

Valuation devices and the dynamic legitimacy-performativity nexus: the case of PEP in the English legal profession

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Introduction

Valuation devices have attracted considerable interest in accounting scholarship (e.g., Froud et al., 2006), social studies of finance (Muniesa et al., 2007), cultural sociology (Sauder and Espeland, 2009) and management scholarship (Lockett et al., 2015). Inspired in particular by Callon's (1998) work on the framing and qualifying processes associated with valuation, the literature has focused on developing increasingly sophisticated accounts of the agency of valuation devices and their effects on markets (MacKenzie and Millo, 2003), organizations (Pollock et al., 2018) and practices (Callon and Muniesa, 2005).

Responding to Robson's et al (2007: 521) seminal call to better understand "*the process of acquiring and developing the legitimacy of audit technologies themselves*", critical accountants have, in particular, examined how the metrics and practices of valuation are legitimized and in turn adopted by different constituencies. Thus a number of important contributions explain how a valuation device is "transformed from an abstract 'matter of concern' to a matter of (organizational) fact" (Power, 2015: 50). This work emphasizes the creation of appropriate supportive infrastructures (Power, 2015), the building of trust in a particular device (Jeacle and Carter, 2011), and the strategic targeting of key constituencies (Andon et al., 2014) and networks of influence (Gendron and Barrett, 2004) that can help to overcome resistance and support implementation (O'Dwyer et al., 2011). As such, existing research delivers significant contributions by highlighting the way devices become legitimate. There are, however, two interrelated issues that these studies do not address.

First, studies have focused on how legitimacy may be achieved in the first instance without considering how this legitimacy might be lost, regained, or maintained over time. It is widely recognized (e.g., Hansen and Van der Stede, 2004; Espeland and Stevens, 1998) that the adoption of valuation devices and accounting technologies more broadly is affected by "consensus which supports, albeit *temporarily*, the system of audit knowledge" (Power, 1996: 294, emphasis added). For example, Espeland and Sauder (2016) note the overt critique, attempted boycotts and ongoing

questioning of US News rankings that recurrently unsettled attempts to value law schools and degrees. It is important, therefore, to move away from a static or dichotomous understanding of legitimacy whereby something is or isn't legitimate and towards a more processual understanding whereby not only are there different degrees of legitimacy, but legitimacy also waxes and wanes over time (Tost, 2011; Deephouse et al., 2017, Suddaby et al., 2017). In view of this shift towards recognizing the dynamics of legitimacy, limiting our analysis to the birth and establishment of valuation devices, metrics or accounting practices is problematic as it provides at best a partial insight into their development, operation and influence. Indeed, Curtis and Turley (2007) show how the organizational effects of business risk audits depend on an ongoing process of organizational embedding. More longitudinal research is, therefore, needed about how the legitimacy of valuation devices evolves over time, if we are to understand the implications for the temporary and thus ever changing effects of devices on organizations and societies more broadly.

Second, the relationship between fluctuations in the legitimacy of valuation devices and variations in their performativity deserves more attention. A now well-established body of work (e.g., MacKenzie, 2006; Muniesa et al., 2007; Muniesa, 2014; Vollmer et al., 2009) documents the way a valuation device "performs, shapes and formats the economy, rather than observing how it functions" (Callon, 1998: 2). Empirical studies (e.g., Cushen, 2013; Keevers et al., 2012) have shown the powerful effects of performance - when a valuation device leads to actors fulfilling certain roles that are generative of the forms of value the device itself measures (Callon, 2007). Efforts to elucidate the mechanisms behind performative effects have, however, left two important questions unanswered. First, *when* a device becomes performative is unclear. As both Felin and Foss (2009) and Marti and Gond (2018) highlight, the boundary conditions of performativity have not been systematically investigated. In response, Marti and Gond (2018) propose a practice focused model to explain when performativity develops. They highlight a sequence of stages associated with experimentation and its influence on the practices of actors in a field. This approach undoubtedly reveals a number of important contingencies associated with performativity. However, as D'Adderio et al. (2019) highlight,

it also fails to address a second and related set of unanswered questions about what others have described as the “limits of performativity” (Brisset, 2016: 160) and more specifically “the social conditions for performativity” (Brisset, 2016: 166). As D’Adderio et al. (2019: 3) point out, the linear approach of Marti and Gond (2018) underestimates both the role of “contextual features” (i.e., how the realization of performativity is always situated in time and place specific conditions) and the dynamic recursivity associated with performativity (i.e., how actions associated with performativity can themselves affect future performativity). Together context and dynamism require a non-linear theorization of the boundary conditions of performativity and the feedbacks that result in changes in performativity over time. As Garud and Gehman (2019: 683) put it, performativity needs to be viewed “not as a destination but as an ongoing journey”.

In this paper we, therefore, respond to the gaps outlined above by examining the dynamic relationship between evolutions in legitimacy and forms of performativity. We ask: *How do evolutions in a valuation device’s legitimacy relate to its performativity?* Our analysis is based on a longitudinal study of the profits per equity partner (PEP) valuation device which between 1995 and 2013 became established as a key valuation device for English law firms. PEP initially emerged from the legal media as a device to compare, rank and value law firms, allowing clients, potential employees, and investors to assess what had previously been un-commensurable organizations. We show how over time PEP became an internal accounting and valuation device used by firms themselves. Through this case we advance work on the role of legitimacy in the adoption and performativity of valuation devices by drawing attention to the existence of a *dynamic legitimacy-performativity nexus*. Building on existing studies that highlight the multi-dimensional and multilinear nature of legitimacy (Andon et al., 2014; Deephouse et al., 2017; O’Dwyer et al., 2011; Robson et al., 2007; Suchman, 1995), we show how the waxing and waning of different forms of legitimacy – pragmatic, moral and cognitive – in line with the dynamics of the broader institutional environment (including trends such as globalization, re-regulation and commercialization change regulations and norms), affect the performativity of a particular valuation device. We also show how, simultaneously, performativity feedbacks affect the

legitimacy of a valuation device. Thus, we reveal a *performativity paradox* which has important implications for the effects of a valuation device on organizations. The more a device gains legitimacy the more it becomes influential and exercises performative effects on its surrounding context. The more this happens, the more the risk that tensions, contradictions and challenges will arise and begin to undermine the valuation device's legitimacy and consequently its performativity. In other words, we contribute to better theorizing the links between legitimacy, performativity and counter-performativity (Mackenzie, 2006; Cushen, 2014). This matters because it allows us to explain not only how valuation devices become performative in the first place but also how variations in performativity develop over time (D'Adderio et al., 2019; Garud and Gehman, 2019; Pollock et al., 2018; Espeland and Sauder, 2016).

Valuation devices and their performativity

The 'sociology of valuation and evaluation' (Lamont, 2012: 205) offers a range of tools for understanding "how an entity attains a certain type of worth". In focusing on the "practices, processes, and technologies through which things are made valuable" (Kornberger et al., 2015: 1) these literatures define valuation in broad terms: "sometimes it is about assessing value, sometimes about producing it, and sometimes about both" (Helgesson and Muniesa, 2013: 4). Valuation can thus be approached either quantitatively or qualitatively. Reflecting Dewey's (1939) distinction between prizing and appraisal, studies focus on financial conceptions of asset value as well as on more qualitative evaluations of status and worth (Vatin, 2013). As Helgesson and Muniesa (2013: 4) note, such diversity is a reflection of how studies of valuation devices emerge from diverse disciplines, from accounting to anthropology, sociology to science studies, but share a common interest in "valuation as a social practice". A central focus is on how different calculative practices such as commensuration (Espeland and Stevens, 1998), ranking (Sauder and Espeland, 2009) and classification (Stinchcombe, 2001) allow valuation. These practices "make the economic visible and measurable" (Miller, 2001:

379) and allow the “transformation of different qualities into a common metric” (Espeland and Stevens, 1998: 314).

The way valuation devices have performative effects is also an important theme. Studies have revealed how valuation devices create the entity they seek to value (Muniesa et al., 2007). For example, Napier and Power (1992) offer an early analysis of how efforts to value ‘intangibles’ such as brands by accounting firms resulted in ‘codifications’ that came to define rather than simply value the brands that were being valued. MacKenzie and Millo (2003) show how the Black-Scholes formula performed rather than simply assessed the derivatives markets. Muniesa (2014) talks of the ‘provoked economy’ and the way stock market prices and business valuations are performed through valuation devices rather than being a natural economic fact. Specifically, valuation devices are said to be performative in three ways (MacKenzie, 2006). Generic performativity is when a valuation device is used by key actors but with limited observable effects on the object of valuation. Effective performativity involves a valuation device being used in ways that notably affect actions and the object being assessed. The valuation device ‘makes a difference’ both to the economic world and to the object of valuation but without disrupting the fundamental features of the object of valuation. Finally, Barnesian performativity is an even stronger form. Named Barnesian performativity to reflect the ideas of Barnes (1983; 1988) about the active constitution of society through science, this form occurs when actions have ‘formatting’ effects that remake the object being valued in fundamental ways so that it better corresponds with what is deemed valuable by the valuation device in question

Most recently, the three forms of performativity outlined above have been supplemented by analysis of counter-performativity (MacKenzie, 2006; D’Adderio, 2008). Counter-performativity was originally introduced as a way to understand performative effects that lead to objects “conform[ing] less well to their depiction” (MacKenzie, 2006: 50). i.e., to capture effects that result in an object developing unexpected characteristics that undermine the utility of a valuation device. Esposito (2013: 119) suggests the financial crisis was in part a result of counter-performativity in markets as

unexpected behaviors developed in response to economic models. More recently the concept of counter-performativity has been developed to capture active resistance to the effects of performativity (Blok, 2011). For example, Cushen (2014) shows how financialized narratives and practices engendered cynicism, demotivation and even resistance in an increasingly alienated workforce and how in turn this had a counter-performative effect undermining managerial objectives and organizational performance. This leads MacKenzie and Spears (2014) to identify three ways that counter-performativity can emerge: through gaming, through the unintended effects of performativity, and through deliberate efforts to offset the 'bad' effects of performativity.

To date, however, there is limited understanding of the relationships between performativity and counter-performativity. In particular, more refined analyses of reflexivity (Espeland and Sauder, 2007) and performativity (MacKenzie and Millo, 2003) have been called for in order to better examine when (and when not) valuation devices are adopted and acquire performative or counter-performative effects (Brandtner, 2017: 201; Felin and Foss, 2009: 654). This is particularly relevant in relation to debates about 'false numbers' – quantifications that are inaccurate but "are tolerated because they [are] useful" (Lampland, 2010: 394). False numbers exist because actors prioritize the stabilization of a formalized quantitative means of assessment over the accuracy of the number itself. As an example, Dambrin and Robson (2011: 429) explore through the case of the French pharmaceutical industry the way flawed measures become influential. They reveal that actors "live and make do with 'imperfect numbers'" (Dambrin and Robson, 2011: 446) when they enable certain ends to be achieved, in their particular case helping pharmaceutical sales reps to simplify the complexities of assessing sales performance. Thus, false numbers become performative, leading to actions that are based on inaccurate calculations. In this context it is important to understand how accounting practices "become influential and institutionalised" (Espeland and Sauder, 2012: 8) despite their shortcomings; in the specific case of valuation devices this involves understanding "which groups notice or ignore an indicator, how they use it, whether they become invested in it" (Espeland and Sauder, 2012: 86).

Theorizing how valuation devices become influential is also important in order to counter concerns that the performativity thesis might also on some occasions over-emphasize the power of valuation devices to shape the objects they value (Hodgson, 2010; Vosselman, 2014). Marti and Gond (2018) address such concerns by highlighting a linear relationship whereby experimentation associated with generic performativity leads to anomalies (events that defy expectations) and effective performativity, which then generates shifts in practices and Barnesian performativity. They also highlight boundary conditions for each stage: with the role of material devices and the presence of powerful initial backers being needed for experimentation; with visibility effects and counteracting behaviors supporting the emergence of anomalies; and with discontent and sensegiving processes facilitating shifts within practices. Through their model, Marti and Gond (2018) establish how various forms of agency create possibilities for the realization of performativity. This is an important step towards understanding *when* valuation devices become performative.

However, as D’Adderio et al. (2019) note, the approach taken by Marti and Gond (2018) lacks an appreciation of both the dynamic and contextualized nature of performativity. They call for an alternative view of performativity that is “inherently relational” (D’Adderio et al., 2019: 2) so as to take account of how the wider landscape in which a valuation device operates, and the effects of recursive non-linear dynamics, both exercise an important influence on when performativity is realized or not. In this ‘relational’ approach, the way performativity generates feedback effects is, therefore, a central concern. For example, Garud and Gehman (2019: 682) argue that the performativity of a valuation device can be both “set in motion” by changes in the wider landscape but equally “undone” by them (see also Cabantous et al., 2016). This aligns with calls from Brisset (2016: 166) for greater appreciation of the recursive relationship between devices and their “social landscape”, given that a valuation device “has to become a social device, that is to say, it has to be socially accepted”. Indeed, Callon (2007) has acknowledged that the agencements associated with performativity fail, or counter-performativity ensues (what he refers to as an overflowing), when felicitous social conditions do not exist.

