Chapter 1: The organisation dimension

The death of difference
One question that we have often posed and debated since first coming into the legal sector from other parts of the business world is whether law firms and lawyers are inherently, fundamentally ‘different’ from the rest of the business world? For many years we found that the vast majority of practicing lawyers we were debating with felt that the answer was an emphatic ‘yes’. Their belief was not just that the business of law had the inevitable and expected variations in language, regulation, and practice that separates running, say, a retail company from an engineering company. The difference referred to was deeper; the channel separating the world of law and the world of ‘industry’ was an ocean. Smart, successful lawyers patiently explained that law was not truly or solely a business at all. It was separate from, not part of, the ‘corporate world’.

The conventional organisation of law firms does create barriers between law and the corporate world, because law firms have almost always been partnerships and very rarely have group or subsidiary structures. They have been protected or prevented (depending on your perspective) from seeking equity investment from outside the ranks of their own lawyers. Some firms would also point to the distinctive role of lawyers within the governance and smooth operation of our society that sets them apart from being, purely and simply, a business.

But perhaps these differences have always been slightly skin deep. As a trainee accountant with one of the large accounting firms back in the 1980s, Chris got to know and work inside an incredible range of organisations – the differences between them at least as great as that which separates law firms from accountants, insurers, retailers, or banks. ‘The intellectual, cultural, and commercial environment of the legal sector was challenging when we first encountered it but also hugely enjoyable and stimulating. We enjoyed – and still do – the distinctive features but didn’t ‘buy’ the attachment to a sense of separation or the instinctive habit that saw the word ‘corporate’ as necessarily meaning something cold, analytical, and financially driven.’ As partnership grew and grew their ranks into many hundreds of partners and tens of offices, law firms became a lot more like corporations than traditional partnerships. The individual stake in a firm each partner held was negligible – a thought worth mentioning to those managers inside law firms who wonder how to handle the ‘big beast’ partner who relies on an ‘I own this firm’ attitude to get their way.

It seems reasonable to suggest that the legal sector actually is a fully-paid-up part of the ‘corporate world’ – just with different terminology – but we recognise that, for a long time, many people inside the market didn’t see it that way. The perception of difference endured. What we now observe, in the second decade of the 21st century, is
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that the perception of difference is ebbing away. There is a deeper acceptance that the lessons and experiences from other industries are relevant and valuable to law firms; that, while the market will retain its own characteristics and nuances (like every other sector does), the legal services sector is experiencing the death of difference.

What is driving the elimination of differences?
In the last few years, the global legal market has changed and will continue to change at an accelerating pace. The changes are not always obvious to lawyers, however. The more stable, successful, and secure the lawyer and law firm, the less obvious the seismic shift seems to be. That isn’t entirely surprising – joining together the dots of all the evidence of irreversible shifts is a difficult job. However, in recent years, lawyers working in the UK legal market – the world’s very own ‘legal laboratory’ thanks in large part to the Legal Services Act 2007 – have seen accelerating evidence of major change. We report on this evidence during this and the following chapters, building up a picture of market trends but not attempting the impossible job of predicting precisely where we will be in three or five, or still less ten years’ time.

The Legal Services Act, often quoted as the number one cause of change in the legal market, is a bit of a deliberate red herring. Yes, liberalisation has acted as a catalyst for many other changes. Its effect will be dramatic, and we have barely begun to see that work through. The positive opportunities are immense and could put the UK legal industry in a world-beating position. But it is only a catalyst to, not the direct cause of, permanent change.

The other favourite oft-quoted ‘cause’ of dramatic change in the sector is the economy. Five years of bad news is unprecedented and the rash of law firm downsizing and restructuring stories keeps coming – we certainly have not finished the process of adjustment to the financial crisis yet. It is absolutely a major driver of adjustments to the financial model of legal services, and the duration of the downturn has confounded expectations that all would return to normal. But again, it seems to be a catalyst that has ignited other underlying factors that were already emerging.

