**Research Magpies: Student sourcing behaviours on an undergraduate law degree**

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**Abstract**

We recorded 10 undergraduate law students responding to a research task at York Law School, University of York, UK. Analysing these videos was like observing research magpies: darting ruthlessly from source to source in search of the shiniest material to determine, as quickly as possible, the “content” of the law. These students cast their search widely, using “unofficial knowledge” – such as case summaries from Google – to supplement their use of the “official knowledge” found in set textbooks or sources signposted by Law School staff. They distinguish between “normative” research and “substantive” legal research (or what one student described as “law-y stuff”), neglecting the former in favour of the latter. And they prize efficiency above all else, rapidly dismissing sources or techniques perceived as too unwieldly. After outlining these behaviours by drawing on Gibbons’ work on “unofficial knowledge”, we propose three broader arguments: (i) students do not engage with “official knowledge” resources in the way that law curriculum designers intend or expect they do, (ii) there is a tension between encouraging independent learning and the use of “unofficial” knowledge, and (iii) students do not appreciate the value of normative sources sufficiently. We argue for further research in these three areas and in the heavily under-analysed theoretical problems posed by “unofficial knowledge” in legal higher education.

**Keywords**

Legal education, research skills, official knowledge, unofficial knowledge, analytical skills,

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**Introduction**

Researching research is difficult. To date, analysis of undergraduate law students’ research skills falls into three camps, each addressing different questions. The first asks students about their own research practices and what support they need (how can we better support and train students in research skills? (Meredith, 2007)). The second debates the principles that underpin guidance by staff and the development of student resources (How can we better bridge the research demands of academia and practice? How do we best incorporate primary sources like case law? (Barnett and Baer, 2011; Poydras, 2013)). The third considers how external pressures – technology, changes in student preferences, increases in student numbers, and so on – can impact on the availability and use of research techniques (Do we still need printed textbooks? How often do students enter the law library? (Ingham and Boyle, 2006)).

The focus here is to address a far more fundamental question that underpins all of these studies but is rarely subject to any sustained analysis: *how do* undergraduate law students go about their research? Although previous studies have surveyed, interviewed and led focus groups with law students to ask how they identify relevant materials or access resources, there are no studies that have recorded how English law students undertake a specific research task. Those studies that have observed law students’ sourcing techniques have done so outside of a formal research process, such as in-session observations to inform the development of questions for inclusion in surveys (Meredith, 2007).

An analysis of ten recorded research sessions by undergraduate students at York Law School, University of York, UK provides evidence of a complex interaction between what is referred to here as “official knowledge” – the prescribed textbooks, legal databases, journal articles, and so on that are promoted as legitimate resources by academic staff – and what Gibbons terms “unofficial knowledge” – the open-access internet resources that students know their tutors frown upon, but use nonetheless (Gibbons, 2018a). Rather than adopt one knowledge format over the other, undergraduate students use a number of techniques and resources in conjunction, switching from a textbook to a search engine back to a website and to a primary source, and so on, with their analysis of one resource affecting their sourcing of another.

After providing context on the distinction between “official”/”unofficial” knowledge, including a brief explanation of the relevance of the work of Bernstein and the methods adopted in this study, the analysis is put forward in four sections. The first details how this “unofficial knowledge” is not always treated as a distinct source of information, but instead is used to supplement “official knowledge”. With the exception of one participant, Google-led or other “unofficial” sources were employed as supplementary tools to inform research in other databases and library-led search tools. The second outlines the distinction drawn by a majority of students between “substantive” and more “normative” research. The former was seen to passport knowledge about the latter, with “normative” arguments being seen as less amenable to sourcing through “unofficial knowledge”. The third looks at the finely textured ways in which students evaluate and dismiss the utility (as opposed to the relevance) of sources they find. Students in the sample tended to operate a trade-off between “official” and “unofficial” sources based on the perceived efficacy of one source over another. Finally, we draw out what we argue are some broader implications of our data outside of the immediate context of the study, returning to our discussion of the significance of the work of Bernstein in the final section.

**“Official” and “Unofficial” knowledge**

Bernstein is well known to those interested in curriculum studies for the utility and adaptability of his concepts, including classification and framing (Sadovnik, 1995; Moore et al, 2006). *Classification* refers to the degree of boundary maintenance between discipline contents and is concerned with the insulation or boundaries between curricular categories. Strong classification refers to a curriculum that is highly differentiated; weak classification refers to a curriculum that is integrated and in which the boundaries between subjects is fragile. Framing refers to the location of control over the rules of communication and, according to Bernstein, “if classification regulates the voice of a category than framing regulates the form of its legitimate message” (Bernstein 1990, pg.96). Thus designing legal curricula and course content can be seen as an exercise in classifying and framing educational knowledge (Gibbons, 2018b; Bernstein, 2000). Reading lists, sign-posting cases, instruction-led activities, lecture slides and so on, all *classify* what knowledge is relevant in the discipline and *frame* both the students understanding of it and their own subsequent research activity. This is done through the auspices of the law school, leveraging the perceived authority and legitimacy of the University itself. This is what Bernstein, building on the work of Apple, has characterised as “official knowledge” (Bernstein, 2000, pg. 65; Apple, 1993): the means by which the state educator decides what the student should study, then controls the construction and subsequent distribution of this knowledge to the student.

