

Briefing

LEGAL SERVICES REFORM

ISSUE 04 | SEPTEMBER 2010

Revolution, or evolution?

Interview

Professor Stephen Mayson

One of the people closest to the changes talks about what the legal sector's future might really look like

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Now, where's my guillotine...



This month marks just one year until the final tranche of the changes under the Legal Services Act 2007 come into force.

But we didn't want to roll out the same tired stuff about the LSA in our e-zine **Briefing** – so instead we tried to find out what ABSs might really look like, what could happen in a law firm when the investors come,

and whether there might be a lot more opportunities in legal services reform for business services people than for lawyers – which may explain why they seem so scared.

Our interview with Prof Stephen Mayson outlines exactly why this is such a complex subject – no one knows what the battlefield will really look like, so arming oneself for it isn't easy.

Regulation expert Neil Rose has an incisive analysis of what that battlefield might at least look like, and I find out that not only will a post-2011 world hold a lot of opportunity for business services people, but, in many ways, the future is already with us. Enjoy.

Rupert White, head of content and community



“ We've got a large number of firms who really don't want to change, who want to preserve their way of doing things because that's what they're comfortable with. And over time I don't think there'll be as many clients who want to buy in that way. ”

Professor Stephen Mayson

Prof Stephen Mayson

The law firm management maestro tells **Briefing** what the future legal world could look like, and who might benefit from it



Welcome to the revolution

Rupert White peers into his telescope and discovers that many elements of a post-LSA world are already here, and will be good for business services



The road ahead

Regulation expert Neil Rose analyses the kind of regulatory environment that law firms will be working in after October 2011



Analysis: Fit to compete

David McNamara of Solicitors Own Software says mid-tier firms are getting into shape to do battle in the world of ABSs



Case study

How Wirral firm Lees Solicitors is turning to process and integration to stay competitive



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INTERVIEW

Tomorrow's world

Law firm management maestro Professor Stephen Mayson talks to Rupert White about what the future legal sector might look like

I'm not sure I can remember a time when the words 'Legal Services Act' and 'Professor Stephen Mayson' didn't go together.

He has been at the forefront of law firm management since, it seems, the dawn of time. He serves on the Legal Services Board's research strategy group, the SRA's ABS reference group, he has a PhD in law firm valuation, is a fellow of the College of Law Practice Management, and is the director of the Legal Services Policy Institute at the College of Law. That's a CV that speaks for itself.

Because he's so deeply involved in the creation of the sector's future, he can see beyond the over-simplistic assessments of reform: it won't affect most firms, or it'll be a bloody revolution, beheading firms left, right and centre, and so on.

That's not to say it won't be a revolution – he seems convinced it will be – but it's a complex future, which isn't easy to nail down into neat chunks to feed through an editorial mincer.

One thing the writers of the act didn't predict was that the legal sector would be sailing into reform blown by the economic storm of 2008. But the recession has certainly

concentrated minds, and it might be the best preventative medicine the legal sector could possibly have ahead of October 2011.

Law firms are fast learning the ways of 'normal' business, says Mayson – “they're more businesslike, more conscious of the need to be cost-efficient and the need, therefore, to

such as] outsourcing and all its variants to be able to do things differently”. In other words, law firms might seem to be gearing up to deal with the potential challenges of legal services reform, but that might just be because they've had to find radical routes to efficiency.

So the medicine might be

by looking at how they're changing their models of resourcing, and how they're matching what they deliver to what they've decided is their customer base.

Looking at the top 250 firms, for Mayson there are three 'modes' the firms are currently in, looking at a post-legal services reform future – modes that echo loudly the words of Linklaters' global HR director [Jill King](#), interviewed in the August issue of Briefing.

“There are firms that are looking more aggressively than many of the others, and therefore making more strides, more improvements, and probably therefore building a more sustainable business.

“There are some that are not doing it as aggressively or with an element of thinking the old world is going to return, and they are likely to become more vulnerable.”

But, he says, there's a third group – a very small number of firms that don't, in a sense, fit how most people think of the large law firm market, and Mayson holds up Irwin Mitchell and Russell Jones & Walker as examples. “Some elements of Irwin's business fit the sort of normal large firm model, but they've got a significant foot in the retail sector, as I would call

“If law firms don't structure to attract and retain the best business services talent, they've only themselves to blame.”

Professor Stephen Mayson



look at every aspect of the business with an open mind to see what can be done”.

But, he says, “the economic pressures, largely recession driven, have been more acute in the past two years”, and the way law firms are reacting is a “bit of a shock reaction, combined with more opportunities through [business possibilities

working – but only if, as the recession wanes, firms turn reactions into strategic plans.

Knowing which kinds of firms are most likely to be affected by next year's final phase, and which are safe, is unknowable, Mayson says. But you can analyse the upper layer of firms and their approach to change

INTERVIEW STEPHEN MAYSON cont.

it, as have Russell Jones.” And what’s interesting about what RJW et al are up to, he says, “is that what they’re doing is driven by a very keen awareness of what the retail legal services sector of the market’s going to need, and the sort of competition they might be up against when ABSs are open to a broader market”.

“They’re doing it because they feel they ought to, rather than positioning themselves for something that they think the market might force on them.”

Strategy now, jam later

This point about matching service delivery to customer need is something Mayson keeps returning to, because it’s a business basic that law firms, even some large ones, are struggling to adopt and turn into something tailored to them and their sector.

