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An independent mind

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QUALITY, VALUES AND STANDARDS:
THE FUTURE LEGAL LANDSCAPE[1]

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1. Introduction

I have taken as my theme the title of this Conference, 'Quality, Values and Standards', and I shall address it in the broader context of where this market is going, and the role and the implications for quality, values and standards in that marketplace.

My first point is that this is an exciting time for a large and valuable market. There is a changing landscape, for sure, but it is driven by things that by now we largely know – even if we do not yet fully understand them. It is driven by competition – the normal forces of competition in an increasingly crowded and competitive market – and it is driven by the changes that the Legal Services Act will bring with it. And I do use the word 'exciting' deliberately. I am often accused of being a doom-monger and of wanting to dumb down this profession. Well, let me assure you that nothing is further from the truth on either of those counts. There is a great future for this marketplace, and the last thing I want to see is the fall of standards of those within legal services.

However, what lawyers can no longer do is equate the legal services marketplace with the legal profession. The reason is that this privilege (and it has been a privilege to the profession) will no longer obtain. The consequences of losing that privilege could be profound. Now, if someone wants to read that profundity as being doom-laden, then that is their interpretation, not mine. I shall talk about training later, but what I believe

[1] This paper is an updated transcript of the keynote address to a Solicitors Regulation Authority (SRA) Conference on Quality, Values and Standards held at Warwick University on 29 October 2009.

is that we need higher standards, not lower. So I am anything other than in favour of dumbing down our professional standards.

But the profession does still have an issue. If this is a marketplace, then there is an issue about the extent to which it is a full and true marketplace. I do not think it is, and nor do I think it can be: regulation of any kind will distort a market. So we have to look at that balance between regulation and market forces. It is not an easy balance to achieve – I think largely because of what has happened in the financial crisis and the notion of the 'efficient markets hypothesis', which has driven so much of our approach to unleashing market forces and to what might have been described as 'light-touch' regulation. The failings of that approach have been laid very bare.

My concern, then, for this marketplace as we move forward, as we try to achieve the right balance, is that we probably do need to take account of market forces. They are there; they are going to have an effect. But we also need to make sure that we do not lose what I describe as the 'public good' dimensions of the legal services marketplace. The public good of the rule of law, of the efficient and effective administration of justice, and of access to justice: all of those bedrock principles that we have to hold dear in a modern democracy. If we totally unleash market forces, there is a significant risk that some of those public good dimensions could either be lost, or be undermined or distorted – and that for me is a price too high to pay.

So it is an exciting time, but it is not without its challenges. What is it that we need to preserve and protect as we move forward in that scenario and look for the balance I have described? In my view, we need to preserve and protect quality, values and standards. Without professionalism and integrity, it seems to me that a profession does not have much to offer in a world driven by market forces. What we have to do is position professionalism and integrity (by which I mean quality, values and standards) as part of the competitive advantage that qualified lawyers bring into this marketplace. We have to preserve those things; we have to protect them; because if we do not, the threats to the public good dimensions that I described earlier become more acute.

We have to look at quality, values and standards as a source of competitive advantage; and that, for me, means making a difference and being perceived to be different as a result of those features. There is no competitive advantage unless we are different. There is no advantage in being the same. There is clearly no advantage in being worse. We have to be different, and we have to be different in a better way. I believe that quality, values and standards are the foundation of that difference.

So if we need to preserve and protect them, what do we need to redefine to make that happen? Well actually, I think we need to redefine what we mean by 'quality', 'values' and 'standards' in a world that is and will be different.

2. Quality

If we need to define or redefine quality, then I think we need to adopt a broader view of it than most lawyers seem to have. Quality is not, and cannot just be, about *technical* quality – the ability to understand and apply technical law. Lawyers have to accept the

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service dimension to quality, too – the experience that clients receive from those who advise them on legal issues. That service might be as banal as being open at the right times; being receptive and willing, and not regarding a client enquiry as a burden too far, but rather as something to be cherished; being available when clients need you; talking to them in language they understand. The issues, the determinants of service quality, are no different for law as they are for any other service business. It is not too difficult to work out what they are; it is not even that difficult to embrace them and provide them.