Students are, of course, subject to far more information than their law curriculum and course content supplies, however carefully designed it may be. As will be shown here, when undertaking legal research in the contemporary university the official approved text no longer has a monopoly (Gibbons, 2018a). In addition to the prescribed knowledge formats favoured by curriculum designers, other non-prescribed sources – particularly Google, student revision websites, and Wikipedia – are used either alongside or in place of this “official knowledge”. Building on Gibbons’ earlier work, the weakly classified information found so readily on these platforms is referred to here as “unofficial knowledge” (ibid).

The subsequent analysis uses both of these labels – “official” and “unofficial” knowledge – to draw distinctions between the students’ use of sources in this study. We recognise this is a narrow use of these terms given the voluminous writing on the “construction of knowledge” in education and the burgeoning field of academic literacies research that emphasises the role of academic communication in the “knowledge making” of students (Young, 2008; Wheelahan, 2010; Paxton and Frith, 2014; and Lillis and Scott, 2007). Our aims in this paper are to draw conclusions about the implications of our study for pedagogic practice and do not require grander theorising about what our data says about state power or the nature of knowledge itself. The advantage of adopting a Bernstein-informed approach is that his theories “render knowledge visible as an object of study” (Maton and Muller, 2007). By distinguishing between “official” and “unofficial” knowledge in our analysis, we are looking to make visible the ways in which students navigate between these different forms of knowledge and what this tells us about their research practices.

**Methods**

1. The undergraduate programme at York Law School

The participants in this study are all enrolled on an undergraduate law programme at York Law School, either our main three-year degree (x 9 participants) or our “senior status” programme; a two-year postgraduate LLB degree taught alongside the three-year students (x 1 participant). In both programmes, the Qualifying Law Degree components (the legal subject areas currently required by the professional regulators) are taught through problem-based learning (PBL).[[2]](#endnote-1) Students are divided into small groups referred to as student law firms, each working through a guided process to generate, research and present their findings on learning outcomes from a set ‘messy’ legal problem. It is beyond the scope of this article to provide a detailed appraisal of the PBL approach; readers are well-served by Grime’s “nuts and bolts” summary (Grimes, 2014). However, one key feature of the YLS PBL approach should be noted. The PBL model used is one of ‘guided’ problem based learning. The learning outcomes are prescribed by the problem designer. Students are not told the specified learning outcomes but are expected to discover them through their problem analysis. The role of the PBL tutor (i.e. the in-session member of academic staff) is to facilitate this process so that appropriate learning outcomes are identified ensuring that student research is focused on the areas intended by the problem designer.

As part of the induction for the PBL approach students are provided with two sessions focused explicitly on finding and using sources. A two-hour research skills session, undertaken in their student law firms, and a larger plenary session facilitated by a specialist law librarian, where students are provided with details on how to access legal databases and the library-led search tools. Students receive a plenary programme and supporting resources (called “independent study guides”) that both help to signpost core material.

This PBL context is important for two reasons. First, it is a pedagogical approach designed in part to develop students’ independent research skills. The exchange and evaluation of sources with student peers is a key part of the feedback stage of any PBL cycle (Engel, 1997). Second, as curriculum designers, there is an important design choice between the provision of learning material and requiring independent study. In other words, how much material should be provided by the department directly to the student (through either accompanying large-group teaching such as lectures, or reading lists and provision of specific resources) (Coles, 1997), and how much should students be left to find material independently. The ability of students to research effectively therefore has a significant bearing on the design of PBL materials and accompanying elements of the programme.

The results below should therefore be read in the context of a PBL programme where the prescription of “official knowledge” is more constrained than in more traditional programmes, where set-reading and a less student-centred process is liable to dominate.

1. Methods

The study captured data on how undergraduate law students identified relevant legal sources by recording (i) their computer screens as they responded to a set task and (ii) their explanatory narration. A sample of 10 students was recruited in response to an advert issued via email to all undergraduate law students at York Law School. The process, approved by the Economics, Law, Management, Politics and Sociology Ethics Committee at the University of York – was as follows:

1. Having responded to the study advert, participants received an email from the researcher with an accompanying information sheet and consent form.
2. Participants received an email from the researcher with their “participation link” from an online screen-capture tool (lookback.io).
3. Participants were presented with a task to complete for 15 minutes.
4. Participants clicked to upload the video.
5. Participant received a £15 gift voucher for participation.
6. Any accompanying narration was transcribed and timestamped against the original video footage. The audio was then deleted.