“For me it’s about looking at how you create value for clients and how you resource the creation of that value. But the strategic issues [facing firms] are the normal strategic ones – what sort of clients do we want to act for, what do we want to do for them, how do we know we can do it better than the competition and, through that, how do we create value for them?”

So it’s as hard to pre-judge which types of firms will succeed or fail as it would be in any sector. But that has a big upside: management looking to steer firms through the rough seas ahead should see that difficulty as a driver to

innovate and create difference.

“Part of the problem here is that both extremes of the [shape of the future law firm market] argument, and all shapes in between, will probably prove to be right. There’ll be enough variety in

Mayson says, “they’ll be fine”. The ones that aren’t going to be fine are the ones that cling to a model that doesn’t have enough clients buying from it.

“It’s not a question of saying which model is under threat. On one level, no model is

for clients, and therefore the way you resource becomes a reasonably complex issue.

“But you’ve got more opportunities now in how you resource, because the resources could be internal or external, through outsourcing and offshoring and all the variants [of those] we now have... even on the legal rather than back-office side, whether you need to resource it with fully qualified expensive lawyers or less-expensive, part-qualified lawyers, or whether you need people with any legal expertise or experience at all.

“Increasingly, the large firms perhaps should be thinking more broadly about the nature of the talent they employ, because many of [the firms] do things that might require accountants, surveyors, actuaries or economists [rather than lawyers]. Then they should be more imaginative about the back office as well, employing people like project managers – not to help the back office, but to help the delivery of the legal service.”

One utterly reliable marker of law firm DNA is herd-like behaviour. This breeds safety in numbers, but it doesn’t help concoct great strategy. So when it comes to resourcing, Mayson says firms must think for themselves.

“You can’t just say ‘how’s every other law firm resourcing itself? Is it internal or is it external? Is it lawyers, is it not? Is it specialists, is it technology?’ You’ve got to tie that to ‘why are we doing this?’ – which is to create value for clients who are going to spend the money. That is where there’s

THE MAYSON MANTRA

“What sort of clients do we want to act for, what do we want to do for them, how do we know we can do it better than the competition, and how do we create value for them?”

the buying pattern of clients that any position you care to target is realistic and possible, and arguably sustainable.

“The issue is that too much of legal practice [is geared] towards one way of doing things. This is an over-generalisation, but what we’ve got are a large number of firms that really don’t want to change, that want to preserve their way of doing things because that’s what they’re comfortable with. And over time I don’t think there’ll be as many clients who want to buy [services] in that way.”

If law firms work out what their clients want and “move in tune with their clients”,

under threat. The question is: where are the clients who want to buy, how many are there, and which firm do they want to buy from?”

Back to the (out)source

As we’ve heard from Professor Susskind, Alan Hodgart and Jill King in past **Briefings**, resourcing must be at the heart of any firm’s strategy when it looks to a more competitive, more contested future marketplace. Professor Mayson agrees, but he knows that it’s not a simple thing. “There are many different ways in which you can create value

INTERVIEW STEPHEN MAYSON cont.

a potential advantage for the firms that are forward thinking, because they can steal a march [on those firms that deal with this reactively].”

Mayson thinks ABSs will profoundly affect large law firm resourcing, because “there is much more interest in businesses coming into that territory as specialist outsourcing businesses and/or investors, and they are going to be looking for much more serious and experienced senior management, which may or may not come from a law firm background”.

Opportunity knocks

So despite a lot of fear and loathing over recent back-office outsourcing moves by the likes of CMS Cameron McKenna and Eversheds, as law firms see the benefits of legal process outsourcing (LPO) – because the expensive human capital is on the fee-earning side – they may need more business managers and fewer lawyers. Even if your firm does rationalise the back office, legal sector reform will create more opportunities for you than for a fee-earner.

“Pretty much all firms, including the big ones, are using people who are probably either over-qualified or too expensive for the work,” Mayson says. The answer to that, he adds, may well lie in solutions such as LPO arrangements. “If you can set up something that allows you to do legal work in a more cost-effective way, then that’s got to be the right move.

Whether it’s done internally or externally through an LPO, it doesn’t really matter.”

It’s not all gravy for business services people in Professor Mayson’s future – he says some firms must eventually address the fact that there’s a lot of replicated set-up and/or running costs that can be cut by using business process outsourcing – “there are going to be aspects of IT and HR particularly I think that fall into that category”, he says.

it’ll be the client-facing people whose value will really go up.

There’s going to be a lot of resistance to outsourcing on the way, though, Mayson says – “lawyers have been just too ready to carry on doing things in-house, because either that’s the way it’s always been done, or it’s just easier to do that than think about reengineering how you operate”. But it must surely happen.

Creating the ‘correct’ resourcing for a firm will

The new possibilities opened up by reform, such as very different firm structure possibilities and a raft of possible competitor models, “matters hugely” to those in business services/support and other back office functions, Mayson says, because the appetite to lift those people into ownership or board positions in the legal sector is, right now, “still not great”. “It’s happened in some firms because of [legal disciplinary practices], but it’s not happening to any great extent, and I don’t see that accelerating in the short to medium term”. The opportunities, he says, are “likely to come from ABS new entrants”.

“[ABS owners] will have a very different view about who should be running a business, and the opportunities for what we have traditionally called ‘senior support staff’ will be greater in the ABS, because the ABS will look at a more diverse set of talents.”