But the other dimension of quality that often is overlooked is what I would describe as the *utility* of the quality provided. Do lawyers actually give clients legal advice, wrapped in good service, in a way that is useful to them? Sometimes, sadly, when we go and talk to clients, we find they do not. The utility of their quality does not hit the mark. Clients are being asked to pay for something which they do not find sufficiently valuable, because for instance lawyers are sitting on the fence – giving them, "on the one hand, this; on the other hand, that" sort of response. Or saying, "Well, it's your decision". Lawyers have to relate the advice they give to their clients' personal or business circumstances and help them to make a decision and move forward.

I often hear lawyers saying, "Our ambition, our *raison d'être*, is to provide high quality", and they say it in such a way that implies that 'high quality' is an absolute and can only be attained by qualified lawyers. Well, I think if you look at the package of quality – technical, service and utility – it is in fact a variable. It is possible to deliver different levels of quality. I accept that there is a level below which the providers of legal services should not go; but there are levels, beyond that minimum, to which they might aspire. However, in aspiring to them, and in wanting to provide high levels of quality in the total sense into the marketplace, they have to be absolutely sure that they can justify those high levels, and that they can provide them in a valuable way – which means that clients are prepared to pay for that high quality. And that, I think, is where the profession has an issue in its definition of quality at the moment. Quality is a multi-faceted concept and can be varied in its levels.

3. Values

It is actually quite difficult, I think, to encapsulate what the values of a profession, of a good profession, or of a good professional, are, and I can really do no more than scratch the surface on this one. I would describe those values as professionalism, integrity and serving the public good. In one way or another, most encapsulations of professional values seem to cover that territory. And I think you will find those values enshrined in the Legal Services Act in its professional principles, and in Rule 1 of the Code of Conduct. They set out, superbly, what the underlying values of this profession should be. I was very interested to see that Lord Hunt, in his recent review[2], latched on to the notion that Rule 1 is an overarching statement of the Code of Professional Conduct, to which everything else should be subordinate.

[2] *The Hunt Review of the Regulation of Legal Services* (2009, London) (available at: http://www.legalregulationreview.org.uk/files/Legal%20Regulation%20Report%20FINAL.pdf).

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So if we're looking for a statement of values, it strikes me that it is already there. But again, there is a problem in the marketplace, because it is all very well having those values, but they must *mean* something to those who pay providers for manifesting them. I am not saying that clients should not pay for good values; what I am saying is that sometimes they do not *understand* that they should. Lawyers need to promote what those values mean, and what difference they make, if they are to give them meaning to clients and the public. We can define them, but we also have to give them meaning. The issue for me on values is not that they are necessarily a variable, but that lawyers have to prove their relevance.

4. Standards

I sometimes find it difficult to draw a distinction between values and standards. Be that as it may, as we look forward, there is conceivably a difference between what we might describe as *minimum* standards, which have to be assured and probably protected by regulation and enforcement, and *aspirational* standards – those that go beyond the minimum, those to which excellent practitioners subscribe and aspire, but to which all practitioners might not necessarily be linked.

Now, I might be somewhat at odds with Lord Hunt on this one, because his view in his report was that there should be but one standard in the profession. I agree with him if what he means is that there is one standard as a threshold. I agree with him if he means that there should be one standard as against all providers of legal services however they happen to be qualified or licensed. But I do think there is scope for some providers to offer higher standards than others – those that go well beyond the minimum. So standards is probably both a threshold issue and a variable.

5. Interim conclusions

I therefore suggest that we need to redefine quality, value and standards. We need to do it in the context of a new landscape and emerging new business models. I do not believe that quality, values and standards are antithetical to business and competition. We just have to remember that there will be times when business pressures might tempt some professionals to compromise some of those qualities, values and standards, and they have to resist that temptation. We also have to be acutely aware of the reputational cost on all providers of the behaviour of those who do not subscribe to even the minimum levels of quality, values and standards, but yet are out there delivering legal services to clients who see and experience that less-than-valuable, less-than-professional service. There is a consequence and cost to all of us of that poor experience that clients have.

