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More Evidence and Argument Based on the Experience of
the British Legal Profession**

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Understanding Change in the Professional Organisation: More Evidence and
Argument Based on the Experience of the British Legal Profession

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Introduction

It is widely believed that we are witnessing some profound changes concerning the organisation and delivery of expertise in advanced societies. If, as is claimed, knowledge, as opposed to land, capital or labour, is now the key factor of production, the general question of the organisation of expertise could hardly be regarded as being of more importance. However, it is arguably also the case that many predictions and claims have been incautiously made in this context, and have typically greatly exceeded the information available to support them. At some point there has to be careful consideration of how far there is empirical support for some of the different theoretical contentions. There is extended controversy, for example, about the continued importance of the professions, and the extent to which the traditional patterns of organisation and governance continue to be viable; and while some extreme claims have been made of the imminent demise of the traditional professional and its associated patterns of organisation, systematic consideration of the evidence has often been lacking.

This paper is concerned with the question of how to describe and explain the changes taking place in a small corner of this field, which concerns the extent to which and the ways in which the traditional professions are reorganising themselves. If the general claim of the collapse of professionalism is seen to be implausible, then commentators have often claimed that, at the very least, there will have to be fundamental changes in the pattern of organisation away from control of their businesses by professionals themselves towards more managed patterns of provision. This paper takes as its point of departure some of the recent work of Pinnington and Morris (2003), in which they present data concerning the organisation of large English Law firms. Through a consideration of their data, Pinnington and Morris raise some questions about the actual patterns of change taking place amongst solicitor firms and

through this, they question the appropriateness of archetype theory for the analysis of contemporary change in this branch of the legal profession.

In this paper, we bring forward data of a different type that nonetheless can be brought to bear on similar research questions to those addressed by Pinnington and Morris. These concern the extent to which solicitors have become subject to managerial rather than the traditional modes of organisation and control associated with professional patterns of organisation. Whereas Pinnington and Morris's data are derived from a sample survey, and to a considerable extent report the views and opinions of respondents, our data are largely drawn from the facts and figures returned by legal firms to the Law Society. It therefore relates to the population of solicitor firms in England and Wales, and is a reliable basis for generalisation. It also allows some connections to be made between different patterns of organisation and levels of financial performance, the need for which has been widely acknowledged. We believe our data allow us to describe, with a great deal of certainty, the processes of structural transformation that have occurred and are occurring in the organisation of the contemporary legal profession. In addition, as we shall argue towards the end of our paper, the data allow us to develop a different account of structural change in the organisation of solicitor firms which uses different theoretical assumptions from archetype theory.

This paper has two main sections. In the first section, which is mainly concerned with the presentation of data, we describe changes to the pattern of organisation found in solicitor firms over a ten-year period. In the second section, we pass on to the consideration of ideas that best account for the changes we have discussed. We argue that, although there is evidence for considerable change, it is easy to exaggerate the extent of change in the basic organisational forms of solicitor firms, and particularly the extent to which they conform to entirely new patterns of organisation. We find little evidence for a move away from traditional forms of organisation, in which legal services are organised and delivered by solicitors themselves. This is against the ideas that have been developed by archetype theorists (Greenwood et al 1990; Greenwood and Hinings 1993; Brook et al 1999; Cooper et al 1996), whose convictions Pinnington and Morris were concerned to test. Pinnington and Morris themselves, correctly (in our view) argue for considerable continuity alongside change. This is a finding we will confirm.

Although our data also suggests both continuity and change, we think that the evidence points more towards continuity than believed by other commentators. We argue that it is with regard to the size of solicitor firms, and some marginal changes in the pattern of the internal division of labour, that we have the most noticeable changes. The largest solicitor firms have become, by historical standards, very large indeed. Large solicitor firms might be expected to have developed new practices and, in particular, new modes of coordination. As is widely proposed by organisational writers, and as commonsense reasoning confirms, larger firms pose more problems of co-ordination, and can also afford to sustain employees who contribute to this rather than to the production of goods and services. Our data certainly support the contention change has moved furthest amongst the largest firms. However, even there, the evidence of fundamental change is weak. We shall argue that it is true that, amongst large firms, there have been some moves towards the use of more management practices and techniques. But there remains room for considerable scepticism about the extent to which we can identify a new managed form of organisation, which archetype theorists call the managed professional business (MPB), is actually present. We think the evidence for the existence of the MPB is negligible if this is taken to suggest that the control of solicitor firms has moved out the hands of solicitors themselves.

Archetype Theory

Until recently, contributions have endorsed the applicability of archetype theory to a wide range of professional organisations in both the public and the private sectors (Cooper et al 1996; Brock et al 1999; Kitchener 1998, 1999; Ferlie and Fitzgerald, 2000; Dent et al., 2001; Pinnington and Morris 2001; Pinnington and Morris 2003). According to the exponents of this approach, environmental contingencies are dictating processes of paradigmatic shift, whereby professional organisations are abandoning the orthodox professional archetype (which they call, P2). Orthodox professional firms (P2's) are supposedly based on traditional notions of partnership, collegiality and universal service. While it is questionable whether solicitor firms were anything but intensely commercial in orientation (Sugarman, 1993), archetype theorists suggests they are now reconfiguring themselves as M.P.B's; among other things, placing more emphasis on managerialism, bureaucracy and commercialism (Cooper et al 1996). Change, in this context, is seen as an

essentially functional process. A better and more efficient way of organising and executing activities has been discovered in the MPB, and since organisations are committed towards improving efficiency, competitiveness and performance levels, this is inevitably implemented. The neo-functionalist and contingency theory assumptions behind such work are clear.

