



# Legal Services Institute

September 2011

## MANAGEMENT OPPORTUNITIES IN THE POST-LSA WORLD<sup>1</sup>

**Professor Stephen Mayson**

Director of the Institute

### 1. Introduction

Having spent more than 25 years of my life promoting the idea of ‘the business of law’ and the role of professional management in it, I commend the Institute of Legal Finance & Management for its mission and work. I also very much hope that its members share my excitement and enthusiasm as we approach 2012.

Interestingly, what we might describe as ‘the post-LSA world’ is not specifically driven by the Legal Services Act. The legislation and accompanying changes in regulation are now part of a much broader and deeper shift in the nature of 21<sup>st</sup>-century legal practice. The shift reflects fundamental changes arising in a mature legal economy working its inevitable way towards a new bargain with increasingly well-informed and sophisticated buyers of services in an over-supplied market. This bargain – and the pace of change – is accelerated by the financial crisis and the Act’s liberalising impetus; but these are accelerators rather than drivers. The change would have happened anyway.

### 2. How the demands on management are likely to change

The new world of legal services will require two related contributions: discipline, and professional management. The management of strategic business risk has become more complex; and the expectations of regulators, clients, and external lenders (and, in the future, external owners and investors) are more onerous. These expectations cannot be met, let alone exceeded, without discipline and the input of those who understand business and management. Let me be clear: ‘discipline’ does not necessarily mean loss of control or professional autonomy for practising lawyers; but it will mean a willingness to be clear about objectives and methods, to be subject to performance assessment, and some loss of complete personal freedom.

---

<sup>1</sup> This paper is a transcript of an address by Professor Mayson to the Annual Luncheon of the Institute of Legal Finance & Management at the Middle Temple on 21 September 2011.

The nature of law firm management will in my view be influenced by four principal demands (and in 'law firm' I include new providers of legal services who enter the market from a non-legal background):

1. First, firms will have to manage for profit rather than for their historical preference for growth and turnover: they will need to collect or find the data for effective profit centre and competitor analysis; they will also have to sharpen up client intake policies and procedures as well as their approach to performance management.
2. Second, new attitudes to managing and assessing contributions to strategy and business plans must be encouraged so that capital requirements and the allocation of returns can be assessed accurately: there is a need for greater transparency on these issues because 'true profit' (after paying for financial and human capital) is the return to risk and we need to understand better who has borne the risks and who should be rewarded.
3. Third, a new approach to structure and governance will be needed to drive more effective decision-making and supervision: this will ameliorate some aspects of 'soft' partnership cultures, as well as giving more credence to board positions with non-executive input.
4. Fourth, all firms will need a sharper conception of 'strategy' and 'business model'. These provide the context for personal action and the basis of accountability: they therefore need to be clear in their focus, and be well articulated and communicated.

What many firms have not realised yet is that these demands are the same whether they wish to participate fully and enthusiastically in the new future or whether they simply want to survive.

### **3. How the roles of non-lawyer managers could evolve**

After years of non-lawyer managers being part of 'them' in the lawyers' conceptions of 'us and them', the time for 'them' might just be around the corner. Not only should the new world of legal services offer more credibility to managers, there are three distinctly different new roles already with us or in the offing.

The first new role is the brainchild of Sir David Clementi. His recommendation that new business structures should have a Head of Finance & Administration was carried through into the Legal Services Act. Given that most law firms are over-administered and under-managed, I would have preferred Head of Finance & Management. However, at least the SRA had the good sense to extend the requirement for this position to all firms. It's a pity that they also had to change the terminology from 'Head' to 'Compliance Officer': there's a world of difference in status and credibility in a lawyer's mind between a head and a compliance officer, and a real risk that the latter will be a downgraded function. However, the appointment of a HoFA needs to be approved by a licensing authority, and I would surmise that membership of the ILFM will put members in a strong position to gain approval.

The second new role lies in shifting from a member of the 'support staff' to being an owner. This role is already with us through legal disciplinary practices, and will be further extended with alternative business structures. In a war for talent that has to convince the best professional managers to join a firm, using ownership, shareholding or share options as part of the package has to be a sensible addition to the weapons in the armoury. Indeed, we have the intriguing possibility of non-lawyer managers owning 100% of a law firm. Imagine that: the cats still might not want to be herded, but they would have collars and leashes to be pulled into line by a new breed of cat-herders! Experienced non-lawyer managers, such as members of the ILFM, will be well placed to understand the nature of the business they own.

The third new role would be using law firm management experience to become non-executive directors or advisers to enlightened law firms or to new players looking to enter the market. Such a role is not dependent on the LSA, but the willingness of businesses providing legal services to accept management discipline and the input of credible ‘outsiders’ is likely to increase. Again, members of the ILFM should be well placed to take advantage.

#### **4. The emergence of a ‘transfer market’ for chief executives**

My closing thoughts relate to the movement of law firm managers from one firm to another. While senior administrators and support staff have for many years been moving around law firms, the new world will probably see movement at the most senior, chief executive, level as well, in ways that we have not yet seen.

The new regulatory world requires the mandatory appointment of approved HoLPs and HoFAs (or COLPs and COFAs): success in these roles might encourage the development of a headhunters’ market where either commercial achievement or regulatory compliance is presenting challenges.

There is also a growing realisation and acceptance that, although the legal and regulatory obligations on lawyers make the nature of legal practice a different vocational pursuit than many other commercial activities, the nature of the firm as a business entity is not so far removed from the rest of the business world as some would prefer to think. The new world will require a shift to building a valuable entity or institution that will be attractive to investors and financial markets, or that will enable the smoother accumulation and transfer of ownership interests. The ability and experience to do this is not yet prevalent in the legal sector, and the transfer of successful chief executives and senior managers will play a part in the distribution of this know-how among firms. Indeed, some lenders and investors might well insist on the appointment of their own choice of management team as a condition of their financial support.

#### **5. Conclusion**

Tectonic shifts in those who control access to legal work, in the methods of acquiring that work based on the power of brands or procurement processes, in the delivery and resourcing of legal services, in the geography of supply and the increasing influence of virtual practice, in the structure of businesses, and in the economics of scale, funding, and the distribution of returns all suggest that we are not facing an era of merely incremental development. It is entirely possible that, in the new world of legal services, management will be *the* defining resource.

The future for law firm managers is bright, so seize the day and herd those cats!

## Legal Services Institute

The Legal Services Institute (originally the Legal Services Policy Institute) was established by the College of Law in November 2006 as part of its charitable activities. Its principal objectives are to:

- (a) seek a more efficient and competitive marketplace for legal services, which properly balances the interests of clients, providers, and the public;
- (b) contribute to the process of policy formation, and to influence the important policy issues, in the legal services sector and, in doing so, to serve the market and public interest rather than any particular party or sectional interest;
- (c) alert government, regulators, professional bodies, practitioners and other providers, and the wider public, to the implications of these issues; and
- (d) encourage and enable better-informed planning in legal services by law firms and other providers, government, regulators and representative bodies.

The Institute seeks to form and convey independent views that it believes reflect, support and promote the public interest rather than the preferences or views of other interested parties. Where the College might have views as a provider of education, these are expressed separately.

### Legal Services Institute

The College of Law  
Gavrelle House  
2 Bunhill Row  
London EC1Y 8HQ

Tel: 01483 216393

E-mail: [lsi@lawcol.co.uk](mailto:lsi@lawcol.co.uk)

Web: [www.legalservicesinstitute.org.uk](http://www.legalservicesinstitute.org.uk)