Bretag et al., 2018)) or promotion of ‘personalised’ teaching and learning relationship are not initiatives exclusively reserved for combating contract cheating – these activities are likely to prevent or lower the levels of collusion and copy-paste plagiarism as well. Authors of the TEQSA (2017) guidance do emphasise the need for a holistic approach and share a number of examples of successful promotion of Academic Integrity in general.

Similarly, conclusions from research into contract cheating include recommendations of activities that are likely to prevent not only contract cheating but other forms of cheating behaviour too. In a recent major study, Bretag et al. (2018) in Contract cheating: a survey of Australian university students recommends that institutions ‘nurture strong student–teacher relationships, reduce opportunities to cheat through curriculum and assessment design, and address the well-recognised language and learning needs of LOTE [Languages Other Than English] students’. To name more prominent researchers in the area of contract commissioning, Clarke and Lancaster (2017) and Newton and Lang (2016) also advocate assessment redesign – an initiative that is likely to have impact on a number of cheating behaviours (although they point out that changes to the types of assignments may have some disadvantages as well). For the reasons outlined above, the study of Foundation Year students at Bloomsbury Institute explored initiatives aimed at combating both cheating behaviours, commissioning and collusion.

**Tackling contract cheating and collusion on FY at Bloomsbury Institute**

In AY 2016-17, concerned about the occurrence of contract cheating and collusion amongst our FY students and alarmed by reports of the ‘global rise in contract cheating in recent years, across all disciplines’ (IJEI, 2017), the researcher (the FY Course Leader) with the support of senior management and colleagues from various departments, began exploring the issues of student cheating behaviours, particularly commissioning and collusion, in order to develop a tailored action plan to help our students avoid academic misconduct.

We understood that our widening participation students were a group of students who faced very particular challenges (Crockford et al., 2017; McVitty and Morris, 2012) and, therefore, we looked into the literature for guidance on understanding and tackling the issue of contract cheating, and more broadly into the subject of academic misconduct amongst widening participation students.
Although there is an abundance of informative and thorough studies into the academic integrity matters, we were unable to find prior research focusing on the profile of widening participation students in a similar institutional context to our own [although there are studies exploring correlations between cheating behaviour and various student characteristics, e.g. gender or age (see a summary in Newton, 2018)].

Therefore, we conducted a number of informal institution-wide and FY specific initiatives aimed at exploring the reasons why our widening participation students cheat and generating practical solutions to limit/eradicate the problem of contract cheating. For example, we organised ‘brainstorming’ meetings with lecturers and Academic Integrity Officers, talked to our students in class and in tutorials, reflected on our experience of conducting Academic Misconduct interviews. In line with the recommendations from various studies and guidance documents, we decided to address the issue of contract cheating and collusion by developing a holistic approach to tackle academic misconduct. As a result, in September 2017, we launched our Academic Integrity Matters (AIM) campaign to promote high academic standards amongst all students at the Bloomsbury Institute.

The following actions were undertaken to promote academic integrity on our FY:

- Induction talks for Foundation Year students covered the topic of academic integrity in some detail.
- Where possible, we redesigned assessments. For example, we included time-constrained online elements in the first FY assessment (students completed three online quizzes, two covered aspects of academic integrity awareness, in the first month of their study with us); we also added a video CV element to a Portfolio assignment in Term 2.
- Information on academic integrity was embedded in the curriculum; for example, in class, FY students explored student dilemmas related to various cheating behaviours (scenarios were inspired by authentic stories told by our ‘cheating’ students in the previous AY; all dilemmas reflected the widening participation profile of our students)
- We created in-house video tutorials for students on Harvard Referencing system and the use of Turnitin and the reading of similarity scores
- Lecturers discussed academic integrity with students in class throughout the academic year
- We sent messages of encouragement to students via our Virtual Learning Environment
- We ensured that Academic Misconduct interviews had a formative character
- We organised group workshops and individual tutorials for students who had cheated

Additionally, we shared our experience of preventing and dealing with Academic Misconduct on FY with academics from other teams and externally; for example, we disseminated our academic integrity teaching and learning materials and conducted training sessions on recognising commissioned work and on Academic Misconduct procedures for all academics in the institution, and delivered conference presentations on our experience of fighting with contract cheating.