Currently, the relevancy of archetype theory is being questioned in a number of ways. Pinnington and Morris question the applicability of archetype theory to the organisation of architecture practices (2001), and continue to do so in their study of solicitors (2003). Similarly, Finn et al (2003), raise some strong doubts on its empirical and methodological reliability. However, both sets of authors, despite suggesting scepticism, are clearly equivocal about the theoretical value of this theory; they do not reject it, leaving in doubt the question of the extent of the applicability of the approach. By contrast, in this paper, we argue that archetype theory is theoretically so questionable it should be rejected. (See also Kirkpatrick and Ackroyd, 2003.) As an alternative, we propose theoretical ideas that feature the agency of professional groups and other actors much more centrally, and which suggest that organisational forms are the outcomes of the negotiations between groups, rather than, as archetype theory holds, that they exist because they are functional.

Central to our theoretical endeavour is the notion of professional project (Larson 1977), which focuses on the attempts by professional groups to translate a scarce set of cultural and technical resources into a stable and institutionalised system of rewards. In our account, organisational change in solicitor firms is connected with the agency of professional elites (partners controlling practices) and their strategies which are designed to safeguard and promote their interests. Accordingly, this contribution links what change there is in professional organisations, to the continued pursuit of the long-term objectives of the professional project. It is argued that the current change in the organisation of the legal profession is not explained by the identification and adoption of a better and more effective organisational paradigm; rather, ongoing changes are better explained as a continuation of the control of law firms by the professional elite. Change is initiated and developed by identifiable groups within profession itself. We argue that, having substantially lost external closure (control of the numbers entering the profession), the elite of the profession is nonetheless able to preserve professional privileges by, among other things, increased specialisation in, and ability to claim superior expertise concerning, lucrative areas of

legal business. Such a strategy lies behind the increasing size of firms. Crucially, however, they also have seen the value of exercising internal closure on the numbers becoming equity partners in solicitor firms and so gaining access to a proportionate share of the profits of professional practice.

As a result of these activities professional hierarchies have become elongated, and the terms and conditions of career progression are changing in favour of those at the top of professional hierarchies and against those at the bottom. As corporations allegedly flatten their structures, solicitor firms are moving in the opposite direction, towards more internal differentiation and hierarchy. Nonetheless, the centrality of professional expertise to service provision, remains. In this view, any increased use of management is not central to the processes that are occurring and increased use management techniques is only an adjunct to processes of internal change. Thus, professional change is thought about as predominantly, but not exclusively, as a political as opposed to a functional process. The emphasis in archetype theory, on functionality is rejected in favour of an approach that prioritises agency, conflict and negotiation.

SUBSTANTIVE PROPOSITIONS

(a) An Overview of Change in Solicitor Firms

Pinnington and Morris deliberately limit their attention to large firms, and there is, as we have said, some point in this. If the purpose of research is to focus on change, the concern for large firms is justified. But it also runs the risk of emphasising change over continuity. We think similar changes are affecting solicitor firms of all sizes, it is just that the key trends are especially marked with large firms.

Traditionally, solicitor firms have been very small, and this remains true for the great majority of firms today. In 1802, the average law firm had 1.2 partners. By 1902 this figure had risen to only 2.5. (Sugarman 1993; 1996). By that date, 75% of all firms had less than four partners and 92% had fewer than six (Abel 1988). Significant law firms with no more than two partners were not unusual (Sugarman 1992; Slinn 1974, 1987). To give an indication of this situation, as late as in 1937, Linklaters, the biggest law firm in the country, contained only eleven partners. (Slinn 1987). As late as in the early 60s, legal practice equalled sole practice or partnership with a few others, usually family members (Sugarman 1993; 1996). The situation has

evolved since. Whilst today, 83.2% of all firms employ 4 partners or less (and 94% have less than 10 partners), small partnerships currently account for less than a third of all solicitors in private practice.

In this context, it is the development of very large solicitor firms in the last twenty years that compels attention, and, as they have grown, they have employed an increasing proportion of all solicitors. For many years, of course, the size of partnerships was limited by legislation. Under English law, the maximum number of members of a partnership was 20. However, for a long period of history this was an entirely theoretical limitation, which was not approached. Linklaters and Paines, the largest British law firm in the nineteenth century, never exceeded four partners; while Freshfield, one of the oldest law firms and the solicitors of the bank of England, for decades never exceeded three. The first firm to reach the quota of 20 partners was Slaughter and May, which occurred as late as 1961 (Abel 1988). The limit on partnership members was lifted for solicitors soon after, in 1967. However, size remained limited until the early nineteen eighties. Indeed, it is only in the past 15 years that we have witnessed the huge growth in the size of large legal practices.

Table 1: Solicitors in Legal Firms of Different Sizes, 1989 – 2000

		1989 1990		1994 1995		1999 2000				
			%	%		%	%		%	
Small	Single Partner	4056	9	37	4884	9	35	5417	9	32
	2-4 Partners	12456	28		13539	26		14432	23	
Medium	5-10 Partners	11160	24	40	10892	21	36	11149	18	33
	11 -25 Partners	7509	16		7899	15		9457	15	
Large	26+ Partners	10538	28	28	14675	29	29	23100	35	35

Unless otherwise indicated, data are drawn from the Law Society's Regis Database, and annually published in *Trends in The Legal Profession: Annual Statistical Report*, by the Law Society Strategic Research Unit

Table 1 gives a breakdown of the change in the size of solicitor firms, as measured by the numbers of solicitors employed during the 1990's. This shows that the proportion of qualified solicitors working in small firms has been declining. Something similar is true for medium sized firms, only here the decline is more marked. Significant growth in the numbers of solicitors at work has been concentrated among the very largest firms, as we shall now see.

The last 15 years, particularly, has seen a substantial growth in the size of the largest legal practices and the proportion of the total of qualified solicitors who work in them. Clearly, this involves a substantial increase in the concentration of the profession from a very low base. Since the mid 80s the size of the average law firm, as measured by the number of solicitors, has increased by 55% whilst doubling from its mid 70s levels. In 2001, the average law firm employed just over 8 solicitors. The legal profession is becoming increasingly concentrated in larger productive units.