Of course this could, and perhaps should, create an opposite reaction in firms: “If the best support directors think they’re better off switching over to these ABS entrants, that might change the market and the perception at law firms [of] the value of senior support directors, and what they need to do to attract and retain them.” Either way, law firms will have to deal with it, he says: “Frankly, if law firms don’t structure and organise themselves to attract and retain the best business services talent, then they’ve only themselves to blame.”

It might be worth waiting

YOU TWEET THE QUESTIONS

LSN Twitter follower rachaelyfenni asks Professor Mayson:

Q: Now that IT allows lawyers to practise alone without big firm support systems, are the days of the big firm over?

A: “I’d say no, they’re not, simply because there are some types of work that need the resources of a big firm.

“It’s now a lot easier through technology and outsourcing and various ways of resourcing a firm for either a sole practitioner or a small firm to provide a very good service to what would otherwise be big buyer of

legal services. But those buyers are very canny in what they use the smaller firms for and what they use the large firms for, and there’s no way that some of the biggest transactions are going to be handled by a one-man-band, however full of expertise or resources it might be as a small firm
“That just doesn’t stack up.”

What cannot easily be outsourced are the roles that “require some direct knowledge of the people you’re dealing with or some direct interaction with them, because at that point you can’t scale it, and you can’t depersonalise it”. So, as many interviewees for our feature on resourcing in the last issue of *Briefing* said,

come about through a mix of economic and management pressures, but there’s another edge to legal services reform as it relates to business services people: they have a lot more to gain from reform, arguably, than the lawyers they (currently) work for. But those opportunities may not lie in the ‘traditional’ firm.

INTERVIEW STEPHEN MAYSON cont.

to see what the firms these opportunities offer end up looking like before you jump. Ask anyone in legal right now what ABSs might 'be' and the truth is that no one really knows. Not even, it seems, Professor Mayson himself.

"It's a perfectly reasonable question, but a difficult one to answer at the moment – because I think the reality is, we don't really know. Arguably most of the ABSs that come in probably won't affect much of the work, style or structure of the top 50 or top 100 [firms], because I still suspect that most of the ABS activity will be in what I describe as this 'retail' legal market."

Leaders for a new age

There may be more opportunities for business people in ABSs than in traditional firms, even if we can't see clearly what those ABSs will look like, but it will mean moving out of their comfort zones.

"For somebody who's currently in a large law firm as a support director looking for an ABS move or thinking about one, it would probably mean moving out of the large law firms' client territory," Mayson explains. "So it really depends on whether they attach themselves to the work of the large law firms, or are looking for a career opportunity in something much more like, if I can call it that, a normal business."

If law firms are going to be increasingly competing with companies run by small boards and visionary CEOs,

does that mean firms should adopt those leadership and governance models? Many people say that, for a large number of firms, the traditional partnership has to die to allow them to compete in future. For Mayson, the answer is, rather predictably: 'Perhaps'.

"It depends on the nature of the business. If it's one of the more traditional firms, where partners have closer relation-

that immediate connection between the lawyer and the client, and arguably more process in delivery, I think it would make a lot of sense for the CEO to be a true CEO, with the power to make decisions and implement them. I think over time we will see the emergence of some structures in this marketplace like that."

But, he says, law firms should be wary of aping

being] themselves rather than being like any other business, but [strategically] you've got to have that conversation."

And having that conversation means facing the facts in the firm. "Too much of what I hear is: 'We don't think this is going to affect us at all, therefore we're not going to think about it – and we're not even really going to think about doing it better or more effectively unless something like the economy or a particular client forces us to.' It's always reactive."

And this is at the base of what Mayson believes law firms, and those running them – now and in the future – need to understand. Don't be reactive. Innovate. Don't wait for everyone to tell you what the future looks like – make it happen first. Law firms do too much reacting, and reacting won't cut it.

"The challenge for the future is that pressures on margins are going to continue and law firms, like every other business, are going to get to a point where the difference that 1% on margins actually makes to the bottom line and distributions is worth having," Mayson says.

"If you had the opportunity, you could make a hell of a difference to the way law is practised and delivered. But you have to go right back to the core of what [a] business is about." ●

YOU TWEET THE QUESTIONS

LSN Twitter follower *michaelscutt* asks Professor Mayson:

Q: Will partnerships disappear totally in favour of corporate structures and, if so, will it be across the board?

A: "I don't think they'll disappear. For me it's always a question of what's appropriate for the sort of business we are and want to be.

"To some firms, that will still be a partnership. I think maybe in the future [the structure] of a lot more firms will be corporate, but there is no one-size-fits-all here. That's

probably the change and the opportunity.

"We've been caught up in this homogenous model of the law firm partnership and how it works for a long time.

"You can say because there are now new opportunities and changes on the horizon it's under threat, but it's not under terminal threat."

ships with their clients and they're giving more tailored advice, then the essential nature of professional partnership is probably going to continue, and you're not going to get a managing partner transformed into a CEO with corporate powers, because it wouldn't work in that environment.

"But in other types of firms, where there is less of

other businesses too closely – they've got to innovate, and you can't do that by copying.

"You can talk to people who buy services from banks, retailers or insurance companies and you'll find probably as many dissatisfied customers as there are dissatisfied clients of law firms, maybe more. It may be that law firms can come up with more innovative ways [of

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FEATURE

Welcome to the revolution

It's supposed to be the future of law, but is it? Rupert White peers through his telescope to find that 2011 is already here

There's a line that Richard Susskind regularly uses in his expositions, a line from said by a favourite writer of mine, William Gibson. That line is: "The future is already here, it's just not very evenly distributed."