Although the AIM campaign seemed to have brought the expected results of higher student and staff awareness of academic integrity matters and of lower levels of contract cheating and collusion, particularly in the redesigned assessments, it was clear that with the essay mills’ aggressive online and on campus advertising campaigns (Turnitin, 2018), we have been fighting, what sometimes seemed, a ‘losing battle’. Therefore, we decided to seek input from students at risk of cheating to help evaluate appropriateness of preventative measures to inform future action plans.

The study presented in this paper aimed to answer the following research questions:

1. What was the knowledge, perceptions and attitudes towards commissioning and collusion amongst Foundation Year students after a year of the AIM campaign?

2. What are Foundation Year students’ perceptions on measures that could stop students at Bloomsbury Institute from submitting assignments that are a result of commissioning or collusion?

3. Is there a relationship between student perceptions on the effective measures and students’ personal ‘engagement’ with the two offences?
Methodology

At the end of AY2017-18, i.e. 10 months after the launch of the Academic Integrity Matters (AIM), FY students, approximately 770 students (both September and January 'starters'), were invited to complete a web-based survey made available in Google Forms. The researcher advertised the project through messages to students sent via the institutional Virtual Learning Environment, Canvas. The questionnaire was open from 1st July to 1st August 2018. The survey was anonymous, and participation was voluntary. The research project had the approval of the Bloomsbury Institute’s Research Ethics Committee.

In the survey, students were asked to answer questions relating to their understanding of, acceptability and scale of contract cheating and collusion at Bloomsbury Institute and in the UK overall. Students were also asked if they had ever submitted assignments, which were a result of contract cheating or collusion, or if they had ever considered doing so. Depending on answers to questions about their engagement with commissioning or collusion, students were asked follow-up questions exploring their reasons for cheating/considering cheating, or perceived reasons in case of students with no history of cheating or considering cheating (multiple choice and open-ended questions). However, as an exploration of student motivations for cheating is not the focus of this paper, these results are not reported on here. Additionally, students were asked to provide their own ideas on preventative initiatives and were asked to evaluate the honesty of their responses.

As the survey contained questions asking students about their academic conduct, communicating anonymity to participants was one of the priorities for the researcher. Therefore, apart from assuring participants of the survey’s anonymity in the invitation messages and the survey introduction, no questions about participants’ demographics were asked. There is some likelihood that in a relatively small institution where ‘everyone knows each other’ such questions would discourage students from completing the questionnaire or from providing honest answers - some students could, potentially, fear that the demographic details would lead to their identification and negative consequences.

The multiple-answer questions exploring students’ motivations for cheating, and questions on the effectiveness of preventative measures were developed using available literature, particularly practical guidance issued for higher education institutions (QAA, 2017 and TEQSA, 2017). Additionally, in designing the questionnaire the researcher drew on her experience of working with Bloomsbury Institute students who admitted submitting assignments that were a result of commissioning or collusion and the expertise of other Academic Integrity Officers at the institution.

Results

A total of 133 students, representing 17.28% of all FY students, responded to the survey. There were minor differences in the response rate to some questions, therefore, information about response numbers/rate is provided below for accuracy. The findings in the paper are presented for the following data sets:

- Overall, i.e. all FY students who participated in the survey (n=133)
- ‘Non-engaged’ group (76.7%, n=102), i.e. students who did not admit to engaging in the cheating behaviour and who did not consider doing so
- ‘Considerers’ group (14.3%, n=19), i.e. students who admitted that they had considered commissioning or collusion
- ‘Engaged’ group (7.5%, n=10), i.e. students who admitted that they had engaged in the cheating behaviour (admitted submitting assignments that were a result of commissioning or collusion)

Knowledge, perceptions and attitudes towards commissioning and collusion

The results demonstrated that the majority of survey participants had an understanding of what contract cheating and collusion were. In the initial survey questions, students were asked if they knew what the meaning of commissioning and collusion were (through dichotomous questions), and if they answered ‘yes’, they were asked to

1 Although 12 students answered positively to the self-reporting question, answers to follow up questions revealed that two students might have misunderstood the question as they stated that they did they work ‘alone’ / ‘myself’ when asked about the type of help that they had received; to avoid uncertainty, therefore, these two were removed/disregarded from the results for the ‘engaged’ group and findings in the ‘according to student engagement groups’
identify the correct definition of the term from three options (the options have been adapted from the text included in every Assessment Brief and Academic Integrity and Misconduct Policy (University of Northampton, 2018) – documents made available to students from the beginning of academic year on the VLE and institutional website, and referred to in classes throughout the academic year).