My conclusion in all of this, therefore, is that we need to rethink. We need to change the business models through which legal services are delivered. We are moving from what has been a relatively homogenous business model to probably a world of – if not infinite variety, then certainly a lot of – variety. As we think about this concept – and I will describe what I mean by it in a moment – what I want you to imagine is a spectrum from a professional, traditional, end (the world we have probably been used to) right up to a nakedly commercial end (one that might even abandon any elements of professionalism that we might recognise). The important thing is that it is a spectrum; it is not an

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either/or. Part of the question, part of the challenge, part of the strategic debate, that any provider will have to consider, is where they want to position themselves on that spectrum.

Now, it is often suggested that professionalism might not find a place at the extreme, commercial, end of that spectrum. However, I would not want you to think that we can afford only to associate quality, values and standards with the professional end of it. It seems to me that one of the misgivings that we might have in the way the profession has reacted to these reforms, is that it tends to the view that only lawyers can provide quality. Well, is that a mistake! The commercial providers are often *passionate* about quality. They have brands and reputations to protect and promote. They do not set out to compromise on quality. Yes, they do things differently; their definition of quality (given that it is a variable) may be a different one to a lawyer's, but they are no less committed to quality.

I believe that what lawyers need to find, wherever they are in the marketplace, is a new balance along that spectrum so that they can achieve relevance of quality, values and standards, but can nevertheless provide them and explain them as cost-effective and valuable attributes of their service.

So let me turn to reinventing the business model and how that is influenced by the future legal landscape – again, emphasising that it is a spectrum from very traditional to very commercial.

6. Business models

My view is that a good business model will deliver four things, and I shall describe each of the four and elaborate on them[3]. The four, very briefly, are that a good business model will, first, create value for clients. Second, it will deliver returns to the owners, investors and staff of the business. Third, it will be appropriately resourced; and fourth, it will secure the appropriate investment and financing. If you look at the business model of any business, whatever it does, those four things have to be present for it to survive and deliver its own strategic goals. The same is undoubtedly true in law.

6.1 Creating value

What we face, for the first time in any acute form, is a crucial distinction – a flaw, and arguably something of a hidden flaw, in the market. It is the distinction that the Legal Services Act lays bare, between reserved legal activities and non-reserved legal activities. Lawyers really have not had to worry about it much, because they have been authorised to deliver reserved legal services. Lawyers have been privileged, almost by default, to deliver every legal service you can conceive. It has been a privilege because by and large no-one else has wanted to compete against them. Most legal services have been delivered by lawyers and to that extent therefore the legal services market has been equated with the legal profession. But in the future (as in fact they could have in the past, but maybe without the encouragement we now have), other people can and

[3] For a fuller treatment of business models, see Mayson (2010) *Business models in legal services: the meaning of 'business model'*.

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will deliver non-reserved legal activities. Indeed, you do not have to be an authorised person to deliver a non-reserved service – that is, someone does not need to be a lawyer at all. That is why unregulated will-writers do what they do and are not regulated.

So here is a form of competition: the delivery by people who are not legally qualified, of legal services that are not reserved. They are not regulated; they will not be regulated; more than that, they *cannot be* regulated. There is nothing in the Act that gives the Legal Services Board or any regulator in the future the authority to regulate non-authorised persons delivering non-reserved services. So think about the competition that this could unleash. Think about the value that other people could create for clients by doing things very differently. Think about extending the will-writing model to most other non-reserved activities. It is actually worse than that (and maybe I am doom-mongering at this point!): most law firms, when they look at what they actually do, in terms of reserved and non-reserved activities, find that at least the majority, and in some cases as much as 80%, of what they do is not a reserved activity. To put that somewhat differently: 80% of their business in the future is at risk of competition from people who do things totally differently and not in a regulated way. Tell me that this will not change the competitive landscape for non-reserved legal services: it would have to.

This distinction between reserved and non-reserved activities, and how we deliver value to clients through both reserved and non-reserved activities, becomes a key competitive feature for the future. Lord Hunt again, in his report, has suggested that will-writing and all probate services should be brought within the regulatory net, that is, become reserved activities. Even if that happened, it leaves an awful lot of other advisory work out there that would still not be subject to regulation.