(b) The Concentration of Legal Practice

Today, over a third of all solicitors (36%) work for very large firms, ie those that are defined here as firms having more than 25 partners. These organisations have an average headcount of over 500 employees. Over the last 10 years this occupational segment has expanded by 57%. An additional 16% work for large practices, employing 11 partners or more and a total headcount of over 100 staff members. Over half of the profession is, therefore, employed in what are by historical standards very large organisations. This emerges clearly if we consider that the European definition of a SME is of an organization employing less than 50 employees. In terms of the utilisation of skilled manpower, the legal profession in England and Wales is becoming dominated by large organisations.

At the top end of the size distribution, there are some very large legal players indeed. Today, the largest of British legal firms can be accurately described as 'multinational law factories', which employ thousands of salaried legal and support staff throughout a network of offices across the five continents (Hanlon 1997; Hanlon 1999; Abel 1988). Clifford Chance, Eversheds, Slaughter and May, Allen & Overy, Freshfield and Linklaters are true global giants, employing thousands of solicitors and hundreds of partners across the globe, monopolising entire practice areas and generating hundreds of millions of pounds of revenues. Clifford Chance, which is the

biggest law firm in the world, employs 7500 staff in 33 international offices, including 650 partners and 3700 associates and trainees (Clifford chance web-site). This firm generates revenues of almost £1 billion. These multi-nationals are of course untypical of the developments we are considering here, and are outliers to the trends under examination.

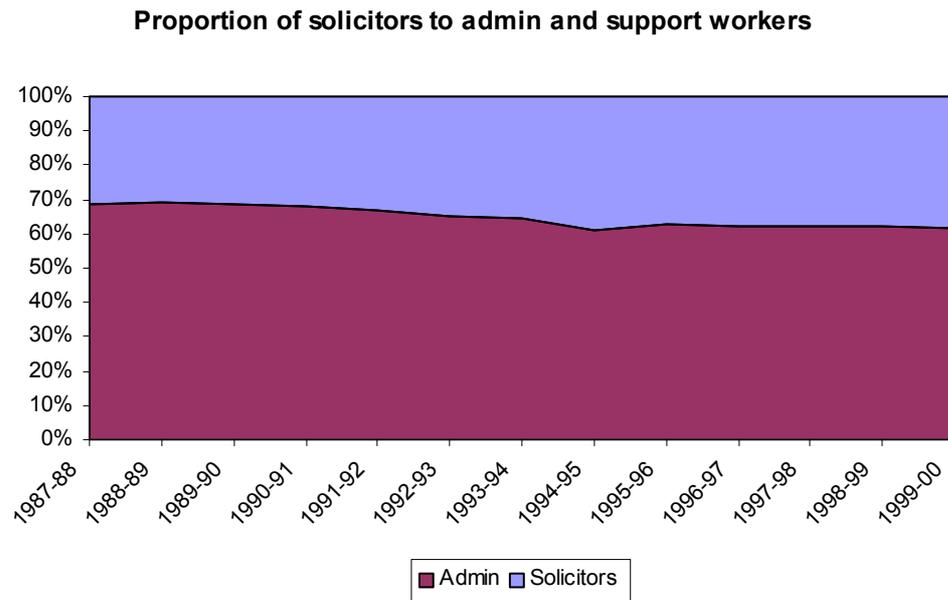
(c)The Bureaucraticisation of Legal Practice?

Should the unprecedented growth in the size of legal firms be thought of as constituting evidence of the legal profession's development of managerial values, structures and practices? A substantial increase in size is often taken to imply the introduction of an increasingly bureaucratic structure and a managerial apparatus (Mintzberg, 1979, 1983; Chandler 1977, 1990), which is an essential requirement for the effective organization and co-ordination of resources and the rational administration of assets. Organisational consolidation is held to be a prerequisite of increased managerialism, but does increased managerialism automatically follow from increased size? At a minimum, enlarged firms might be expected to employ a substantially higher proportion of staff who are removed from operational work and exclusively concerned with management, organisation and technical support (Freidson 2001; Freidson 1994). Accordingly, the analysis of fluctuations in the ratio of professionally qualified to non fee-earning staff should provide us with some indications of development.

The following graph illustrates how, contrary to our expectations, the ratio of administrative and support staff to professionals has experienced a significant deterioration. Today, professionals constitute 40% of the industry's entire workforce. Although, this is still a minority, they have progressed from the early 90s when qualified solicitors constituted barely 30% of the entire workforce. The ratio of solicitors to non-fee earning staff has therefore increased from 0.45:1 in 1985 to 0.63:1 in 2000. This represents a 40% increase in the concentration of lawyers to administrative and managerial staff.

Moreover, these trends are not distorted by the presence of smaller practices, which, due to their limited size, can be expected to retain a less extensive supporting staff and operate with a smaller managerial apparatus whilst those at the top of the professional size spectrum can bureaucratise and managerialise at a much more rapid

pace. However, it appears that very large practices, if anything, employ a higher ratio of professionals to support workers, and hence, have pro-rata less support staff than any other category of firm. The average large partnership functions on a ratio of 0.71 solicitors to each non-fee earning staff (SRU 2002). This represents a 14% premium on the professional average of 0.63:1 and respectively a 22% and 33% advantage on small and medium sized partnerships (SRU 2002).