Deep-seated structural changes taken together – globalisation, the internet, social mobility, an evolving approach to business practice, demographic and generational change (not just the very different working habits and expectations of Gen X and Y, but the shift in deference and respect for traditional professions) – mean that the legal market would have had to adapt and restructure substantially, whether or not the Legal Services Act and global financial crisis existed. The market as it was constructed ten years ago has begun to seem like a huge, incredibly well-built sandcastle… but a sandcastle nonetheless. It would never have been able to withstand such rough seas forever; liberalisation and a sustained financial downturn have merely accelerated the process.

Our new normal is everybody else’s old normal
So, if the legal market is experiencing the ‘death of difference’, what type of world is emerging on the other side? When we speak of the ‘death of difference’ we are not talking about bland homogenisation. Every market has distinct features, economics, policies, and regulation. But we will have to stop anyone who says ‘…law will always be different’. The evidence to the contrary is stacking up,
in the form of the legal market absorbing and adopting broader business practices in terms of:

- Liberalisation and ownership;
- Structures and entities;
- Pricing, purchasing, contracting (fixed fee, SLA);
- Branding, marketing, ‘trust’;
- Scale, scope, reach of firms;
- Management structure, roles, the C suite (and GC);
- Project management; and
- Technology (senior executives at large new legal service entrants have been quick to pronounce that ‘law is a technology business’ or ‘law is an information business’).

In the United States, commentators like to say a ‘new normal’ is emerging. It is a neat phrase and is used widely in an attempt to shake many law firms and attorneys out of perceived complacency. The new normal is, conversely, used most often to make the point that the legal sector is facing unprecedented and unpredictable change, and that the market as we know it will disappear, with many more losers than winners. But in the legal market, our ‘new normal’ is simply everyone else’s old normal. That is actually quite reassuring: this has been done before in many other sectors. The change we are undergoing does have precedents. There are route maps (indeed, there are bookshelves full of ‘how to’ / ‘how not to’ manuals).

In terms of grappling with a dramatic shift in market economics, liberalisation, and technological innovation, many markets have travelled this way. The route the legal market takes next will surely be – in outline – the same… because the legal market is not substantially different.

Lessons from other markets – what happens next?

So, what happens next? If we look at those route maps from other sectors, there is a strong common pattern. There are no obvious reasons why the legal market, impacted by all of the factors mentioned earlier and by the twin catalysts of liberalisation and the economy, should not now follow a recognisable route. Bearing in mind the journey taken in these other markets, we can (relatively) safely assume the legal market evolution will be marked by at least some of the following characteristics:

- Massive consolidation down to a handful of trusted, full service global players.
- Brand driven.
- Focus on the ‘I don’t get fired for hiring IBM’ principle.
- Management and structure of large businesses is ‘corporate’, even where the ownership model is still nominally a partnership.
- New entrants break ground, but then get overtaken or get bought out.
- Existing established trusted business brands extend their reach and multi-disciplinary partnerships (MDPs) prosper:
  - Retailers and retail financial services in B2C;
  - Accountants, banks in B2B;
  - But also lawyer-led MDPs?; and
  - Large business process outsourcing companies overhaul or buy out niche legal process outsourcing companies.
- Mega firms – there is the assumption from many observers that we will see continued unbundling and specialist focus. Large corporate firms will divest volume or B2C work. LPOs will be very distinct from law firms. Law firms are beginning to introduce their ‘group structure’ and there is no strong reason
why a highly diversified legal services conglomerate, offering the full spectrum of legal work under a group banner, could not work.

- Captives/Spin-offs of corporate legal departments.

The ‘worst case’ vision often presented by market insiders is a potential evolution of the legal market into a highly consolidated, brand-driven global environment inhabited by ‘mega-firms’. That seems a bit too dystopian. Not because the legal market is somehow different and immune, but precisely because it isn’t. The legal market is undergoing dramatic change at a point in time that seems to ensure that its future will be dictated by the current and emerging trends in the wider business world and not exclusively by the trends in corporations that have prevailed over the last few decades. Digital age developments across the business world are actually opening up options that run counter to the caricature of markets entirely dominated by juggernaut global corporations. Agility, flexibility, mobility, speed to market, and independence are highly prized and valued facets of successful modern businesses. In the new legal market, these trends can be leveraged to offer alternative routes for lawyers and clients alike.

