

## The Legal Activities Sector in the North West and an Analysis of Current Issues and Skills Needs.

The purpose of this paper is to communicate information about the Legal Activities Sector and to explain the context in which legal practices operate allied to the 'Skills' issues relevant to this sector. Where possible, this report has related these skills issues to the North West Legal Activities Sector.

This information aims to provide background information and guidance to practitioners in Higher and Further Education in the North West who are working with employers in this sector to deliver new demand led / employer driven HE provision.

### SIC 74.11 Definition of Legal activities

This comprises the full range of legal activities including activities of Patent and Copyright Agents, Barristers at Law, Solicitors and the activities of notaries, bailiffs, arbitrators, examiners and referees etc. It does not include law court activities.

A Lawyer is a generic term for a Barrister and Solicitor. Barristers are self employed and work in chambers. A chamber is an independent group of barristers who come together to share administration costs. It should be noted that barristers cannot act on behalf of individuals. Solicitors employ Barristers when they have not got the right to appear in the higher court or require Counsel's opinion. The Law Society represents solicitors whereas the Bar Council represents barristers.

### The Legal Activities Sector in the North West

The Law Society conducts research on **the solicitors' profession** in England and Wales. The North West is the second largest legal centre in the UK after London. The North West has a high proportion of the top 100 law firms outside of London. The information below presents key figures on the profession in the North West region.

Key Statistics as at February 2006	No	%
Solicitors with practising certificates	10,743	
Male solicitors with practising certificates	6,196	57.7
Female solicitors with practising certificates	4,547	42.3
Solicitors working in private practice	9,053	84.3
Solicitors working in commerce and industry	416	3.9
Solicitors working in central and local government	952	8.9
Solicitors working in other sectors	322	3.0
Trainees		
Number of trainees	1,191	
Number of male trainees	452	38.0
Number of female trainees	739	62.0
Starting salary (median)	£15,000	
Organisations		
Number of organisations employing solicitors	2,047	
Private practice firms (law practices by head office count)		
Total (all law practices)	1,770	
Partnerships	1,101	

It should be noted that North West law firms and solicitors working in-house - i.e. employed in industry and commerce - are appointing barristers to work in-house. The reason for this is that the more senior barristers tend to be specialists in an aspect of the law and are also skilled advocates. Therefore, having these skills in house can add value and be more cost efficient than appointing a barrister on a case to case basis. It should be noted that barristers are not the only advocates. Solicitors and - since last year - Legal Executives (qualified lawyers through the Institute of Legal Executives) can also as advocates. The key driver behind this activity is the need for Law practices and in-house operations to be more cost efficient.

In the future it is envisaged that there will be greater opportunities for Solicitor Advocates and Legal Executive Advocates as they will benefit through Alternative Business Structures offering enhanced career routes. (See the section entitled Legal Services Review / Clementi Report on page 5.)

## Main area of work of Practising Certificate Holders

The top three main areas of work for practising certificate holders in the North West are Personal Injury (18.6%), Residential Conveyancing (11.7%) and Crime (General, Motor, Juvenile) (10.5%). On comparison with England and Wales as a whole, Personal Injury was cited by 7.0% of the profession with Business Affairs (12.1%) as the most prevalent main area of work.

## Ethnicity of Practising Certificate Holders and Trainees

The research shows that the ethnicity profile indicates that ethnic minority solicitors are under-represented in the North West in comparison to the profession as a whole in England and Wales.

Table 1 shows the ethnicity of all practising certificate holders in the region compared with all the regions in England and Wales.

**Table 1 Ethnicity of Practising Certificate Holders**

	North West		All regions	
	No.	%	No	%
Ethnic Minorities	557	5.2	8,455	8.8
White	9,237	86.0	77,514	79.9
Unknown	942	8.8	10,999	11.3
Total	10,736	100	96,968	100

Table 2 shows trainee registrations by ethnicity for the North West region and for the entire profession.

**Table 2 Ethnicity of Trainees**

	North West		All regions	
	No.	%	No	%
Ethnic Minorities	137	12.3	1,726	17.5
White	976	87.7	8,130	82.5
Total	1,113	100	9,856	100

Both tables highlight the fact that ethnic minorities are under – represented in the Legal sector in the North West compared to England and Wales as a whole.

## Trainees

**Age of trainees:** 53.8% of trainees are aged 25 and under, with only 3.1% of trainees aged over 41 years. In the profession as a whole, just over 50% of trainees are aged 25 years and under, and 3.2% are aged over 41 years.

## Category of Employment

The overwhelming majority of trainees (95.2%), work in law practices, with only 1.8% in local government, and 0.8% in commerce and industry.

## Size of Private Practice Firm

Over one-quarter - 27.0% - of trainees are based in small firms of 2 to 4 partners and 31.9% are located within firms with more than 26 partners. Just over 5% (5.5%) of registered trainees are based within sole practices, compared with 4.8% for the profession as a whole.

## Private Practice Firms and Offices

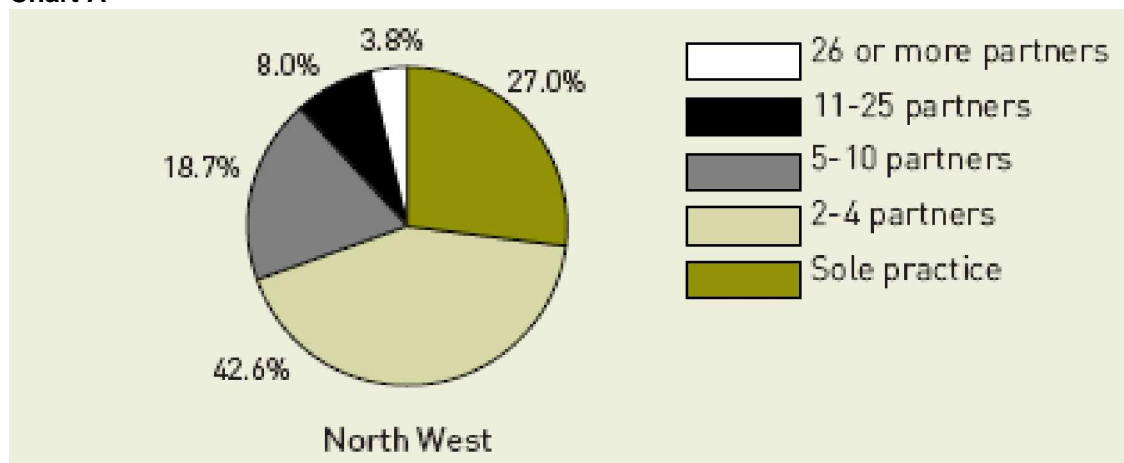
- There are 1,770 private practice firms' offices i.e. head office and branches.
- The legal sector in the North West is diverse and fragmented. The size of the practice largely dictates the type of work that is undertaken. The small and single practices undertake a wide range of legal work.

E.g. Practices specialise in different fields such as medical negligence, intellectual property etc. As the firm size increases the speciality increases. Until the larger firms with 11 partners and above concentrate almost exclusively on Corporate & Commercial work and Advocacy. As the size of the firm increases the work undertaken is almost exclusively Business to Business, where smaller firms undertake a mix of Business to Consumer and Business to business with the majority of work for sole practices Business to Consumer.

- 42.7% of these firms' offices offer legal aid.
- The top three main areas of work for private practice firms are Residential Conveyancing (32.9%) and Business Affairs (25.5%) followed by Crime (General, Motor, Juvenile) (10.0%). The remaining work is split between all other areas of legal work.