The final sample of ten students in the study ranges across the degree programmes offered at York Law School and, to an extent, the performance of students on the programme. These are detailed in **Table One** below. To avoid identification, the exact progression averages are not provided, only a characterisation of extant performance. Although one participant is sitting on a mid-second-class average, most participants are performing comfortably within the 2.i range.[[3]](#endnote-2) The sample therefore reflects a slightly higher scoring set of students than average at York Law School.

These participants were provided with a “research task” that detailed two PBL outcomes (i.e. questions that arise out of the PBL process to inform their research). The text they were presented with was as follows:

When you click ‘Get Started’, Lookback will begin recording your computer screen and capturing audio.

For the purposes of this research, we have set a mock task for you to complete below for a maximum of 15 minutes. Do not worry if you cannot make much progress in the time allotted – we are looking to gain an insight into how you go about your research to support your studies, not your understanding of the substance of the task itself.

To gain a better understanding of how you are going about the task, it would be helpful if you could:

* Narrate what you are doing the best you can.
* Do this task in the way you normally would. We are after a realistic insight into student approaches!
* Try to make a start on both outcomes.

**The task**

Imagine you have just finished the pick-up session for a shiny new PBL problem. You want to make a start on two of the outcomes your group settled on.

1. On what basis can the UK courts lawfully restrict freedom of speech?
2. Are protections for freedom of speech in the UK sufficient?

Please start your research on these two outcomes by identifying some relevant sources. Feel free to load up a word document and use whatever tools you would ordinarily.

Our focus is not on the substance of the research task itself, but rather the processes students adopted to source relevant material to inform their research. However, to provide a broad envelope of possible resources and approaches to the research, the substance of the task had to admit of a variety of responses and be sufficiently wide-ranging to pose a research challenge. Likewise, both outcomes have a different focus: one deals with the content of the law, the other tasks students with sourcing arguments as to its sufficiency and/or possible reform.

**Figure One: Participant descriptors and video links**

|  |  |  |
| --- | --- | --- |
| **ID*****Link to full video*** | **Year/Programme** | **Average Grade** |
| Participant One[*http://tiny.cc/bsde9y*](http://tiny.cc/bsde9y) | Second Year (3 Year LLB) | Low 1st Class |
| Participant Two[*http://tiny.cc/esde9y*](http://tiny.cc/esde9y) | Second Year (3 Year LLB) | Mid 2.i |
| Participant Three[*http://tiny.cc/rsde9y*](http://tiny.cc/rsde9y) | First year (3 Year LLB) | Mid 2.ii |
| Participant Four[*http://tiny.cc/2sde9y*](http://tiny.cc/2sde9y) | Second Year (Senior Status) | Mid 2.i |
| Participant Five[*http://tiny.cc/9sde9y*](http://tiny.cc/9sde9y) | Third Year (3 Year LLB) | High 2.i |
| Participant Six[*http://tiny.cc/ytde9y*](http://tiny.cc/ytde9y) | Third Year (3 Year LLB) | Mid 2.ii |
| Participant Seven[*http://tiny.cc/bude9y*](http://tiny.cc/bude9y) | Third Year (3 Year LLB) | High 2.i |
| Participant Eight[*http://tiny.cc/vude9y*](http://tiny.cc/vude9y) | Second Year (3 Year LLB) | Mid 2.ii |
| Participant Nine[*http://tiny.cc/fvde9y*](http://tiny.cc/fvde9y) | First Year (3 Year LLB) | High 1st Class |
| Participant Ten[*http://tiny.cc/pvde9y*](http://tiny.cc/pvde9y) | First Year (3 Year LLB) | Low 1st Class |

In the analysis that follows, excerpts from the video narration are detailed, alongside links to the screen-recordings themselves. The narration has been transcribed and added to these videos as subtitles, so the reader can access the full session to see the context in which the comments were made (see the links provided in *Table One*).

**Google as a supplement: Using unofficial knowledge in parallel with official knowledge**

The use of unofficial online sources, and particularly the “Google everything habit” (Osborne, 2016), are analysed elsewhere as being in tension with the official, prescribed forms of knowledge defined by legal educators. Nowhere is this more apparent than in Georgas’ triptych of studies, each titled, tantalisingly, “Google vs the Library”. Existing literature either interrogates student preferences for non-prescribed sourcing techniques (how can we stop Google becoming a student’s “first, last, and best research solution”?) (ibid, at pg. 406), or evaluates the inputs of student users (how can we better meet student “needs and preferences” (Georgas, 2012, at pg. 180) and “creat[e] tools that are better suited to users”? (Gerogas, 2014, at pg. 527)) and the outputs of searches (did the library database or Google provide the most “relevant” results?) (Georgas, 2015). Currie at al’s influential literature review and study characterises the research field on student use of search engines as focusing on how students “resolv[e] issues of credibility, authority, relevance and currency” (Currie et al, 2009). To put it another way, why do students use online search engines and how do they discern the quality of what they find?