The new economy, and particularly technology and the internet, have enabled all kinds of markets to create flourishing niche boutique and freelance businesses. Highly specialised and agile legal service firms are already springing up, whether virtual or physical, and it has never been easier for lawyers with expert knowledge and a profile to start up their own firm.

The achievement of online service models in other markets – in some extreme cases, such as Amazon, disrupting entire industries with once inconceivable offerings – is already firing up innovative new services in legal. A relatively small group of people will be the entrepreneurs, shareholders, and directors of these enterprises, and many more can choose a new working lifestyle and provide legal advice and support behind the online front-end.

**Not necessarily a partnership**

There is an emerging constellation of different models for accessing, consuming, delivering, and structuring legal services. It is replacing an incredibly consistent uniformity that has survived since lawyers first saw the need to join together, and which saw lawyers structured as partnerships, working from their own offices, and delivering services face to face with, until only fairly recently, a modest amount of technology support. Sure, some of these partnerships had just one Partner and others had become global leviathans (that is, when compared with other law firms, though not compared with market leaders in most other sectors), but the underlying business model was common and not much changed, as it was shored up by regulatory protection.

It was not so long ago that regulation specified that a partnership would have a limited number of members. The operational and, particularly, tax benefits of a partnership model were highly attractive and were restricted to businesses where a small number of partners had genuinely pulled their practices together for mutual benefit, rather than something that was in essence a private company, with hundreds of small/employee shareholders, that wanted to be treated more advantageously than other companies for tax and regulatory purposes.

Nevertheless, law firms grew exponentially in many jurisdictions and were able to continue operating as partnerships.
A new designation was introduced as governments tried to reconcile these inconsistencies – the Limited Liability Partnership. While the terminology, custom, and practice of partnership were largely left untouched (although strictly speaking LLPs have ‘members’ and not ‘partners’), the economic and commercial model beneath the surface was closer to that of a corporation. A high percentage of larger UK law firms flocked towards this model, leaving very few top 100 firms as traditional (‘true’?) partnerships.

Firms did still cling, by and large, to the vestiges of their partnership trappings and constitutions, but senior roles and governance models varied considerably between firms. Then, about five years ago, a new model began to form, which many large firms adopted. That model had a full-time Managing Partner (‘CEO’) with substantial executive powers for steering the firm. Most of these leaders were (and are) lawyer partners, who have practiced at the firm. (Latterly, an increasing but important minority are not lawyers or former lawyers, but are brought in from outside.) A Senior Partner (‘Chairman’) was elected by the partners to oversee the activity of this management team and to operate as a figurehead internally and externally. A team of senior, experienced functional executives often termed Director or Head (the ‘C-suite’ – CIO, COO, CFO, etc.) were hired or developed to run the business operations teams; some with the incentive of a share in the business. They would usually form an Executive along with the Practice Group Heads for major business lines. (The latter (‘Managing Directors’) are increasingly often appointed and not elected and are responsible for larger, consolidated Groups spanning multiple locations.) The executive management of the firm, day-to-day, was separated from oversight, strategic direction, and governance, which was the responsibility of a Board or Partnership Council (‘Board’), chaired by the Senior Partner and made up of elected representatives (‘Non-executive directors’) of the partners/members (‘shareholders’). Hey, guys! We’ve invented a whole new business model: the corporation!

Indeed, some law firms have taken the next step which, provided tax law doesn’t make it entirely uncommercial, seems inevitable: become a corporation. The move to incorporate UK law firm partnerships, primarily to secure tax and liability advantages, has accelerated dramatically. Today, over 20 per cent of regulated law firms in the UK – mostly at the smallest end of the market – are now Limited Companies, with a further 10 per cent – including most of the largest firms – being Limited Liability Partnerships (LLPs). This fundamental undermining of the assumed dominance of the traditional partnership has taken place in advance of the opening up of the UK legal market to external ownership, although is by no means unrelated, as some firms ‘shape up’ for a post-ABS future.