The distribution of size of firm across the region is shown in Chart A.

**Chart A**



As you can see from Chart A - 88.3% of private practice firms in the North west employ 10 partners or less.

### Legal Activities - North West Synopsis

The size of the Northwest economy provides a good economic environment for legal firms of all sizes. This is reflected in the number of large law practices in the major commercial centres of Manchester and Liverpool. These cities account for 74% of all employment in the legal sector in the Northwest. Major Law firms such as Brabners Chaffe Street DLA, Eversheds and Hill Dickinson are based out of these two major cities.

The clustering of tier 1 law firms such as Addleshaws and Eversheds around the large centres for commerce in Manchester and Liverpool is understandable. Such firms with 26 partners or more specialise almost exclusively in work relating to finance and business affairs. Larger firms of 11 partners or more although accounting for 11.8% of firms in the North West provide the bulk of employment in the sector.

“ Manchester is very firmly number two to London now. Manchester has a range of services and experts which means that you do not have to go to London very much.”<sup>1</sup>

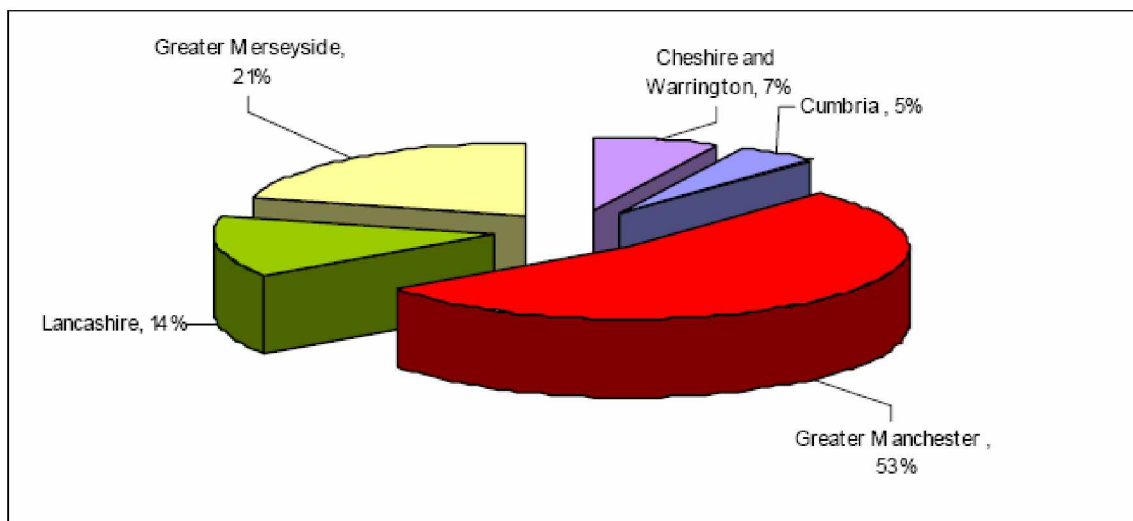
Manchester has always had a successful and diverse legal market offering a variety of services. This variety of services is borne out by statistics.

Number of Practices <sup>2</sup>	Number of Partners
Manchester 412	4014
Birmingham 342	3202
Leeds 136	2171
Bristol 123	1540

<sup>1</sup> Robert Levy , Kuit Steinart Levy Insider August 2007

<sup>2</sup> The Law Society 2005.

Liverpool also has a high concentration of firms specialising in maritime law. The city remains one of the UK's largest ports with £3.3 billion turnover from its maritime sector. The legal sector has a large number of maritime related clients in the area e.g. Mersey Docks and Harbour Company, Shell UK Ltd, Bibby Line Ltd, P&O Nedlloyd Ltd and Atlantic Container Line. This cluster of specialist firms serving a city specific industry has advantages for both the clients who would otherwise have to instruct expensive London solicitors and a large market for the law firms.



### SIC 7411: Legal Activities – North West Regional breakdown 2004 <sup>3</sup>

This concentration of Legal practices in the North West accounts for the greatest concentration of law firms outside of London and the South East of England. It is interesting to note that in 2005 the North West accounted for 12.5% of the population and 11.9% of the law firms. This is largely due to the growth in Greater Manchester of the Financial and Professional Services industry which account for 25% of employment rates in Trafford and Manchester. The sector has seen significant growth between 1998 and 2004 with 30% growth bringing total employment to 25,058, with the majority of employment in legal services based in Manchester.

Manchester's continued development as a regional power in media and continued concentration of the regional Financial and Professional services sector could provide many opportunities for firms to specialise in areas such as the media with the BBC's relocation to Salford<sup>4</sup>.

### Barristers in the North West

The Northern Circuit generates enough work to support 23 chambers with over 500 barristers. Barrister chambers are more fluid and they are able to offer a wide ranging service. Barristers see themselves as providing a valuable advocacy service. With strong commercial centres - such as Manchester - the region is able support a thriving legal scene with enough commercial work to rival London. Regional Barristers operating on the Northern Circuit are now finding themselves in competition from City based barristers selling their services to local solicitors. This competition moves both ways with Manchester based chambers successful winning work in London.

### The New Manchester Civil Justice Centre

The Civil Justice Centre, the second biggest court in the country after the Royal Courts of Justice in London, opened in October 2007. It will be the new home for the Manchester County Court and will consolidate civil justice in Manchester, providing facilities for family, commercial, small claims, high and county courts. In addition, there will be a new specialist Mercantile Court and a Technology & Construction Court. These courts deal with specialist and generally high value work. This will allow Law practices to start such proceedings in Manchester. Work that may have gone to London in the past will now stay in Manchester.

The probate office dealing with wills and inheritance is also moving there and it will become a flagship centre for civil proceedings. This improves the access to justice for Clients in Manchester and the North West. In essence, the new Civil Justice Centre should offer greater opportunities for Manchester's Legal Sector.

<sup>3</sup> KitshoffGleaves sub report for appendix 3 - 74.11 - The Legal Profession in the North West – report for the NWDA.

<sup>4</sup> KitshoffGleaves sub report for appendix 3 - 74.11 - The Legal Profession in the North West – report for the NWDA

## Legal Activities – Contextual Analysis

The legal sector has experienced strong growth in the last six years on the back of the strength of the UK economy, corporate activity and changes to legislation. The legal landscape is changing with a move from a professional to a consumer orientation e.g. consumer price transparency, redefined self regulation to include the interest of users and the 'push' to achieve an ethically based free market in legal services in a post Enron world. Consumers will have a more significant voice in setting standards. In addition, two key Government reviews are starting to have a considerable effect on the legal sector and will continue to do so in the foreseeable future.

### Legal Services Review / Clementi Report

The first of these is the Legal Services Review. This is better known as the Clementi Report after Sir David Clementi who was appointed to undertake a review to consider what regulatory framework would best promote competition, innovation and the public and consumer interest in an efficient, effective and independent legal sector.

The report on the regulatory review of legal services was published in December 2004 and made six key recommendations including the creation of a new regulator i.e. the Legal Services Board to provide consistent oversight of the Law Society and Bar Council, the Office for Legal Complaints (independent of the Law Society) and the establishment of alternative business structures.