The data in this YLS study points to a more complex phenomenon among the undergraduate law student sample. As akin to when Biddix et al outline the use of Wikipedia and other online sources (such as About.com) as a “pre-research tool” (Biddix et al, 2011), students in our sample incorporated the use of non-library derived search engines (unofficial knowledge) in their research process as a supplement to more “traditional” resources prescribed by the University (official knowledge). Far from using Google as a separate means to identify relevant sources in direct competition with the library (i.e. “Google vs The Library” (Georgas, 2012, 2014 and 2015)), students were using Google search results as a means of informing their research processes in scholarly databases, and/or to validate their understanding of material sourced elsewhere. For all but one student in the sample (see discussion of Participant Three below), Google did not provide a distinct alternative to library resources, but was rather used as a tool to improve or shortcut their engagement with library-led resources.

Participant Six’s approach was common across the sample. After identifying a case within a textbook, they would then search for an explanation in Google to read alongside it:

OK, so I get the gist of what the case is about, and if it's a text, cases and materials book, amazing, er, I do Google it to find, so what I'll find is a good website just because it says it in the simple terms. It's really hard to go to Westlaw sometimes and understand what the case is about.

*Participant Six -* [14:04-14:36](http://www.youtube.com/watch?v=6QcClydLfZc&t=14m4s)

Participant Two underscored that this approach can help to speed up their reading of “clunky” textbook descriptions:

So also a lot of the time, in the actual textbooks, like this is just chunky and in some ways it just doesn't really kind of say what you want to read so a lot of the time just go on other sites that have a more condensed version of the facts - sometimes it's WestLaw, sometimes it's whatever is easiest when doing a Google search to get the gist of what went down. Erm, because I find that that's much easier to do - especially when you're going through so much case law in PBL, trying to figure out what's needed, it's easiest to do it like this.

*Participant Two* - [09:12 - 09:42](http://www.youtube.com/watch?v=HM6WDrhij4U&t=9m12s)

Other participants used Google at the start of their research process in order to expand their understanding of key terms. This was used to inform a subsequent search in library or legal databases:

Ok so, to start my research, what I normally will do is one of the most effective ways in which I start my research is just to Google key terms. Sometimes when I Google key terms this is just to gain a better understanding of what each word or each phrase means in a problem or learning outcome, but also to identify any information I don't understand. For me, I find that going straight to a textbook or Government website can be ineffective just because I might not completely understand what the textbook is saying.

*Participant Four -* [01:17-02:21](http://www.youtube.com/watch?v=egQmt-nQx5g&t=1m17s)

Only one participant in the sample adopted a definitive “Google vs The Library” approach, with the former trumping the latter:

I just usually type it into Google and then use the answers there if that makes sense. Like, I don't like going through the textbooks and things like that. Usually, after PBL I usually just copy and paste the question and I put it straight into Google and then I kind of start from there.

*Participant Three* - [01:24-02:08](http://www.youtube.com/watch?v=we2pPhwb-nQ&t=1m24s)

This student’s research session was characterised by trawling the Google search results and noting down content they considered to be relevant. Throughout their account, the student was clear that they knew this was not a research process the department, or their tutors, would support. When entering terms into Google, the student noted:

If my PBL tutors could see me now they would be shaking! They hate it!

…

I feel so bad because my PBL tutors always used to tell me off for doing it like this but, I just find it a lot more easier. I can't help it, it's the way I've always done my research. I never use Westlaw [a leading legal database] and things like that. I try to avoid it as much as possible.

*Participant Three,* [13:26-13:40](http://www.youtube.com/watch?v=we2pPhwb-nQ&t=13m26s)…[13:47-14:56](http://www.youtube.com/watch?v=we2pPhwb-nQ&t=13m47s)

The picture that emerges for the majority of participants, therefore, is one where unofficial knowledge – in this instance, material sourced through a Google search – is used as a supplement to either: (i) perceived deficiencies in the function of other tools (more on that below), (ii) to inform inputs into other more targeted databases, or (iii) to short-circuit the reading of sources, particularly through searching for short case summaries on Google. Only Participant Three adopted the caricatured approach of simply pasting questions into Google and filtering responses from there onwards; even in that case, the student was aware that this was far from what is considered best practice.

**A distinction between “normative” and “substantive” research**

A majority of the sample (7participants out of 10) made explicit reference to the distinction between responding to “normative” research tasks and to more “substantive”­ research, described by one participant as “law-y stuff” (*Participant Two -* [13:24-13:29](http://www.youtube.com/watch?v=HM6WDrhij4U&t=13m24s)). As outlined above, the task set was designed to draw on both doctrinal and non-doctrinal legal research skills, with the first set learning outcome looking at the current position of the law, and the second on its sufficiency. Even those that did not use the word “normative” to characterise this second question, did still adopt distinct research processes for each of the two outcomes.