The final phase of this evolution is likely to accelerate with the final enactment of the Legal Services Act and opening up of law firm ownership (up to and including 100 per cent of the share capital) to non-lawyers. Many new entrants to the legal market are corporations and the logic of creating partnerships would be minimal in most of these cases. Many existing law firm partnerships are spinning out or creating corporate subsidiaries, notably in areas of practice that no longer require a group of partners to manage them. And now some of the UK’s larger firms are coinciding conversion to a Limited Company with licensing as an Alternative Business Structure (ABS). However, many of the new models
created do not rely on external investment and do not require regulatory change to begin trading. The world is changing around us in advance of the advent of a new form of external ownership.

**How good governance is underpinning the end of difference**

Governance is currently a hot topic in the commercial world. The UK Financial Reporting Council states the purpose of governance is ‘to facilitate effective, entrepreneurial and prudent management that can deliver the long-term success of the company’. While law services firms regularly advise their corporate clients on the latest requirements and how they should be applied, they are not always so hot on applying governance best practices in their own firms.

However, that is changing and the change is propelling the traditionally very different worlds of partnership constitutions and corporate governance together at speed. There is no doubt that the established, legislated, and regulated world of corporate governance will dominate law firms in the years to come.

In 2011, the SRA published its ten mandatory principles, including ‘you must run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles’. Further, in the section of the SRA handbook titled ‘management of your business’, the first outcome law firms must achieve is ‘a clear and effective governance structure and reporting lines’. As yet, there is no published guidance on what this should look like.

Louise Fleming of consultancy Kingsmead Square has examined the issue of changing professional firm and partnership governance regimes in detail. She concludes that, in practice, this means the firm should establish a ‘board’ or other governance structure to provide oversight of the executive management team on behalf of shareholders or the wider partnership. There should be a formal and transparent process for nominating board members.

Louise Fleming’s analysis concludes that ‘the board is responsible for the long-term success of the business and there should be a clear division of responsibilities between the running of the board and the executive responsibility for the running of the business. A key issue is that no individual should have dominant decision-making powers and that the executive committee that manages the firm should be subject to independent challenge on behalf of the owners’.

Although in smaller firms a separate board may not be practical, the distinction between the roles of managing partner and senior partner may achieve the same independence.

**Mergers and alternative growth models for the digital age**

We have hopefully established that we are in a period of genuinely unprecedented change in the legal market. Deep-seated structural changes have been ignited by a combination of economic downturn and deregulation, creating a constellation of different structures and models for providing legal services where once stood the near-universal model of a partnership of professionals. New levels of competition and consolidation make growing – even holding on to – your share of the market much harder.

For the law firm determined to grow, merger (or some form of it) has long been the obvious and immediate option. But many firms are concerned that merger can risk diluting or eliminating the best
things about their organisation. In the digital age, these firms have an expanding range of alternatives to evaluate. Law firms are now being challenged to truly adopt and master the mechanisms that are the main theme of this report – shifting their business management model towards a more mainstream ‘corporate’, technology-enabled approach.

For decades the underlying partnership business model for law firms has been shared by almost all firms and has not changed much, shored up by regulatory protection and an ‘if it ain’t broke, don’t fix it’ mentality. The shape and size of those partnerships has become very diverse, however. A tendency towards the creation of larger firms spread across ever broader geographies – national, international, global – has firmly established itself. Many people in the legal world regularly decry the assumption that bigger is better, but at the same time their profession works ever harder to create bigger law firms.

Building a larger firm was once likely to be the result of patient, multi-year organic growth with an emphasis on hiring and developing home-grown talent. Increasingly, firms have found that they have had to rely on more lateral hiring of partners and attorneys as they have grown – to fill capability gaps and to enter new practice areas. Those focused hardest on growth, especially expansion overseas, have usually been obliged to look to merger with another firm or firms. Over the last two decades, merger and acquisition (although we do tend to stick to the more polite, inclusive label ‘merger’) has become the dominant tactic in achieving significant law firm growth ambitions.