I always thought it was a little over-reaching for legal business people to start quoting one of the 20th century's foremost sci-fi writers. But when it comes to what the legal sector might look like after the final tranche of LSA changes come into effect in October 2011, there simply isn't a better line to describe where we are.

In many ways the future of legal services is already here – you just need to look around a lot to see it. Companies have spun out their legal team (Co-operative Legal Services); IT companies have enabled in-house and business clients and consumers alike to prep their own legal documents online with a white-labelled, automatic document creation systems (Epoq); big 'com-moditised' legal work firms like Irwin Mitchell are very successful and rejigging to bring non-lawyers to the top; law firms are dividing into sub-brands that appeal to distinct audiences, and so on.

If you think that these aren't part of the ABS revolution, here's a question for you: What does an ABS look like? It could be a franchise operation, an estate agent or an optician, it could be a completely brand-led operation, like Virgin, using a web of law firms' services with a single face, or an ABS could be entirely virtual, run from call centres, like Smile banking.

They're all legal service providers, though. This 'service provider' phrase is what gives senior partners the willies, but it's how the investment market sees the legal sector, and it's how 'new entrants' – possible future competitors such as banks, insurance companies or even legal process outsourcing (LPO) businesses – see it too.

Vin Murria made legal IT headlines when she headed up Computer Software Group a couple of years back, mainly because in half a decade she bought 16 businesses, bought CSG in a management buyout for £91m (backed by venture capital), then sold the lot to a private equity group for £500m. So she knows a thing or two about legal, and capital, though she's now immersed in the healthcare sector.



Welcome to the revolution cont.

Law firms, she says, are service businesses, and have to start fully seeing themselves in this sectoral way if they want to succeed in a market in which external investment will play a significant part.

However, she points out, most investors simply will not buy into a traditional partnership, which is all about paying the partners the profits of the firm. "Investors will look to get greater efficiencies out of the business – you'll put in proper business managers rather than other lawyers, and turn the tables slightly so that the business managers have some control over the way things work."

So investment might destroy traditional partnership structures wherever it touches, but it will come after a hard fight with some partners. One financial director of a top 100 firm I spoke to, who asked not to be named, said he and other management colleagues had created a plan for the firm that reshaped almost everything about the structure, with an eye to 2011. The partners, for now, have rejected it because of "cultural issues".

Professor John Flood at the University of Westminster says the effects of the intrusion of external investment into the market will be "the death of partnership". "Partnership is attractive but it's inefficient, certainly in terms of decision-making, and any investor is primarily interested in returns and not the structure of things, unless they benefit those returns," he says.

But the end of partnership isn't the end of the world.

Tony Williams, one-time large law firm managing partner and now a consultant at Jomati, says that as the market consolidates there will be opportunities for locked-in equity partners to escape: "[Consolidation] will in many ways be very positive, in that it provides an exit – quite a few firms have serious issues on succession planning."

Murria would agree, and says the advantages in freeing up partner equity and allowing

ant, says: "An industry that can sustain profit margins of 10-15% without being especially efficient is very attractive to entrepreneurs, who happily live off far less than that." But, he says, "most investors will want to create or buy into businesses they can control."

All of which means that many law firms will, in the end, have to change – most likely to a much more corporate structure, offering shares or options in the business rather

the sweeping changes they'd need, and partly because law firms are more determined to go it alone than previously thought. This doesn't mean it won't happen, as everyone I spoke to for this feature is sure that it will, but it won't be as cut and dried as everyone thought two years ago.

Professor Flood says the Australian example, where two law firms, including Slater & Gordon, have gone public, shows why it's inevitable: "So far the stock price of Slater & Gordon has held up very well and it's been a very successful business model. They've been able to buy quite a lot of other law firms, and what they've been able to do is offer career opportunities to their junior people that are realistic."



the firm to get involved in more businesslike behaviour are vital to grasp, and though the lawyers might lose a bit of status from being 'just' service providers, the advantages of freeing up the equity outweigh that loss.

The sound of inevitability

Investors will not, generally, want firms as they are, however. Barry Wilkinson, a long-time finance director and now a management consult-

than equity, and focusing on growth, international tie-ins, business spin-offs and spin-outs and being much more sales-led. If they're not seeking external investment, staff can still be poached by firms that can offer those enticements.

Of course, the capitalists may not want them. The legal rumour mill currently has it that some of the more prominently mentioned venture capital firms are going a touch cold on the sector, partly because law firms are reluctant to make

Managers 1, lawyers 0

All this talk of vast change might seem threatening to fee-earners and partners, but for business services people it will likely present great opportunity, and the Slater model is a good example of why. "In a sense," says Flood, "you will need lawyers less than you do now, because a lot of what lawyers do is not something that requires special sanctions. Most of what lawyers do are not reserved activities, and the ABS structure is going to be fairly simple."

Neil Kinsella is CEO of Russell Jones & Walker, a firm that's often held up as forward thinking in terms of branding, structure and business development.

Kinsella says 2011 and

Welcome to the revolution cont.

beyond holds great hope for business services managers. "You've got Irwin Mitchell with their LDP, they've been promoting people in their organisation and they've been one of the more successful law firms of recent times, I would say. But it's absolutely clear that's the way it will go – there's an absence of good managers in [the] legal services [sector]. People are focusing on the work that requires a genuine expert to do, and the rest of the work is very much capable of being managed. It needs to be supervised, but I think [in future] you'll see lawyers being more involved in supervisory aspects of work if they're not genuine experts in their field.