So, the competitive landscape and the way that lawyers deliver something that is valuable and meaningful to clients will change over time as new people do things differently and change the client experience and expectation of what valuable legal services look like. If lawyers are going to relate quality, values and standards as part of their package to the price they charge and to the value they deliver, they really have to understand what it is that motivates clients to buy legal services from anyone. Why would they choose to buy from a lawyer if they do not have to? Why would they choose to buy from a lawyer who is more expensive if they do not have to?

Logically, they would only do that if lawyers can persuade them that they are providing something that is worth that premium – or if they can find a way of delivering that value at the same price. But believe me, both are significant challenges. Persuading clients to buy something that ultimately they do not need is a 'big ask'. Getting lawyers to deliver better, on a lower cost-base than some of these other very commercial providers, and at the same price, almost strikes you as impossible. There is therefore a real challenge in how lawyers create value and what it is they promote to the world out there, given that it is not and cannot be a level playing-field as between lawyers and non-lawyers delivering only non-reserved activities.

The package of the values, the ethics, the professionalism, the integrity, that lawyers want to bring to the marketplace, and want to deliver to their clients, *can* be a source of value. They have to find a way of promoting it. But, by and large, what have lawyers done? They have not used it as a point of differentiation. They have not used it as

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something to sell to the marketplace. They have used it as a point of resistance, by arguing that because the non-lawyers cannot and will not deliver these things, they should not be allowed to offer legal services at all. In other words, they do not want to face competition, and will use quality, values and standards as an argument for trying to remove the competition. That, I am afraid, will not work. It has not worked. That game has been lost. It is time to move on.

Creating value becomes the single most-important part of the new business model, because if a firm cannot do that, it has no business. The complaints profile of the profession has been a driving force of the legal services reforms, and so, as Sir David Clementi put it in his final report[4]: "If certain lawyers continue to reject the notion that they are in business, such complaints will continue until they are indeed out of business".

6.2 Generating returns for the owners, investors and staff

The essence of generating returns in legal practice is managing for profit. But most law firms manage for turnover; they merge for turnover. They rarely think about where value is created and how they capture some of that value for themselves. They need to understand the economics of different practice areas. They have to engage in profit-centre analysis and make it meaningful and useful. But even if they could understand profit (and far too few lawyers do), they still have a fundamental problem – which is too many profit-takers. There are too many equity partners in this mix. There is too much in-built high cost in the form of qualified lawyers firms probably do not need – or who are not fully engaged and employed. There are variable costs that have in effect become fixed in the way many law firms choose to do things, from their insistence on practising in certain ways with those expensive legally qualified (or even not qualified) human beings.

So law firms have a profit package that increasingly does not make sense and is difficult to sustain. I have been musing recently on how we come to be in this position. You could say: "Well, it is that lawyers don't understand management, they're not interested, and they don't want to bother with it". But I am not sure that this is actually either fair, on the one hand, or true, on the other. What we have is fundamentally a partnership model. It comes from the days when solicitors used to qualify through the five-year articles route.

The essence of being a professional was being self-employed. This was fine if you were in practice on your own: you could be a self-employed sole practitioner; but if you wanted to practise with someone else on a self-employed basis, then you have to go into partnership. It is fascinating how many lawyers of old became partners the day after they were admitted to the Roll. Self-employment was the hallmark of professional practice. There was a long qualification period – training, socialisation and all the rest of it – but once you had gone over that hurdle, you were in business and you were there as a partner. So the whole model has been about partnership.

[4] See Foreword, paragraph 10. The report is available at www.legal-services-review.org.uk/content/report/report-chap.pdf.

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But then we distorted the model over the years, because partners do not necessarily want youngsters coming in at the same level as them: "they might have qualified, but they're really not as good as I am! They're not contributing as much as I am, and they're not worth as much as I am". One of the explanations for lock-step profit-sharing (where you come in at a lower level and build up over time), is actually that you notionally take the same profit-share as every other partner, but you forego some of it as a pseudo-capital contribution over time. You built up your capital, not by borrowing it, not by having to find it, but by converting some of your income profit into capital.

Then of course we fundamentally distorted the whole thing by deferring entry into partnership, and by changing the lock-step model. By borrowing to finance the capital contribution as well as differentiating earnings, the whole system became terribly confused and then began not to work.