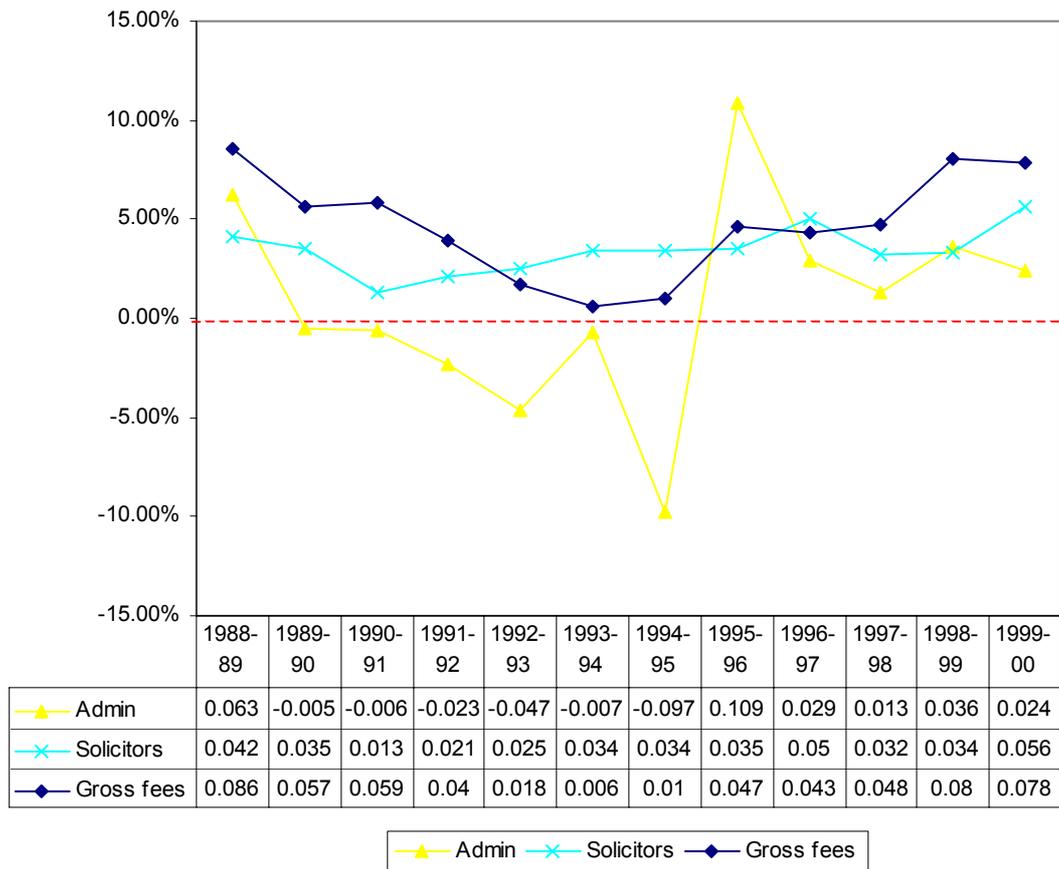


Accordingly, very large practices, which we would expect in light of the previous observations, to be further down the path towards managerialism, seem to be able to operate with less support staff and larger operating cores than the rest of the profession. This situation implies that in the legal profession, organisational consolidation, contrary to our expectations, has not been followed by one of the usual developments associated with managerialism: the development of larger cadres of dedicated managerial, administrative and supportive personnel. This is confirmed by the next graph, which indicates how in solicitor firms it seems, support staff and not the ‘operating core’ of solicitors are the main source of numerical and labour costs flexibility.

Our data suggests that adjustments to this category of staff tends to follow fluctuations in the business cycle, being contracted during slowdowns in business and then expanded again during upturns. By contrast, the operating core of qualified

solicitors has generally experienced more limited and less immediate headcount adjustments as well as benefiting, regardless of the realities of the business cycle, from a much more stable expansion (+42%).

Solicitors, admin and total gross fees



(d) Reconstructing the Professional Division of Labour

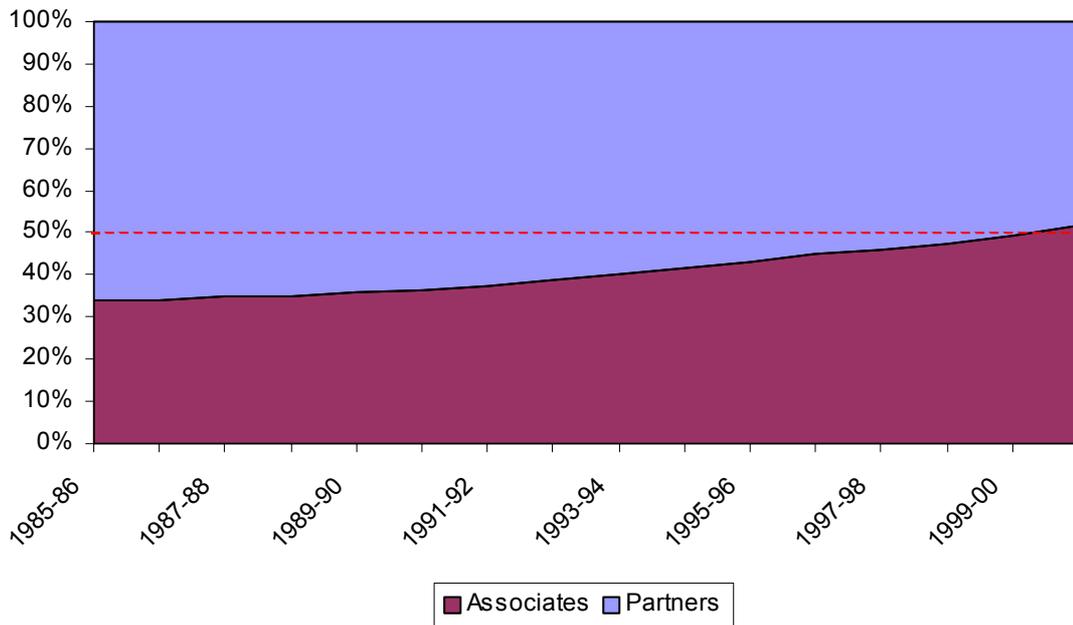
Our consideration of the evidence suggests that, whilst the supporting, administrative and secretarial staff of solicitor firms have experienced headcount adjustments following fluctuations in financial performance, the utilisation of qualified solicitors has grown despite economic slowdown. Thus, the size of the ‘operating core’ of qualified solicitors for all firms has continued to expand. This is, of course, at odds with the ideas of organisational analysts concerning patterns of organisational transformation. Efficiency and competitiveness considerations usually dictate that

management adjusts productive capacity to fluctuating demand. In times of financial difficulty, it is productive capacity that becomes the first area subjected to cost cutting, because this cuts production (and therefore costs) directly in line with falling demand.