Clementi identified a concern about the restrictive nature of current business structures which have changed little over a considerable period of time. They include a number of restrictive practices covering the way lawyers work. To address this issue, **Clementi recommended the opening up of law firm ownership and the establishment of alternative business structures.** In essence this meant **Legal Disciplinary Practices, law practices which bring together lawyers from different professional bodies, for example solicitors and barristers working together on an equal footing, and permit non-lawyers to be involved in management and ownership.** The safeguards to be proposed by the Legal Services Board should include a 'fit to own' test. **Such practices should encourage new capital and new ideas in promoting cost-effective consumer friendly legal services.**

In terms of alternative business structures, Clementi commented "I do not believe that many of the restrictive practices under which lawyers work can still be justified as being in the public interest. The proposals I have made are facilitative; they are not mandatory. I accept that existing forms of business structures have strengths; I do not accept that other structures for the provision of legal services should not be permitted. Legal Disciplinary Practices should bring many advantages. New investment should increase capacity and exert a downward pressure on prices. New investment should also be accompanied by fresh ideas about how legal services might be provided in consumer-friendly ways."

The arrival of Alternative Business Structures (ABS) for ownership means that several major new players have entered the market e.g. **The AA, RAC, Co-operative Legal Services and Halifax Legal Solutions (HBoS).**

The AA has teamed up with carefully selected third parties to bring you a range of legal services. These services include conveyancing, wills & trusts, personal injury and accident claims. These services are provided by third party suppliers and you will be required to accept their terms and conditions when purchasing these products and services. The RAC offer legal advice on wills, probate, employment, neighbour and landlord/tenant disputes, personal injury, consumer and motoring law.

Co-operative Legal Services (CLS) was launched in April 2006, offering a comprehensive suite of consumer legal services including conveyancing, will writing, probate and accident management services. It provides claims management support as part of the legal expense insurance cover for over 2 million customers who have co-operative motor, home, travel or commercial policies. The new venture will be based in Bristol and is expected to create 150 jobs over five years.

It should be noted that these companies have found a way to enter the market short of ownership of law firms and without the need for an ABS licence as envisaged by the Legal Services Act. The ABS regime is not a precondition to their entry but only to their ownership.<sup>5</sup>

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<sup>5</sup> Alternative Business Structures Something for Everyone? Stephen Mayson, Professor of Strategy and Director of the Legal Services Policy Institute Updated paper of an article that first appeared In New Law Journal 27/7/2007.

Services such as conveyancing and will writing are not specialist services and can be offered by Licensed Conveyancers and Will Writers in the commodity market. The commodity market for such services is characterised by high volume / low value business and represents the future. The commoditisation of legal services - which is sometimes referred to as "Tesco Law" - will make smaller practices particularly vulnerable.

It is no surprise that there is currently a debate amongst legal professionals regarding solicitors undertaking volume work that could be completed by non qualified staff.

### **Stephen Mayson - Legal Services Reforms: Catalyst Cataclysm or Catastrophe<sup>6</sup>**

The subtitle: catalyst, cataclysm or catastrophe can be put another way i.e. accelerator of change, radical upheaval, or disaster? The Legal Services Act will address regulation, complaints, barriers to entry and alternative business structures. These will prove catalytic. The competitive forces unleashed will have consequences for all providers in the legal services marketplace. The reforms will certainly be an accelerator and enabler of change. Law firms will need to restructure and possibly refinance, to consolidate, to recruit, train and promote sensibly, and to engage in even more sophisticated strategy and management.

Mayson's reading of the political intent is that the reforms are meant to be cataclysmic – that they should bring about an upheaval in the structure of the market and its methods of delivery. Given the degree of fragmentation and inefficiency, on the one hand, and, on the other, the extent of the consolidation and investment that are required to bring about the intended results, it is difficult to see how they could not be cataclysmic. Reform on the scale envisaged will be radical, resulting in new structures, new methods, new owners and new capital.

The most likely and most desirable outcome is cataclysm in the interests of a strong, effective, independent, competitive, and justifiably profitable market for legal services. Mayson's view is that we have to lose our current tendency to equate the legal services market with the legal professions. The market will grow and prosper; the legal professions may not.

Mayson views the legal services market as facing a series of redistributions:

- redistribution of clients and revenues – both within the incumbent legal profession and beyond to new entrants;
- redistribution of work – from qualified lawyers to paralegals, and from people to technology;
- redistribution of profit – within existing law firms, from law firms to new entrants, from short-term income to longer-term capital growth or share options, and from providers to buyers (as clients exercise more bargaining power over the nature of delivery and the price charged);
- redistribution of ownership & capital – as law firms limit equity to fewer partners or, conversely, open ownership up through incorporation and the wider distribution of shares, and as new entrants come in (whether as multidisciplinary professionals and managers, or as external brands and consolidators).

Mayson views these redistributions as necessary and inevitable in a modern, effective, competitive market.

### **The Implications of the Clementi Report – Legal Disciplinary Practices**

Clementi's proposals recommend the creation of legal disciplinary partnerships (LDPs) which are essentially between different types of lawyers as a single unit. This should have the effect of opening up competition and creating more cost effective and seamless services for the benefit of clients.

E.g. This would allow lawyers from different backgrounds to come together and be on an equal footing as co-owners of a law firm. E.g. Solicitors, barristers, legal executives and trade mark and patent attorneys would be all together in one business. The likely impact of Clementi's proposals for the profession is the consolidation of legal practices, as larger law firms will absorb some of the smaller Intellectual Property firms. The main benefit for clients is that of a simpler system and the opportunity to deal with one practice, rather than several. The Legal Services Act refers to LDPs as 'legal service bodies'.

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<sup>6</sup> Legal Service Reforms : Catalyst, Cataclysm or Catastrophe? Stephen Mayson Professor of Strategy and Director of the Legal Services Policy Institute: 21/3/2007

The formation of LDPs should address the problem – as Clementi pointed out- of lawyers being seen as unapproachable, difficult to comprehend and lacking in customer focus.<sup>7</sup> Clients will be able to go to a one-stop-shop able to offer legal advice across the board. This should allow a better service at a cheaper price because of reduced costs, due to resource sharing leading to overhead reduction.

As a consequence this will raise standards, as shared knowledge and different methods are pooled in mixed-practices and professional competence and awareness levels are likely to improve. The overall advantage of this approach for the UK economy is a combination of improved standards and lower-cost services becoming more readily available. This would provide an advantage for those in specialist areas – such as patent and trade mark attorneys - seeking to export their services.<sup>8</sup>

To counter the above argument, informed opinion would state that the Law profession has always had highly skilled practitioners providing a professional and quality service.

In September 2007 an article in the Law Society's Law Gazette' stated that " **It is unlikely that full alternative business structures will come into being until 2011 at the earliest because a new licensing regime needs to be set up. However, legal disciplinary partnerships between the different types of lawyer do not require licensing and can come into being as soon as the Solicitors Regulation Authority (SRA) creates rules to deal with them.**"<sup>9</sup> It is anticipated that that LDPs between different types of lawyers will become a reality by the beginning of 2009.

### **The Implications of the Clementi Report – Legal Disciplinary Practices with Internal Managers<sup>10</sup>**

Clementi was keen to encourage law firms to allow their professional managers – E.g. directors of finance, human resources, marketing etc – to become co-owners. Under the LDP provisions, a law firm can have up to 25% of the business owned or controlled by non lawyers. The consequence of this will be a much more fluid market for professional managers, with greater opportunities for progression and ownership. It is anticipated that LDPs with internal managers as co - owners will become a reality in 2009.