Some empirical studies of valuation devices have begun to explore the connections between a valuation device and its wider social landscape. For example, Ezzamel et al. (2012) examine how institutional logics affect the practices of those adopting budgeting techniques in the education sector, whilst O'Dwyer et al. (2011) suggests the strategies of seeking legitimacy for new assurance devices are based on attempts to conform with existing institutions. Komarova and Velthuis (2018) argue for a greater focus on the governance effects of institutional fields, and in their case specifically on how national contexts affect the adoption of valuation devices. There is, then, growing recognition that to better understand the effects of valuation devices we require a theoretical explanation of how the 'social landscape' determines *when* performative and counter-performative effects emerge. Less, however, has been said to date about the feedback effects underlying such dynamics. Indeed, D'Adderio (2008) has highlighted the importance of "dynamic adaptation between model and reality" as fundamental to understanding performativity. This 'journey' (Garud and Gehman, 2019) echoes earlier discussions on the temporary consensus that is required to support any accounting technology (Power, 1996). This focus on dynamics also aligns with work which highlights the role of legitimacy in the realization of performative effects (Robson et al., 2007; Power, 2015) and efforts to study legitimacy as a dynamic process (Tost, 2011; Suddaby et al, 2017; Deephouse and Suchman, 2017). Here we, therefore, argue for a deeper engagement with the literature on legitimacy and legitimization as a way of taking account of both the role of the 'social landscape' in determining when performative effects are realized and of the dynamically recursive links between different performative and counter-performative effects.

Conceptualizing legitimacy

Legitimacy is a key concept in the social sciences going all the way back to Max Weber (1968). Although a range of perspectives exist in different disciplines (for a summary see Suddaby et al., 2017), one of the most influential definitions refers to a "generalized perception or assumption that the actions of

an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995: 574). Drawn from organizational sociology, Suchman’s perspective emphasizes the importance of analytically disentangling three different dimensions of legitimacy. Pragmatic legitimacy derives from the ability to deliver practical outcomes and advance the interest of various constituents. As such, it primarily draws on self-interest. Moral legitimacy derives from the ability to satisfy the normative expectations of the broader social environment. As such, it primarily draws on social approval. Cognitive legitimacy derives from taken-for-grantedness which places an organization, practice or institution beyond criticism as something natural, obvious, necessary and inevitable. As such it is rooted in cognitive and sense-making processes and represents the most solid foundation for legitimacy.

Legitimacy or ‘social acceptance’ (Callon, 2007) has long been recognized as one of the “structures and processes that mediate their [valuation devices and metrics] reception by external audiences” (Espeland and Sauder, 2012: 97). Indeed, the utility of Suchman’s (1995) perspective can be seen in the work O’Dwyer et al. (2011) on the legitimacy of sustainability assurance devices. O’Dwyer et al. (2011) outline how for different audiences different dimensions of legitimacy supported adoption. For clients and employees pragmatic legitimacy was most important; the instrumental utility of the devices being the basis of their legitimacy. For the general public moral legitimacy was of most importance; here what mattered most was whether a device, practice or ranking supported the ‘right thing to do’ in the face of environmental concerns. Andon et al. (2014) make a similar argument in relation to the introduction of wage audits in Australian and Canadian rugby leagues. They adopt, however, a Bourdieusian perspective that highlights cultural, economic and social capital as the means of establishing legitimacy for a valuation device with different audiences. Specifically, they highlight how ‘plays for legitimacy’ have to be made as part of the process of ensuring adoption in a ‘new space’; these ‘plays’ draw on different types of legitimacy depending on the audiences involved.

Inevitably, a focus on how practices or devices acquire legitimacy tends to emphasize the interests, strategies, action and, discourses of various stakeholders who interact with each other as they constantly produce and reproduce the social world (Brown, 1998; Lawrence and Phillips, 2004; Maguire and Hardy, 2009; O'Dwyer et al, 2011; Suddaby and Greenwood, 2005; Benford and Snow, 2000; Vaara, Tienari, and Laurila, 2006). Previous studies have emphasized the agency of the interested parties working to gain legitimacy for new valuation devices (Andon et al., 2014; O'Dwyer et al., 2011) and the 'translation' and 'transforming' of such devices as part of their legitimization (Robson et al., 2007). Thus, Robson et al.'s (2007) study of the development of business risk audits shows how strategic relationships between the Big Six accounting firms, professional associations and elite universities were crucial in establishing legitimacy and adoption. Likewise, Gendron and Barrett (2004: 3), using the case of the WebTrust certificate for e-commerce assurance, reveal that the institutionalization of a particular device depended on the 'the successful construction of stable and solid networks of support around claims to expertise'. Whilst Andon et al. (2014) in their study of the introduction of wage audits in Australian and Canadian rugby leagues note the role of 'conscious ingratiation' and 'sanctioning' in securing adoption. Importantly as Brown's (1998) study of the IT industry reveals, these legitimization tactics may explicitly target distinct dimensions of legitimacy including: appeals to self-interest (pragmatic), reference to broader societal norms (normative) and the use of symbols (cognitive).

The issue of how legitimacy is gained is, then, central to studies that seek to understand how new valuations devices becomes established and effective. Over time research has, however, become more nuanced in the way legitimacy is conceived of (for summaries of developments see Deephouse et al., 2017; and Suddaby et al, 2017). Particularly important is work that emphasizes legitimacy as a dynamic *process* which exists along a spectrum. This reveals how legitimacy will be higher when it is supported by multiple dimensions and that it may be possible to gain or lose certain dimensions but not others whilst still remaining legitimate (see Aldrich and Fiol, 1994; Scott, 1995). Others emphasize how legitimacy does not exist as a binary option (legitimate versus illegitimate) but as a continuum

with a wide range of *intermediate positions* (Deephouse et al., 2017; Elsbach and Sutton, 1992; Tost, 2011). As such legitimacy varies both qualitatively, in terms of its underpinning dimensions, and quantitatively, in terms of its intensity. Such ideas lead us to understanding legitimacy as a process rather than a property that a certain entity may possess or not (Suddaby et al., 2017). A process based understanding views legitimacy as “the product of an ongoing process of social negotiation involving multiple participants rather than an outcome of institutional pressures such as isomorphism” (Suddaby et al, 2017: 24). As such emphasis is shifted to the process through which legitimacy is gained and lost over time (Maguire and Hardy, 2009) and to the series of ‘tipping points’ through which illegitimacy gives way to legitimacy and vice versa (Suddaby et al., 2017). This has been developed in a number of the legitimacy life-cycle models which chart how legitimacy ebbs and flows over time (Tost, 2011; Deephouse et al., 2017).

This *process* view of legitimacy has important implications for how the performativity of valuation devices is theorized. It requires us to extend our analysis beyond the establishment of legitimacy in ‘new spaces’ so as to consider legitimacy as continually evolving and to recognize the intermediate positions and tipping points that exist as part of the life course of a valuation device. Specifically, we suggest that this process can be better understood through an analysis of the relationship between the evolution of the legitimacy of a valuation device over time and the fluctuations of its performative effects.

Case study context

To address our research question we undertook a longitudinal multi-source case study of the emergence, development, and ongoing institutionalization between 1992 and 2013 of the Profit per Equity (PEP) valuation device within the legal profession in England and Wales. PEP refers to a firm’s

profit divided by the firm's number of equity partner. As such, PEP is a particularly simple and immediate valuation device as it relates directly to partners' potential income; furthermore, it is also, as our case study will show, highly malleable as firms can easily manipulate it through some targeted interventions. These characteristics helped PEP to establish itself throughout the Anglo-Saxon world as the key valuation device for law firms. Specifically, PEP is now used in the legal profession both to value law firms financially (as we note below the most visible manifestation of this being estimates of prospective stock market value) and to make qualitative assessments of the status and relative success of law firms and their lawyers (most commonly supported through rankings of firms by PEP).

The historical background to our case study is a period characterized by a significant reworking in the relationships between the market, the state and the professions (Hanlon, 1999). This had some significant implications for both the structure of the legal field and the organization and management of law firms. These have been variously described as de-professionalization (Abel, 1998), commercialization (Hanlon, 1999), managerialization (Cooper et al., 1996; Brock et al., 1999) or financialization (Faulconbridge and Muzio, 2009). All of these labels suggest a relaxation of traditional professional values, practices and structures and a growing attention for operational efficiency, business development and ultimately profitability. As we will see, this was a fertile terrain for the diffusion of new valuation devices such as PEP but also affected their legitimacy in ways that changed over our period of study.

Data collection and analysis

Our case study draws on three different data sources: analysis of longitudinal trends in the organization and finances of law firms, media reporting, and semi structured interviews with senior management in leading law firms. We collected data on the organization and finances of law firms from Legal Business which since 1993 collects annual information on the top 100 law firms in England

and Wales. We originally analyzed trends between 1993 and 2008 when this research project began but updated our data range to 2013 as the project progressed to account for the effects of the financial crisis. We focused our analysis on the largest 25 firms as these are the most exposed to financialized practices. These firms, like the rest of the population, experienced a steady rise in PEP throughout our period of analysis, although with a correction connected to the 2008 financial crisis. Over this period average PEP for the top 25 firms more than trebled from a value of £217k in 1993 to a value of £689k in 2013. Connected to this, our analysis also reveals a number of structural adjustments which contribute to explaining the growth in PEP beyond what is accounted by a general improvement in underlying profitability and inflation. Most importantly, there was a steady and significant rise in leverage ratios (the proportion of salaried to equity staff) which more than doubled from 3.25:1 in 1993 to 6.8:1 in 2013. This has direct effects on PEP as the number of fee earners increased but the number of equity partners remained stable or even decreased. These longitudinal trends revealed to us the important effects of PEP on large law firms and suggested that *prima facie* law firms may be actively targeting this indicator in their management.

In order to corroborate these initial impressions we turned to our second data source: the longitudinal analysis of media sources. In line with established approaches (Lamertz and Baum, 1998; Hybels, Ryan and Barley, 1994) we conducted an initial archival search of the two leading publications documenting on goings in the UK legal profession - *The Lawyer* (between 1993 and 2008) and *Legal Week* (between 1999 and 2008). As above, we then updated this analysis to 2013 as the project developed. A search for articles containing the word 'PEP' yielded a total of 2735 media items. We plotted the annual distribution of articles mentioning PEP in *The Lawyer* to produce Figure 1, which shows a significant increase in media-reporting on PEP throughout our period analysis. Whilst there were no articles mentioning PEP before 2003 this had climbed to 224 by 2007. Media reporting halved in the aftermath of the financial crisis before recovering in the final years of our analysis. This increased media attention suggests PEP had gained visibility as an important valuation device and had established itself as part of the discourse and practices surrounding law firms and their management.

[Insert figure 1 here]

To find out more about how law firms engaged with PEP we proceeded to analyze the content of the articles. We read all of the articles and discarded less relevant items (such as duplicate entries, articles referring to foreign firms or smaller firms outside of the top 100 which we did not have longitudinal organizational and financial data for, and articles where 'PEP' did not actually refer to profit per equity partners). This reduced our sample to a total of 855 key items. These mainly consisted of: media reports and commentaries on the performance of firms which throughout the period becomes increasingly evaluated in PEP terms; annual rankings of firms by PEP; assessments of firm strategies; and towards the end of the period commentaries on PEP itself. Overall, analysis of the articles revealed how PEP moved from being absent in the legal press to being used by the media and by law firm management alike as a measure of failure and success, this being most clear in the production of annual league tables which ranked firms in terms of their PEP. Furthermore, this analysis also began to reveal how senior managers explicitly targeted PEP in their strategies, by referencing this as a key performance indicator and presenting various initiatives in terms of their implications for PEP.

To further refine our understanding of how PEP developed and of its influence on the management of law firms we conducted 24 semi-structured interviews with senior professionals, usually senior partners, managing partners and finance directors in leading law firms (see table 1). We also spoke to editors of specialist publications such as *The Lawyer*, *Legal Week* and *Legal Business* as well as number of consultants who specialize in the legal profession. We adopted a purposeful sampling strategy by focusing on those respondents who were in the best position to address our questions. This meant targeting key informants that could provide commentary on the emergence, development and institutionalization of PEP as a result of their active involvement in law firm

management or in the media at some point between 1992 and 2013. We then snowballed from these initial interviews, and stopped when we reached saturation as interviews were not adding new insights. Table 1 provides an overview of the interview programme. Interview questions focused on the respondents' experiences of and attitudes towards PEP and related metrics and on the impact that these have had on their firm, their own practice and the wider profession. Interviews lasted between 40 and 70 minutes and were all recorded and transcribed.