"Then the managers and those that really understand legal business will come through the ranks, whether they're lawyers or not."

Those managers can't wait for this to happen, by and large. Adam Makepeace, practice director for one of the country's largest legal aid firms, Duncan Lewis, knows huge change is round the corner and that it will benefit those like him.

"Everything you have already heard about corporate structures, process improvements and, most importantly, proper capitalisation to implement these improvements, are just around the corner. The only thing the new boys lack

is knowledge of the internal dynamics of delivering legal services. They can read about this, they can go through a learning curve and make more mistakes than they need to, or they can snap up people who can help them bridge the gap.

"In a world of over-supply the most important business discipline is marketing. The marketeers, including rainmakers, therefore get the

knowledge management at Berwin Leighton Paisner, says KM people, lawyers or not, could play a key role in the seismic changes ahead. "Private equity firms or [other external investors] are going to want to make investments into the best-run firms. Those that can show they're well managed will put themselves in a better position, and if they're not well managed, things

anyone how it's done, how it can be done better and where the inefficiencies are, and so on. It's a real opportunity for us".

Mark Gould, head of knowledge management at Addleshaw Goddard, agrees, and says this opportunity extends to those in the wider world who could help the legal sector by joining it.

"[As firms transition to a



"The managers and those that really understand legal business will come through the ranks, whether they're lawyers or not."

Neil Kinsella, CEO of Russell Jones & Walker

big bucks. The next most important thing is going to be to manage costs through process efficiencies. This values managers over practitioners. The traditional corporate structure is therefore the only viable business structure from now on."

Heads of department at large firms don't see the future any differently.

Lucy Dillon, director of

will have to change pretty dramatically."

Opportunities galore

KM people, Dillon says, have "massive potential, because the professional support team and KM lawyers are right in the middle of how legal service is delivered within a law firm. They understand better than

post-LSA world] there is great scope for senior support managers to take part in this process. Some of those senior managers may also be able to use their experience or expertise to lead change in areas other than their own."


Once the dust has settled, he adds, "the opportunities available will probably depend much more on the way any given firm has positioned

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Welcome to the revolution cont.

itself", but they include a wide and fascinating variety, from building internal consultancies to grow revenue to outsourcing advisory businesses.

The other opportunities for business services people post-LSA are either in law firms, driving up efficiency, or in those future competing legal services providers. Which of those roads they take may depend on which layer of the sector they currently work in.

Most people seem to think that the top layer of firms, top 20 and above, will be largely untouched by some of the radical changes of the LSA, but will most likely experience some fairly large-scale consolidation much like the accountancy market saw in the past. The mid-tier and up to the lower regions of the top 100 will, however, likely be more deeply changed.

Paul Bennett, owner of boutique firm Bennett's Legal and regular speaker on the Legal Services Act, says many firms still haven't considered some basic challenges from a fairly obvious potential competitor group.

"What the [mid-tier law firms] haven't considered is the insurance companies and the banks wanting to, in effect, establish their own legal teams and have an ABS in-house. Once someone does it once and makes a success of it, the work [they do] will disappear

out of those mid-tier firms pretty rapidly. None of the insurance companies enjoy dealing with law firms, it's just an external expense, and the moment they can take the work in-house and extend what they already do with an ABS, that's going to have a dramatic impact on the mid-table market."

One route out of this, according to many of the peo-

ple I spoke to for this **Briefing**, is either for business services people to move to firms shedding lawyers in favour of support people – increasing use of LPO will need more not less management within the firm – or to find a new career in business process outsourcing companies.

And why not? Both these business models already exist, and they're not going away. Everyone interviewed

A new world of pricing

They're partly a safe bet because the one thing that everyone in legal can agree on about what affect the LSA will have on the sector is that the cost of legal services

– people are already beginning to find ways of delivering legal services much more effectively. And I think ABSs offer just one alternative way into being able to fund some of the growth in commoditised and other areas of legal services.

"I see ABSs as being less about the top 20 law firms and being more about the consolidation of the market, but a consolidation that leaves out the high street solicitor in its traditional form. Technology will allow some lawyers to stay local, as it were, but their back offices may well be outsourced, and they'll be able to deliver the face-to-face work when that's required. But increasingly things will be done online, from call centres – the one-to-one offering will be less common."

Kinsella, it must be said, is adamant that the scare-story vision of "some sort of big call centre in the middle of the country offering all legal services" is not going to happen. But, he says, "the revolution will be that a lot of the client services can be offered much more cheaply than the sector is currently doing it", and that all things must and will bend to that.

This isn't rocket science, then, and it's a future that is indeed already here. Unevenly distributed, perhaps, but it is there to see, if you look hard enough. ●

"The moment insurance companies can extend what they do with an ABS, that's going to have a dramatic impact on the mid-table market"

Paul Bennett, owner of Bennetts Legal

must come down. This will likely have a dramatic effect on many firms, mainly because their resourcing will have radically change to reflect a new world of pricing.

Neil Kinsella views this endgame almost with relish but, he says, all the cues and clues as to how to play it out are already there.