There was therefore some cultural background. But then for me the real nail in the coffin comes in 1968 (and we can pinpoint it). The principle of company law is that you cannot have more than 20 members without being required to incorporate. That has been a principle of company law for a very long time. What happened in 1968, because law firms were growing, was that they were exempted from that requirement, that compulsion, to incorporate. All professional partnerships were allowed to continue as partnerships and, of course, they continued to grow. The pressures on the model that were already there were then expanded and exacerbated by further growth and diversity, and they now bring us to a breaking point.

I think it is a travesty that firms were not required to incorporate. That would have forced them to behave like normal businesses. It may have saved the profession from many of the excesses and problems, and the disconnections from the marketplace and clients, that we now find writ large. It might have saved us, even, from the Clementi Review and the Legal Services Act.

The process through which law firms create and extract value has now become so distorted and so unhealthy that there are few choices about where to move to in the future. And if we throw into that mix the cost of quality, values and standards then, if that cost is not perceived to be valuable by clients, the only thing that can happen is that profit is reduced: lawyers will have to bear the cost if clients will not pay and those benefits are still delivered to them. Alternatively, lawyers will start to abandon quality, values and standards, because they are no longer willing to pay for them and nor are the clients. That's a pretty dire position to arrive at.

I am just going to take a little sidetrack at this point about publicly funded work, because extracting a return from publicly funded work, as we know, gets ever more difficult. My fear is that we may already be at a point – or even beyond a point – of no return. If those who provide the service do not make a decent return on what they invest (be it financial, human, social, reputational or emotional investment), they are not going to do it any longer, and that is what we are beginning to see. Providers will exit the market. This is a huge public policy issue, and I do not think that it is being sensibly addressed. I also do not believe that endless reviews of the legal aid system and legal aid funding actually get to the nub of the problem. We are losing legal aid firms from the system. We are putting an increasing burden on the third sector, which is not funded and increasingly finds it difficult to raise funds, and so is itself in

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something of a crisis. Someone really needs to step back and look at that whole area of the publicly funded legal services market (if indeed we should could it a 'market'). It seems to me that if that we cannot get this right, it actually offends every one of the regulatory objectives in the Legal Services Act. Someone therefore needs to look at this very seriously, very deeply, and come up with a holistic view about how deal with these issues – access to rights for those who cannot afford it and are not otherwise funded – or else we shall have a huge crisis in the rule of law.

6.3 Resourcing

The third element of the business model is resourcing. Having the right resources in place is a necessary precondition to being able to deliver value to clients and returns to the owners. My fundamental criticism of the profession at this point is that there is an over-supply of qualified lawyers in our law firms. If you only need to be a qualified lawyer to deliver a reserved activity, then there had better be a very good story to tell the client to persuade them to buy something that is more expensive than they might need, and which someone else, by doing it differently, might provide better and cheaper.

In other words, we have to rethink leverage. The whole notion we have of leverage being the ratio of employed fee-earners to equity partners in a firm is now passé. We have to rethink not just that relationship, but also the ratio between non-qualified fee-earners and qualified fee-earners, and between human beings and technology. There are many different forms of leverage that we can and must explore here as we resource firms to deliver value in a very different market.

Lawyers need to rethink the physicality and virtuality of how they deliver legal services. There is a growing generation (Generation Y) of consumers out there who do not visit shops and stores and service providers. They do it virtually. They do it at any time of the day or night, at their convenience. Lawyers have to find ways of delivering legal services in ways that conform to this generation's expectations, as well as a myriad of other expectations of other clients that are probably somewhat still rooted in the physical. We have to find answers to those resourcing questions.

Do firms need all of their resources internalised within the business? The trend towards outsourcing and external contracting is not just a fad; it is part of the fundamental rethink of how a firm is resourced cost-effectively to create the value that it seeks to deliver to its clients. We also probably have to abandon the notion that all legal practice is based on virtuosity. It is not: there is a lot of process in it, and where it exists or where it should exist, lawyers must find it, must provide it, and leave virtuosity to those who are truly able to deliver it. Sadly, there are far more lawyers out there who think they are *virtuosi*, but they are not. Again, we have an over-supply of people who think they can deliver virtuosity, but either cannot or are not needed.