[Insert table 1 here]

We combined insights generated across the three methods to produce a historical narrative (Stinchcombe, 2005) which tracked the emergence and diffusion of PEP through time. We firstly coded media and interview data using three high level codes deduced from the existing literature. These were: legitimacy (broken down into pragmatic, moral and cognitive forms), commensurability and performativity. This data revealed in the words of interviewees and the media the extent to which PEP was legitimate or not at different points in time, as well as the effects this had on the legal field. As we were interested in the recursive relationship between PEP and the broader field environment, borrowing from process studies methodologies (Langley 1999) we then adopted a temporal bracketing strategy. We relied in the first instance on analysis of media sources, or for the initial periods of our analysis (pre 2002), when media sources were less abundant, on our primary data. We took note of both the frequency of sources and the focus/tone of their reporting to delineate different temporal brackets. In some cases shifts were both sudden and very clear as in the aftermath of the Beringer (2007) article which unleashed a period of more critical reporting on PEP as well as triggering a marked decline in frequency of discussions. In others change was more gradual, such as the aftermath of the financial crisis which saw a slow convergence around more nuanced and muted form

of reporting. We identified 'tipping points' in focus/tone and tested the interpretation by looking for corroboratory trends across our data sources. Overall, this exercise allowed us to see 'how action in one period lead to changes in the context that will affect action in subsequent periods' (Pozzebon and Pinsonneault, 2004: 1361). This exercise lead to the identification of five periods, which correspond with those identified by Deephouse et al. (2017), characterized by varying forms and degrees of legitimacy: Illegitimacy (early to late-1990s), Gaining Legitimacy (late 1990s to early 2000s), Maintaining Legitimacy (early/mid 2000s to late 2000s), Challenging Legitimacy (late 2000s) and Responding to Legitimacy Challenges (late 2000s onwards). Each period was also characterized by different levels of performativity. For example, in the early 2000s our data shows a shift in discourses around PEP as respondents begun to accept its use, whilst in 2007 following the financial crisis reporting on PEP becomes much more skeptical and critical, suggesting a loss of legitimacy. We then re-coded data against each time period to allow abstraction of process mechanisms from the data. We coded all data revealing cause-effect relationships in each period and then manually reviewed this data to identify the characteristics of these relationship. Based on this review we identified a number of mechanisms (Incongruence; Validation; Institutionalization; Institutional Change; Performativity Paradox; Muted Survival) at play within each period of our analysis.

In the analysis below, we triangulate between our three data sources to elucidate the six mechanisms affecting PEP's legitimacy and performativity. When drawing on interview data we outline the position/role of the interviewee. When drawing on insights from media reporting we cite the author of the media report and provide full source details in the bibliography.

Emergence and illegitimacy

In the English context, the origins of the PEP phenomena can be traced back to 1992 when *Legal Business*, following the earlier lead in the US of *The American Lawyer*, became the first publication to

use PEP to value English firms. Indeed, the vector for the movement of PEP across the Atlantic was Karen Dillon who worked for *The American Lawyer* in the 1980s and became Editor of *Legal Business* in 1990. In turn, as other titles such as *The Lawyer* and *Legal Week* were established, they too were attracted by the potential use of PEP ‘*as a calibrator of law firms*’ (Managing partner in 1990s and early 2000s), i.e., as a way to both value law firms as a financial asset but also comparatively evaluate and rank their performance.

PEP, however, elicited as one interviewee noted “*a very very hostile reaction*” (Journalist involved in producing early PEP rankings) from the legal profession. Most fundamentally, at this point lawyers viewed PEP as pointless and of little pragmatic utility. For instance, overt management action to enhance comparative financial advantage against peers, or movement between firms by partners in search of higher profitability and remuneration, were unheard of. Hence knowing how one firm’s PEP compared to another’s was seen as pointless since lawyers did not think about and assess law firms in such terms. In addition, there were concerns that publishing financial data could damage law firms by unnecessarily antagonizing clients and staff. Concerns were raised about it being “*embarrassing for their clients to know how much they earned*”, and there being a need for “*sensitivity towards the associate group... we don’t want to ram down their throats how much the partners are earning*” (Finance officer at law firm).

Moreover, further hostility was more ethical in nature and derived from the privacy and even secrecy that characterized the legal profession at the time. As one interviewee noted, “*we were very private organizations until the days of Legal Week and people like that, who managed to infiltrate our firms*” (Managing partner during 1990s and early 2000s). Consequently, in the 1990s the questions the legal magazines were asking were seen as surprising if not even impertinent. Law firms were viewed as private clans with only members being privy to financial information. One journalist interviewed readily acknowledged this and noted that when asking about PEP:

“it was like a personal question...It felt rude it felt wrong. We felt that we were almost asking for almost unbelievable person information about their families or something. I don’t know, it felt very very transgressive actually”.

This feeling was shared by the lawyers themselves. A managing partner at the time described during an interview how there was *“small ‘c’ conservative view of partnership - that this was nobody’s business but ours”*. In this context *“for some partners, the idea that your finances were made public in that way didn’t feel very ‘professional’ in the old style professional sense...”*. As such, discussing financial information was morally problematic as it seemed to endorse an unbridled commercialism which contradicted professional norms and standards. Indeed, hinting at the alleged moral superiority of English lawyers, one partner is reported in the media as saying *“It is [PEP reporting] one thing for the Americans and accountants to get into this sort of thing, but not lawyers”* whilst another put it even more forcefully: *“anyone who gives you this information will be booted out of the partnership”* (Legal Business, 2012).

In the 1990s PEP was, then, rendered illegitimate by its *incongruence*, i.e., by its lack of fit, with the traditional logics of the English legal profession. PEP reporting was thus resisted and ignored by law firms, and treated as an unwelcome nuisance. Inevitably, therefore, given the secrecy and hostility of the legal profession, reporting of PEP in the 1990s, as in the case of many other stigmatized practices, took the form of investigative journalism. One journalist interviewed described how, rather than responding to information in the public domain, you had to be *“playing the odds...you have to jump from one thing to another and often try to extrapolate”*. This relied, in particular, on leaks and rumours and on various forms of manipulation and ‘creative accounting’. As firms would not provide financial information, journalists relied upon, as one interviewee put it, *“departing partners, particularly partners who were not very happy, who would get called and would say all sorts of things”* (Senior Partner during early 2000s). Often this would involve a concerted strategy of triangulating leaks from several sources; one journalist interviewed clearly describes this strategy:

“[we would] have this whole set of people, we’d have seven or eight journalists on it. We’d all be given a list of ten partners in each firm to call. And we’d go five, four, three, two, one here we go call them all now, try to get through to as many as possible before switchboard cut you off...a lot of the partners just weren’t prepared for it and some of them were just terribly honest and they just gave us the numbers which was super”

There was also an element of manipulation, as journalists sought to trick lawyers to reveal more than they wished. For instance, as one interviewee noted, a tactic for guestimating PEP was as follows: *“A journalist would come and say [to a lawyer] well of course your profit per partner has gone down hasn’t it? No it hasn’t [they would respond]! And they would say well of course I don’t speak to the press, quite naïve about that”*. Several rounds of such trickery would lead to a reasonable estimation of the PEP figure for any given year.

In the early to mid-1990s PEP was, therefore, a highly illegitimate valuation device which had little pragmatic utility and was *incongruent* with existing norms, values and assumptions. As a result, PEP displayed few signs of performativity, as it was largely ignored with very little impact. Yet, as suggested by figure 1, in the following decade PEP became established as a key valuation device for the legal profession. How did this happen?

Gaining legitimacy

The initial perception of PEP as illegitimate reflected the dominant institutional logic of the English legal field which had been relatively stable throughout the second half of the 20th century. This logic emphasized professions as distinct from markets and commercial organizations (Greenwood et al, 1990; Thornton, 2002), in this context the primary purpose of law firms was the delivery of high quality professional advice, not the generation of profits (Mintzberg, 1979). However, by the time that *Legal Business* first published PEP figures, changes were already afoot that would alter the logic of the legal

field in significant ways. The main driver of these changes in England were the neo-liberal reforms imposed on the legal profession by Prime Minister Margaret Thatcher in the 1980s. In particular, the lifting of restrictions on advertising and minimum fees encouraged the move towards a more commercial understanding of legal practice (Abel, 1988; Ackroyd and Muzio, 2007). In addition, the financial ‘big bang’ in 1987 and deregulation in the City of London created significant growth in demand for legal services, which encouraged the consolidation of the profession into larger firms. This period included the arrival US law firms, which developed an increasing presence in London on the back of their preferential relationship with Wall Street banks (Cullen-Mandikos and MacPherson, 2002). American firms are important here as they were already familiar with commercial discourses and practices including the reporting of PEP figures in their home market. They, therefore, acted as a potential catalyst for the diffusion of PEP into the UK market.

In the context of these changes in the legal field, lawyers and law firms faced a number of new challenges. Deregulation created an increasingly competitive market, both for clients (as firms scrambled to exploit the new business opportunities created by ‘big bang’) and for lawyers (as firms sought-out new recruits to facilitate expansion). Reflecting trends in North America (Dezalay, 1990; Cooper et al., 1996), English law firms found themselves in need of more management, as their traditional collegial structures and practices (Greenwood et al., 1990; Greenwood and Hinings, 1993) became unsuited to the new realities of ‘mega-lawyering’ and large scale legal practice (Flood, 1995). As a result, as the 1990s proceeded lawyers began to think about law firms in a different way as the logics of the field evolved towards increasingly commercialized (Hanlon, 1999) and organizational (Faulconbridge and Muzio, 2008) forms of professionalism. Market logics, emphasizing competition and financial success, and associated ideas about firm management became ‘sedimented’ on top of professional logics (Cooper et al., 1996). In this context, within a few years of *Legal Business’s* first publication of PEP figures lawyers began to change their perception regarding this valuation device.

In particular, there was a realization by a number of different constituents within the legal profession that PEP could be useful to them in the context of the changing logics of the field. Senior management in larger commercially focused firms could use these figures to support and drive through organizational change programs. As one interviewee recalled, *“I remember on one occasion I actually used the league tables to justify some pretty hard messages that I was delivering to the partnership”* (Senior partner in late 1990s/early 2000s). Firms could also use PEP figures to compete in the newly emergent ‘lateral hire’ market. Until the mid-1990s, it was virtually unheard of for a law firm to hire partners from a competitor. Instead, individuals ‘served their time’ in the firm according to an apprenticeship model before becoming partner. As such, partnerships were somewhat akin to marriages. However, in a context characterized by increasing competition and the need for rapid growth, such traditional practices gave way to more aggressive recruitment policies. This culminated in the development of an extremely dynamic lateral hire market, with associates moving from one firm to another in search of promotion, and partners moving in search of better financial deal. In this context, PEP provided a way of attracting (and retaining) professionals by signaling that the rewards on offer were better than those available elsewhere. Thus in the words of one interviewee, *“suddenly partners were thinking actually if I go to that firm over there I will probably get better rewarded for the work that I’m doing”* (Finance Director of law firm, early 2000s). Hence, in what was a growing ‘war for talent’, both individual lawyers and firms found PEP useful. Reflecting on this situation, one interviewee observed that *“if you were not being seen to be successful you might find it more difficult to hire. People want to join successful enterprises, so the suggestion that your earnings are dropping is not a very good advert”* (Senior Partner in early 2000s). The quotes below succinctly summarize the situation and show how PEP proved its value to a broad range of stakeholders:

[PEP] became hugely important, in my view, to be right up there, three things, to keep your own partners happy, to be able to attract the right talent, but more importantly, to tell the client that you were a bit special. (Managing partner, mid 2000s)

“there's a more fundamental reason that I don't believe the media is to blame for creating the PEP monster: the basic truth is that many senior lawyers really - and I can't stress this enough - really care about PEP. That is less about greed and more because they see it as their share price, the key indicator of their own success and status. And lawyers, being a competitive bunch, care a lot about status” (Novarese, 2009)

As a result, PEP clearly acquired in Suchman's terms pragmatic legitimacy (1995). This was the result of a process of *validation* from the late 1990s onwards. *Validation* involved PEP being proven to be useful to a number of stakeholders – i.e., its pragmatic legitimacy resulted from its ability to deliver practical outcomes and advance the interests of various constituents. Importantly, as indicated by the quotes above, benefits to constituents were both in the form of financial value, in terms of assessments of higher earnings potential, and symbolic value, as evaluations through PEP rankings produced signifiers of status and reputation. Following *validation* PEP acquired *generic performativity*. PEP became generically performative as its pragmatic legitimacy meant lawyers now paid attention to it and used it to serve their interests in a way that had effects on careers and priorities but, at this stage, not on the object of valuation - law firms themselves.