Students adopted different research approaches to both, often relegating the second outcome to something not amenable to research in the same way as more doctrinal issues. Within the sample, participants detailed how doctrinal study of the law can passport more normative arguments: the latter had a lower research priority than the former. Indeed, Participant Six outlined how they use judgments to leverage answers to more normative questions:

OK, I didn't realise this but the second question is normative, erm, with normatives I usually have to do the substantive stuff first so I don't really worry about them, but if I don't have time to do it, my process is usually, I do the substantive stuff, which would be the first question, and then I look at the core rulings because judges usually have pretty good quotes about why they judged the way they did…

*Participant Six -* [03:44-04:41](http://www.youtube.com/watch?v=6QcClydLfZc&t=3m44s)

For those who evidenced research processes for this second question, this normative research was seen as carrying a greater risk of time inefficiency. Material sourced may be irrelevant or of little value in aiding legal understanding, but its relevance was more difficult to appraise until they had invested time in reading the source. Most students entered search terms into Google scholar and/or the library catalogue’s own research tool and scrolled through these listings, distinguishing relevance using the article titles. As outlined by *Participant One*, the risks of missing key material or the inefficient use of time can lead to a reliance on sources prescribed by the Law School:

Normative ones, in terms of research, I haven't developed so far a better way of simply just going away and reading articles. Again, the Independent Study Guide [a document provided on the LLB programme containing suggested activities and sources] has - on the whole - been pretty good at directing to the big debates that exist within areas of law. Because that's the only danger with normative questions, if there's not sort of any indication in the independent study guide, you often find that you go down every single little rabbit-hole - which isn't a bad thing, but I've done it myself sometimes this year, where I miss sort-of glaringly obvious debates, which were necessary to answering the question.

*Participant One* - [12:33-13:20](http://www.youtube.com/watch?v=aztmyK3TSYQ&t=12m33s)

Student concerns of efficacy led to a greater hesitancy to put broad search terms into search engines/databases than with the first learning outcome. Participants adopted strategies to avoid the problems associated with this “stabbing about in the dark” (*Participant Nine -* [13:20-13:24](http://www.youtube.com/watch?v=SQj9vvQrlRM&t=13m20s)), such as using additional reading signposted in textbooks or “reference mining” the footnotes of sources they have already identified (*Participant Seven* - [11:44-12:08](http://www.youtube.com/watch?v=J-TgIz7c0do&t=11m44s)).

The different emphasis in the sourcing of materials between the two outcomes seemed to inform a broader concern about the utility of “normative” sources compared to researching the content of the law. This was particularly true of their lack of perceived usefulness in assessed tasks, particularly given the time commitment required to engage with these sources effectively. When outlining their approach to identifying journal articles for the second outcome, *Participant Nine* reflected on her approach so far in their first year of study:

Erm, but I'm not sure if that actually helped me that much in the exam, so I think next year I'm probably going to try and get more of a feel of some of the academic debates that are going on, and make notes on the different debates and key articles, just write down what they are, and then actually go and read them closer to the exam, so I know specifically what I'm looking at, because I think it was a bit of a waste of time to read so many full articles.

*Participant Nine -* [14:20-14:52](http://www.youtube.com/watch?v=SQj9vvQrlRM&t=14m20s)

Two problems arise from these data. First, the hard-edged distinction between normative and non-normative sourcing reflected in the sample has the potential to obscure the benefits of using a broader envelope of secondary material – journal articles, non-textbook books and monographs, etc – to inform understanding of doctrinal issues. Treating normative questions as separate from legal understanding (or “law-y stuff”) fails to recognise the inherent normative tensions in legal doctrine and their importance in attaining a deep understanding in legal study. Second, the dynamic between the use of official and unofficial knowledge was different between this second “normative” question and the first on the current position of the law. Students were either hesitant to source material themselves (chiefly due to the perceived risk of greater inefficiency) and so were more reliant on prescribed, “official” sources, or they dispensed with researching the outcome altogether, suggesting that their understanding of the doctrinal issues will passport naturally an understanding of normative debates surrounding them.

**Appraising the format of sources: Ease and speed of access**

The interplay between “official” and “unofficial” knowledge was not the only dynamic in the students’ sourcing behaviours. In line with previous studies of students’ sourcing strategies, resources were assessed not only in line with their de facto quality (such as perceived creditability and objectivity), but also with a range of evaluation criteria rooted entirely in the sources’ usability for the student (Currie et al, 2009, at pg. 116). Convenience, accessibility, and ease-of-use all seemingly trumped factors traditionally associated with the appraisal of a source’s reliability: students were looking for sources that could most efficiently meet their research need. Consequently, sources that students may prefer in terms of their substantive content were disregarded where they were perceived and inaccessible or inefficient; a practice that disadvantaged “official” knowledge and led to greater recourse to “unofficial” knowledge.