### **The Implications of the Clementi Report – Multi Talented Practices<sup>11</sup>**

Many law firms employ other professionals and sources of support directly in the provision of client services. E.g. a personal injury and clinical negligence practice might have health care professionals and a matrimonial practice might engage qualified counsellors as an integral part of their service to clients.

Multi talented practices are catered for by both the LDP and ABS frameworks to allow the promotion of other professionals to co-ownership. To qualify as an LDP, 75% of the ownership will have to remain with lawyers. in terms of the ABS framework, to qualify as a low risk ABS with a lighter touch licence, lawyers need to retain 90% ownership and control of the business.

### **The Implications of the Clementi Report – Multi Disciplinary Practices**

Multi disciplinary partnerships (MDPs), will allow legal and other professional services practices, such as accountants, chartered surveyors, consultants and estate agents to operate under one partnership.

Multi -disciplinary partnerships and non-lawyer investment in law firms are set to become a reality in 2008 under government plans for a limited early introduction of alternative business structures (ABS).<sup>12</sup>

The government is to make amendments to the Legal Services Bill that would allow law firms to have up to 25% non-lawyer partners; the non-lawyer partners would also be allowed to invest in their practices. However, non-lawyer partners would be limited to offering services ancillary to the work of a legal practice, such as tax advice and property selling. The government says the changes will enable early consumer benefits of ABSs. The Law Society has lobbied for such partnerships for some years.

It is unlikely that full ABSs will come into being until 2011 at the earliest because a new licensing regime needs to be set up. The latest changes will be an extension of the LDPs.

<sup>7</sup> The Implications of the Clementi Report Paragraph 4 – Simon Mounteney [www.marks-clerk.com/attorneys/att\\_pub\\_clementi.htm](http://www.marks-clerk.com/attorneys/att_pub_clementi.htm)

<sup>8</sup> The Implications of the Clementi Report Paragraphs 5 & 7 – Simon Mounteney [www.marks-clerk.com/attorneys/att\\_pub\\_clementi.htm](http://www.marks-clerk.com/attorneys/att_pub_clementi.htm)

<sup>9</sup> Non-lawyer partners get 2008 green light – Neil Rose, Law Gazette, Thursday 6 September 2007 paragraph 4

<sup>10</sup> Alternative Business Structures Something for Everyone? Stephen Mayson, Professor of Strategy and Director of the Legal Services Policy Institute Updated paper of an article that first appeared In New Law Journal 27/7/2007

<sup>11</sup> Ibid

<sup>12</sup> Non-lawyer partners get 2008 green light – Neil Rose, Law Gazette, Thursday 6 September 2007 paragraph 1

SRA chief executive Antony Townsend said the authority welcomed the proposal. He added: "The SRA board is considering a draft timetable and principles for the introduction of entity-based regulation. Extensive consultation and preparation will be needed to ensure that the public interest is protected."<sup>13</sup>

Law Society President Andrew Holroyd said: "We have argued for many years that law firms should be able to include a minority of non-solicitor partners. We are very pleased that the government has agreed to change the Bill to enable that to happen quickly. This will bring benefits both to the public and to the profession"<sup>14</sup>

Stephen Mayson<sup>15</sup> argues that the appetite for MDPs has diminished in the post-Andersen world, as there is little evidence that clients are looking for large-scale, one stop MDPs. The strategy behind the creation of MDPs will be probably be supply- driven. Such a strategy will be high risk without an existing brand to leverage. Success will imply a degree of pre-existing scale and reputation which few professional service firms currently have. The jury is still out on the need for MDPs. Big Law and Accountancy practices are unlikely to have any desire for MDPs.

Mayson argues that MDPs will be an attractive proposition for smaller firms, especially in a market town or suburb where there is e.g. a dominant law firm, accounting firm and estate agency. By combining into a local MDP, offering a one-stop shop service, such a business might be well known to withstand the incursions of larger High Street brand names.

### **The Implications of the Clementi Report – New Entrants**

New entrants will be entering into the market for long-term financial returns. The issue for companies such as Tesco and Co-operative Legal Services is who controls access to the work. These players carry a significant reputational risk to their whole business and their brand positioning.<sup>16</sup> Mayson argues that these new entrants will not undertake 'negative work' i.e. criminal and matrimonial work that will have a negative effect on the value of their brand.

It is likely that the big players looking to invest in law practices will wait until 2011 / 12 when the new licensing regime comes into being. Mayson's view is that the post-Clementi world will offer many more business and structural opportunities. Mayson emphasises that these opportunities are open to lawyers as much as to new entrants.<sup>17</sup>

Mayson takes the view that in terms of new co-owners in a law firm it is only pure financiers who will take a short - term focus. Other professional co-owners will have a long-term focus. One aspect is certain and that is all new co-owners will influence the timescale of an exit strategy.

Even when one or more of the options described above is taken, there will remain the issues of establishing a new business culture in terms of performance assessment and consequent reward. The establishment of a working culture that satisfies all the owners will be the determining factor of success. Mayson's concern is that law firms and investors do not sufficiently understand each other, and may have unrealistic and unreasonable expectations of each other.<sup>18</sup>

### **Solicitors Regulation Authority Issues Warning on Business Models<sup>19</sup>**

The Solicitors Regulation Authority (SRA) urged solicitors to be 'particularly cautious' if approached about taking advantage of new business structures to be allowed under the Legal Services Act.

The warning came as a survey of the UK's top 130 law firms by accountants Smith & Williamson<sup>20</sup> found that 22% were likely to seek external capital in the next two to five years. Of them, 43% would look at a public listing, 57% at private equity or venture capital and 71% at structured finance. Just over 75% of those firms said they would be looking to raise less than £20 million, which Smith & Williamson director Giles Murphy said indicated that it may not be the largest firms which go public first.

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<sup>13</sup> Ibid paragraph 6

<sup>14</sup> Non-lawyer partners get 2008 green light – Neil Rose, Law Gazette, Thursday 6 September 2007 paragraph 7

<sup>15</sup> Alternative Business Structures Something for Everyone? Stephen Mayson, Professor of Strategy and Director of the Legal Services Policy Institute Updated paper of an article that first appeared In New Law Journal 27/7/2007

<sup>16</sup> Ibid - New Entrants paragraph 2

<sup>17</sup> Ibid - Conclusions

<sup>18</sup> Ibid – External Investment paragraph 4

<sup>19</sup> SRA issues warning in business models –Neil Rose, Law Gazette, 15 November 2007.

<sup>20</sup> '1 in 5 law firms to seek external capital now that the Legal Services Act has been passed' - 20 November 2007.  
[www..smithwilliamson.co.uk/shtml/newsItem.php?rcd=313](http://www.smithwilliamson.co.uk/shtml/newsItem.php?rcd=313)

The most popular use for the money was 'to fund the long-term development of the business', followed by funding the acquisition of teams and providing a means by which partners can realise value in their firm.

In a high-level strategy paper on how it plans to implement the Act, the SRA said the alternative business structure (ABS) licensing regime is unlikely to be in place before 2011 at the earliest, and it is too early to say what restrictions will be placed on those seeking licences – even though some commercial organisations and investment groups are 'making preliminary soundings of existing firms and others are, we believe, making firm proposals'.

The regulator said there could be conflict issues that prevent or restrict certain types of commercial entities from providing legal services. The SRA paper also outlined how it intends to move to the firm-based regulation permitted by the Act. 'Solicitors will remain individually accountable to the SRA, and will still need practising certificates, but the mechanisms for delivering regulation (and, therefore, the regulatory burden) are likely to shift increasingly towards the organisation... The SRA considers that a firm-based regulation system based on risk will provide a more effective regulatory regime.'