Extending & Maintaining legitimacy

By the middle years of the 2000s, with the lone exception of Slaughter & May, all leading law firms were freely offering PEP figures to the media and providing interpretations and responses that were included in this reporting. This embrace of PEP coincided with the consolidation of the English legal field's new commercial logic, something supported by further regulatory reforms. The introduction of Limited Liability Partnerships in 2001 put an end to the principle of joint and several liability making the firm and not its individual partners liable for debts. The Legal Services Act in 2007 opened the way for external investors (shareholders or private equity) to own a law firm, when previously through the

partnership governance model only qualified lawyers had been allowed to do so (Leblebici and Sherer, 2015). Importantly, these regulatory reforms imposed a range of disclosure obligations on law firms, including financial data. Thus, by the middle of the 2000s the data needed to calculate PEP was increasingly available and the media suddenly found themselves in a data rich environment, as the following interviewees recalled:

“So going from a situation of sort of we’re not letting you have any information at all, well you jolly well publish the figures and we might tell you whether they’re right or not. To a situation where the financial managers would annually actually meet the journalists and say ok we’re going to give you our figures, we’re going to take you through them, we’re going to explain them to you so you get them right” (Senior partner, mid 2000s)

“A few very sophisticated players decided that they could actually gain a market advantage by being not just transparent but by being incredibly transparent and just giving them, you know Legal Business or The Lawyer absolutely everything. And once that, once one firm had done that that then lays the gauntlet down to another firm to kind of respond in kind. So increasingly the boundary was just pushed and pushed and pushed every year really” (Journalist, throughout the period)

These developments, besides a growing realization of PEP’s pragmatic value, also reflect PEP’s progressive alignment with the new norms of the English legal field and its increasingly commercial logic (Brock et al, 1999; Hanlon, 1999). This resulted in PEP gaining moral legitimacy – i.e., an ability to satisfy the normative expectations of the broader social environment. Thus, in the early 2000s a concern for profitability increasingly became seen not only as fair and proper but also as a positively related to professionalism. As one ex-Senior partner commented, *“I always say to people that the focus on profitability is not bad of itself ...you’ve got no chance of being professional if you’re not profitable...it’s not a binary view this, if you’re not profitable you won’t be professional”*. Another interviewee similarly suggested that *“I see professional standards and business as absolutely aligned”*

(ex-managing partner and Consultant). As such, lawyers became aware that reporting on their PEP could actually enhance their reputation; strong PEP figures being a signifier of status and quality, as indicated by the two interview quotes below.

“You don’t need to worry about the headline that says [Firm x] is the most profitable law firm in England. You need to worry about the headline that says [Firm X] falls from its lofty perch and is now third or fourth. Because I’m not so bothered about upsetting you guys but clients believe that if you’re the most profitable you’re probably the best” (managing partner early 2000s)

“I think the game changed a bit in that, Firm X was always quite well up there and they decided is there actually anything to be embarrassed about. And PEP became sort of a hallmark of quality. They found that actually their clients did not object, there wasn’t, some people reacted strongly about it saying well we’re paying you too much, clients. But most clients said actually if you’re a fantastic law firm you do a great job for us and what you charge is competitive, actually we want to see our lawyers being pretty successful” (finance director early 2000s)

PEP thus became established as a routinized way of talking about, valuing and evaluating law firms as the valuation device became embedded in the cognitive frames of lawyers as well as of the media. Thus for instance, the managing partner of Eversheds celebrated the firm’s success in meeting their PEP target, *“Once again, profitability has been one of our key targets over the past year, and with PEP breaking the £500,000 barrier, we have proven our ability to deliver on our promises”* (The Lawyer, 2007). Meanwhile, under the leadership of managing partner Tony Angel, Linklaters embarked on an ambitious strategic change project labelled ‘Clear blue water’ designed to leave behind the competition by delivering substantial increases in Profit Per Part, a more fine grained version of PEP, from £35,000 to £50,000 (Nanda and Prusiner, 2007). This involved a review of the firm’s work, office

footprint and client base. This example is significant not only because of its scale and ambition, but also because it was developed into a high profile Harvard Law school case study that was used to develop the next generation of law firm managers.

Thus in this period PEP also acquired cognitive legitimacy as it became the way managing partners, lawyers, journalists or clients routinely assessed and compared the value and performance of different firms. It became, in the words of the Senior Partner of Meyer Brown, *'our share price'* (Novarese, 2009). Indeed, PEP was used as one of the indicators to calculate the potential value of law firms if, following the Legal Services Act, they chose to float on the stock exchange (Sunday Times, 2007). Leading firms attracted valuations of over £5bn. In this period, PEP was also publicized and ranked through a number of annual league tables and the associated media circuit of press releases, editorials, gala receptions and awards which celebrated and stigmatized firms and their management according to their PEP performance. Most notable was *The Lawyer's* 'top of the PEPs' ranking that on an annual basis rendered visible each firm's PEP performance, allowing valuation in financial terms but also evaluation as status hierarchies emerged. Thus in this period PEP became an obvious, natural and taken for granted feature of the legal profession, as professionals and external audiences became routinely accustomed to using it when discussing, comparing and evaluating law firms.

The combined moral and cognitive legitimacy of PEP in this period helped further establish its pragmatic legitimacy. As it was now legitimate to talk about law firms using PEP, it also became more and more legitimate to use PEP as a management tool. Specifically, PEP became embedded in organizational practices, routines and processes. Thus one of our respondents, a chief financial officer in a leading firm, reveals how PEP was formally used to assess any strategic proposal or investment plan. In his words *'part of the proposal document would be what is this going to do to PEP?'* Embedding this question in decision making processes helped to focus attention on PEP and financial performance more generally and *'lead to people drawing conclusions and making decisions about their strategy and their approach which they wouldn't otherwise have done'*. This included attempts to game the system

by ensuring, as one interviewee put it, that *'the media published a figure which looked good'* (Senior Partner during late 1990s/early 2000s), but more fundamentally, the introduction of a series of radical interventions which were designed to improve PEP figures as questions of financial value and evaluations through rankings became more prominent. This resulted in significant changes to the structure of law firms and the broader legal field as PEP became performative. As surmised in the media *"many law firms are indeed managing their businesses to flatter PEP"* (Novarese, 2010).

At the heart of this performative development, as revealed by the quotes below, was PEP's ease of manipulation through targeted actions:

"[PEP] is the most easily manipulated figure. You look at how people define it to partners, how many non-equity partners they have, what their gearing models are, the various games they play" (Managing partner, late 2000s)

"There is no definition in accounting standards as to how PEP should be calculated. As a result, 'profit' may or may not include exceptional one-off costs and/or the costs of salaried or quasi equity members. Similarly, the number of 'equity partners' used could be the number of individuals at the beginning or the end of the year or, alternatively, the average over the whole year. Besides, how do you define 'equity partner'? Is this term used just for full equity partners or for any level of partner at the firm? Put simply, PEP can be manipulated far too easily" (Murphy, 2011)

"I've certainly sat at discussions when we were talking about the structure of the partnership and asking ourselves would a change in structure affect the overall figures that would be reported in the press, yes" (Senior Partner, early 2000s)

This malleability hinged on the fact that PEP focused on profits per one particular employment category: equity partners. As such, firms could easily boost PEP by increasing their leverage ratios, i.e.,

the proportion of salaried staff to equity partners. The following quote captures the logic and some of the means behind this strategy:

“In some ways it [PEP] lead to a very unhealthy discussion about the number of equity partners you had and how convenient it was to have a smaller number of equity partners earning more than a larger number of equity partners earning less. And there was a period, I do remember a period, where there was a concerted move to increase the number of salaried partners and reduce the number of equity partners because the figures would look better” (Senior Partner, early 2000s)

As a result, over the period under analysis, the number of salaried partners, previously a relatively rare category within firms, expanded significantly. Thus, whilst in 2002 the top 25 firms had an average of 59 salaried partners, by 2013 this had increased by 300% to 179. This is against more limited rises of 70% and 60% rise for equity partners and associates respectively, making salaried partners the fastest growing category in our sample of large firms. Even more radical and controversial were interventions performed on the equity partner side of the leverage equation (see for example, Byrne, 2007a). According to our respondents, firms took concrete steps to reduce the number of equity partners. At its most basic level firms *‘became more professional about making new partners’* (Managing Partner, late 1990s onwards), but they also *‘would be constantly pruning their equity’* (Senior Partner, late 1990s and 2000s) and most aggressively they simply *‘got rid of the weaker partners’* (Managing Partner, late 1990s onwards) through de-equitization programmes such as the cull of 25 and 100 partners respectively at Lovells (Begum, 2005) and Freshfields (Begum and Griffiths, 2007) and the 12% cut to the size of the partnership at Simmons & Simmons (Westacott and Hoare, 2005). This was controversial as partners are owners of their firms and their status was traditionally assumed to be secure for life. Whilst de-equitizations existed in the past, they were rare, discreet and usually connected to individual wrongdoing. Now they suddenly became more frequent, financially motivated, and highly visible as firms sought to actively demonstrate to the wider community their

focus on PEP and to ensure stronger financial valuations and evaluations via ‘top of the PEP’ rankings. This represented an important institutional innovation as it signified a rethinking of the institution of partnership as a fateful and lifelong commitment. The cumulative effect of these interventions is a significant increase in leverage ratios (partners to associates) which more than doubled in the period under observation from 1:3.25 to 1:6.85.

The mid-2000s was, then, a period when, ultimately, the cognitive legitimacy of PEP emerged. This was the result of a process of *institutionalization* – whereby PEP became established in the English legal field as the taken-for-granted measure for valuing and evaluating law firms. As a result of *institutionalization*, PEP was routinely incorporated into organizational systems, processes and artefacts as well as into the cognitive frames and scripts used by internal and external audiences. During this time, PEP also became increasingly performative. At first, as its legitimacy increased it gained *effective performativity*. Firms engaged in various strategies to boost their PEP and improve their positions in the relevant league tables. Yet, these interventions very quickly disrupted a number of long established institutions, including the concept of partnership itself. As such, PEP proceeded to acquire *Barnesian Performativity* as those managing law firms changed their behavior and in turn the structure and practices of law firms so as to create the very same reality valued by PEP (c.f., Muniesa et al., 2007: 2). In turn this *Barnesian Performativity* led to *institutional change* as some of the fundamental features of law firms and of the broader legal field were changed to create a better fit with what PEP valued.

Challenging legitimacy

It might be expected that after gaining high levels of pragmatic, moral and cognitive legitimacy, PEP had moved beyond significant contestation. This was not, however, the case. An important factor generating renewed contestation towards the end of the 2000s and start of the 2010s was broader

contextual developments in the legal field and beyond, and in particular the exogenous shock of the 2007 financial crisis. This not only triggered layoffs, salary reductions, recruitments freezes and even bankruptcies (Wald, 2009; Reichman and Sterling, 2010) but it brought into question the legitimacy of many of the legal profession's practices. PEP was particular exposed to critique insofar as it had encouraged a series of unsustainable strategies and business models (such as leveraging, over-reliance on lateral hires, spiraling fees and salaries, etc) as well as being symptomatic of the culture of greed and excess which had precipitated the financial crisis itself. Indeed, in an ominous intervention on the eve of the crisis, Guy Beringer, Senior Partner of the firm Allen & Overy, launched a full attack on PEP and its effects on the legal profession. Specifically, he argued that:

“A proper measure of success will never be simple and one dimensional, yet the legal profession has put itself in a position where a single financial measure, profit per equity partner (“PEP”), has been adopted as the sole measure of success. It is important, however, that we use this platform to seek a more balanced view in the future. I argue that PEP is not an appropriate measure of the success of a law firm and should be replaced with measures which take account of sustainable profitability, client satisfaction and staff motivation” (Beringer, 2007)

Underlying this statement are two sources of contest: one relating to the internal validity of PEP as an accurate and appropriate measure for the valuing and evaluation of law firms; and the other to the external consequences of its use on law firms, their staff and the broader legal field.

The Internal Validity Critique

The first line of critique focused directly on the technical limitations of PEP as a valuation device and poses the question: how good is PEP as a measure of law firm success? In particular, many commentators following Beringer's lead, focused on the overly simplistic and reductionist nature of

PEP which *'encourages law firms to structure their businesses to look good on a single metric rather than to focus on the underlying quality of the practice'* (Novarese, 2010). In this context there was increasing support for a more holistic set of metrics that could provide a more balanced and nuanced financial valuation but also more nuanced comparative evaluation. Thus, David Childs, managing partner at Clifford Changes, agreed that *"there's no single number that will adequately measure the success of a firm"* and argued that *"you also need to look at growth, the quality of clients, a range of factors"* (quoted in Byrne, 2007b). Whilst David Morley, who replaced Guy Beringer as Senior Partner at Allen & Overy, suggested that *"tomorrow's law firm will need to expand its view of success and redefine it in terms of sustainable positive impact on its clients, its people and society as a whole"* (quoted in Byrne, 2007b). In this context, reflecting the new post crisis zeitgeist, more importance was given to softer indicators such as client and staff satisfaction and even corporate social responsibility. Slaughter & May, who had always opposed PEP and never disclosed its figures to the media, came closest to embracing this new approach when it argued for valuation and evaluation based on a balanced scorecard approach which took into account a broad range of criteria, including:

"human capital KPIs (attrition metrics, gender staffing ratios, employee termination rates, net hire ratios, employee engagement metrics, employee bench strengths); - productivity metrics (fee earner productivity, lost time, time per matter); - client satisfaction metrics (e.g. client referrals, longevity of clients and key relationships); - growth KPIs (new business conversion rates, market penetration, fee earner growth); - innovation metrics (new services launched; new ways of delivering services); and - know-how KPIs" (Valera, 2007)

Whilst the above critiques focused more on the substantive (what does it measure?) limitations of PEP, others took aim at its more technical faults (is it accurate?). In particular, *The Lawyer* acknowledged how easy it was to manipulate PEP and to address this put forward *"the groundbreaking earnings per partner (EPP) figure"* (Byrne, 2007c) as a like-for-like replacement of PEP. Specifically, it argued that EPP *"removes some of the smoke and mirrors surrounding law firm*

profitability... It's all too easy for a law firm to give a PEP figure that doesn't show the entire picture. That's why EPP is a better indicator of performance" (Byrne, 2007c). Underlying this internal validity critique were, then, questions about whether PEP was a reliable and accurate measure of law firm quality and success.