The participants’ evaluation of the usefulness, or lack thereof, of sources was finely textured. A source taking too long to load on the screen, having large blocks of text, or insufficiently precise headings were all used as reasons to dismiss one source in favour of another. A significant implication of this practice for legal research is the participants’ frequent reluctance to use Westlaw to look at legislation. Having identified the Human Rights Act 1998 as a relevant line of inquiry, no students went to Westlaw (or LexisNexis) to look at this legislation. Instead they preferred the online Legislation.gov.uk service – referred to as “the legislation website”:

I then obviously take to Google and find the Human Rights Act and make sure I find the legislation website.

*Participant Eight* – [8:33-10:53](http://www.youtube.com/watch?v=fOe_A40HwSM&t=8m33s)

There were a variety of reasons inferred for this, mostly the perceived limited usability of Westlaw and legal databases as opposed to the Legislation.gov.uk sourced through Google. As *Participant Three* lamented:

I feel like so much time is wasted just trying to get into Westlaw and things like that. And then half the time, the stuff that I'm looking for isn't even like, it isn't even relevant. It's frustrating, because you've so many different textbooks, you've got so many different platforms to use, that you kind of sit there and you're like, argh!

*Participant Three -* [04:45-05:12](http://www.youtube.com/watch?v=we2pPhwb-nQ&t=4m45s)

*Participant Five* underscored their point by loading up Westlaw and Legislation.gov.uk at the same time to illustrate how the former takes (marginally) longer to load up on their screen than the latter:

Sorry, I just use Google. And for the legislation, I love using this. This website especially [Legislation.gov.uk], because I think it's a lot more, it's a lot faster than Westlaw for sure because Westlaw is still loading up, and it allows you to, it gives you options on how to open the Act and I really appreciate that.

*Participant Five* - [02:13-02:44](http://www.youtube.com/watch?v=FLOTkh4sSTQ&t=2m13s)

Although this was mostly true for sourcing legislation rather than case law, a minority of participants detailed problems with Westlaw – particularly the lack of accessibility of the format of the information – as a reason for using other Google-sourced platforms for accessing additional information on cases they have identified in textbooks:

OK, so I get the gist of what the case is about, and if it's a text cases and materials book, amazing, er, I do google it to find, so what I'll find is a good website just because it says it in the simple terms. It's really hard to go to Westlaw sometimes and understand what the case is about.

*Participant Six* - [14:04-14:36](http://www.youtube.com/watch?v=6QcClydLfZc&t=14m4s)

For other sources, similar assessments of usability were common. This was especially true for the use of “concentrates” guides (condensed textbooks providing a *precis* on key subjects) and when deciding between textbooks to use more generally. The aim was to find a source that could provide the “gist” to then inform subsequent engagement with more detailed sources.

Concentrates are normally the first port of call - especially if it's something I'm not particularly familiar with. And a lot of the time I like to bounce back-and-forth. So like I'd read the gist of it on a Concentrate and then kind of grasp it a bit more in the actual textbook.

*Participant Two* - [03:30-04:00](http://www.youtube.com/watch?v=HM6WDrhij4U&t=3m30s)

I like to have a look in the concentrates just because I feel like they sum things up. And it's quite nice to have a mix of using concentrate and one of the bigger textbooks, because sometimes they kind of mention cases or things that it is then easy to go back and look at.

*Participant Two* - [09:52: 11:00](http://www.youtube.com/watch?v=C2hZJ9eyUJM&t=9m52s)

What emerges therefore, is the priority placed on evaluating the efficacy of sources. Where students had identified material that they knew to be deficient in other ways (such as law concentrate textbooks, case summarises derived from Google, etc), they were then supplementing these with what they knew to be more reputable sources (such as textbooks available on LawTrove). Rather than committing a longer period of time to processing a full chapter of a textbook, students would use other sources as a means to streamline their analysis of the text.

**Broader implications of the research magpie**

Having provided an overview of the findings from our student data, this section returns to where we started: looking at the implications of the “official”/”unofficial” knowledge distinction outlined by Gibbons on pedagogic practice and curriculum design.

1. Technological developments have resulted in students not engaging with “official knowledge” resources in the way that law curriculum designers intend or expect they do

Our data suggests that even when students do engage with “official” sources, particularly textbooks, they do not do so in a linear way. None of the students in this sample indicated that they would sit and read whole chapters start-to-finish. Instead, they identify smaller, more relevant sub-sections for their immediate task, then supplement these resources with “unofficial” material, such as shorter Law Concentrate books or case summaries sourced from Google. This means that even in the context of an individual textbook chapter, the envelope of “official” information processed by the students is likely to be narrower than may be intended by curriculum designers and may be tainted by other, non-prescribed, “unofficial” sources.