### **The Clementi Report and the Impact of Technology and the Knowledge - Based Economy <sup>21</sup>**

The Clementi proposals and the impact of advances in technology will have a radical impact upon the structure of legal profession in the North West, especially in rural areas such as Cumbria. Many Law practices focus on the personal and family areas of the law and will be vulnerable to the commoditisation of legal services. These practices will need to merge with other practices involved in business activity in order to compete in the modern knowledge based economy.

Such practices in the North West will only be able to compete with providers of legal services elsewhere if they develop knowledge management systems. The average size of North West firms is an obvious constraint to this process.

However, there are significant opportunities for suppliers of legal services in the North West. The development and furthering of technology can provide a solution for North West firms in overcoming the problem of smallness through the development of referral models of legal practice and virtual models of legal practice. These developments require a radical re-consideration of the basis of the conventional lawyer - client relationship and its replacement by a new set of relationships, based upon a legal knowledge network in the North West.

This will require client relationship systems which small firms would otherwise have no prospect of providing. Such systems must be based on technology platforms and require investment. By developing a dedicated legal virtual private network practitioners can offer a fuller spectrum of services. This would be a good model for firms located in the rural areas of Cumbria.

### **Update on the Legal Services Act**

The Government published its Draft Legal Services Bill in May 2006 with a view to implementing the Clementi report. The Bill has now become an Act as it received Royal Assent on the 30<sup>th</sup> October 2007. **Knowledgeable opinion formers in the North West believe that it is unlikely to come into force before 2010.**

### **Lord Carter's Review of Legal Aid Procurement**

The other review of significance is the Lord Carter's Review of Legal Aid Procurement which produced an interim report "Procurement of Criminal Defence Services - Market-based reform" in March 2006.

Whilst praising the overall legal aid system this report went on to conclude that a significant amount of the criminal legal aid budget is spent on unproductive time and anomalies in the system. It recommended the move **"to a sustainable market-based procurement system"** which should help to "create a quality defence service that rewards the most efficient suppliers, provides clients with appropriate choice and brings greater predictability to cost." In some cases it is recommended that contracts to be awarded are based on quality and volume bids. This would have dramatic implications for the smaller solicitor working on legal aid cases.

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<sup>21</sup> Based on Professor Iwan Davies & Professor Lynn Mainwaring, Law Society Research Report: The supply of private practice legal skills in Wales (2005).

In July 2006 Lord Carter published his report and recommendations into the future of all legal aid i.e. both civil and criminal. The government response "The Way Ahead" was published soon after and accepted almost all the recommendations. **The heart of the changes was to move legal aid contracts to a best value tendered market.** Although the ideas have not been popular with the profession and many business analysts, Lord Carter's model involved a stepped approach based on established economic principles. Moving forward to October 2007, the Legal Services Commission (LSC) has now accepted that their power to ride rough shod over legal aid lawyers is not as unfettered as they first thought. As a result it has been announced that a raft of changes due to be imposed in October 2007 will not now happen.

Instead, every legal aid criminal law firm is going to be served with three months notice of termination of contract to expire in mid January. The Commission will then offer a new contract introducing, without any piloting or testing and against all expert advice, the widest set of changes to the structure of legal aid in over fifty years. Even the Parliamentary Constitutional Affairs Select Committee came out strongly against such a reckless steam roller approach.

To make matters worse the Commission expect firms to sign up to the as yet unseen contracts full in the knowledge that will last only six months. They envisage a unified contract with civil and family law legal aid firms for a short while before moving to some type of competitive tendering in a little under eighteen months time. In March 2007, the Council of The Law Society of England and Wales unanimously passed a motion of no confidence in the LSC. Announcements of the kind above highlight how apt the motion is.

Ian Kelcey, Chair of the Criminal Law Solicitors Association (CLSA)<sup>22</sup> reacted to the announcement by saying: "The uncertainty created for firms whose only wish is to be able to get on and represent their clients is immense. We have always warned about the risk of proceeding with these changes without understanding the consequences. To do it in one big bang is madness."

Director of CLSA, Rodney Warren commented:<sup>23</sup>"At first the government accepted Lord Carter's proposals for transitional change to help firms adapt. Since then, one by one, those transitional steps have been abandoned. The rushed timetable and new approach **confirms that all of Lord Carter's proposals have been scrapped except those that are aimed at cutting the budget.** There has been no impact assessment of this whole system change and to proceed in this way is astonishing and shows no understanding of business or market economics."

Lord Carter's review also recommended changes in Civil Legal Aid. From January 2007, this means that lawyers will be paid a fixed fee and in 2008 there will be the introduction of competitive tendering which is likely to force fees downwards in the short term. **Knowledgeable opinion throughout the legal profession believes that the LSC is 'dumbing' down legal aid. There has been widespread condemnation of the government and the LSC.**

### **The Otterburn Report** <sup>24</sup>

The Otterburn report looks at the impact on the criminal lawyer's supplier base of the fee reductions proposed in Lord Carter's Review of Legal Aid Procurement. The report indicates that the financial position of many criminal suppliers is highly fragile. Some firms are financially strong and viable, however these are very much in the minority.

It is difficult to quantify the potential impact on the supplier base, however the available data would suggest that many firms are on the verge of financial difficulty, or are already in some difficulty. Some of the firms that may be most affected are the mid sized firms that are key to the effective operation of the system in the long term.

**It will take some time for the impact of cuts in fees to work through, however, combined with recent changes such as Means Testing and Fixed Penalties, the cumulative effect could drive a number of firms out of business.**

**Criminal Defence Services capacity is most likely to be impacted by difficulties experienced by firms with criminal fees of between £200,000 and £1m. These firms will generally need to grow in size, but may well find it extremely difficulty to do so. These firms are not especially profitable at present and**

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<sup>22</sup> Stop Press 6 September 2007 Criminal Law Solicitors' Association website

<sup>23</sup> Stop Press 6 September 2007 Criminal Law Solicitors' Association website

<sup>24</sup> Otterburn Legal Consulting - Report on the impact on the supplier base of reductions in criminal fees from April 2007. 21 November 2006

**will often lack the resources necessary to survive a period of significant change and turbulence in the market.**

Funding is likely to be another issue that many firms will find difficult to overcome in the timescale envisaged by Lord Carter. Larger legal aid firms tend to have high gearing – the number of fee earners in addition to each equity partner - and high levels of partner capital. This capital is normally generated through retained earnings however many firms are earning low profits. Although the banks will support firms with a good business case and effective management, their investment is likely to be related to the amount the partners can also contribute, which may be limited. Also, some firms may have difficulty satisfying their banks that they have the necessary level of management expertise.

Mixed firms that undertake private client work as well as legal aid may well be affected by the Legal Services Act as this will increase competition, in particular in areas such as conveyancing. Those firms that provide a cross subsidy to their legally aided work may no longer be able to do so.

The combined effect of these changes together with those brought about by the Legal Services Act may put particular pressure on criminal firms that also undertake civil and family law, as the latter two areas are generally less profitable, and will probably be the first to be closed.