In both financial and operational terms, this logic, could be applied to the professions too. Professional labour costs are by far the biggest overhead facing professional organisations. Idle professionals are expensive overhead. Accordingly, reductions in the operating core headcount would deliver the most sizeable and the most immediate benefits. However, quite obviously, professions differ from manufacturing or commercial firms in key ways. One is that professionals do not just produce, they also design their service to the particular needs of clients and their particular circumstances. The extent to which what they do can be designed and rationalised or controlled is limited. Also, the professional operating core is not only important for production, but also dominates decision-making processes and retains ultimate control over occupational and organisational development (Freidson 2001; Mintzberg 1983; Mintzberg 1979).

There have, however, been some considerable changes to the constitution of the cadre of professionals. If we consider the change to the profession's internal structure and to the nature of intra-professional relationships, some important changes are revealed. As we can see from the next graph, there has been a continuous rise in the proportion of associates relative to partners, with the relevant ratio moving from from the 1985-86 value of 0.5, or 1 associate for every 2 partners, to a 2000-01 ratio of over 1:1. This is an 110% decline in the underlying ratio. Bearing in mind that the partner figure includes junior partners, the ratio of professionally qualified wage earners to profit sharing staff is even higher. There has, in other words, been a strong long-term tendency towards increasing the proportion of salaried professionals to partners. This, as indicated by our next graph, emerges clearly from the comparison of the relevant headcount growth rates.

The composition of the legal profession



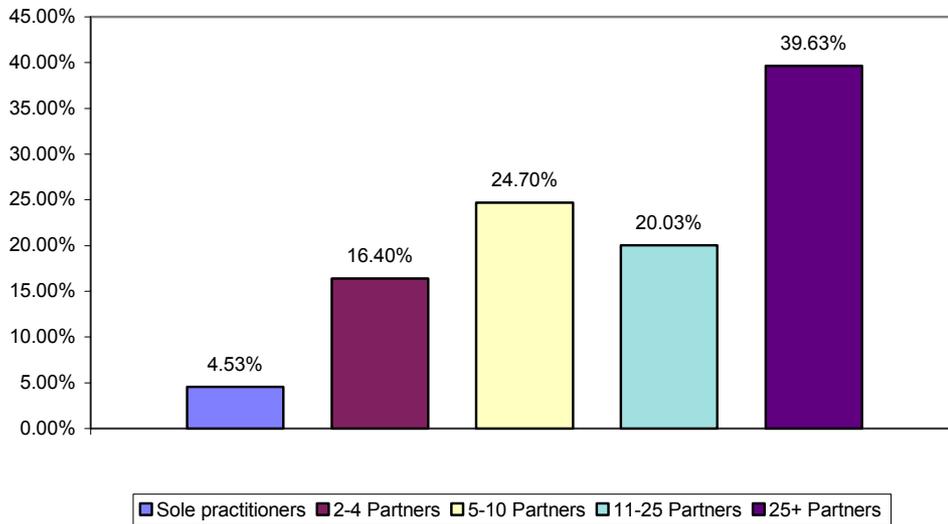
(e) The Profitability of Firms

Pinnington and Morris suggest it is a considerable defect of existing research, that it cannot make connections between structural change and financial performance. This section addresses this problem through the consideration of gross fees patterns across size categories. The data indicate that the larger firms, which benefit from the advantages of organisational consolidation, enjoy a sizeable performance and productivity premium compared to smaller firms.

This graph indicates percentile variations in gross fees per firm. Very large firms with an overall growth of 40% are the best performers. These firms are followed by large firms and medium firms which both exceeded the 20% mark. Small firms expanded by 16.5%, whilst, with a percentage growth of 4.5%, sole practitioners are by far the worst performers. Very large firms have therefore been growing 60% faster than the second-best performers and nearly nine times faster than the worst performers. This situation gives the impression of a growing process of professional polarisation, in which larger practices are consistently and convincingly outperforming their smaller counterparts.

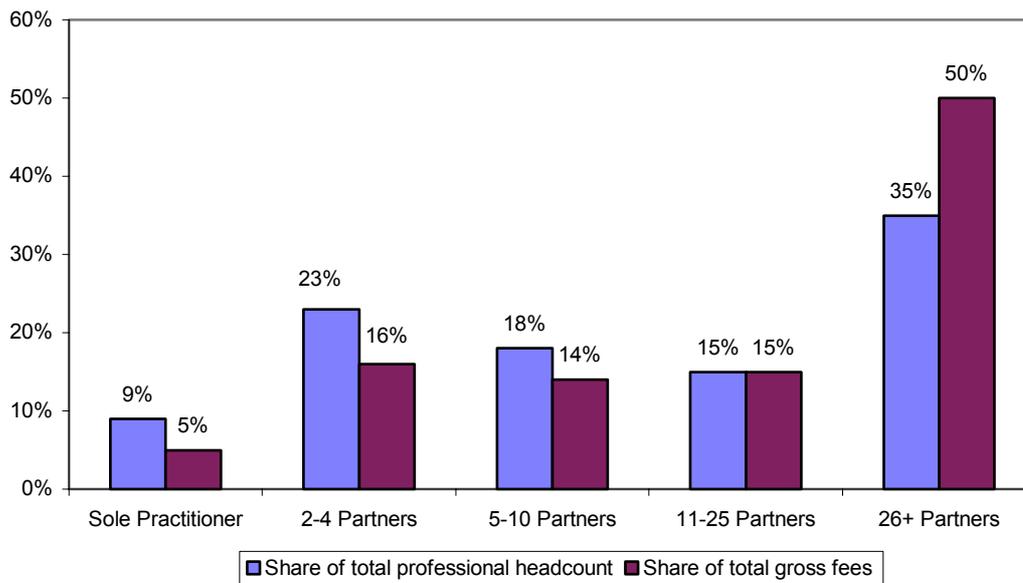
On this evidence, performance is directly proportional to size, as indicated by the positive correlation between organisational consolidation and revenue growth performance.