Overall, 81.2% of students (n=108) stated that they knew what commissioning, also known as contract cheating, was. Of these, 79.2% (n=76) of these correctly indicated an accurate definition of commissioning (i.e. 70.4% of all participants). 16.6% of students (n=16) confused commissioning with collusion and 4.2% of students (n=4) took the ‘copy-paste’ plagiarism for commissioning.

About 75.2% of students (n=100) stated that they knew what collusion was. Of these, 69% (n=69) indicated the correct definition of the term (69%, n=69 of all participants). 27% (n=27) took commissioning for collusion and 4% (n=4) thought the ‘copy-paste’ definition of plagiarism applied to collusion.

Figure 1 shows varying levels of student knowledge of commissioning and collusion depending on their engagement with the cheating behaviour. Within the Non-engaged and Considerers groups, the highest proportion of students displayed correct knowledge of both commissioning and collusion. In contrast, 80% students from the Engaged group were only able to accurately indicate the meaning of only one term: commissioning or collusion.

All students (regardless of whether they had indicated correct or incorrect understanding of the terms) were provided with accurate definitions of ‘contract cheating/commissioning’ and ‘collusion’ before answering subsequent questions in the survey. A total of 82% (n=109) of students were aware that penalties for submitting assignments that are not a result of students’ own work include termination of studies. Across the three groups, awareness of the penalty was generally high: 90% of students in the Engaged group and 84.3% of students in the Non-engaged group. The highest unfamiliarity was in the Considerers group, where 31.6% of students did not know that termination of studies is a possible consequence of commissioning/collusion.

A high number of respondents - 95.5% (n=127) perceived commissioning and collusion as unacceptable. The only group with slightly higher rate of students stating that commissioning and collusion were acceptable (10.5%) was the Considerers group. All students in the Engaged group and 98% in the Non-engaged group indicated that this cheating behaviour was not acceptable. 78.9% (n=105) of all participants thought that commissioning and collusion constituted a significant problem in HE in the UK and there were no significant variations in this view across the three groups (78.4% of Non-engaged, 84.2% of Considerers and 80% of Engaged students indicated that they thought these cheating behaviours were a significant problem).

**Figure 1.** Comparison of students’ knowledge of commissioning and collusion according to student engagement with the cheating behaviours.

<table>
<thead>
<tr>
<th>% of students who indicated correct definitions of the terms</th>
<th>Non-engaged group (n=102)</th>
<th>Considerers group (n=19)</th>
<th>Engaged group (n=10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both terms</td>
<td>40.2%</td>
<td>47.4%</td>
<td>10.0%</td>
</tr>
<tr>
<td>One term</td>
<td>36.8%</td>
<td>26.3%</td>
<td>80.0%</td>
</tr>
<tr>
<td>None</td>
<td>23.5%</td>
<td>26.3%</td>
<td>10.0%</td>
</tr>
</tbody>
</table>
It was revealed that 30.8% (n=41) of participants admitted that they were aware of students at the institution submitting assignments which were a result of contract cheating or collusion. This rate was the highest in the Considerers group (68.4%) and the lowest in the Non-engaged group (22.5%). Half of the students in the Engaged group knew of other students who submitted commissioned/collused assignments. When asked about the scale of the problem in the institution, overall, the highest proportion of students (34.6%) indicated that they believed that less than 5% of students submitted assignments that were a result of commissioning or collusion; 21.1% thought the rate was 5-10%. 18.8% indicated 10-20% and 25.6% believed that over 20% of students in the institution submitted commissioned/collused assignments. However, these rates differ across the three groups (see Figure 2).

**Figure 2.** Comparison of student perceptions on the scale of commissioning/collusion at the institution according to student engagement with the cheating behaviours

![Graph showing student perceptions on the scale of commissioning/collusion at the institution](image)

**Student perceptions on measures for tackling commissioning and collusion**

Responses to the multiple-answer question inviting students to express their views on activities that would combat contract cheating or collusion are presented in Table 1. The responses are then broken down according to student engagement with the cheating behaviours in Table 2.