The external validity critique

The second line of critique focused on the intended and unintended consequences of PEP and in particular on how it negatively impacted on a number of stakeholders. Survey data showed that, by the late 2000s, 64% of partners in leading law firms thought that the rise in PEP had significant detrimental effects for the profession, and 54% thought that rises in leverage ratios, which as discussed above were used to boost PEP, had gone too far (Edmond, 2007). Specifically, highly leveraged business models were effective in a context characterized by rapidly growing revenues, but became counterproductive in times of slow growth or event contraction as they encumbered firms with considerable fixed overhead costs.

Furthermore, several constituents began to realize how PEP may actually be detrimental rather than conducive to their interests. Partners were increasingly subjected to the discipline of targets and the prospect of de-equitization, whilst associates due to increased leveraging ratios were confronted by work intensification and decreasing promotion opportunities (Ackroyd and Muzio, 2007). Clients began to realize that a PEP driven business model implied rising bills and decreased access to partner-led advice. In simple terms they were paying for maintaining PEP *'at no less than half a million pounds'* (<https://legalbrat.blogspot.com/2011/09/big-law-salaries-can-we-have-pep-talk.html>). As such, the intended and unintended consequences of PEP began to undermine its ability to deliver for a number of stakeholders and therefore to erode its pragmatic legitimacy on which its success had been predicated.

In this context, there was also a growing sense that attempts to manage PEP were not morally defensible. As noted by Beringer (2007), they ignored important societal issues such as “*sustainable profitability, client satisfaction and staff motivation*”, whilst the following quote from the media raises explicitly the issue of the human costs of PEP:

“In retrospect, at times the press could have struck a more restrained note on the pursuit of PEP, on occasion getting a little too ‘rah rah rah’ when profits were rocketing – and being ready to berate firms for not being ‘tough’ on performance. Chasing profits is not always a good thing – it can breed short-termism and distort a business. We would do well to remember that we don’t always get that balance right, and the results can impact on people’s lives”
(Novarese, 2012)

Thus, whilst PEP’s performativity had largely followed on from its increasing legitimacy, the late 2000s and early 2010s saw a significant shift in circumstances. Internal validity critiques questioned whether PEP was an accurate way of valuing and evaluating firms. External validity critiques focused on PEP’s negative effects on a number of constituents and on the broader sustainability of the firms in question. These critiques were a result, in particular, of what MacKenzie and Spears (2014) call counter-performativity. The widespread inflating of profits and the ‘gaming’ of leverage ratios made PEP a less accurate means of valuation; this corresponds with the first form of counter-performativity identified by MacKenzie and Spears (2004) and weakened both its pragmatic and moral legitimacy. In line with the second form of counter-performativity identified by MacKenzie and Spears (2004), PEP’s performativity had unintended effects on law firms. For instance, PEP risked making law firms less sustainable because of the high leverage models it encouraged, whilst it also risked undermining the partnership model (for example lawyers were less likely to make partnership and thus became disillusioned) and antagonized clients with ever rising bills which were perceived as being driven by a focus on growing PEP. This threatened the long-term profitability of firms, damaged the interests of a range of stakeholders and undermined PEP’s pragmatic legitimacy. Finally, in line with the third source

of counter-performativity identified by MacKenzie and Spears (2014) and developed by others (Blok, 2011; Cushen, 2014), a number of audiences began to question the human and societal costs of PEP and to actively condemn and resist its use. This further undermined PEP's moral legitimacy. Thus, firms began to distance themselves from PEP and from PEP driven management approaches. As such, PEP which only a few years earlier was institutionalized, became increasingly contested. This is the result of what we term a *performativity paradox*. PEP became a victim of its own success as the increasing performativity that initially had resulted from a strengthening of its legitimacy eventually turned into counter-performativity and began to undermine its very own legitimacy.

Regaining legitimacy

In the years following the financial crisis there was much debate in the legal profession (Wald, 2009; Ribstein, 2010) about the causes of the crisis and the need to reform existing business models, values and practices. Calls for more 'responsible' capitalism became widespread alongside regulatory reform designed to enhance financial stability. These field level developments were reflected in the way PEP responded to these legitimacy challenges and managed to survive in the years following 2008. Most notably, despite its waning pragmatic and moral legitimacy, PEP retained its cognitive legitimacy as the 'share price' of law firms. Various stakeholders had simply become used to thinking about and discussing law firms in PEP terms. However, there was a subtle recalibration in how PEP was used with the reporting of PEP figures becoming more nuanced. Reports focused upon a range of valuations alongside those provided by PEP, whilst law firms emphasized that they did not only prioritize PEP in their management strategies. As one managing partner noted when interviewed:

"We use a dashboard of metrics to review performance, including revenue, PEP, RPL [revenue per lawyer] and RPP [revenue per partner], and other important measures, such as client retention, client wins and so on"

PEP's cognitive legitimacy was, then, both the basis for its survival, but also subtly reconfigured as the use of PEP became understood as something acceptable only alongside other forms of valuation. Hence, managing partners become more nuanced if not skeptical in their comments, *"I honestly don't think we focus on one indicator [of financial health]...You need to find the right balance between your revenues on the one hand, short-term profitability and long-term prospects. Getting that balance right is our main focus"* (A&O managing partner Wim Dejonghe, quoted in Thorpe, 2013). Moreover, commentaries on PEP figures became more sophisticated. They focused more on questions of sustainability, and placed PEP in a broader context so as to take account of reasons for apparent under-performance when evaluating the performance of different firms. For instance, in media articles it was noted how firms could legitimately embark on strategies that reduce PEP to secure the long-term growth of the business:

"The PEP figure would have been £730,000, but we've decided to hold back because we want to make a substantial investment in a new office building and to also show that the underlying business can be sustained at that level" (Dowell, 2008)

"Hammonds blames its strategy for its poor average profit per equity partner (PEP) performance – a 9 per cent drop to £367,000. Well, someone has to pay for the hefty investment involved in centralising billing systems and refurbishing its Birmingham, Manchester and Madrid offices – and it's not going to be the clients." (The Lawyer, 2008)

"Does it matter, for example, that profitability at Travers or Ashurst has sharply fallen this year? Given the business model of these firms it was always on the cards. But these are good firms with good lawyers. As long as they have confidence in their strategy and a credible message to take to staff, it shouldn't matter. And these firms are still very profitable, even with 35%-40% falls in PEP, so let's keep a sense of perspective" (Novarese, 2009)

This does not mean that all of the tactics for managing PEP discussed previously disappeared. We still see the closing of less profitable practices (Orlik, 2012), redundancies and the outsourcing of services (Beggum, 2010), with some firms continuing to *"actively managing the partnership"* (Swift, 2012) in a bid to boost profit per equity (PEP) partner. Furthermore, after the initial crisis law firms quickly recovered their profitability partly thanks to the restructuring work that the crisis generated (Thompson, 2017). However, the legal press continues to be much more guarded in how it reports on

such activity and on PEP figures more generally, whilst law firms go to great lengths to downplay the pre-eminence of PEP.

This more nuanced use of PEP helped, then, mitigate the counter-performativity that in the previous period had affected its legitimacy, rendering it again acceptable to take account of PEP as part of valuation, evaluation and decision making processes. As one managing partner noted when interviewed:

"Having a supportive culture and growing PEP can absolutely go hand in hand. It is hard, but we were faced with a choice and putting being nice to people above letting the business develop would have been fatal." As Bromwich says: "Profits are really important as a scorecard. When you're flying, people want to join you and it's how firms are judged. We were disappointed with the PEP level last year"

As a result, as reiterated in a leading editorial of the time, *"profits per equity partner (PEP)...remains the share price for major firms"* (Novarese, 2011). Indicative of this is how *The Lawyer*, who championed the EPP as an alternative to PEP, published only 51 articles mentioning EPP between 2007 and 2013. Conversely, by 2013 references to PEP had almost returned to their 2007 apex, albeit tempered, as we have seen above, by some more nuanced commentaries and claims. The final period reveals, then, the *muted survival* of PEP. *Muted survival* was helped by the fact that during the crisis PEP had maintained a degree of cognitive legitimacy, as various audiences had become accustomed to seeing and using PEP despite its increasingly evident flaws. This cognitive legitimacy assisted with the rebuilding of pragmatic and moral legitimacy in subsequent years. Survival is muted because the flaws highlighted by the crisis did not go away, and continued to threaten pragmatic and moral legitimacy. However, these are countered by a more subtle use of PEP, including the consideration of alternative valuation devices, which safeguarded against some of its counter-performative effects. Thus in the years following 2008 PEP's pragmatic and moral legitimacy were partially restored and this in turn restored a degree of effective performativity.

Discussion: Theorizing the relationship between performativity and legitimacy

In this paper we firstly sought to better understand how valuation devices gain, maintain and potentially lose their legitimacy over time. Secondly we sought to better understand the recursive relationship between legitimacy and performativity and how fluctuations in one potentially affect the

other. Table 2 provides a summary of our findings and reveals some correlations between performativity and legitimacy. Table 2 also highlights the recursive relationship between the effects of a valuation device and the broader context in which it is located.

[Insert Table 2 here]

In this section we develop our theoretical contribution by theorizing *the dynamic legitimacy-performativity nexus*. This is represented analytically in figure 2. Our story begins in the early 1990s with a period of illegitimacy, as PEP was widely held as being *incongruent* with established interests, expectations and cognitive scripts in the legal field. As a result, lawyers did not have a clear use for the valuations provided by PEP which, therefore, lacked any form of performativity. In the second stage, PEP began to gain legitimacy through a process of *validation* (when a valuation device is proved to be useful to a number of stakeholders). Specifically, various stakeholders both within and outside of the profession realized that PEP could be useful and there was also a realization that profitability could be compatible with professionalism. Thus, throughout this period PEP rapidly acquired pragmatic legitimacy. As a result, PEP developed *generic performativity* insofar it was used to support and guide a whole range of decision-making processes. There is, then, a clear association between the legitimacy and performativity of a valuation device. When a device is perceived as illegitimate it is not commonly in use and, therefore, it has negligible consequences for the surrounding world. However, as a device establishes its pragmatic legitimacy it becomes generically performative; this suggests that a degree of pragmatic legitimacy is a pre-requisite for performativity.

In our third period, we see the *institutionalization* of PEP (it becomes taken-for-granted as a means of valuing the object in question). This results from the way PEP acquires a higher degree moral legitimacy thanks to changes in the wider logics of the legal field, and then in turn cognitive legitimacy as it becomes accepted as the taken-for-granted way for valuing law firms and their performance.

Consequently, PEP becomes embedded in organizational systems, artefacts and procedures and used to make and justify all sorts of managerial interventions. Importantly these interventions begin to alter the object of valuation (law firms) and its broader context (the legal field) as in their attempt to increase their PEP and position in the league tables, law firms disrupted established practices, structures, business models and even institutions (such as the partnership). In short, firms increasingly behave in ways which are deemed as valuable by PEP and in the process trigger broader processes of *institutional change* (fundamental features of the object of valuation and the broader legal field are changed to better fit with what is valued by the valuation device). We see, then, that as the legitimacy of PEP intensifies and broadens by adding moral and cognitive dimensions to its pragmatic one, the performativity of PEP also increases moving from *generic* to *effective* and eventually *Barnesian*.

In the fourth stage of our story this positive link between legitimacy and performativity inverts. PEP becomes *counter-performative* and begins to undermine its own legitimacy. The increasing performativity of PEP at first helped to further legitimize it by underscoring its significance and effectiveness as a managerial tool which in turn demonstrated and enhanced its pragmatic legitimacy. It also helped to reproduce an environment which was increasingly conducive and receptive to its use, thus boosting its normative and cognitive legitimacy. However, eventually continual increases in PEP became increasingly difficult and costly to sustain, especially in the post crisis context where many PEP oriented strategies and practices (such as leveraging) became counter-productive and problematic. Furthermore, the intended and unintended consequences of the pursuit of PEP became increasingly apparent and resisted. As such, there is a *performativity paradox* at play: the increasing legitimacy of PEP produces and is initially sustained by its performativity, but eventually Barnesian performativity triggers *counter-performativity* which in turn undermines its legitimacy. The core of this *performativity paradox* are illustrated in figure 2.