"I think there will be definitely be great change, but that change is already happening

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FEATURE REGULATION IN 2011

The road ahead

Neil Rose outlines the possible future regulatory landscape facing law firms, and looks at their possible competition

For a profession that is obsessed, even comforted by detail and process, outcomes-focused regulation (OFR) is going to be a big shock.

From October 2011, law firms will no longer have a thick, prescriptive code of conduct with which they must comply; instead there will be 10 core principles and a relatively short series of 'outcomes' for the client that solicitors will have to achieve to comply with them. It will make the role of the compliance officer – a position virtually unknown at law firms until a few years ago – even more pivotal than at present.

This is, says the Solicitors Regulation Authority (SRA), 'regulation for grown-ups' – putting the onus on law firms to decide how to comply with the rules. But this is a burden that everyone in a law firm, fee-earner or not, will have to share as we are now in the era of firm-based regulation. This means the SRA regulates the whole entity, rather than just the solicitors, and its rules apply also to non-lawyers who are managers or employees at the firm.

Greater freedom

The new code, currently in draft, is split into the key outcomes solicitors will be expected to achieve, supported by non-mandatory "indicative behaviours", which specify the



types of activity that will tend either to establish achievement or non-achievement of the outcomes.

So, for example, rather than the current detailed list of the type of information solicitors must give a new client, the code will simply require them to ensure the client "is in a position to make informed decisions about the services they need, how the matter will be handled and the options available to them". An indicative behaviour would be agreeing an appropriate level of service with the client. Prescriptive rules will remain in a small number of areas where they are deemed necessary, such as accounts.

In theory this provides firms with greater freedom at to how they run their practices. As Chris Perrin, executive partner and general counsel at Magic Circle firm Clifford Chance, has observed, the current

code is aimed at protecting vulnerable clients – firms such as his do not see many of those, so they will be able to tailor their compliance more appropriately in future. This could potentially also have an impact on the work of business development staff in deciding who they should be targeting.

Uncertainty principles

In reality, however, many firms will probably continue to behave as they do now so as to be sure of complying. This is because the flipside of OFR is that, as SRA chief executive Antony Townsend has recognised, it introduces a degree of uncertainty into solicitors' lives – they may think they are delivering the outcomes, but cannot be sure because there is not a definitive route to doing so. Perhaps one way will

be adhering to best practice standards such as Lexcel, which will again highlight the need for law firms to have a proper compliance infrastructure in place.

Speaking at the launch of OFR, Townsend said: "The profession needs to be confident that we're not going to be capricious." Therein lies the rub – the current regime encourages a "nitpicking" and "micro-managing" type of regulation, he acknowledged, and this approach has caused ever-growing resentment of the SRA in the profession. Solicitors and those they employ need to know that if they are guilty of a technical breach or a genuine misunderstanding of the rules, enforcement action will not follow if no harm has been done and no loss suffered by the client.

That is the plan. While it will take a risk-based approach in future and come down hard on those deliberately not complying, the SRA is promising to build constructive relationships with the majority of firms, looking to help them comply rather than trying to catch them out. But a big cultural change is needed both within and without the authority. The new core duty of financial management, for example, envisages firms notifying the regulator if they are in financial trouble, which requires a considerable leap of faith as things stand.

This duty will also put far greater pressure on finance

The road ahead cont.

staff. In full it requires solicitors to “run their businesses and carry out their role in the business effectively and in accordance with proper governance and sound financial and risk management principles”. There is also a separate new duty to protect client money and assets.

No escape

There will be no escape from all of this. Encouraged by the Legal Services Board, all the other regulators are adopting OFR-style approaches – for example, the Institute of Legal Executives already has, while the Council for Licensed Conveyancers is currently consulting on it – and all will be expected to apply the fit and proper person test if they are ABS regulators.

OFR is just another way of saying principles-based regulation, a term discredited by the banking crisis. The SRA argues that it was the application of the principles to the banks, rather than the principles themselves, that was at fault, and the reality is that there is a global move towards OFR-type regimes. Delivering OFR is a massive challenge, and the greatest hurdle to achieving it – as the SRA acknowledges – is the SRA itself.

While the plan is for OFR to come into being on the same day as ABSs, so that all legal practices will be governed by the same new regulatory framework, the SRA has warned firms against reaching any binding agreement with

external investors ahead of October 2011. This is because the regulatory protections against any impact on lawyers’ independence will only kick in at that time.

Fit and proper persons

These will include a “fit and proper test” for external managers and owners. Although the details are still being

such as employment history, a Criminal Records Bureau check, regulatory history, and character and suitability. The same standards will be used in judging the answers as is used for would-be solicitors because “the same level of honesty, integrity and respect for law is expected from a non-lawyer manager as from a lawyer manager”.

The SRA will also have the power to approve owner-

increasing from £1.7m to £3.8m. Legal expenses insurer DAS is the other big name to go public, even naming the firm it intends to take over – Bristol-based CW Law.

Interestingly, the current wisdom is that private equity firms’ enthusiasm for investing in law firms may be waning. Partnerships are simply too difficult a beast to get their heads round, and instead they are looking at the supply chain instead. The first legal sector investment by Lyceum Capital, which has led the private equity charge into the law, was in a legal process outsourcing (LPO) business, Laureate Legal Services. Other leading LPO providers have received cash injections in recent months and the trajectory only seems to be going in one direction.