### **The Cumulative Effects of the Clementi and Carter Reviews**

Informed opinion believes the impact of these reviews will lead to rapid and radical change to the composition of the Legal sector. **In essence, the combined forces of further deregulation of the legal sector, the continuing huge influx of Solicitors into the job market and the significantly reduced level of legal aid could radically change the nature of work undertaken by all sizes of firms but especially smaller practices.** To be blunt, the issue of legal aid is not about reform but cuts in the budget. **Knowledgeable opinion believes that those firms who continue in legal aid work will face a bleak future. Many small firms will be faced with two choices: go out of business or merge. It is predicted that by 2012 the 10 partner firm will be the dominant business model.**

The changes effecting the profession will provide both opportunities and threats. Informed opinion is of the view that the changes will not be all for the better and better for all. There will be the potential to drive some solicitors out of business at the bottom end of the Legal food chain who do not adapt to the changing legal landscape.

In the future there will be fewer Legal Aid suppliers and law firms in general. There will be a greater emphasis on volume case work. On the positive side there will be a trend towards regional specialists and joint working arrangements in both commercial multi disciplinary practices and the 'not for profit' sector. Competitive tendering will be the order of the day in both publicly funded and private practice legal services.

It is predicted that the reduction of legal aid will mean less court resolution and greater use of alternative dispute resolution methods e.g. mediation. This is already happening because of civil procedure rules and the attitude of judges in advising both parties to seek mediation.

In terms of the reduction in Legal Aid and the introduction of competitive tendering, the Law Society, at this point in time does not know what the outcome will be. At present, the Law Society is unable to give advice to firms on whether to accept the new contracts due to the Competition Act. However, it is unlikely that some solicitors' business models will enable them to continue to do this work and remain profitable.

### **The Compensation Culture and the Compensation Act of 2006**

Cultural changes in the development of a US style compensation culture looked at one stage to be generating extra work in civil compensation litigation. However, the Compensation Act of 2006 has introduced regulation to restrict 'claims farmers' aggressively touting for business. In May 2005, the Prime Minister stated " It will limit the work of claims management companies or "claims farmers". Claims farmers capture claims and typically sell them on to solicitors, sometimes having already signed the consumer up for a package of insurance. Many claims farmers indulge in high-pressure selling and aggressive marketing including approaching vulnerable people in public places, such as hospitals. Many consumers have been misled into making claims where their cases are weak."

The Compensation Act of 2006 established a regulatory regime for the claims management industry with a view to tackling the compensation culture especially in terms of personal injury. In brief, the statutory framework for the regulation of claims management services will require providers to give consumers clear advice about the validity of their claim, options for funding the costs and provide a 'complaints' mechanism if things go wrong. The act seeks to improve the compensation system for those who have a valid claim.

**Informed opinion in the North West believes that the so called ‘After the Event’ market could collapse as it is prohibitively expensive.** The rationale behind this statement is that the ‘No Win No Fee’ business model requires the claimant to pay an insurance premium for a policy to cover the claimant against the costs of losing the case. If the claimant wins the case, they can recover the cost of the premium from the other side. If the claimant loses the case, their insurance policy will pay the other side’s costs. However, the cost of an insurance premium has risen to underwrite the losses that have incurred by taking risks on cases that should not have been taken in the first place. This has resulted in Insurance companies seeking to withdraw from this market unless they get big enough premiums to cover their costs. The determining factor is whether the insurance premiums are at a level to underwrite the risk.

### Education and Skills

The North West region is home to a number of higher education establishments. Legal firms are particularly well supplied with labour with Greater Manchester alone producing more law graduates than Leeds, Birmingham or Glasgow.<sup>25</sup>

A common route to becoming a lawyer is to study for a Law degree and then secure a two year training contract with a law practice. Many students apply for a two week vacation placement prior to applying for the two year training contract as they believe this gives them a competitive edge. For similar reasons students will volunteer to undertake Legal Advice work in Citizens Advice Bureaus and Law Centres. For those wishing to enter larger firms the two year training contract is applied for in the second year of an undergraduate course. Once accepted by a large commercial firm on a training contract a student studying for a law degree will have to undertake a one year Legal Practice Course (LPC) prior to starting the training contract.

Other students study for a non law degree and are prepared to undertake a one year graduate diploma in law course (aka Common Professional Examination) to get to the same stage as a law graduate. Once accepted on a training contract a student studying for a non law degree will have to undertake a one year graduate diploma in Law course and a one year legal practice course prior to starting the training contract.

It is important to realise that students do not always obtain a training contract two years in advance. **The vast majority of students secure a training contract whilst studying on the LPC or while they are working as a paralegal and studying on a part time basis.** Part time courses are becoming increasingly popular whether it is in terms of an ILEX qualification, Law degree, a graduate diploma in Law qualification or the LPC.

The main aim of the Legal Practice Course is to provide a foundation for the training contract and working in practice. It acts as a bridge between the academic training and the practical application of the law. The course should cover both knowledge and skills. **All the skills taught on the course are of equal importance e.g. writing and drafting, practical legal research, advocacy and interviewing & advising.**

**Other skills of particular importance are negotiating, the ability to communicate and interact with colleagues & clients and advocacy / presentational skills are taught but not assessed on the course.** Once a student has secured a position in an enlightened firm further training in these skills will be undertaken.

The traditional way of – still practised by large commercial firms – is for the two year training contract to be broken down into four segments of six months each allowing the student to specialise in the areas of law they wish to pursue. Students will have carefully selected the firm they are undertaking the training contract with to enable them to study the aspects of laws they wish to pursue in their career.

The route to being a barrister is exactly the same as the above route but instead of a legal practice course a bar vocational course is studied. The training is for one year and covers two pupillages – where the budding barrister is mentored by qualified barristers. The ‘student’ has no say in terms of choosing a particular aspect of the law.

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<sup>25</sup> KitshoffGleaves sub report for appendix 3 - 74.11 The Legal Profession in the North West – report for the NWDA

## Legal Practice Courses – Training Framework Review

The Law Society's Training Framework Review is outlined in a document entitled 'Legal Practice Courses: Framework for 'authorisation, delivery and assessment'. The proposals in May 2006 reflect some of the desire for greater flexibility in what was widely regarded as an established and effective system of vocational training. There is a move towards an "outcomes" based approach or what has been termed "day one outcomes" which means that 'students' are fit for purpose when they join a law practice on day one.

Rather than enabling a network of alternative training routes, the proposals now set out to deliver a new "framework" for the Legal Practice Course (LPC) which will "promote greater flexibility for LPC providers in the way they design and deliver their courses. It will also allow the students a greater choice. The framework will require:

- mapping of provision against the new Legal Practice Course outcomes that will reflect the competences contained in the 'day one outcomes' of professional training
- application of a common assessment framework, which will continue to require "assessment under supervised conditions"
- external moderation of assessments and continuing monitoring of course providers
- an element of work based learning

The framework document states that the "key regulatory role for the Law Society's Regulation Board (LSRB) is to **achieve consistency of the learning outcomes** and demonstration by candidates of the minimum standards, rather than to ensure that all LPC students have a consistent or equivalent experience".

On the one hand it is to be welcomed as a means of giving providers greater choice and flexibility in delivering the LPC, in terms of substantive content and focus, and learning approaches. As regards content, the proposal has been less liberalising than some would probably have hoped, and may not facilitate a truly radical market differentiation between corporate / high street / legal aid LPCs. As regards learning approaches, it does encourage greater innovation by providers who might look to new ways of delivering courses and of integrating some of the LPC process more effectively with other aspects of paralegal or professional training. However, it is perhaps debatable how far providers will innovate without clear market or other incentives to do so. It is probably no coincidence that design innovation has been greatest in the corporate practice sphere, where there is both a demand for trainees and for more bespoke training.