[Insert figure 2 here]

During the final stage and following the *performativity paradox*, PEP loses part of its pragmatic and normative legitimacy as it becomes increasingly ineffective as a managerial tool. It also experiences weakening normative legitimacy as its human costs become apparent. However, its cognitive legitimacy, which was the last to be acquired, proves more resilient. This is because various audiences had become accustomed to thinking of, talking about and valuing law firms in PEP terms; it had become ingrained in people's vocabularies and cognitive frames as well as in organizational systems and procedures. In this context, PEP persists but its use becomes more nuanced and muted. This translates into a decrease in its performativity, as PEP loses its formatting effects and retreats from *Barnesian* towards *effective* and *generic* forms of performativity (see figure 2). This ultimately allows PEP to recover a degree of pragmatic and normative legitimacy. As such, in our case PEP is able to find a more sustainable balance between legitimacy and performativity. We call this stage *muted survival*.

The model of the *dynamic legitimacy-performativity nexus* outlined in figure 2 highlights, then, the mechanisms that create a recursive relationship between legitimacy and performativity, and the feedback effects that eventually generate counter-performativity. In line with 'relational' approaches (D'Adderio et al., 2019) that emphasize the ongoing journey of performativity (Garud and Gehman, 2019), the *dynamic legitimacy-performativity nexus* model shows that the mechanisms of *validation*, *institutionalization* and *institutional change* result from the way growing legitimacy facilitates stronger forms of performativity, whilst the *performativity paradox* highlights how feedback effects undermine legitimacy and eventually performativity itself. This results in the waxing and waning of both performativity and legitimacy over time, highlighting the need for dynamic relational approaches that account for fluctuations over the life course of valuation devices.

Of course, as our dotted line in figure 2 suggests, *muted survival* is only one of many possible outcomes. In other circumstances it is possible that a valuation device may fall back further to a state of *incongruence*, losing all forms of legitimacy and performativity. We might call this a state of extinction. This is most likely in the context of a significant change in the wider field environment; an

example could be the introduction of new regulations that inhibit or renders impossible the form valuation conducted by a device and perhaps spawns entirely new metrics. An additional example could be an instance of market failure where the metric in question loses its pragmatic value and it is unable to serve the interests of any stakeholders. Ultimately, the trajectory that a valuation device follows after the performativity paradox stage are largely determined by wider field conditions and the way they interact with the device's legitimacy and in turn performativity (Brissett, 2016). This reemphasizes the importance of a 'relational' (D'Adderio et al., 2019) conception of valuation devices and their effects and points to the potential for recurrent cycles whereby the legitimacy-performativity nexus evolves and a valuation device recurrently moves between the stages outlined in figure 2.

Conclusions

Our longitudinal perspective responds to increasing calls to better understand the birth, development, diffusion, contestation and survival of valuation devices and other calculative practices (Cushen, 2014; Gendron and Barrett, 2004; Miller, 1991, 2001; Power, 2015). In addressing the question, *'how do evolutions in a valuation device's legitimacy relate to its performativity?',* we extend our understanding of how fluctuations in legitimacy are important for explaining not only how devices "become influential and institutionalised" (Espeland and Sauder, 2012: 8) and performative, but also how they become challenged and contested (Hutter and Stark, 2015; Mehrpouya and Samiolo, 2016). In doing so, we make a number of contributions to debates about valuation devices and performativity.

First, we identify the way changes in legitimacy and, in turn, performativity explain variations in the use of a particular accounting and valuation device (PEP). Miller (1991) observed that forms of accounting valuation evolve from being irrelevant to relevant, whilst more recently Power (2015: 50) called for a better understanding of the process through which a valuation device becomes an

‘organizational fact’ (Power, 2015: 50). The need for such process perspectives, is addressed by our longitudinal analysis of how changes in the legitimacy of a device result in different forms of performativity. In particular, we show how PEP moved from being an external valuation device used by the media to an internal device used by firms as its legitimacy increased. This movement is associated with PEP acquiring different forms of legitimacy and performativity through its life course (figure 2). Our analysis also helps explain why valuation devices are used despite their recognized limits. Thus, we extend work on false numbers (Lampland, 2010; Dambrin and Robson, 2011) by revealing that combinations of pragmatic and cognitive legitimacy stabilize and sustain devices despite their flaws. In our case the muted survival of PEP illustrates such stabilization and shows that the ‘tolerance’ and ‘making do’ highlighted by Lampland (2010) and Dambrin and Robson (2011) respectively is a result of not only the utility that such quantifications have for different stakeholders but also of the way they become ingrained in a field as cognitively taken-for-granted devices.

Second, we theorize the relationship between the performativity (Brissett, 2016; Keevers et al., 2012; MacKenzie, 2006; MacKenzie et al., 2007; Muniesa, 2014; Vollmer et al., 2009) and legitimacy of valuation devices (Andon et al., 2014; Brown, 1998; Gendron and Barrett, 2004; O’Dwyer et al., 2011; Robson et al., 2007). Whilst both of these concepts have been central to studies of valuation devices, their recursive relationships have not been unpacked. Our model of *the dynamic legitimacy-performativity nexus* (figure 2) allows us to bring these relationships to foreground. Previous studies have shown that the adoption of a valuation device depends on its pragmatic and moral legitimacy, with cognitive legitimacy eventually following on from this. The way different forms of legitimacy drive adoption by different audiences (Andon et al., 2014; O’Dwyer et al., 2011) and the strategies used by different actors to gain legitimacy have also been documented (Gendron and Barrett, 2004; Jeacle and Carter, 2011; Robson et al., 2007). Meanwhile, a separate stream of literature has focused on how and when valuation devices may become performative (Blok, 2011; D’Adderio, 2008; Cushen, 2014; MacKenzie and Spears, 2014), with a particular emphasis on the role of certain practices in generating performativity (Felin & Foss, 2009; Marti and Gond, 2018). In all of

these approaches, the two concepts of concern – legitimacy and performativity - are either treated separately, or analyzed through a binary contraposition between adoption/performativity and non-adoption/non-performativity. This prevents an understanding of how legitimacy and performativity wax and wane as they grow stronger and weaker together over time.

Our approach highlights how the legitimacy and performativity of a device operate in a recursive relationship. Thus, in Table 2 we show how *generic* performativity can only develop as a device acquires pragmatic legitimacy, and subsequently as legitimacy strengthens and broadens (adding moral and cognitive dimensions) *effective* and then *Barnesian* performativity can ensue (MacKenize, 2006). As such, by both differentiating between forms of legitimacy (pragmatic-moral-cognitive) and forms of performativity (generic-effective-Barnesian), and then focusing on the relationships between them, we reveal both when different forms of legitimacy and performativity emerge and how they develop in a recursive relationship throughout the life-course of a device. We also explain the way the legitimacy and in turn the performativity of a valuation device are affected by the fit with the logics of the wider social landscape (Brisset, 2016; Callon, 2007; Cabantous et al., 2016; Ezzamel et al., 2012; Komarova and Velthuis, 2018). In table 2 we show how broader field level developments affect, and result from, when each form of legitimacy and in turn performativity emerges. Importantly this allows a dynamic theorization that can account for the way links between the wider social landscape, legitimacy and performativity produce the ‘temporary’ (Power, 1996) and variegated influence of valuation devices over their life course as they move from apparent irrelevance to relevance (Miller, 1991).

Third, we develop a perspective that takes account of the ‘relational’ (D’Adderio et al., 2019) non-linear processes associated with valuation devices and their performativity. Relational approaches to performativity identify the feedback effects of interactions between a valuation device and, amongst other things, the actors (Marti and Gond, 2018), objects (Callon, 2007), discourses (Brissett, 2016) and competing valuation devices (Pollock and D’Adderio, 2015) in the wider social

landscape. These feedbacks contribute to the dynamic journey (Garud and Gehman, 2019) that constantly alters performativity and its effects. Our model of the *dynamic legitimacy-performativity nexus* advances understanding by revealing feedback loops, not previously examined, between the effects of performativity and the emergence of counter-performativity (D'Adderio, 2008). This is the *performativity paradox* identified in our analysis. Once a valuation device gains legitimacy and performativity it begins to create feedback effects, driven by the reactions of different actors in the wider social landscape to the way the performativity of the device alters the objects of valuation. Figure 2 illustrates how these feedbacks can weaken legitimacy in ways that curtail the most powerful Barnesian forms of performativity. The *performativity paradox* explains, then, how feedbacks can result in the effects of performativity receding, yet a valuation device persisting despite contestation (Hutter and Stark, 2015; Mehrpouya and Samiolo, 2016). The *performativity paradox* matters because it responds to concerns that the performativity thesis might over-emphasize the power of valuation devices to invoke change (Hodgson, 2010; Vosselman, 2014). It reveals that the power to invoke change is temporary and immediately generates feedback effects that seed, more or less quickly, the rise of counter-performativity, declining legitimacy and the diminishing power of a valuation device to effect change. This implies that questions about the effects of valuation devices on organizations and society need to take account of the way dynamic and recursive relationships between legitimacy, performativity and the wider social landscape generate moments of performance but also the means by which effects are curtailed.

Overall, therefore, our model of the *dynamic legitimacy-performativity nexus* is important because it provides a way to take account of the 'relational' (D'Adderio et al., 2019) and 'always in motion' (Garud and Gehman, 2019) process associated with valuation devices, their legitimacy and performativity. It allows the nature of legitimacy and performativity to be differentiated, and for the theorization of the effects of the always-emerging feedbacks and recursive relationships between the legitimacy and performativity of a valuation device and its wider social landscape (Brisset, 2016). This opens up opportunities in future research to consider in more refined ways questions about when and

how devices become performative. Our model allows the pace of establishment and decline to be investigated through analysis of ebbs and flows in legitimacy. It also provides a means to analyze how performativity impacts both the wider social landscape but also the legitimacy of the valuation device itself within that landscape. As such, our model of the *dynamic legitimacy-performativity nexus* provides a way to focus on the multi-dimensional, recursive and dynamic mechanisms that underlie the waxing and waning of the legitimacy and performativity of valuation devices.

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TBC

Bibliography

Abel R L., 1988, *The legal profession in England and Wales* (Blackwell, Oxford)

Andon P, Free C, Sivabalan P, 2014, The legitimacy of new assurance providers: Making the cap fit *Accounting, Organizations and Society* **39** 75-96

Aldrich, H. E, & Fiol, C. M, 1994, Fools rush in? The institutional context of industry creation. *Academy of Management Review*, 19(4): 645-670.

Ackroyd, S. and Muzio, D, 2007, The reconstructed professional firm explaining change in English legal practices. *Organization Studies* 48 (5): 1-19.

Barnes, B 1983. Social Life as Bootstrapped Induction, *Sociology*, 17 (4),524 – 45.

Barnes, B. 1988. *The Nature of Power*. Cambridge: Polity.

Begum, H 2005 Lovells profits collapse confirms nightmare year. *The Lawyer* 6th July

Begum, H, 2010, Editor's weekly: Greed is good. *The Lawyer*, 15th July.

Begum, H. Griffiths, C, 2007, Freshfields revolution to claim 100 equity partners. *The Lawyer*, 5th February.