**Table 1.** Activities that could eradicate commissioning and collusion - student responses to a multiple-answer question.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Proportion of students indicating the activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional English language classes</td>
<td>55.3%</td>
</tr>
<tr>
<td>Clearer assignment instructions</td>
<td>50.0%</td>
</tr>
<tr>
<td>Online assignments (e.g. quizzes with closed and short-answer questions)</td>
<td>45.5%</td>
</tr>
<tr>
<td>Additional workshops on avoiding plagiarism</td>
<td>36.4%</td>
</tr>
<tr>
<td>Stricter penalties for commissioning/collusion</td>
<td>35.6%</td>
</tr>
<tr>
<td>More frequent but smaller/shorter assignments</td>
<td>34.1%</td>
</tr>
<tr>
<td>More information on commissioning/collusion in classes</td>
<td>28.8%</td>
</tr>
<tr>
<td>Exams and presentations instead of long essays and reports</td>
<td>28.8%</td>
</tr>
<tr>
<td>Posters &amp; videos discouraging students from commissioning/collusion</td>
<td>18.2%</td>
</tr>
<tr>
<td>A whistleblowing policy for students (i.e. students encouraged to report those who they know submit commissioned assignments)</td>
<td>15.9%</td>
</tr>
</tbody>
</table>

An overwhelming majority of students (80.3%) indicated more than one initiative when responding to the multiple-answer question.
Table 2. A comparison of student responses to a multiple-answer question on activities that could eradicate contract cheating and collusion according to student engagement in the cheating behaviours

<table>
<thead>
<tr>
<th>Activities</th>
<th>Proportion of students indicating the activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Engaged (n=10)</td>
</tr>
<tr>
<td>Additional English language classes</td>
<td>80.0%</td>
</tr>
<tr>
<td>Clearer assignment instructions</td>
<td>40.0%</td>
</tr>
<tr>
<td>Online assignments (e.g. quizzes with closed and short-answer questions)</td>
<td>50.0%</td>
</tr>
<tr>
<td>Additional workshops on avoiding plagiarism</td>
<td>40.0%</td>
</tr>
<tr>
<td>Stricter penalties for commissioning/collusion</td>
<td>10.0%</td>
</tr>
<tr>
<td>More frequent but smaller/shorter assignments</td>
<td>40.0%</td>
</tr>
<tr>
<td>More information on commissioning/collusion in classes</td>
<td>0.0%</td>
</tr>
<tr>
<td>Exams and presentations instead of long essays and reports</td>
<td>40.0%</td>
</tr>
<tr>
<td>Posters &amp; videos discouraging students from commissioning/collusion</td>
<td>10.0%</td>
</tr>
<tr>
<td>A whistleblowing policy for students (i.e. students encouraged to report those who they know submit commissioned assignments)</td>
<td>0.0%</td>
</tr>
</tbody>
</table>

The most popular activities across all groups were additional English classes (with a significantly higher proportion of Engaged students indicating this answer), clearer assignment instructions, additional workshops on avoiding plagiarism (this option has been included here as a result of researcher’s experience of working with students who had submitted commissioned/colluded assignments, who often stated that ‘fear of plagiarising’ (understood here as ‘copy-paste’) led them to commissioning) and calls for changes in the types, size and frequency of assignments.

A large proportion of students (77.4%, n=99) pointed to at least one ‘assessment-related’ initiative, i.e. ‘Clearer assessment instructions’, ‘More frequent but smaller/shorter assignments’, ‘Exams and presentations instead of long essays and reports’ and/or ‘Online assignments (e.g. quizzes with closed and short-answer questions)’.

Calls for stricter penalties, for posters and videos discouraging students from commissioning/collusion and for more information on commissioning/collusion came primarily from the Non-engaged group. Similarly, only the Non-engaged students felt that a student whistleblowing policy would be effective.