This practical problem for curriculum designers is a function of the broader destabilising effect of technology. To return to the Bernsteinian analysis with which we started, the power educational institutions have over “official knowledge” is fragmented partially by easy access to “unofficial knowledge” on the internet, often with student-facing sources like revision websites or resources made available by other institutions. This poses particular problems for Bernstein’s “recontextualising” principle – if as educators we are to appropriate and shape knowledge for academic “transmission” as part of our law programmes, does technological reform lead to the erosion of boundaries between educational institutions and a state of “perpetual instability” (Tyler, 2015, at pg. 16-17)? We argue that our data points to two practical responses to this problem.

First, when training students on their use of sources and research skills, educators should not simply focus on distinguishing between types of sources (e.g. reliable vs unreliable), but should also focus on how best to utilise source material effectively. To put it another way, delineating “good” sources from “bad” may still result in the “bad” use of “good” sources. The reality of the fragmentation caused by easy access to source materials on the internet is that students will – regardless of how we exercise our own power as educators – have recourse to using materials we would ordinarily classify as “bad” or “unreliable”. In making this suggestion we are mindful of Johnson’s critique that legal educators should stop fetishising “obfuscation” and “let go of old taboos about student study-aids and other shortcuts to learning” (Johnson, 2010, at pg. 42). We suggest therefore, that a focus on developing research skills in the round could recognise the legitimate role that “unofficial” sources can play – if used correctly – in a student’s independent research.

Second, educators should not be under the impression that tightly drawn reading lists, and strong reliance on supporting textbooks, eliminates problems with the use of “unofficial” sources. Although some analyses have suggested that “reading lists can help to bridge the gap between staff and students to support them to develop information skills” (Siddall and Rose 2014, at pg. 69), our data suggests that students may not engage with these sources in the way curriculum designers may expect, but will instead seek to shortcut their use with other “unofficial” knowledge. The setting of “official” texts as compulsory reading does not exist in simple negative correlation with the use of “unofficial” sources. Robust training on student research skills will always be required to ensure the appropriate use of material, however robust or student-focused the material may be.

1. There is a tension between encouraging independent learning and the use of “unofficial” knowledge

Educators who adopt pedagogies that emphasise independent learning (such as the PBL programme at York Law School) are faced with the problem of how best to manage the balance between the provision of “official knowledge” on the one hand, and leaving students to their own development as independent researchers on the other (Gibbons, 2019). The latter clearly carries with it greater risks of students over-relying on poor quality sources and/or – if the process is not managed carefully – omitting key information or losing a broader, holistic perspective of key principles.

Our data suggests that in the absence of direct teaching provision, students seek out shorter “teaching style” sources – such as online explainers, student-focused websites, and/or Wikipedia – to provide an accessible route into a new subject. This is even where they know these materials to be unreliable and disapproved of by teaching staff. The balance between the prescription of “official knowledge” and the space afforded to independent learning should therefore be carefully considered. If students do not have basic foundations in place, they can be at risk of supplanting the lack of direct teaching with poor quality sources and therefore may prejudice their understanding of key principles.

Our findings raise particular challenges for PBL programmes. They suggest that students’ independent research in the course of a PBL-cycle may not be done as well or as systematically as the designers of the problems may assume to be the case. As in the sample activity for this research, students work in response to learning outcomes formulated as a group, regularly phrased as a question. The data here suggest that the students’ main aim is to get as quickly as possible to understanding the law and applying it to answer the PBL learning outcome. The focus is on answering the question as efficiently as possible; not necessarily developing rich understanding of the material in its own right.

1. Students do not appreciate the value of normative sources sufficiently

A key component of understanding legal principles is the ability to evaluate critically their aims, philosophies, and justifications. Our data suggests that students do not prioritise the value of this secondary material in the same way, or even close to, that of more descriptive sources outlining the “content” of the law. This leads to concerns that the development of student understanding stops at the point at which “the answer” is found: once a legal principle is understood, the independent research process grinds to a halt.

Our data therefore suggests that legal curriculum designers need to underscore the value of normative sources and debates in the understanding of legal principles. To avoid the same artificial separation we see within our data, this should be done within the study of Qualifying Law Degree subjects, not exclusively within stand-alone modules focusing on jurisprudence or theoretical approaches. This implication can be seen to mirror concerns about the integration of information skills in legal curricula and difficulties associated with it being positioned “alongside the core curriculum” rather than as part of it, leading to students seeing it as of “secondary or purely instrumental importance” (Tyrrell and Jowitt, 2019). Within our data, the same critique seems to apply for normative sources within the teaching of foundational legal subjects.