Figures gathered nationally by the Central Applications Board looking at the intake of students for the full time LPC across 26 HE institutions has revealed that the market is extremely competitive and crowded.

It is the LSRB's intention that providers will be authorised to offer 'LPC version 2' from the start of the academic year 2010-11. It is evident that the implementation process that will benefit from careful evaluation and management. Providers that wish to do so can offer 'LPC version 2 from 2009-10.

It is interesting to note that the current LPC has core elements covering Business, Litigation and Property plus elective or optional elements. In the 'LPC version2' the 'electives' can be undertaken alongside work based learning. This will enable 'students' to study the aspects of law that their firm practices. The reason for this is that the Solicitors Regulation Authority (SRA) accept the need for change in the Law profession and prefer alternative routes to qualification as they argue this will enable a wider range of people to practice law. In essence, the SRA's stance is for a profession that reflects the diversity of people in the country.

LPC providers in the North West are:

BPP's Law School, Manchester

The College of Law Chester

Liverpool John Moores University

Manchester Metropolitan University

UCLAN

In the context of a legal education discussion the potential for greater commoditisation is relevant. This is where “sectors” or practice become streamlined and mechanised so as to be able to be sold as commoditised “products” supported by technology. Activities ‘previously’ reserved for qualified individuals are:

- Conveyancing
- Probate Services
- Immigration advisory services
- Notarial functions
- Conducting legal proceedings
- The right to represent a client in court / rights of audience

However, the impact of technology has enabled a method of working whereby Case Management Systems and e-conveyancing can be undertaken by less qualified staff. This means that practices adopting these methods can be more cost efficient.

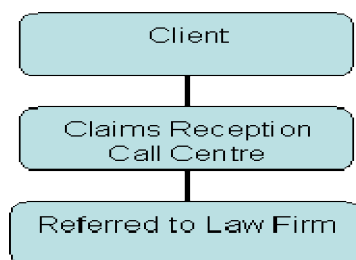
The Clementi Review highlights five areas that may be provided by individuals who are not qualified lawyers:

- General legal advice
- Drafting of wills
- Estate administration
- Advice and representation on employment issues
- Claims management and claims assessment

The freedom proposed by the Clementi Review allows the **role of a solicitor to become a system based one rather than a professional one**. The vision of row upon row of young paralegals working under the supervision of a solicitor has already arrived with existing commoditisation.

This commoditisation can be seen in operation through two “core” models that have emerged within practice. The first might be termed the “**referral model**”. This model sees the client initially contacting a claims reception call centre or other intermediary organisation. This stage would then “refer” the client to a law firm. This might be a separate firm that has a contractual relationship with the referral organisation or may be part of the same company. For example, “New Claims Direct”, is a trading name for Russell, Jones and Walker – a national law firm with nine offices across the country.

#### Model A: The Referral Model



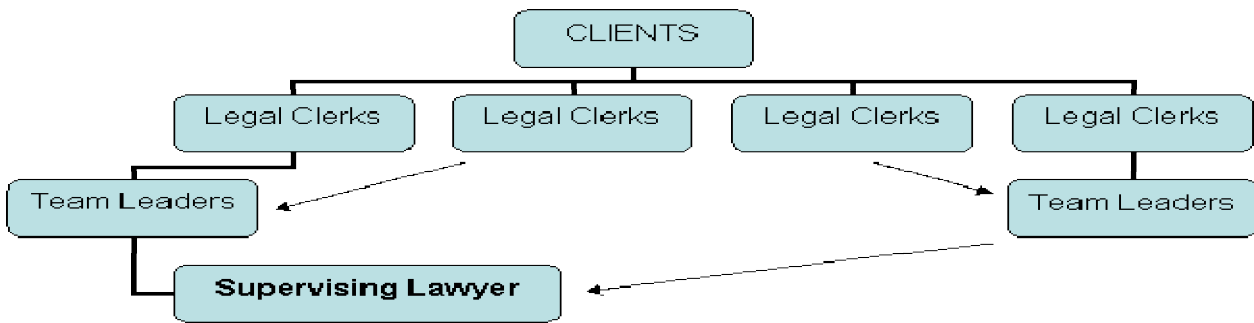
The second model, made ever more possible through a combination of technology and the Clementi proposals might be termed “the commoditised model” which sees clients’ work being undertaken initially by “legal clerks” or “junior paralegals”. These clerks would then typically report to “team leaders” who might themselves have been “legal clerks” at some point and may be ILEX qualified or are LLB/LPC graduates.

These team leaders would then report to a supervising lawyer. This is typically a graduate, who has studied the Legal Practice Course before qualifying as a solicitor. However, this person, in addition to the traditional ‘skills of a lawyer, will increasingly require management and marketing skills.

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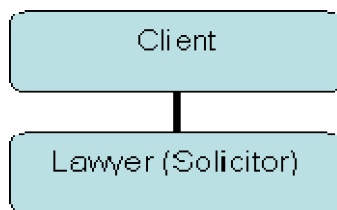
<sup>26</sup> The 21<sup>st</sup> Century Law School: choices, Challenges and Opportunities Ahead – Chris Ashford Senior Lecturer in Law, University of Sunderland. Web Journal of Current Legal Issues - (2006) 3 Web JCLI.

### Model B: The Commoditised Lawyer Based Model



All of this contrasts with the traditional model, still the dominant model for the high street firm or for commercial areas. This is based on a direct client / solicitor relationship with the route to that position leaving less scope for an “in house apprenticeship” as the work remains highly skills based and less reliant on systems and technology. Ashcroft believes that there will continue to be a demand for lawyers in the traditional 'mould' regardless of the outcomes of Clementi. The question is to what extent. In a post - Clementi framework, as technology evolves, so too does the **operation of legal practice in larger systems' driven firms. The traditional labour intensive model (model C) may cease to be cost effective for small firms and sole practitioners.**

### Model C: The Traditional Client Model



In a commoditised environment the freedom for firms to develop their own route to qualified status takes on a whole new value resembling much more the traditional qualification route of an “apprenticeship”.

### Recruitment and Retention Issues

The Law Society has identified issues with the recruitment and retention of solicitors and this is particularly an issue for the Top 100 firms. Although there is no shortage of trained lawyers in the region, there is a shortage of experienced staff in corporate law at the 2-4 years post qualification experience [PQE] stage where there is a high attrition rate of staff. This could be largely the result of a long hour's culture and high work load. This situation could further deteriorate with increases in merger & acquisition activity likely to push up the work loads at the larger firms.

A survey recently conducted by Experian<sup>27</sup> has identified the legal profession as having the most severe problems with work related stress with 38% of male staff saying they suffer from extreme stress levels. This could partly explain the shortage of staff at the 2-4 PQE stage. Even magic circle firms are reporting difficulty in the retention of young lawyers unhappy with the long hours work culture. With further de-regulation of the legal sector young lawyers are finding alternative options such as banking more attractive than working for the major law firms.<sup>28</sup>

As a result, the Law Society has started a national 'Quality of Life' initiative to encourage and promote law firms to examine the quality of life issues in their firms. This is an issue in London and across the regions. 120 firms sent representatives to a debate in Manchester on this subject in May 2006.