- Benford, R. D., & Snow, D A, 2000, Framing processes and social movements: An overview and assessment. *Annual Review of Sociology*, 26: 611-639.
- Beringer, G (2007) *Profit per equity partner as a measure of success*. Allen & Overy, London.
- Blok, A, 2011, Clash of the eco-sciences: carbon marketization, environmental NGOs and performativity as politics. *Economy and Society* 40: 451-47
- Brandtner C, 2017, Putting the world in orders: Plurality in organizational evaluation. *Sociological theory* 35: 200-227
- Brisset, N, 2016, Economics is not always performative: some limits for performativity. *Journal of Economic Methodology*, 23(2), 160-184
- Brock, D., Powell, M. and Hinings, C.R, 1999, *Restructuring the Professional Organization. Accounting, Healthcare and Law*. London and New York: Routledge.
- Brown, AD, 1998, Narrative, politics and legitimacy in an IT implementation. *Journal of Management Studies*, 35(1): 35-58.
- Byrne, M, 2007a, Freshfields' smoke and mirrors puts PEP at magic million mark. *The Lawyer*, 4th June
- Byrne, M, 2007, EPP v PEP: The truth is in there. *The Lawyer*, 13th August
- Byrne, M, 2007c, EPP is the new PEP. *The Lawyer*, 3rd September
- Cabantous L, Gond J-P, Harding N, Learmonth M. (2016), Critical essay: Reconsidering critical performativity. *Human Relations* 69, 197-213
- Callon M, 2007, What does it mean to say that economics is performative? In, *Do economists make markets? On the performativity of economics* Eds D MacKenzie, F Muniesa, L Siu. Princeton University Press, Oxford, 311-357.
- Callon M, 1998 *The laws of the markets* (Blackwell, Oxford)
- Callon M, Muniesa F, 2005, Peripheral vision economic markets as calculative collective devices *Organization Studies* 26 1229-1250
- Cooper, D., C.R. Hinings, R, Greenwood, and J.L. Brown (1996), 'Sedimentation and transformation: The case of Canadian law firms'. *Organization Studies* 17 (4): 623-647

- Cullen-Mandikos, B, MacPherson, A, 2002, US foreign direct investment in the London legal market: an empirical analysis. *The professional geographer* 54: 491-499
- Curtis E, Turley S, 2007, "The business risk audit–A longitudinal case study of an audit engagement" *Accounting, Organizations and Society* 32 439-461
- Cushen, J, 2013, Financialization in the workplace: Hegemonic narratives, performative interventions and the angry knowledge worker. *Accounting, Organizations and Society* 38: 314-331
- D’Adderio L, 2008, The performativity of routines: Theorising the influence of artefacts and distributed agencies on routines dynamics. *Research policy* 37: 769-789
- D’Adderio, L., Glaser, V. L., & Pollock, N, 2019, Performing theories, transforming organizations: A reply to Marti and Gond. *Academy of Management Review* 44, 676-679
- Dambrin, C., & Robson, K. 2011. Tracing performance in the pharmaceutical industry: Ambivalence, opacity and the performativity of flawed measures. *Accounting, Organizations and Society*, 36(7), 428-455.
- Deephouse, D L, Bundy, J, Tost, L P, Suchman, M C, 2017, Organizational legitimacy: Six key questions in *The Sage handbook of organizational institutionalism* Eds R Greenwood, C Oliver, T Lawrence, R E Meyer (Sage, London) pp 27-54
- Dezalay Y, 1990, The big bang and the law: the internationalization and restructuring of the legal field. *Theory, Culture & Society* 7: 279-293
- Dowell, K, 2008, Mishcon de Reya to put investment before profit. *The Lawyer*, 28th July.
- Edmond, C (2007) Partners admit leverage hikes hit morale but predict more pruning. *Legal Week*, 26th July.
- Elsbach, KD, & Sutton, RI, 1992, Acquiring organizational legitimacy through illegitimate actions: A marriage of institutional and impression management theories. *Academy of Management Journal*, 35(4): 699-738.
- Espeland W, Sauder M, 2016, *Engines of anxiety: Academic rankings, reputation, and accountability* (Russell Sage Foundation)

- Espeland W N, Sauder M, 2012, The dynamism of indicators. In *Governance by Indicators: Global Power through Quantification and Rankings* Eds K Davis, A Fisher, D Kingsbury, S Merry (Oxford University Press, Oxford) pp 86-109
- Espeland W N, Sauder M, 2007, "Rankings and Reactivity: How Public Measures Recreate Social Worlds 1" *American Journal of Sociology* **113** 1-40
- Espeland W N, Stevens M L, 1998, "Commensuration as a social process" *Annual review of Sociology* **24** 313-343
- Esposito E, 2013, The structures of uncertainty: performativity and unpredictability in economic operations *Economy and Society* 42: 102-129
- Ezzamel M, Robson K, Stapleton P, 2012, The logics of budgeting: Theorization and practice variation in the educational field. *Accounting, Organizations and Society* **37** 281-303
- Faulconbridge J R, Muzio D, 2009, "The financialization of large law firms: situated discourses and practices of reorganization" *Journal of Economic Geography* **9** 641-661
- Faulconbridge, J. and Muzio, D, 2008, Organizational professionalism in globalizing law firms. *Work, Employment & Society* 22(1), 7-25.
- Felin, T., N. J. Foss. 2009. Social reality, the boundaries of selffulfilling prophecy, and economics. *Organization Science* 20(3) 654–668
- Flood J, 1995, "The cultures of globalization: professional restructuring for the international market.", in Professional competition and professional power. Lawyers, accountants and the social construction of markets Eds Y Dezalay, D Sugarman (Routledge, London) pp 139-169
- Froud J, Johal S, Leaver A, Williams K, 2006 *Financialization and strategy. Narrative and numbers* (Routledge, London and New York)
- Garud R, Gehman J, 2019, Performativity: Not a destination but an ongoing journey. *Academy of management Review* 44 679-684

- Gendron Y, Barrett M, 2004, "Professionalization in action: Accountants' attempt at building a network of support for the WebTrust seal of assurance" *Contemporary Accounting Research* **21** 563-602
- Greenwood R, Hinings C, and Brown J, 1990, P2-form' strategic management: corporate practices in professional partnerships. *Academy of Management Journal* 33(4), 725-755.
- Greenwood R, and Hinings CR, 1993, Understanding strategic change: The contribution of archetypes'. *Academy of Management Journal* 36(5): 1053-1081.
- Hanlon G, 1999 *Lawyers, the state and the market. Professionalism revisited* (MacMillan Business, London)
- Hansen S C, Van der Stede W A, 2004, "Multiple facets of budgeting: an exploratory analysis" *Management Accounting Research* **15** 415-439
- Helgesson C-F, Muniesa F, 2013, "For what it's worth: An introduction to valuation studies" *Valuation Studies* **1** 1-10
- Hodgson G M, 2010, Review Symposium. Donald MacKenzie An Engine Not a Camera: How Financial Models Shape Markets. *Socio-Economic Review* 8: 399-410
- Hybels, R. C, Ryan, A., & Barley, S. (1994) Alliances, Legitimation and Founding Rates in the U.S. Biotechnology Field, 1971–1989, Academy of Management Conference, Dallas, TX.
- Hutter M, Stark D, 2015, "Pragmatist perspectives on valuation: an introduction", in *Moments of Valuation: Exploring Sites of Dissonance* Eds A B Antal, M Hutter, D Stark (Oxford University Press, Oxford) pp 1-12
- Jeacle I, Carter C, 2011, "In TripAdvisor we trust: Rankings, calculative regimes and abstract systems" *Accounting, Organizations and Society* **36** 293-309
- Keevers, L., Treleaven, L., Sykes, C. & Darcy, M. (2012). Made to measure: taming practices with results-based accountability. *Organization Studies*, 33 (1), 97-120.
- Komarova N, Velthuis O, 2018, Local contexts as activation mechanisms of market development: contemporary art in emerging markets. *Consumption Markets & Culture* 21: 1-21

- Kornberger M, Justesen L, Masden A, Mouritsen J, 2015, "Introduction. Making things valuable", in *Making Things Valuable* Eds M Kornberger, L Justesen, A Masden, J Mouritsen (Oxford University Press, Oxford) pp 1-17
- Lamertz, K, Baum, J, 1998, The legitimacy of organizational downsizing in Canada: An analysis of explanatory media accounts. *Canadian Journal of Administrative Sciences*, 15: 93–107.
- Lamont M, 2012, "Toward a comparative sociology of valuation and evaluation" *Annual review of Sociology* **38** 201-221
- Lampland, M. 2010. False numbers as formalizing practices. *Social Studies of Science*, 40(3), 377-404.
- Langley, A. 1999. Strategies for theorizing from process data. *Academy of Management Review*, 24(4): 691-710.
- Lawrence, T. B., & Phillips, N. 2004. From Moby Dick to Free Willy: Macro-cultural discourse and institutional entrepreneurship in emerging institutional fields. *Organization*, 11(5): 689-711.
- Legal Business (2012) LB100 2012. *Legal Business*, 1st September.
- Leblebici H, Sherer, PD, 2015, Governance in Professional Service Firms: From Structural and Cultural to Legal Normative Views. In Empson L., Muzio D., Broschak J., Hinings B. (Eds.) *The Oxford Handbook of Professional Service Firms*. Oxford: OUP, pp 189-212.
- Lockett, A., Wright, M. and Wild, A. (2015) "The institutionalization of third stream activities in UK higher education : the role of discourse and metrics", *British Journal of Management*, 26, 1, 78-92
- MacKenzie, D, 2006, Is economics performative? Option theory and the construction of derivatives markets. *Journal of the history of economic thought* 28: 29-55
- MacKenzie D, Millo Y, 2003, "Constructing a Market, Performing Theory: The Historical Sociology of a Financial Derivatives Exchange 1" *American Journal of Sociology* **109** 107-145

- MacKenzie D, Spears T, 2014, 'A device for being able to book P&L': The Organizational Embedding of the Gaussian Copula. *Social studies of science* 44, 418-440
- Maguire, S., & Hardy, C. 2009. Discourse and deinstitutionalization: The decline of DDT. *Academy of Management Journal*, 52(1): 148-178.
- Maister, D.H. 1993. *Managing the Professional Service Firm*. New York: Free Press.
- Marti, E. and Gond, J.-P. 2019. How Do Theories Become Self-Fulfilling? Clarifying the Process of Barnesian Performativity. *Academy of Management Review*, 44(3) 686–694.
- Mehrpouya A, Samiolo R, 2016, "Performance measurement in global governance: Ranking and the politics of variability" *Accounting, Organizations and Society* 55 12-31
- Miller P, 2001, "Governing by numbers: Why calculative practices matter" *Social research* 379-396
- Miller, P. 1991. Accounting innovation beyond the enterprise: problematizing investment decisions and programming economic growth in the UK in the 1960s. *Accounting, Organizations and Society*, 16(8), 733-762.
- Mintzberg H, 1979, *The structuring of organizations* (Prentice Hall, London)
- Muniesa F, 2014, *The provoked economy: Economic reality and the performative turn*. Routledge, London.
- Muniesa F, Millo Y, Callon M, 2007, "An introduction to market devices" *The Sociological Review* 55 1-12
- Murphy, G, 2011, Why the irregularities in calculating PEP make it an inadequate indicator of success. *Legal Week*, 20th October.
- Nanda, A, and Prusiner, L, 2007, Linklaters: Seeking Clear Blue Water. Available at <http://casestudies.law.harvard.edu/linklaters-a-seeking-clear-blue-water/> [last accessed 13/09/2017]
- Napier, C., & Power, M. 1992. Professional research, lobbying and intangibles: a review essay. *Accounting and Business Research*, 23(89), 85-95.

- Novarese, A, 2009, There's more to life than PEP (or let's get Travers off the naughty step). *Legal Week*, 31st July
- Novarese, A, 2010, Wag the dog. *Legal Week*, 6th May
- Novarese, A, 2011, DLA Piper The pull of PEP - DLA Piper's partnership shake-up raises interesting questions. *Legal Week*, 27th October.
- Novarese, A, 2012, *Transparency hurts - the press and partner profits*. *Legal Week*, 24th February.
- O'Dwyer B, Owen D, Unerman J, 2011, Seeking legitimacy for new assurance forms: The case of assurance on sustainability reporting. *Accounting, Organizations and Society* **36** 31-52
- Orlik, R, 2012, DLA Piper's regional offices under scrutiny in profitability review. *Legal Week*, 1st June
- Pollock N, D'Adderio L, Williams R, Leforestier L, 2018, Conforming or transforming? How organizations respond to multiple rankings *Accounting, Organizations and Society* 64: 55-68
- Power M, 1996, Making things auditable. *Accounting, Organizations and Society* **21** 289-315
- Power M, 2015, How accounting begins: Object formation and the accretion of infrastructure. *Accounting, Organizations and Society* **47** 43-55
- Pozzebon, M. and Pinsonneault, A, 2005, Challenges in Conducting Empirical Work Using Structuration Theory: Learning from IT Research. *Organization Studies*, 26 (9) 1353-1376.
- Reichman, N. & Joyce Sterling, 2010, So, You Want To Be a Lawyer? The Quest for Professional Identity in a Changing Legal World. *Fordham Law Review* 78 (7) 2289-2314
- Ribstein, L, 2010, The Death of Big Law. *Wisconsin Law Review* 74, 751-814
- Robson K, Humphrey C, Khalifa R, Jones J, 2007, Transforming audit technologies: Business risk audit methodologies and the audit field. *Accounting, Organizations and Society* **32** 409-438
- Sauder M, Espeland W N, 2009, The discipline of rankings: Tight coupling and organizational change. *American sociological review* **74** 63-82
- Scott, WR, 1995, *Institutions and Organizations*, Newbury Park, CA: Sage.
- Stinchcombe, A. L, 2005, *The Logic of Social Research*. Chicago: University of Chicago Press.