Outsourcing legal work requires law firms to take great care to have quality and supervision processes in place – because they ultimately remain responsible for the advice given. Some in the market, though, such as Sanjay Kamlani, co-CEO of LPO Pangea3, can see LPOs offering direct legal advice, in time: “Anything that doesn’t require a physical presence can be done offshore,” he says.

“The evolution will occur over a 10 years, as it did in the software industry. Will there be a time when lawyers in India will be drafting M&A documents? I think there will.” ●

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“Delivering outcomes-focused regulation is a massive challenge, and the greatest hurdle to achieving it – as it acknowledges – is the SRA itself”

worked up, the SRA will have the power to require prospective owners to provide “such documents and information as it may require”, and failure to do so will be a criminal offence. It will look at issues such as the person’s probity and financial position, as well as his associates, in reaching the decision. Non-lawyer owners will face a duty not to cause a breach of rules by the ABS or by an authorised person within it.

Some indication of how it might look can be found in [the eight-page application form for approval of non-lawyer partners of legal disciplinary practices](#). This covers issues

ship on a conditional basis, take enforcement action against ABS managers and employees, and ultimately apply to the High Court for a ‘divestiture’ order requiring sale of the shares.

Broader picture

There remains much talk and rumour around ABSs – far more so than hard fact. We know that Co-operative Legal Services aims to be one of the first ABSs, building on what is already a substantial business. It only opened in 2006 and in 2009 reported sales up 45% to £20m, with operating profits

ANALYSIS TECHNOLOGY AND THE LSA

Fit to compete

David McNamara of Solicitors Own Software says mid-tier firms are getting into shape to do battle in the world of ABSs

Whether you see alternative business structures (ABSs) as a threat or an opportunity, modernising IT with efficient workflow systems is delivering a win-win situation for the law firms that I encounter as a software solutions supplier.

The mid-tier firms I meet are increasingly likely to consider mergers and acquisitions to achieve economies of scale – and perhaps to make themselves more attractive to partner ABSs or participate in their panels. To help make them more efficient, these mid-tier firms are modernising their IT and streamlining their business processes to be ready for the changing legal sector landscape.

The motivation behind increased IT investment might be the threat or the opportunity, however you see it, of ABSs. It might be, in some cases, the need to move away from software applications that are no longer supported due to the consolidation of software suppliers. Either way, the outcome is for the good. These firms will be fit for purpose as a result, with efficient

operations and commitment to continuous improvement – and with the prospect of a profitable future. This article looks at some of the key ways in which technology is being deployed to this end at law firms that I've encountered and with which I've worked.

Integration is key to consistent client service

Presenting a seamless and consistent experience to clients, from any office or practice area, implementing common services and functionality, rooting out inefficiencies and streamlining services can all be achieved by integrating systems and introducing standards.

That kind of integration was a key goal at Thursfields, one of the largest practices in Worcestershire – 13 partners, 110 people – when it replaced disparate systems with an integrated solution to make the firm more agile and responsive. The system, which is now deployed for standard workflows throughout the firm, enables everyone to file, store

and manage client documents and workflows centrally and become more highly focused on the needs of clients. One of the fundamental reasons the firm has taken this road is to allow managed growth.

At another firm, Cardiff-based Dolmans Solicitors, IT integration also works to help the firm offer services differentiated through multiple brands – another growing trend. Dolmans, a dynamic practice with 40 fee-earners, offers sports management under the firm's 'definitive' brand, claims management under 'B4Legal', and non-criminal services to commercial and private clients, and defendant litigation to local authorities, under its Dolmans brand.

Front of house may be marketed under different brands but under the bonnet is one cost-effective, integrated IT solution. Dolmans senior partner Adrian Oliver says the firm is shifting up a gear and "streamlining operations, reducing the administrative burden on fee-earners and improving the quality and speed of delivery of management information" using IT.

Not that far away, at West Country-based EveryS Solicitors, a half-million-pound investment in new IT, communications and telephony systems is enabling a consistent, standardised, multidisciplinary service to be provided from all UK offices. Within a few months, according to managing partner James Griffin, the system had "already increased capacity across most departments, and we are working smarter".

This is integration beyond software, and, says Griffin, "this is just the tip of the iceberg in efficiency benefits, improved service, including on-line services, and improving our competitiveness".

BPM drives down costs

In a law firm context, business process management (BPM) isn't about creating a workflow for a probate or conveyancing system – it's about shaping the fundamental way that information is gathered, distributed and acted upon throughout the firm.

How efficient you are with

Fit to compete cont.

the basics, such as file inception, the handling of incoming and outgoing emails, money laundering, conflict checks, and so on has a knock-on effect, such as with the ratio of administrative staff and overheads to fee-earners, or the number of employees who can focus on client service as opposed to paperwork. Simple things like automatically integrating email services within case- and workflow, and recording the time expended, can dramatically reduce leaked time. This is a good example of a business process ripe for improvement in many law firms.

Humphries Kirk, one of the largest law firms in Dorset, is a case in point. The withdrawal of support for the incumbent system and the prospect of a more competitive legal marketplace prompted a major IT review at the firm to consolidate, refine and improve their business processes and efficiency across the board ahead of the market changes, they told me.

BI increases insight and performance

Business intelligence is another increasingly popular application used to measure key performance indicators such as time recorded, fees billed, realisations, utilisation, debtor days and lock-in against budgets.

Peterborough-headquartered Buckles, for example, provides department heads and managing partners with a tailored snapshot of results

against key performance criteria, such as fees against billable time versus time leaked, debtors and so on, which is brought to their attention whenever they log into the system. Lawyers are busy – this feature provides instant feedback on the business implications of their activities on a daily (or more frequent) basis, and helps improve profitability.