Percentage Growth in Gross Fees per Firm Since 1990 (1994 prices)



Similar indications emerge from the following graph, which depicts the relationship between qualified headcount and gross fee generation

Share of Total Professional Headcount and Share of Total Gross Fees 2000



The above graph suggests that the gross fee levels, generated by smaller practices, substantially under-perform given their share of professional headcount whilst larger practices are able to achieve better returns per unit of professional resource. Sole practitioners, despite accounting for 9% of professional headcount, produce only 5% of total revenues. Similarly, small partnerships, despite a 22% share of professional headcount, account for only 16% of professional fees. However, as we progress through the size spectrum, the situation starts to improve and fee and headcount shares start to converge. Firms with 15 – 25 partners account for an equal share of revenues and professional headcount. In other words, the financial significance of this segment is proportionate with its size. Finally, as we progress to very large firms, the situation is completely reversed. This time, this category’s contribution to overall fees (50%) outstrips its respective share of professional headcount (35%), by a 43% premium. Clearly, the relationship between these two indicators reflects the existence of an efficiency and competitiveness differential. As firms get larger, they are increasingly capable of improving the volume of fees generated by each professional, hence increasing their share of fees relative to their share of manpower. There is, in other words, a strong positive correlation between organisational size, professional productivity and financial performance, whereby lawyers employed in large practices attain higher levels of individual productivity and generate more pro capita revenues than their colleagues working for smaller firms. This as indicated by table 2, which allows the comparison of gross fees per capita for different sizes of firm.

Table 2 - Gross Fees per Solicitor 2000

Sole Practitioner	2-4 Partners	5-10 Partners	11-25 Partners	26+ Partners
£103,000	£116,000	£132,000	£163,000	£229,000

As we can see, the larger the firm for which a solicitor works the larger are his/her pro capita revenues. Moreover, at the bottom of the chart there is in monetary terms a limited differential between size-bands, as only a 12.5% financial divide separates sole practitioners from their colleagues in small partnerships, whilst 14% separates this latter category from medium sized law firms. However, this differential increases

progressively with size. A 23.5% differential separates medium firms from large firms whilst a massive 40% separates large firms from their colleagues working in very large practices. Even more dramatically, solicitors working for very large practices enjoy, in gross fee terms, a 120% advantage on their colleagues in sole practice.

EXPLAINING CHANGE

(a) Explaining the Size Premium

It is of course possible that larger firms are more efficient because they can employ managers and / or utilise management techniques, as exponents of the idea of the MPB implies. However, size delivers advantages, such as economies of scale, independently of any role management may have in identifying and supplying them. Thus, we have no problem with the idea that the utilisation of more efficient methods is part of the explanation for the size premium we have identified. For example, a recent study by Price Waterhouse Coopers (2000) suggests that very large law firms (50+ partners) are able to spend nearly twice as much, in per capita terms, on information technology, as their smaller counterparts (£4000 against £2500) (PWC, 2000). Similarly, large firms spend more on marketing, (£4000 per capita) as their smaller rivals (£2000 per capita) (PWC, 2000). Similar economies of scale are possible in such diverse areas as staff development and office space utilisation.

Much more important in our thinking, however, is the proposition that size allows for the development of the specialised legal expertise and breadth of experience amongst specialists necessary to achieve a degree of monopoly in the most lucrative segments of the market for legal services. Closely related here is the proposition that size alone confers prestige. Scale of operations is, after all, often treated as evidence of quality, and will allow legal firms to operate on a somewhat equal footing to the largest of their corporate clients. This sort of observation is particularly relevant when it is recalled that the most lucrative areas of legal services are in corporate and commercial law. Indeed, many corporate and financial areas require the capacity to provide multi-disciplinary teams and a global presence. For these activities, a large critical mass of legal expertise is a requirement (Flood, 1989; Lee, 1992; Flood, 1996; Sommerland, 1995; PWC, 2000; SRU, 2002). However, none of these things necessarily require increased management *per se* to deliver them. Moreover, it is doubtful whether the recognition that these benefits will flow from an

increased scale of operations is the reason (especially at the outset) for their eventual realisation.

(b) The Inner Mechanism of Change

Observations of the sort made above, however, encourage the view that, whether it is augmented by the development of management or not, growth in the size of solicitor firms is mainly motivated by the goal of securing improved efficiency. On the other hand, it is also true that increases in the scale of operations are essential if firms wish to enter and effectively defend their presence in lucrative areas of the market for legal services. Also, an in our thinking significantly, increases in the scale operations constitute a way of defending the high levels of remuneration that senior solicitors have traditionally enjoyed. Clearly, features of contemporary reorganisation, especially increases in scale, reward the equity partners within solicitor firms much more generously than salaried solicitors and other employees, and this is true whether the surpluses generated increase overall or not. It is therefore open to argument whether the increased efficiency of large firms is mainly a cause or a consequence of the pursuit of larger scale organisation.