Merger comes with a whole stack of compromises and trade-offs, whether or not your firm is in the dominant role (what the rest of the business world would call the acquirer). Those compromises are often unpalatable to a partnership used to their own way of doing things and a high degree of control over their destiny. This helps to explain the slow pace of actual as compared with predicted consolidation in the main legal markets, even in the teeth of the sustained economic slump.

Although many of these concerns can turn out to be ill-conceived, negative perceptions are very powerful (and some concerns about the potentially damaging impacts of merger are serious and valid). For well-run, successful firms with a strong client-base there is a lot to lose from an ill-judged merger. But at the same time, how do these firms compete for clients and people with ever-better funded, marketed, and more aggressive competitors? Many law firm leaders would like to have some non-merger alternative routes to growth and this chapter takes a look at some of the options that the dawning of the digital age has created – ‘alternative growth structures’.

Learning from the UK experience

When taking law firm leaders in the UK through their options for growing the firm, we are often asked to focus on routes that enable independent firms to:

- Compete in terms of a more powerful market position and channels to market; and
- Harness genuine economies and efficiencies in their business infrastructure and purchasing.

The pace of change in the UK market has created more of these options than in any other major jurisdiction. The UK has become the world’s ‘legal laboratory’ – initially in anticipation of the implementation of the
Legal Services Act 2007. Since early 2012, when the first Alternative Business Structure (ABS) was licensed, the development of new legal business models has been stimulated still further. The most dramatic changes are occurring in the B2C market and the initial wave of ABS creation and external investment is concentrated on this sector. The rest of this chapter considers the options that law firm leaders in both this market segment, as well as in corporate or B2B law, evaluate alongside the route of merger with another law firm.

**Brand of brothers**
The essentially fragmented nature of the B2C legal market has attracted the attention of new entrants as well as ambitious existing law firms and entrepreneurial lawyers. The absence of any strong national or international law firm chain is in stark contrast to almost every other service industry.

In the UK, the Quality Solicitors brand has been first out of the blocks, building up a network with almost 200 locations under a distinctive common identity. Add into the mix a national prime-time TV advertising campaign (accompanied by an iTunes chart hit theme song; surely a first for a legal business?), in-store tie-up with leading retailer WH Smith, and a dose of notoriety (‘Why does everyone hate Quality Solicitors?’ was the tongue-in-cheek headline of a 2012 piece on influential website Legal Futures) and this appears to be the brand to catch for new entrants.

Quality Solicitors is essentially a marketing services membership model – not strictly speaking a franchise – with firms paying a fairly high price for membership, with some degree of protection around their own geographical ‘patch’ within the group. Other consolidation models have followed, many asserting their superior take on brand and, indeed, quality. We have taken a look under the hood of many of these organisations and they range from pure franchise propositions to consolidator acquisition models (where the individual law firms are acquired and rapidly rolled up into the branded entity). Some are less formal networks of firms that only share market-facing brand, advertising, and business development but otherwise remain independent.

The appeal of this model for independent firms who want to avoid merger or acquisition is powerful: participating in a strong, nationally marketed brand that it could never afford to develop (or compete against) alone. To date, firms’ experience of the return on investment has been patchy and the reputational risk from the activities of the many other member firms or the umbrella organisation must be keeping some managing partners up at night.

The extent to which the member lawyers and law firms will share in future growth or capital value varies from model to model, although it is self-evident that external investors backing any of these ventures will be looking to take out a very substantial return for their risk capital.

**A grander alliance**
Quite a few firms are already members of referral networks and other alliances, many of them long-standing and generally loose federations. We have been working with a range of networks, of all shapes and sizes, from purely domestic groups to the largest global structures, and across the board, members are re-evaluating the potential value of these ventures and examining what work is required to unlock more of that value as the market changes.
We anticipate rapid growth of some existing groups and an evolution towards a stronger, higher profile collective brand identity in many cases; those where a majority of member firms want to strengthen the collective brand in the market to compete against bigger firms or franchises, but believe they can remain independent entities. In others we expect dissolution as members fail to agree on the pace or extent of future amalgamation. Many firms not currently affiliated will join or create new groupings and networks to strengthen their position; firms with no form of alignment to a broader alliance or network will be in the minority within five years. With a welter of new competition, some big spending on marketing to and capturing clients, and the need to invest in technology and process, there is a much strengthened case for collaboration as opposed to going it alone.