Flexible automation extends savings

Today's systems offer huge

which workflows and the level of automation can be tailored to the task, practice area and even the needs of individual fee-earners.

Toller Beattie in Barnstaple is also modernising its systems to transform its operations, while keeping automation flexible. Toller partner Mark Roome says the firm looked for a solution that offered “the level of control and flexibility to customise our own workflows and case management, as well as provide plenty of scope for expansion” – now the firm can “meet the individual needs of each specialist area and the

supports this view, saying that “providing transparency to clients and easy access to view case progress, respond to queries and eventually pay bills online is a vital part of our programme to modernise and grow the practice”. Every's managing partner James Griffin, as another example, expects to develop standard packages of service to give clients certainty of service, cost and expected end dates.

Many other firms are also becoming far more proficient at customer relationship management – taking advantage of software that promotes cross-selling at the firm, delivers greater understanding into where business comes from and who the most valuable clients are.

“Firms that embrace transparency and provide online access to clients will have the upper hand in the post-ABS landscape.”

Revitalisation is the upside of legal services reform

The firms mentioned in this article, and many other SOS customers, have embarked upon major IT investment to reduce costs, streamline and standardise business processes to transform and re-vitalise their businesses ahead of the arrival of ABSs.

Some are motivated by the threat of competition, others anticipate that their actions now will help them work alongside and take advantage of the ABS opportunity. But whatever their motives, these progressive firms are more likely to be winners in the post-Legal Services Act landscape.

Email David McNamara at Solicitors Own Software



potential for tailoring automation of new areas of the business, not just residential property, wills and probate and personal injury. Buckles, for example, looked closely at automation to become more competitive, but sought to maintain a bespoke level of service – a service that will differentiate the firm from emerging non-lawyer providers. So Buckles chose a flexible, integrated software solution with preferred working methods of partners”.

Innovative and improved client services

Firms that embrace transparency and provide online access to clients will have the upper hand in the post-ABS landscape, and many mid-tier firms are investing in this area.

Mark Roome at Toller

CASE STUDY LEES SOLICITORS

Gearing up for the future

How a regional firm is turning to process and integration to stay competitive in a post-Legal Services Act world

Lees Solicitors is a law firm that is closely matching its internal systems to a strategic vision of how to compete in a competitive future market.

Lees is a 110-person, three-office multidisciplinary practice on the Wirral. It's a regional/national firm with a strong local edge, offering a range of private client work and business offerings. This mix means that Lees, like many firms, has a lot to gain from implementing strong business processes, and the IT systems to support them – because the firm must match the right people to the right tasks, and find the right clients, to succeed in a very competitive future.

The firm has moved from using two different case management systems (CMSs), neither of which were fully integrated, to Eclipse's Proclaim case management solution.

"We needed a fully integrated system for numerous reasons: to drive and streamline processes, to provide more effective management information, to avoid duplication of tasks, to record time automatically rather than manually, and so on," says Joanna Kingston-Davies (pictured), head of operations at Lees. The firm badly needed to review its processes, she says, "particularly in areas like fast turnover cases", because

"they were being undertaken in an ineffective way".

Lees introduced the Lexcel standard in 2006, but most of the Lexcel checks had to be done manually. Now that Lexcel checks can be automated and tailored to the firm, the time-saving that creates, says Kingston-Davies, "is massive".

Lees is even pushing Proclaim out beyond the legal side of the business into HR.

generate special reports to monitor them. Good reporting is doubly useful now that Lees is in the middle of a strategic review, "because we can pull all the information out of the system we need straight away and keep a more commercial eye on the business".

Lees hasn't done this to keep up with the Joneses – it's implemented a process-driven environment to be fit to compete. "This will help us make

because you can't have a paralegal doing a certain type of work if the infrastructure isn't there to support, supervise and manage risk".

And you need the right clients. Lees is currently working on implementing the CRM module in Proclaim, correlating marketing with case management data. This is vital, says Kingston-Davies, for the future – otherwise, she says, "if we don't know where the work's

coming from, we won't know if we're targeting the right markets".

At base, she says, adopting process-driven IT is essential in the light of legal services reform, "because prices will inevitably be driven down... so it's absolutely vital to ensure that processes are driven as fast and effectively as they can be, where they

can be, to try to keep up that level of competition."

The future probably means more firms fighting for a smaller number of clients, she says, "therefore everything has to be squeezed to make sure that the profit on that case is maximised – because it will be impossible to do it at the pace or the level it was done previously".

"It's vital that processes are driven as fast and effectively as they can be, where they can be, to keep up that level of competition."



"In a lot of firms you'll buy a separate HR package to deal with your HR spreadsheets, your confidential information, and so on, but we can do that very simply on Proclaim. That can then tie in more neatly with any other area of management reporting."

Good management information and the reporting that comes from it is essential in preparing Lees for 2011. The firm has implemented key performance indicators (KPIs) for fee-earners, and partners and heads of department can

sure resources are optimised, because processes become automatically quicker," says Kingston-Davies. For example, the time saved from having bundles created on-screen, because all case correspondence is digitised, "is huge – a half-day to make a bundle, compared to ten minutes".

It all comes down, she says, to having the right people doing the right work, with the right support, "which means you need the infrastructure in the background, in processes and case management,

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