We then have to step back and ask, "Well, in this emerging marketplace, with this very different human resource we require, how should our people be trained? What should they be trained for? What's the package of skills and competencies that those people need?" And if we are going to face a much less homogenous market – indeed almost an infinitely variable market – we cannot pretend that one approach to training is going to deliver everything we need. We probably do need much more variety than we currently

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have. There might need to be some trade-off in breadth and depth. The legal services field is now too wide to cover everything in adequate depth. We are going to have to make some choices about where the emphasis goes at different points in someone's career; and the design, in that sense, of training and development becomes much more challenging.

This all begs the question, "What's the point of qualification?". This question is deliberately ambiguous. The point: what is the objective, what is it that we are trying to do to and for these people? The point: do we need to do it at all, do we need as many of these qualified people in the marketplace in the future? Arguably not. The point: the time at which the professional qualification is awarded. You may have picked up in the legal press recently that we said some somewhat contentious things about that point of qualification. I will not labour it now, but we do have to think what it is we are trying to deliver in competence and experience into this marketplace. Again, the distinction between reserved and non-reserved activities becomes fundamental. You do not *have* to be trained to deliver non-reserved activities: we therefore have to articulate exactly what it is that we are adding to the people who are qualified and who do deliver those services, over and above whatever someone else in the marketplace could do differently with non-qualified people.

The whole question of resourcing goes right to the heart of quality, values and standards, because it is the resources that deliver the quality, the values and the standards. Law firms have to have the right resources, the right number, the right quality, and the right cost, and, it seems to me, in that picture you also have to value management. Those of you who know me will recognise that this has been a hobby-horse of mine for more than 25 years – and I am still working on it, because we still do not value management well or well enough. We probably do have to find routes for accrediting those who manage in law firms. We are going to have to designate some people as 'fit and proper' to do the job of the head of legal practice and the head of finance and administration in alternative business structures. Actually, I think that this is an approach that can and should be applied to *all* law firms, not just ABSs. There should be people who are designated with responsibility to the regulator for these very important functions, and we have to find some way (though I am not quite sure what it is yet) of knowing what their competence or credibility is to perform those functions. The mere fact that someone is a qualified lawyer does not necessarily make them a good person to account to the regulator for good practice or compliance or make them a good manager. Yet that is what we seem to believe at the moment, because anyone who is a lawyer can be an owner or manager. But I do not believe that this is good enough for moving forward. We have to find some way of working out how we deliver that management resource as well as, if not better than, the legal resource.

6.4 Securing investment and finance

In some ways, perhaps this is the most exciting element of a business model because it is the unknown part of the equation at the moment. We do not really know who is out there as a third party who might want some ownership stake in a law firm or to provide some finance to it in the hope of a purely financial return. There will be new options, new risks, and new rewards. Those external owners and investors will see things

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differently. They will be looking for returns to capital and income. They will be looking for an exit. They will be thinking, "Is this a serious, profitable, sustainable business?" in ways that most lawyers do not even have on the radar screen at the moment. And as third parties come into these businesses, they will redistribute the returns.

We have to rethink profit-sharing, because at the moment, through the partnership vehicle, we find a very mono-dimensional view of 'profit': it is net profit and it is paid to equity partners. It is entirely an income return, with no capital appreciation. Typically, the only capital return that most partners get is not actually a return *on* capital, but a return *of* capital. They get back exactly the same amount that they put in when they first 'invested' it 10, 20, 30, 40 years ago. You imagine that as a proposition to an external investor: "Put £100,000 into this business, and in 40 years' time we'll give you ... £100,000 back"! You will not find that business model flying very far! You would not even see it leaving the ground.

What partners have to do is rethink how they reward themselves and what they are being rewarded for. What is the return they should expect on their investment? Not just a return *of* financial capital, but *on* that and on their human capital (their time and their expertise). Actually, their net profit *is* a return on all of those things, but typically they just lump it all together and do not distinguish the different elements being rewarded. That is what third-party investment will force them to differentiate: returns on financial capital invested; returns on the labour partners give to the business; and finally the bit that third parties really are interested in is whatever else is left. The sad news for many law firms is that there is *nothing* left, there is no third part. They are not in fact making enough profit to pay a proper market rate of return to financial capital and to labour, let alone to entrepreneurial risk. There is no meaningful return to the business, so no-one is likely to invest in them. No-one is going to give them a cheque and say, "Waltz off, retire, play golf, go yachting, do whatever you like," because that business is not actually worth what it is paying its current owners.