**A nation of shopkeepers**

The structural changes in the UK market were popularly dubbed ‘Tesco Law’ during their gestation – reflecting the expectation that the large supermarkets and retailers would be the first in to offer legal services, alongside their groceries, bank accounts, and medicines. Indeed it was the Co-operative Group, spanning a range of businesses from financial services to funerals to supermarkets, which was the fastest to build a legal services brand operating within the existing constraints of the previous regulatory environment and was then an early recipient of an ABS licence. The leading retail banks have packaged up legal advice-line and drafting services to their customers and we will see a steady extension of these offerings. In a widely reported survey in 2012, the Marks and Spencer retail brand was comprehensively backed as the retail brand UK consumers would be most likely to buy legal services from. At the time of writing, Marks and Spencer has not, however, made a move into legal services, but other financial services and retail brands are regularly cited as examining the business case for setting up an ABS and extending into the legal market.

This is a powerful competitive threat for B2C law firms. In today’s world, many of these new entrant brands have already painstakingly built a trusted reputation in the minds of consumers. This type of trust is different from, and probably more powerful than, the trust placed in an established (which can translate into ‘old-fashioned’ in the mind of many potential clients) single office law firm on the local high street.

The impact of retail and household name entrants on traditional law firms is not going to be wholly negative, however. There are also a slew of opportunities for lawyers to operate white-label services on behalf of retail brands, many of which will hesitate before investing in the set-up of their own ABS law firm. The managing partner of a firm looking to grow their business without ceding too much independence would rightly hesitate before signing up exclusive deals with large corporate brands to provide their legal service offering – these deals will be restrictive and are unlikely to offer high margins. Nevertheless these deals could provide a very large increase in work volumes into the firm with low costs of sale and, due to their ‘white label’ structure, limited impacts on the firm’s own market position and reputation.

**Is Freemium even a real word?**

The advent of mass market, well-funded online channels for consumer legal services is looking like being more disruptive than any of the regulatory and external investment changes taken individually. A
trend throughout the consumer and SME markets is for legal services to follow the drift of many other sectors into offering more and more ‘freemium’ services, with what is ostensibly the ‘core’ service offered free of charge or for a nominal fee, in order to entice consumers into a long-term contract or to buy add-on, high-margin services.

Within legal services, these models are already proliferating. LegalZoom and RocketLawyer are now well-known and successful examples, although both are still developing businesses. The big retail banks, accountants, and company formation agents will offer some form of bundled legal service or packaged referral to a legal adviser. The intention is to attract smart discerning clients who are capable of using the free-of-charge telephone legal advice lines or downloading from a library of basic legal documents, but may then have lucrative ‘out of scope’ legal or financial needs.

Online legal services threaten even some of the new entrants and aggressive firms taking advantage of the new landscape; a law firm consolidator building up a nationwide network of local branches could conceivably wake up one day soon to find that almost nobody is walking through the door of their carefully constructed empire. That prospect was clearly evident to the Quality Solicitors leadership when they negotiated their UK tie-in with LegalZoom, announced in late 2012.

The opportunities to grow through working closely with the new online legal service companies are not restricted to big organisations however. RocketLawyer and LegalZoom already operate an extensive network of small law firms and individual lawyers who provide the expert legal advice available through their sites. Some of these firms have developed the relationship into a position where the majority of the firm’s income is derived through these relationships. While this kind of deal has risks and could leave the firm highly reliant on the online referrer, some firms clearly believe that they retain a level of independence and control over the work they actually do (if not how they win it) that they would not in a merger scenario.