**Conclusion**

The approaches taken by the ten student participants in this study indicate that undergraduate law students’ identification and appraisal of source material is complex, works across multiple platforms simultaneously, and priorities efficiency above all else. Adopting our characterisation of “unofficial knowledge” as a point of distinction from “official knowledge”, there are three broad conclusions that can be drawn from this initial, small-scale study of sourcing behaviours on the York Law School undergraduate programme.

First, students appeared to operate like research magpies, casting widely in a number of different databases in an effort to find shiny relevant material. Their methods were cross-cutting, with a search result on one platform (such as Google) being used to leverage one elsewhere (such as Westlaw or the library catalogue); or the content of one source being used to cross-reference or substantiate another. What emerges is not one standard, preferred route for identifying sources, but instead a complex patchwork of multiple databases and resources being used in conjunction with one another to identify relevant material to provide a basis for note-taking. These behaviours demonstrate how “unofficial knowledge” is not always treated as being in direct competition with “official knowledge”; this is not a zero-sum calculation made by students. Instead, the former is often used in conjunction with and to supplement the latter.

Second, students distinguished between research to inform doctrinal or “substantive” questions – characterised by one participant as the “law-y stuff” – and normative questions that can either be dealt with in less detail, or, more fundamentally, ignored altogether. An understanding of the substantive questions was seen by participants as passporting an understanding of normative material. This perspective disregards the benefits of engaging with academic debate to understand the content of the law, in additional to just the critique of it. This differential treatment led students to adopt one of two approaches. Either “official knowledge” was more highly prized for normative issues by some students in the sample, chiefly to avoid drifting too far off track in their own research. Alternatively, normative issues were ignored as an area for knowledge gathering altogether by others.

Finally, students prioritised the accessibility and efficiency of sources. All choices carried with them a ruthless source-led opportunity cost: time invested in once source was time not invested in another. Where students identified time-saving sources that they knew to be deficient in other ways (such as Law Concentrate guides), these were used to inform a speedier analysis of longer, more detailed textbook materials. This reverence for efficacy favoured the easy-to-access and understand “unofficial knowledge”, with students opting for non-standard texts or search tools where “official” routes were perceived as less efficacious.

These findings have led us to make three broader, related arguments. First, it appears from our research that students do not engage with “official sources” the way that educators have long assumed they do, seemingly as a result of the fragmenting effects of technological development and the easy-access to other sources online. Second, there is a tension between encouraging independent learning and efforts to reduce dependency on “unofficial” knowledge. The prioritisation of “independent learning” by curriculum designers brings with it a risk that students fail to engage with sources as we expect and, as a result, do not develop a broader, holistic perspective of key principles. Third, students do not have sufficient appreciation for normative sources.

It is important to end by caveating these findings. This is a small-scale study of students on an undergraduate PBL course at York Law School. It is, therefore, difficult to generalise these findings – particularly the distinction between normative and non-normative research tasks – across undergraduate law students in the UK more broadly. Although they represent a range of students across the undergraduate cohorts, these ten students are unlikely to be fully representative of sourcing strategies that occur at York Law School, particularly those of lower scoring students. The findings here do demonstrate, however, that analysis of *how* students undertake research tasks, in addition to asking about their training needs or more broadly about their research strategies, can help to inform our understanding of the approaches to research by undergraduate law students and identify common sourcing behaviours (Gibbons, 2018a). Our data are available in full to readers by downloading the video transcripts or watching the full research sessions with subtitles (see Table One), but it is clear further research is warranted.

Though the analysis here has been informed by Gibbons’ work on “unofficial knowledge”, this inquiry and its underpinning methods have been designed to provide a largely descriptive assessment of student sourcing behaviours. Gibbons’ call for “a greater theoretical engagement with the problem created by the prevalence of unofficial knowledge within University-level legal education” (Gibbons, 2018a) is therefore not answered by this paper. However, we hope that the evidence presented demonstrates the importance of the issue and its potential for future research.

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1. York Law School, University of York, UK. [↑](#footnote-ref-1)
2. These are public law (including constitutional law, administrative law and human rights), law of the European Union, criminal law, obligations (including contract, restitution and tort), property law and equity law. See further: [http://www.sra.org.uk/students/academic-stage-joint-statement-bsb-law-society.page. Accessed 20 August 2019](http://www.sra.org.uk/students/academic-stage-joint-statement-bsb-law-society.page.%20Accessed%2020%20August%202019) [↑](#endnote-ref-1)
3. Under the UK degree classification system, the highest performing students achieve a “first class” degree (a weighted average of 70% or higher). The majority of students receive an “second class” degree – these are divided into two divisions, an upper division (a 2.i – between 60-69%), and a lower division (a 2.ii between 50-59%)). A final “third class” props up the list (between 40-49%), above failing the programme. Most awards at York Law School – and in UK higher education more widely – are for 2.i degrees. [↑](#endnote-ref-2)