<sup>27</sup> <http://society.guardian.co.uk/drugsandalcohol/story/0,,1792695,00.html>

<sup>28</sup> Top UK law firms cash in on M&A boom: FT.Com

## Skills Needs Analysis

There is a school of thought in the North West that the products of the legal practice course are not fit for purpose. This view is echoed by large and small practices. Law practices operate in a commercial environment and they are looking for employees with soft skills e.g. the ability to network, client facing skills and an ability to care for the client. In some cases law firms have reported a lack of basic skills in grammar and literacy.

Larger law practices will undertake 'softer skills' training in house for new recruits from induction onwards. Newcomers are encouraged to observe how partners conduct themselves. A key skill that is essential is the ability to network and new intakes will be coached and given the confidence to express themselves. In addition, new recruits will be observed and feedback will be given to reinforce what is expected in terms of their application of the softer skills required by the practice.

There is a school of thought that paralegals and legal executives will become important in the future as the alternative business structures envisaged by Clementi come into existence. Paralegals have 'on the job' experience - in comparison to law graduates - and there will be a demand for more 'technicians' in certain practices to undertake work at a lower rate in those services that can be 'commoditised' e.g. conveyancing and wills.

### Where will all the Lawyers Go? <sup>29</sup>

Reflecting on the demand for the end -product of legal education the key question to ask is where will all the lawyers go? This is the title of an article by Tom Halliwell Solicitor & Notary, External Examiner College of Law, and Open University Associate Lecturer which appeared in 2001 prior to the Clementi and Carter reviews.

- **The number of small law firms in the West Midlands will drop by more than one-third in the next five years as they are swallowed by larger practices, a leading solicitor in the region predicts."** A comment made by Stephen Swindle, Managing Partner of Alsters and reported in the Law Gazette 14 September 2001.<sup>30</sup>
- **"Commoditised work by itself is unlikely to provide many of us with a bright future unless we can find profitable ways of handling it .... we will have to face the fact that some of the things we now do, and the way we do them, will not remain viable"**. (UK Law Society President – David McIntosh Key Note Speech to the Law Society's Conference November 2001).<sup>31</sup>
- **"If Suskind is right then the outlook for High Street practice, in the conventional sense, is pretty dire. Increasingly sophisticated computer systems will deliver 'me now' satisfaction to the consumer at moderate or minimal cost; the role of the 'family lawyer' will be marginalized."** (Halliwell - Bileta Conference Edinburgh - April 2001)<sup>32</sup>

Moving forward to the present day, the demand to qualify as a lawyer is seemingly insatiable. The Central Applications Board figures indicate that both full time and part time LPC courses are flourishing. If the sea changes in the profession which many predict will come about as a result of the Clementi and Carter reviews where will all these new lawyers go? If the question was raised in 2001, it is no wonder that the question is now more prevalent.

### Conclusion - Where will all the Lawyers Go?

The sector is likely to see further consolidation with particular pressure on the smaller practices. At this point in time it is fair to comment that law practices, particularly smaller practices, are apprehensive about the future. There is in the parlance a state of 'jockeying for position' as practices are aware of consolidation.

When the question - Where will all the lawyers go - has been put to prominent figures in the North West legal sector the overwhelming consensus has been that there will be a shakedown resulting in consolidation and mergers and a highly competitive market. Some will argue that this is the result of an existing oversupply of lawyers. This may manifest itself in a need for a lesser number of lawyers as new business models will come into being for four key reasons.

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<sup>29</sup> <http://www.learnedcounsel.com/wwatlq.htm>

<sup>30</sup> Tom Halliwell, Open University, Globalisation of Legal Practice – will there be any High Street Lawyers in 2010? Bileta Conference 5<sup>th</sup> -6<sup>th</sup> April, 2002

<sup>31</sup> Ibid

<sup>32</sup> Ibid

- The shakedown will result in mergers between practices and the inevitable closure of practices. The predominant belief is that many smaller practices will be squeezed and will go to the wall. This is especially true of those practices competing in the legal aid market whether it is civil or criminal law. The proposed reduction in legal aid is already causing pressures with the work being done by less experienced practitioners i.e. the so – called ‘juniorisation’ effect.
- Commoditisation and the emergence of paralegals will mean that law practices will not require the services of a lawyer for this work as they will compete on a lower cost base for ‘commoditised’ services. As stated previously, informed opinion in the North West believes that too many solicitors are undertaking work that can be commoditised or undertaken by non-professionals. This is another example of the so – called ‘juniorisation’ effect.
- It is expected that practices – including larger firms - will shed high quality staff and there will be a move to employ non legal staff. E.g. practices will recruit highly skilled marketing and human resource practitioners - even at partner level - to ensure they have the right mix of resources to compete in a highly competitive market.
- The emergence of alternative business structures whether it is in the form of legal disciplinary practices or multi disciplinary practices will result in fewer lawyers being required. E.g. it is envisaged that accountants and lawyers may merge as they share a similar client base. Chartered surveyors, estate agents and lawyers may merge to offer a one-stop service in the commercial property market.
- Another factor to be considered is the economic downturn which is indicated for the next year to eighteen months. There is no doubt that the strong economy over the last decade or so has driven the growth of law firms and the recruitment of lawyers. Given the combination of this economic scenario and the four key reasons mentioned above consolidation and mergers appear to be the order of the day.

Informed opinion in the North West is in agreement that the legal profession is adaptable to change. It remains to be seen whether this will be sustainable once the Legal Services Act comes into being. It is likely that there will be a downturn in the number of lawyers but they will be working in different entities rather than predominantly in the traditional private practice model. Informed opinion believes that there will be more working in house and in alternative business structures.

It should also be noted that up to 50% of law graduates do not enter the profession.<sup>33</sup> This supports the belief that a law degree is viewed as a cachet in itself and is to be valued because of the kudos it provides a recipient.

In terms of the future it is essential that the legal profession moves forward and educate and develop people to maintain high standards. The challenge for the legal profession is to succeed in a changing environment.

### **Conclusion – The Future of Legal Education**

A likely outcome is that the type of lawyer required will change. The sector itself is likely to continue to expand overall, particularly with alternative business structures coming into existence, but the demand for ‘lawyers’ in the traditional sense is likely to remain steady.

Furthermore, the impact of Clementi and alternative business structures will mean that lawyers will increasingly require management and supervisory skills. There will be, like never before, a need for marketing skills and fundamentally a commercial awareness and understanding.<sup>34</sup>

Such a change in the nature of lawyers is likely to demand a change in emphasis on vocation orientated law degrees and certainly will make Joint Honours with Business courses increasingly attractive for law schools. Such courses will appear more attractive from an employability perspective. Equally, a move towards a Modern Legal Apprenticeship styled career structure creates opportunities for the legal profession, particularly in relation to foundation degrees.

Furthermore, it is not unthinkable that from within a working practice environment individuals will then go on to ‘study law’, with law becoming a postgraduate subject as it is in the USA.

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<sup>33</sup> Sherr, A (1998) “Legal Education, Legal Competence and Little Bo Peep”, 32 *The Law Teacher* 37

<sup>34</sup> Ashcroft, C (2004) *Tesco Law: Clementi and Implications for Law Schools*

Chris Ashcroft, Senior Lecturer in Law, University of Sunderland, is of the opinion that exciting opportunities are emerging for law schools, and law teachers need to be thinking more creatively about these emerging practice developments and their impact.

**Eddie Keating**  
**NWUA**  
**November 2007**

**Acknowledgements**

There is no Sector Skills Council for Legal Activities and I am indebted to **Joanne McLeod of the Law Society** for her knowledge and guidance in producing this report.