Channel hopping

The abolition of referral fees in England and Wales from April 2013 has the potential to dramatically alter the shape of the particularly congested and confusing personal injury (PI) claims arena. Claims management companies (CMCs) and personal injury lawyers have been the most prominent in utilising online channels and TV advertising, as well as controversial cold calling and texting mechanisms, to grab market share. The law firms that have become most reliant on these referral channels have two options: create their own claims management arm or acquire existing CMCs – effectively forming a specific multi-disciplinary practice. Adding in car hire or medical report businesses is a natural fit and creates a vertically integrated business, with a law firm as only one component. The UK market is already seeing examples of these mini-conglomerates such as the private equity-backed Quindell Partners.

The MDP route to growth

Multi-disciplinary partnerships (MDPs) have been out in the cold since the tsunami of regulation and client aversion that followed in the wake of Enron. It is easy to forget that in some cases, and particularly in continental Europe, accounting firm-led MDPs had become very serious players in the legal market up to this point. The new regulatory environment in the UK clearly envisages a re-emergence of MDP formats, and a
vehicle for limited scope shared ownership between solicitors and other professionals inside Legal Disciplinary Partnerships (LDPs) was operating for two years before being superseded by the advent of the ABS.

High net worth clients, with a closely interlocking range of needs for investment, tax, financial, and legal advice, are a natural market for MDP models. A range of multi-disciplinary models have emerged in the UK, which allow a single organisation (or sometimes separate but closely aligned organisations) to offer a combination of these services. We are now seeing renewed and very serious interest from banks, financial services businesses, and accountants in building multi-disciplinary offerings incorporating legal services. As with almost every option in this chapter, this presents an opportunity for a minority of law firms — and a threat to many others.

Whether led by lawyers, accountants, or financial service businesses, a range of models are now also in development to offer small- to medium-sized businesses a comprehensive ‘one-stop shop’ for all but the most complex of their legal needs. This has already disrupted the market for labour law – an area of potentially significant SME demand for law firm services – where a process of steady commoditisation and a blurring of professional boundaries have been underway for a decade now. However, a variety of new services for business are offering fixed-priced retainer services.

**Stealing the new entrant’s clothes**

Some law firms have taken on the tactics of Legal Process Outsourcing companies (LPOs) and begun to work with corporate clients to develop another form of closer relationship. Managed legal service deals see firms take on all or most of a corporate client’s legal function, providing the day-to-day support typically provided by the in-house team but also the less regular work that is passed to external counsel.

The law firm is accepting, in these deals, a block of low margin (possibly no margin) process-based work that would, in isolation, be unattractive but at the same time winning the lion’s share of the more lucrative work the client spins off and securing a unique, sometimes exclusive, position within the client that defends the business for a set period against competitors. In the UK, Eversheds and Berwin Leighton Paisner (who has launched its own specific Managed Legal Service venture on the back of its deal with Thames Water) have taken strides in this direction and there are strong indications that the sourcing strategies of large corporates will stimulate further advances in this area.

Law firms themselves have begun to get in on the LPO act as well. Prestigious corporate firm Travers Smith has tied up with the extensive logistics resources of Swiss Post to develop a due diligence-based service offering under the banner New Street Solutions. Wilson Sonsini in the US offers to their business clients, initially free of charge, a term-sheet generator tool. Back in the UK, large national firm Shoosmiths separated out a £13m Lender Services division which is focused on offering ‘outsourced’ legal processing to large financial institutions. Top 100 firm Hugh James has executed a smart sequence of actions to consolidate all of their volume legal work into one division, setting it up as a separate LLP and rebranding and marketing it as Involegal, now led by the law firm’s former Managing Partner and tagged as a legal process outsourcing business.

Another notable trend in response to the demand for new ways of delivering services to the corporate client has been the ‘virtual
law firm’. Axiom has become the leading example during a rapid rise to prominence, but the model is being adopted and adapted by others. Keystone Law in the UK now has over 100 senior solicitors within the firm, working from home offices and spanning the full range of corporate legal services. These models are clearly not for every lawyer and not attractive to every client but their very existence and confident growth belies any claim that firms need an attractive office and the expensive infrastructure that goes with it. Law firms have certainly learned from these models and many now use flexible working plans that are not just good corporate citizenship but rooted in sound business benefit. BLP has evolved this model much further with some success and set up its own ‘virtual law firm’ – Lawyers on Demand – founded on its alumni and existing contacts. Other firms, including Eversheds with its ‘Agile’ service, are now following suit, diversifying their legal offering in a new direction, and stealing the clothes of the new model entrants.