Qualitative comments
The second question in this section was an open-ended question inviting students to share their own ideas on measures that could stop students from submitting assignments that are a result of commissioning or collusion. 94 students (70.6% of all respondents) presented their views. Qualitative comments were divided into categories depending on the type of activity proposed by students. Where possible and appropriate, the researcher used the categories from the earlier multiple answer question and classified the remaining answers grouping them into additional categories. Some students provided ideas that fell into two or more categories. Table 3 presents a summary of the types of activities suggested (the table contains information about the number of responses).
Table 3. A comparison of student responses to an open question on activities that could eradicate contract cheating and collusion according to student engagement in the cheating behaviours.

<table>
<thead>
<tr>
<th>Type of activity</th>
<th>Total</th>
<th>Number of students indicating the activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Engaged (n=10)</td>
</tr>
<tr>
<td>Additional study/academic skills support</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Enhance/develop closer tutor-student relationships</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>Stricter penalties for commissioning/collusion</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>Exams and presentations instead of long essays and reports</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>Improve clarity of instruction in the classroom</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>Extended deadlines</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Nothing will help</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Raise awareness about penalties for commissioning/collusion</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Additional English language classes</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Institution is doing enough already</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Motivate students</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Raise awareness about academic integrity in general</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Clearer assignment instructions</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Fewer assignments</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>‘Relax’ marking</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Online assignments (e.g. quizzes with closed and short-answer questions)</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Additional classes for ‘cheaters’</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Monitor attendance</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>More assessment preparation activities in classes</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>More blended learning</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Posters &amp; videos discouraging students from commissioning/collusion</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Raise awareness about available support</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Raise entry requirements</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Shorter assignments</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Less content in modules</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>More practice in classes</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>No anonymous marking</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Students did not present a proposal (i.e. students commented on their experience)</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>I don’t know</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>109</strong></td>
<td><strong>10</strong></td>
</tr>
</tbody>
</table>

Students made a number of suggestions with 27 responses falling into the categories presented in the earlier question.

One of the most frequently mentioned initiatives was additional study/academic skills support with most suggestions coming from the Non-engaged group. Equally frequent was the call for stricter penalties for commissioning/collusion and an enhancement/development of closer tutor-student relationships – in both cases 77.8% students who proposed these solutions belonged to the Non-engaged group. Calls for improved clarity of instruction in the classroom and for raising the awareness of penalties for commissioning/collusion came exclusively from the Non-engaged group.

Seven students in the Engaged group responded to the questions (70% of all in this group). In qualitative comments, two students repeated calls for additional support with the English language. One student called for teachers to ‘know the students they have’. One student acknowledged the ‘extraordinary’ work the institution has been doing to find students who cheat but explained that external factors, such as lack of time (related to students’ work commitments) ‘force us to (…) [cheat]. No offense’. Additionally, there was one call for stricter rules.
In the Considerers group, 14 students presented their views (73% of all in this group). Three students called for additional English language and study/academic skills support (one mentioned the institutional support service, Study Plus). Two students wrote at length about the challenges of having to complete multiple assessments in multiple modules in each term but did not propose any solutions. Challenges of balancing work and family life with studies and calls for extended deadlines were voiced too. Further suggestions included fewer or shorter assignments (two students), stricter rules (one student) and calls for teachers to focus more on reinforcing students’ confidence/motivating students (one response). Furthermore, one student suggested that teachers ask students to complete written tasks in class.

Honesty of responses
At the end of the survey, students were asked to evaluate the honesty of their responses on a 5-point Likert scale. Overall, 99.2% (n=132) strongly agreed (83.5%, n=111) or agreed (15.8%, n=21) with the statement: “I was able to be honest when answering questions in this survey.” Of the Non-engaged students, 85.9% strongly agreed and 14.1% agreed with the statement. Of the students who admitted commissioning or collusion, 70% strongly agreed and 30% agreed with the statement, and in the Engaged group, 84.2% strongly agreed, 10.5% agreed and 5.2% (n=1) disagreed with the statement.

Discussion
The rate of students admitting to commissioning or collusion amongst Foundation Year students (7.5%) is relatively low. It is, however, higher than the historic average of approximately 3.5% calculated by Curtis and Clare (2017) and by Newton (2018) in systematic reviews of self-reporting studies. That being said, these reviews focused solely on contract cheating, and the range of self-reporting in the analysed studies varied widely with some researchers reporting rates of over 20%. The self-reporting rate of FY students is also slightly higher than the proportion of Australian students (5.78%) who admit cheating behaviour as reported by Bretag at al. (2018) in a large-scale study that explored various types of students’ unethical behaviours.