The re-organisation of the division of labour within solicitor firms we have examined, clearly has the effect, whatever else it does, of disproportionately enhancing the rewards accruing to equity partners, and this seems a likely to be an important cause of changes in the strategy of this group, which also leads to increasing scale of operations. Equity partners share profits, whilst other fee earners receive a fixed salary. Under almost all circumstances the revenues generated by each associate or salaried partner out-weigh the cost of their labour. In 1988 Abel (Abel 1988) suggested that the average associate generates between 2.5 and 4.8 times as much income as his or her cost in salary. Hence, other things equal, in the process of employing a higher proportion of salaried solicitors, an increasingly large surplus is generated. In 1993, it was estimated that, in medium-sized but well-leveraged partnership, up to 60% of partner profit is generated in this way (Maister, 1993). Thus, one obvious consequence of the type of reorganisation that has been considered in the first part of this paper is that partners secure clear (and disproportionately large) financial benefits from increasing the numbers of associate solicitors and limiting the numbers of equity partners. To put it crudely, the changes we have been examining

increase the number of the people who bake the cake (fee earners) whilst, at the same time, stabilising or even reducing the number of those whose share of the cake increases in proportion to its size (equity partners). Larger rewards for partners follow the adjustments to the gearing ratios of equity partners to salaried partners and associate solicitors. By these means, partners are able not only to safeguard their income levels, but also to enhance them whatever the trading conditions (Lee 2000; Maister 1993).

(c) The Consequences of Redrawn Closure Boundaries

It should perhaps be borne in mind that there are real threats to the rewards accruing to solicitors, and so also to their status, at the present time. In recent years there has been a weakening of the profession's capacity to exercise external closure through the widening of access to legal training, as more and more university degree courses in law have been created. There have also been actions by government that have had the same tendency. Cuts in legal aid budgets and the weakening of solicitor monopolies in key areas of practice (such as conveyancing) are indicative. Against this background it can be argued that the reorganisation of solicitor firms represents the assertion of internal closure to compensate for the loss of external closure. One account of what is happening is that partners are safeguarding their income levels by avoiding the consequences of the weakening of external closure by loading them onto subordinate groups within solicitor firms. This they do by enforcing stricter internal closure.

In this account, associate and assistant solicitors are bearing many of the costs of changed arrangements for closure in terms of deteriorating promotion prospects and through the lengthening of the time typically required to obtain a partnership and toughening of the criteria through which solicitors obtain partnerships. The widespread introduction of "salaried partner" status for senior salaried solicitors can be related to the same trends. No doubt too, this change has resulted in the weakening of the terms and conditions of work of salaried solicitors, through rising competition between people in these positions, and the intensification of their work. Also noticeable is the development of a culture of presence and the increasing use of competitive selection. However, all this is done without any frontal attack on the importance of qualified solicitor status for associates, as the ratio of qualified

members of the legal profession to other employees is increasing, as we have seen. There is not any tendency, as our data show, for the substitution of unqualified employees (legal executives or clerks) for qualified solicitors. Indeed, it seems very clear from the data that it is the non fee-earning staff, including any administrative workers, who have paid the highest price in terms of overall job security and career stability, in consequence of changing arrangements aimed at securing effective closure by equity partners. As discussed, it is this category of employees that is used by the profession as a disposable buffer to guarantee an element of headcount cost flexibility in adverse trading conditions.

In the ten years to 2000, the headcount growth of partners grew by 30%, while their salaried subordinates expanded by no less than 170%. In other words, associates have been growing over 5 times more rapidly than their profit sharing colleagues. This has meant the drastic lengthening of partner promotion times, which, once the new position of salaried partner is taken into account, have effectively doubled. Abel calculated an average time of 5.5 years for a solicitor to become a partner in the mid 80s (Abel 1988). An equivalent calculation for data available for the late 1990's shows this period had increased to approximately 10 years. Implied here is a departure from the traditional criteria of seniority combined with technical competence as the main consideration in career progression. It seems evident that nowadays there is the prioritisation of new criteria such as commercial awareness and productivity. It is in this sort of context that we must consider the importance of management being recognisable, in that the ability of a prospective partner to manager salaried solicitors might be a qualification for promotion. However, such a suggestion is a long way from claiming that management is becoming a general function adopted by legal firms, because of its supposed contribution to efficiency, as is implied by archetype theorists (cf Hanlon 1997). The ultimate outcome of this approach to career progression is provided by the emergence of the 'up or out' culture, where solicitors who fail to make promotion are expected to leave, at great personal cost and regardless of their years of commitment and financial contribution (Lee 2000).

These trends may be facilitated by some gender considerations, such as the progressive feminisation of the legal profession. Today, whilst women represent the majority of salaried solicitors (approx 14000 female solicitors to 12000 males) only a quarter of partners are female. In this context, the tightening of internal closure regimes and the re-adjustment of professional leverage ratios may be tied to the

subordination of female professionals and to the emergence of a gendered division of labour (Sanderson and Sommerland 2000; Thomas 2000). In other words, although further research is required, gender-based discrimination may be offering opportunities for redrawing closure, which are helping facilitate the reorganisation of the profession.

(d) More Hierarchy Not More Management

As a result of these processes, today the solicitor branch of the legal profession is increasingly stratified in its structure, pyramidal in its configuration and reliant on a substantially hierarchical division of labour. Career paths have been formalised and generally elongated, whilst employment security, if the up-or-out practices are indicative, is declining. These developments are not apparently associated with processes of bureaucratisation, as might be expected. However, these trends clearly have the effect of increasing leverage within the profession and, in the process, it has a clearly positive impact on partner profitability (Abel 1988, Maister 1993). The new opportunities presented by effective leveraging may also go some way towards explaining the remarkable processes of organisational consolidation experienced by the profession. Over the past 11 years, the total number of solicitor firms has increased by a modest 2%. During that time, the total number of partners has risen by 12.5%, but the total number of solicitors has increased by 44%. In particular, large and very large firms have expanded respectively by 55% and 120%.