So some partners will be in for a shock if they do not start thinking about the investment and return issue, the risk, and indeed their own exit. At what point are they going to get out? It might not even be their choice, of course, on timing: they might be booted out, or the good Lord might take them away rather earlier than they had anticipated. But at some point they *will* leave, and at some point there *has* to be a return of capital and any accumulated undrawn income. How is that going to happen? Who is going to finance it? Who is going to provide the wherewithal for some of that investment to be repaid? Certainly, as I talk to partners in small and medium-sized firms, this is an issue that keeps them awake at night. They have no exit route. There is no-one inside the firm who wants to take over their share or who can afford it; and frankly there is no-one outside the firm who would dare risk taking those sorts of bets, either. The current business model therefore needs rethinking to make sure that these issues are brought out, that partners understand the drivers of profit and return, and that they structure the firm effectively to deliver them.

Now, there is a possibility with these external owners and investors that the pressures on quality, values and standards could be acute. There might be adverse interests – there *might* be. In fact, probably we could say that there *will* be. But there is a regulatory framework within the Act and within what will emerge as the licensing rules

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for alternative business structures that are designed to address those adverse interests and those pressures. The system – the framework, if you like – is probably as robust as it can be. What will make the difference is attitude and behaviour. Yes, it might only be possible to deal with that when the horse has already bolted. We might only be able to shut the stable door after the event, but you cannot really blame the regulatory framework for that. What we are going to have to do, it seems to me, is place huge reliance on the integrity and professionalism of the heads of legal practice and of finance of administration. We have to have the right people in place. We have to give them the authority and any training that is needed for them to do the best job possible, because without these things, this part of the business model will creak and possibly crack.

It is definitely time to rethink the business model. If you put all of those core dimensions of a business model together, you have scope for a lot of variety – many, many different ways of doing things. Different ways of creating value; different ways of extracting profit. Different ways of resourcing the firm; different ways of financing it. That is the heady mix that we now have to get our minds around. Part of the training challenge, it seems to me, is helping those who are not predisposed to think about these issues in these ways to do that. If we can get them to that point, we should end up with robust business models and therefore successful providers of legal services.

7. Conclusion

So what are my conclusions at the end of all of this? The future is bright, but it will be different. That much we know. I am convinced that the 'old normal' is not coming back. Those firms strategising on the basis that yesterday will become tomorrow are probably in exactly the wrong place. They need to rethink the way this market is going, how it is going to be different, and how it is going to affect them. The good news is that this future will require both traditional and new models. I am not suggesting at any point that the traditional law firm is doomed, but what I will say is that there will not be enough room in the new marketplace for all the firms that want to remain traditional as we seem to have at the moment. Some of them have to shift or go out of business, but there's scope right across the spectrum.

There will be new challenges to quality, values and standards. Some of those will be created internally by law firms themselves as they find new ways of doing things, new ways of resourcing themselves. And yes, there will be challenges from the outside as new owners and investors, and new clients, think about doing things in different ways and challenge the profession's traditional views. All of those legal services providers, it seems to me, should be trained. We need to find new ways of integrating good business practice, the profit motive, and professional ethics into a meaningful and sustainable business model. It is not impossible, but it needs thinking about.

The foundations for all of this, for me, are in the Legal Services Act's regulatory objectives and the professional principles, in entity and personal responsibility, and in effective oversight by regulators. The infrastructure is certainly there. That system has to work if we are to maintain any semblance of quality, values and standards. But the quality, the values, and the standards are the manifestation of those framework

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foundations – and they will almost certainly manifest themselves differently in the future legal landscape. What we need are the right attitudes and the right behaviour to make the system work.

I think that we do have to ensure that quality, values, standards are defined or redefined, and that they are preserved, protected and reinvigorated for the better. If we can do it, we should do it, because never has effective regulation and training been more important to the providers of legal services and their clients than it is today. I have a passion to see a strong, ethical, sustainable and successful legal services market. I commend anyone, including the SRA, whose initiatives and efforts will drive us on that journey as we go forward. Thank you.

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