This higher than average rate of FY students who admitted commissioning or collusion may be related to the general increase of students’ unethical behaviours (Newton, 2018). It may also suggest that the scale of the problem amongst widening participation students at the beginning of their academic journey is slightly more widespread. Further studies focused on students with underrepresented characteristics are needed to help estimate the actual prevalence of contract cheating (and other types of academic misconduct) amongst widening participation cohorts.

The best understanding of both commissioning and collusion (i.e. correct indication of definitions of the two cheating behaviours) was displayed by students who admitted considering commissioning/collusion. It is possible that this greater awareness helped students decide against committing these academic offences. Of course, it also seems likely that students who, considered asking others for ‘unethical’ help with their assignments sought to find out more about cheating behaviours, therefore, increasing their understanding of the terms.

On the other hand, only 10% of students who admitted contract cheating or collusion actually knew the meaning of both terms. This generally would suggest that further educational initiatives might be effective in raising awareness and subsequently preventing contract cheating. However, the same group of students did not point to activities that would raise students’ knowledge and awareness of commissioning and collusion as something that would help eradicate the problem.

Awareness of penalties associated with commissioning and collusion was very high amongst all three groups, with the highest proportion in the Engaged group, which may suggest that a ‘threat’ of termination of studies is not an effective deterrent against cheating behaviour. It may also indicate that the cheating students took an ‘informed’ risk when deciding to commission or collude. However, it is also possible that students believed that the institution would struggle to detect or evidence such cheating behaviours, or that such penalty would not actually be imposed. Potentially, as suggested by TEQSA (2017), communication of outcomes for contract cheating could serve as a more effective deterrent than a simple inclusion of stricter penalties in institutional policies and marketing materials on academic integrity.
Nearly all FY students who participated in the survey agreed that commissioning and collusion are not acceptable. This indicates that students either naturally ‘feel’ that this behaviour is unethical or that the educational campaign conducted by the Foundation Year staff strengthened or created this perception. Unfortunately, as in the case of awareness of penalties, perceptions of the ‘wrongness’ of the behaviour did not deter the students from commissioning or collusion.

Although perceptions on the significance of the problem of commissioning/collusion in HE in the UK were consistent across the three groups, students estimated the scale of the problem in the institution differently depending on their ‘engagement’ with the cheating behaviour. In line with the findings of other studies, e.g. Quintos (2017), non-cheating students thought there were fewer instances of commissioning or collusion than those who commissioned/colluded.

In this respect, it seems that students may not necessarily be able to help researchers confirm the scale of the problem by providing ‘inside’ information as their perceptions are influenced by personal experience of cheating. It is difficult to establish the causality of this – it is possible that students ‘see’ more of this behaviour because they themselves engage in it, or they engage in it because they see more of it. If the latter was the case, it would indicate that a cautionary approach towards intense educational campaigns needs to be taken. If the scale of the problem is ‘advertised’ to students by academics, it could contribute to the ‘normalisation’ of the cheating behaviour and, potentially, lead to a situation where ‘honest’ students move into the ‘considerers’ group (where, in the case of FY students, we see the highest proportion of students admitting to knowing others who commissioned/colluded), or even towards cheating.

When asked explicitly about the activities that could prevent students from commissioning and collusion, FY students pointed primarily to more ‘practical’ solutions, such as enhancements made to the assignments (be it as ‘small’ as improving the clarity of instructions, or slightly more radical as changes to the frequency, length or type of assessments to avoid ‘long essays and reports’). It is possible that the stage of students’ academic journey has some impact on this attitude. Foundation Year students, many of whom are returning to education after a long break or are moving from an educational setting of a different country, may be in need of a far more “scaffolded” approach through which they first tackle more frequent but shorter assignments, perhaps more innovative in nature, before attempting the ‘traditional’ forms of assessments, such as essays or reports of several thousand words. In addition, the profile of our students, where an overwhelming majority juggles work and family life with studies, may affect these opinions – it is not surprising that students with busy schedules would prefer to complete shorter assignments more frequently.