Hence we argue that professional consolidation is linked to the attempts by partners, especially those controlling the larger organisations, to sustain profit margins through the increase of leverage ratios and through the extensive reorganisation of the professional labour process. However, this categorically does not involve the de-professionalisation of solicitors, if by this is meant any attempt to dispense with professionally qualified workers as the basis of the delivery legal services. The ratio of partners to assistant solicitors has always been low, and despite the growth in solicitor numbers overall, these ratios have not much changed. In small firms, in recent decades the ratio has not exceeded parity, with an average of less than one assistant to each partner. Amongst the largest firms, even today, the ratio is only approaching 1 to 2, with two salaried solicitors to each partner. Hence, we argue that these changes are best thought of as marginal changes in the internal configuration of professional organisations.

We argue that the current transformation of the legal profession, is not explained by the identification and adoption of a better and more effective organisational paradigm, nor by the introduction of management to professional domains in any concerted way. Such developments of managerialism as there are, and of which there is some evidence in recent research, is best explained by (a) the need to enhance the coordination of larger firms engaged in more activities and (b) the need to introduce more rational and predictable accounting and practices associated with the increased routinisation of the work of employees, including salaried solicitors. However the scope for this is limited and is clearly subordinated to the interests and policies of the elite of professionals (the equity partners) who continue to control firms of solicitors.

(e) Some General Implications of the Analysis

This analysis rejects interpretations of the legal profession that emphasise commercialisation, managerialisation and archetypal transformation. It stresses instead the continuity, which we suggest characterises change in the organisation of the legal profession. Quantitative data analysed in this paper point to the robust resilience and solidity of professional arrangements and practices. The profession may be increasingly attentive to its own management but this is a by-product of the reorganisation of the profession, itself undertaken by the professional elites in pursuit of their own advantage. There is little evidence here of the development of an autonomous managerial cadre. On the contrary, there is every indication that the elite of the profession continues to retain ultimate control over its own work and division of labour within professional firms. In other words, senior solicitors continue to retain a solid grip on their own organisations, and, any managerial functionaries they employ are subordinated to their interests and occupationally defined objectives. Because solicitors continue to be in charge of solicitor firms, continuity rather than fundamental change is the prominent tendency in the reorganisation of the legal profession.

The argument of this paper is to reassert the value of the concept of the professional project as the basis of a persuasive explanation of recent change. More specifically, it is argued here that the current development of the legal profession should be understood in the context of the continuation of the long-term strategies and

historical objectives associated with the professional project. The concept of the professional project suggests that professions, as social collectivities, adopt strategies designed to improve their occupational and financial position through processes of collective action and mobilization. These efforts involve the attempt to translate one set of scarce technical and cultural resources into an institutionalised system of rewards. This has historically included a wide range of tactical initiatives but it has traditionally prioritised the institution of effective closure regimes. Closure guarantees *'the creation of artificial scarcity, by means of which the theoretically inexhaustible knowledge resource becomes socially finite'* (Larson 1977: 223). Traditionally, the achievement and maintenance of effective closure has guaranteed a profession's financial privileges and explained its success. In the case of the contemporary legal profession, we have a particular example of the reworking of closure. This reworking is in response to external threats, and in the face of increasing opportunities for professional fee earning only within limited enclaves of professional practice.

In the last 20 years or so, professional institutions, practices and values have been exposed to sustained criticism. In particular, the emergence of a neo-liberal governmental agenda has brought with it attacks on the structural practices and the ideological scaffolding which underpin professionalism as a distinct work-organisation principle (Burrage 1992; Halliday and Karpick 1997; Kirkpatrick and Lucio 1995; Reed 2000). In this context, the legal profession has been exposed to a process of economic liberalization and cultural demystification. Today, in many ways solicitors operate in a more hostile environment and the legal profession is increasingly an embattled occupation.

Traditional tactics, structures and modes of operation have not entirely lost their efficacy but monopoly and closure, traditionally the twin pillars of professional success, have been attacked and partially dismantled. In this context, the professional project has required, in order to deliver on its long-term objectives, some tactical adjustments. This process has involved, *inter alia*, the use of some of the exploitative tactics associated with management in commercial and industrial settings. But this is not to be confused with professionalism, as a work-organisation principle, being supplanted by a managerial one. In the case of the English legal profession, the dominant elite is pursuing profitability and continued occupational success through new methods which prioritise new lines of internal closure. These may also be associated with more active management of other staff in solicitor firms, but this

augments rather than replaces professional power. It does not imply any loss of professional control. On the contrary, these developments are ultimately introduced by professional elites for their own direct benefit; they are the result of partners' agency powers.

Finally, we argue that our data conform to Freidson's (2001) "stratification hypothesis", according to which professional occupations will become increasingly polarised between, on the one hand, rank and file workers (who engage in routine activities and are increasingly exposed to market pressures and management), and, on the other hand, a professional elite (which has secured a tight grip on all the prestigious executive and controlling positions within the professional associations and the leading practices). (See also Abel 1988; Freidson 1994). The former are concerned with day to day routine problems while the latter face completely different experiences and concerns such as strategic planning, operational control, and organisational / occupational development. Their occupational conditions and prospects are also extremely different. While, for the former, professional activity means salaried and increasingly supervised work in a bureaucratic and hierarchical organisation or entrepreneurial competition in an insecure market, the latter, on the other hand, share profits, retain most of their power and prestige and continue to live by the rules of professional etiquette (Abel 1988; Freidson 1994; Freidson 2001). According to this argument, in time, such tendencies may even lead to the emergence of a two-tier professionalism, where a small core of highly trained practitioners engages in the more complex and specialised tasks, leaving routine matters to a rapidly expanding cohort and less qualified (and much more poorly paid) professional workers.

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