- Stinchcombe A L, 2001, *When formality works: Authority and abstraction in law and organizations* (University of Chicago Press, Chicago)
- Suchman, M C, 1995. Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review* 20(3): 571-610.
- Suddaby R, Greenwood R, 2005, Rhetorical strategies of legitimacy. *Administrative Science Quarterly*, 50(1): 35-67.
- Suddaby, R., Bitektine, A., & Haack, P, 2017, Legitimacy. *Academy of Management Annals* 11(1) 451-478.
- Swift, J, 2012, Nabarro "managing" partnership as revenues stagnate. *The Lawyer*, 28th May
- The Lawyer, 2008, Top of the Peps. *The Lawyer*, 7th July.
- The Lawyer, 2007, Eversheds confirms PEP to break £500k. *The Lawyer*, 17th May.
- The Sunday Times, 2007, Focus: Making a bundle. *The Sunday Times*, 8 July.
- Thornton, PH, 2002, The Rise of the Corporation in a Craft Industry: Conflict and Conformity in Institutional Logics. *Academy of Management Journal* 45, 81–101.
- Thorpe, C, 2013, Crunching the numbers - going behind the headline figures to look at the top 30's financial health. *Legal Week*, 28th March.
- Tost, L P, 2011, An integrative model of legitimacy judgments. *Academy of management Review* 36, 686-710
- Vaara, E., Tienari, J., & Laurila, J, 2006, Pulp and Paper Fiction: On the Discursive Legitimation of Global Industrial Restructuring. *Organization Studies*, 27(6): 789-810.
- Valera, J, 2007, Financial Management: The right measure. *Legal Week*, 19th July
- Vatin F, 2013, Valuation as evaluating and valorizing. *Valuation Studies* 1: 31-50
- Vollmer H, Mennicken A, Preda A, 2009, Tracking the numbers: Across accounting and finance, organizations and markets *Accounting, Organizations and Society* 34: 619-637
- Vosselman E, 2014, The 'performativity thesis' and its critics: Towards a relational ontology of management accounting. *Accounting and Business Research* 44, 181-203

Wald, E, 2009, The Great Recession and the Legal Profession. *Fordham Law Review* 78, 2051-2066

Weber M, 1968, *On charisma and institution building*. University of Chicago Press, Chicago, IL

Westacott, G and S. Hoare, 2005, Simmons' ambitions grow after 40 per cent PEP hike. *The Lawyer* 27th June.

Figure 1: The number of articles discussing PEP in The Lawyer, 1994-2013

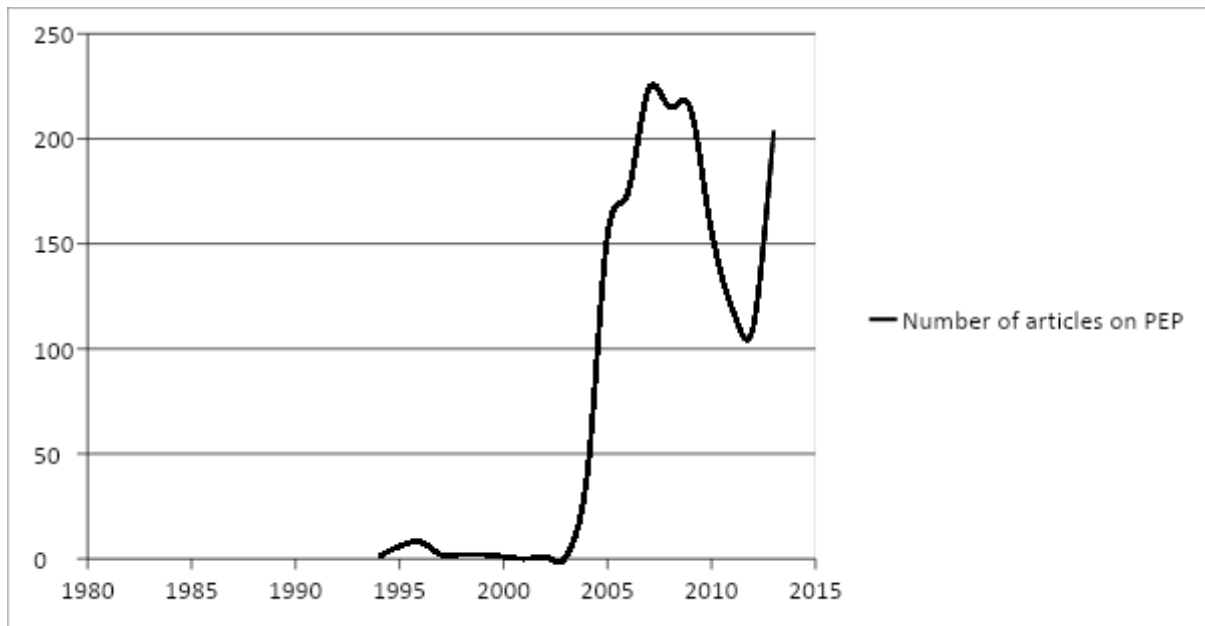


Table 1: Interviewees

Interviewee	Period active in legal field
Journalist – legal publication	2002 onwards
Journalist – legal publication	1991 onwards
Managing Partner of firm; then consultant to law firms	1997-2000; 2000 onwards
Consultant to law firms	1990 onwards
Managing Partner of firm	2001 onwards
Journalist – legal publication; then consultant to law firms	1995-1998; 1999 onwards
Senior Partner of law firm	2001-2006
Consultant to law firms	1990 onwards
Managing Partner of firm	1993-2003
Journalist – legal publication	1991 onwards
Senior Partner of law firm	1999-2009
Journalist – legal publication	1990 onwards
Managing Partner of firm	1997 onwards
Finance Director of law firm	1990 onwards
Compliance Director of law firm	2000 onwards
Finance Director of law firm	2000 onwards
Managing Partner of firm	2000 onwards
Managing Partner of firm	2005 onwards
Partner of firm	1998 onwards
Partner of firm	2004 onwards
Partner of firm	2005 onwards
Partner of firm	1987 onwards
Managing Partner of firm	2001 onwards
Partner of firm	2000 onwards

Table 2: Key phases in the legitimacy, performativity and counter-performativity of PEP in the English legal profession

Time period	Key Developments in Legal Field	Dynamics of legitimacy and <i>Key Mechanisms</i>	Key features	Levels of Performativity
Early to late 1990s	<p>Late 80s - The American Lawyer introduces PEP in the USA.</p> <p>Late 80 and early 90s onwards increasing presence of USA law firms in London, including Jones day, Skadden Arps, Kirkland & Ellis, Latham & Watkins and Weil Gotshal</p> <p>1992 – Legal Business first uses PEP in the UK</p> <p>1993 – Publication from US of Maister (1993) and identification of PEP as key valuation device for law firms</p> <p>Mid 90s - Rapid economic growth as London consolidates its position as the world’s leading financial centre</p> <p>Globalization and Consolidation of law firms through M&A activity</p>	<p>Illegitimacy</p> <p><i>Incongruence</i> – PEP does not fit with existing interests, norms, values and mental schemas</p>	<p>Pragmatic Legitimacy: Low. No group had a need/use for PEP. Rather it was perceived as an intrusion and potential source of trouble, embarrassment and division</p> <p>Moral Legitimacy: Low. Practice viewed as immoral and not in line with standards of the English legal profession. It attracts disparaging comments with the allegedly lesser standards associated with Accountants and American lawyers</p> <p>Cognitive legitimacy: Low. Profession alien to metrics, rankings and league tables. Also not familiar with the role and function of the legal press</p>	<p>Performativity absent – PEP is a relatively unknown metric with little impact on the profession.</p>

Late 1999s to early 2000s	<p>Rapid economic growth as London consolidates its position as the world's leading financial centre.</p> <p>Globalization and Consolidation of law firms through M&A activity</p> <p>2000 Limited Liability Partnership Act</p>	<p>Gaining legitimacy</p> <p><i>Validation</i> – PEP proves its utility and moral value to a number of stakeholders and audiences</p>	<p>Pragmatic legitimacy: Rising rapidly - Stakeholders become persuaded of the usefulness of PEP. PEP does something for everybody</p> <p>Moral legitimacy: Rising - Professional quality is seen as necessarily connected to commercial and financial success</p> <p>Cognitive legitimacy: Low but stakeholders increasing familiar with legal press and PEP as a valuation device</p>	<p>PEP acquires <i>generic performativity</i>, as different actors use it to pursue different ends. Pragmatic legitimacy the foundation for this nascent form of performativity. Examples of PEP's performativity include:</p> <ul style="list-style-type: none"> • Managing partners using to justify actions • Lawyers/partners using to assess benefits of moving between firms as a lateral hire market develops
Mid 2000s to 2007	<p>Celebration of UK's legal profession global excellence and competitiveness</p> <p>2007 - Legal Services Act – paving the way to the external investment and public ownership of law firms</p> <p>2007 – Lawyer launches Top of the PEPs feature</p>	<p>Maintaining legitimacy</p> <p><i>Institutionalization</i> –</p> <p>PEP becomes embedded into organizational systems, artefacts and procedures.</p> <p><i>Institutional change</i> – the effects of PEP reverberate through the broader field, changing existing practices, values and institutions. As such PEP creates its own reality</p>	<p>Pragmatic legitimacy: High. Widespread examples of organizational restructuring to improve PEP.</p> <p>PEP allows speculative calculation of law firm value in conjunction with further de-regulation.</p> <p>Moral legitimacy: Stable. Connection of PEP with discourses of global excellence and leadership.</p> <p>Cognitive legitimacy: High. PEP valuations are a taken for granted part of professional and organizational life</p>	<p>During this period <i>effective performativity</i> takes hold. Law firms start to manage to their position in the 'PEP league table'.</p> <p>Latterly <i>Barnesian performativity</i> emerges. What are initially limited interventions (removing under-performing partners, head hunting certain partners, expanding certain departments rather than others) become much more radical as the structure and logic of legal practice changes to make law firms perform in ways that PEP deems valuable. Examples of PEP's performativity thus include:</p> <ul style="list-style-type: none"> • PEP becoming part of the financial reporting dataset for law firms

				<ul style="list-style-type: none"> • PEP becoming part of assessment of success/viability of law firms • PEP being used to inspire and assess new strategic plans • PEP becoming the 'share price' of law firms • Interventions, such as partnership restructuring, to enhance PEP
2007-2009	<p>2007 - Financial crisis discrediting financialised practices and making highly leveraged firms less profitable.</p> <p>2007 – Lawyer promotes alternative Metric of EPP</p> <p>2010 – The Lawyer discontinues 'Top of the PEP' feature</p>	<p>Challenging Legitimacy</p> <p><i>Performativity paradox</i></p> <p><i>Internal validity crisis -</i> Performative effects of PEP (Managing to the league tables) exposes inherent limitation of PEP as a simplistic, reductionist and easily manipulated means of valuation.</p> <p><i>External validity crisis -</i> External performative effects produce consequences which increasingly clash with established interests, values and norms within a changing field context.</p>	<p>Pragmatic legitimacy: Decreasing. Highly leveraged models unprofitable. Lateral hire market dries up. Realization of work intensification and deteriorating career prospects and rising legal costs. Increasingly toxic for media.</p> <p>Moral legitimacy: Decreasing. Growing scrutiny of consequences of using and inherent limitation of PEP. PEP viewed as short-termist, unsustainable, de-humanizing and threatening to professional cultures.</p> <p>Cognitive legitimacy: Stable. PEP so embedded in organizational practices that it sticks. Although reporting decreases (albeit temporarily) and some of most extreme practices are discontinued (top of PEP).</p>	<p>PEP becomes <i>counter-performative</i> as <i>Barnesian performativity</i> eventually undermines the accuracy of PEP assessments, whilst gaming associated with increasingly financialized business models and practices makes firms less sustainable, and the intended and unintended effects of PEP generate increasing resistance. Examples of counter-performativity include:</p> <ul style="list-style-type: none"> • Overt critique of the use of PEP • Creation of other valuation devices such as EPP that claim to value other factors

2009 onwards	<p>2009 - Recovery of legal sector thanks to financial restructuring work</p> <p>2011 - Introduction Alternative Business Structures as an alternative to partnership</p>	<p>Responding to Legitimacy challenges.</p> <p><i>Muted Survival</i> – PEP persists but with reduced levels of legitimacy.</p>	<p>Pragmatic legitimacy – medium. PEP remains useful as a valuation and decision making tool but its use is tempered and integrated with other metrics and criteria</p> <p>Moral legitimacy – low. Whilst professionalism and commercial success are not seen as mutually exclusive, short-termist and financially oriented approaches to management are stigmatised</p> <p>Cognitive legitimacy - high. PEP is still widely used to evaluate and discuss law firms and their performance.</p>	<p>PEP returns to a state of <i>effective performativity</i> as more nuanced use, alongside other means of valuation, results in PEP driving interventions (practice closures; redundancies etc) but alongside interventions (investments and valuation of long-term benefits) that work against a PEP-created reality for law firm structures and strategies. Examples of PEP’s performativity thus include:</p> <ul style="list-style-type: none"> • Moderated and more sophisticated commentary on PEP assessments • PEP valuations alongside other valuations
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Figure 2: The Dynamic Legitimacy-Performativity Nexus