These results may also indicate that perhaps students do not fully understand the value of completing the ‘more-cheat-prone’ assessments, such as essays and other fully written assignments, and decide not to engage with them fully. Therefore, if academics wish to continue to use these type of assessments, they may need to invest some time into making students aware of the advantages of writing essays, and, perhaps, should provide more support/guidance on ‘breaking down’ the writing process into smaller, more manageable, ‘portions’.

Since much of the advice given to HEIs by independent bodies and researchers recommends changes to the assessment design (to name a few: QAA (2016 & 2017), TEQSA (2017), Bretag et al. (2017), Baird and Clare (2017), Lancaster and Clarke (2017)), it is encouraging to see that students embrace these proposals, too. In our institutional context, students who responded to the survey had already experienced two redesigned assessments and it was particularly pleasing to see that so many of them perceived such actions as effective preventative measures. It also gave the FY academics a ‘mandate’ to continue to redesign our assessments.

Not surprisingly, with the large proportion of FY students being speakers of English as an additional language, calls for English language and study/academic skills support were also very popular. This is in line with the finding and recommendations from Rigby at al. (2015) or Bretag et al. (2017). As additional support of this nature was widely available at the institution, it suggests that more work needs to be done to advertise this to students at Bloomsbury Institute, or maybe even further embed English for Academic Purposes and study skills into the curriculum at all levels. Interestingly, nearly all calls for more information about commissioning/collusion, stricter penalties and calls for a whistleblowing policy (i.e. the least popular initiatives) came from students who did not engage in or consider commissioning or collusion. This indicates that students ‘at risk’ do not perceive these measures as something that would deter them from cheating.
Generally, FY students were very ‘generous’ in providing advice on eradicating the problem of commissioning and collusion. Four out of five students proposed more than one initiative. This suggests that students (similarly to HE advisory bodies, researchers and practitioners) are aware of the complexities of eradicating cheating behaviour and recommend a holistic approach to tackling academic misconduct.

**Conclusions**

The results of the study into the perceptions and attitudes towards contract cheating and collusion amongst FY students at Bloomsbury Institute revealed that our students had a very good understanding of the cheating behaviours and were well aware of the complexities of the issue. This points to the effectiveness of the institutional AIM campaign, which was partly designed to raise students’ awareness of broadly understood academic integrity and misconduct matters. Respondents (although only 17.3% of all invited students) were generous in providing their opinions on initiatives that could eradicate the problems of contract cheating and collusion which showed their support and engagement in the institutional efforts.

Overall, it appears that students favour more ‘implicit’ methods of combatting contract cheating and collusion, such as assessment redesign and broad teaching and learning initiatives over the ‘explicit’ educational activities, where the cheating behaviours are named (and in a way, are ‘advertised’ to students). FY students’ perceptions and own conclusions on the measures that can stop contract cheating are generally in line with the recommendations from policy makers, researchers and academic tutors. Most popular student proposals included calls for changes to the assessment design and provision of additional English language and study skills support. Voices in favour of stricter penalties came primarily from non-cheating students, perhaps indicating feelings of frustration with contract cheating and collusion. The ‘honest’ students, ultimately, are the ones who are being ‘cheated on’ if contract cheating or collusion are not detected or not penalised appropriately. Therefore, their demand for more drastic measures is understandable.

The results of the study helped the FY teaching team in the evaluation of the appropriateness of measures undertaken to tackle contract cheating and contributed to the development of subsequent, more tailored for our unique cohorts, action plans. The researcher found the input from students invaluable in this evaluation and deciding on further actions and recommends that other institutions seek a ‘mandate’ and advice from their own students, particularly those ‘at greater risk’ of engaging with the cheating behaviour. With an increasing number of students with underrepresented characteristics entering HE in the UK and worldwide, further research into the perceptions of academic integrity and the effectiveness of initiatives combating contract cheating amongst widening participation students is needed.

**Limitations**

The limitations of the study include a relatively low completion rate – only 133 of 770 invited students (17.3%) completed the survey (however, it is not uncommon for self-reporting studies to achieve similar response rates (Newton, 2018)). No questions about student demographics were asked; such data would have enriched the analysis and could have led to a development of tailored action plans for students with particular underrepresented characteristics at Bloomsbury Institute. Additionally, the survey was conducted in a small HE provider amongst a unique cohort of students, which does not allow for broader generalisations.
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Acknowledgments:

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