**Mexican wave 2.0**
The use of ‘Mexican Wave’ to describe a commercial legal deal which saw a lead partner law firm sub-contract specific work types through to other selected (typically smaller) firms was coined many years ago when Lovells (now Hogan Lovells) entered into a real estate work agreement with insurance giant Prudential and a small set of regional UK firms. Since then, public examples of the concept in legal services have been limited. Lead firms need to be confident in their ability to manage the overall caseload and stand behind the quality of work done by sub-contractors. All law firm parties need to be sure they won’t be at risk of losing clients and work to their new ‘partners’ and the corporate might consider a better deal can be negotiated individually with the law firms.

Amidst the new models emerging in the legal sector, Mexican Wave 2.0 is here and back with a bang. A range of deals – with varying degrees of formality between the large, often global, London firms and regional/national players with different areas of focus, viable matter sizes, and fee structures – have emerged. For law firms looking to expand their workload without merger, becoming the sub-contractor in this relationship can be an attractive option. For the large UK and US firm whose only presence is in the expensive legal centres of London, New York, Chicago etc., the Mexican Wave may answer the question as to how they stream work effectively to lower cost locations and meet their clients’ expectations.

**Building geographic coverage**
Beyond the domestic market, important parallel developments are enabling new merger options to open up across borders. Specifically, the use of Swiss Vereins and international alliances is challenging the received wisdom that the only legitimate way of achieving geographic coverage involves building a single firm with a shared profit pool. Consolidation in the legal services market is a dominant trend in all the major geographies today. Where once we saw relatively infrequent mergers of equals, the frequency of combinations has accelerated and the nature of them is changing. Acknowledged acquisitions are becoming accepted and the search for ‘acquisition targets’ is a big part of some firm’s development. True mergers of equals and the full absorption of acquisitions – often at speed – put different strains on the technology and business management infrastructure of law firms and we will now explore those.
Merger and acquisition: a new focus on post-merger integration

Alternative options are now available for firms who want to grow their business but believe that sacrificing independence, particularly to an imperfectly matched merger partner, is too high a price. Despite this, the speed of merger and acquisition in the legal market continues apace. Combining firms can often be a rational and valid strategy. The behaviour and shape of other professional service markets points to a much more highly consolidated legal sector and we can all see that emerging slowly but surely as consolidation at local, national, and global levels accelerates.

As merger and acquisitions become more commonplace and the scale – and stakes – get larger, we will see the focus of attention turn much more towards how the consolidated firm will deliver better results, at the top and bottom-line. Post-merger integration has often been undervalued by law firms, who have had low expectations and set limited demands of the value and speed of efficiency ‘dividends’ from merger; it is now set to become the competitive battleground for growing firms. How effectively and quickly mergers are implemented and benefits realised will be a clear differentiator between the competing high-growth firms.

Law firms have taken to heart the constantly repeated mantra that strategic fit is all-important in merger situations. However, as a result, they now routinely understate the potential return on investment from SMART and integration programmes focused on accelerated harmonisation, service improvement, and efficiencies.

That is changing and best practice in managing an accelerated and highly effective integration of two law firms is rapidly coming to the fore as a rare thing indeed – a genuine strategic capability differentiator for law firms.

Good integration practices have to focus on the hard infrastructure as well as the softer issues of communication, change management, organisation design, and governance. Ambitious objectives and adequate resource are both essential; most professional firms find that the post-merger period is one of the biggest potential catalysts to major change the firm will have. Along with the opportunities come substantial risks as well and applying rigorous programme management to the integration is critical. Firms should try to resource the integration programme with people who are not also juggling detailed, day-to-day ‘business as usual’ management.

The business management model Chris uses at Kingsmead Square in their professional services consulting work is particularly effective when planning integration projects. It segments the necessary integration activity into eight areas. The merger integration process should aim to deliver a seamless, unified operation in each of these areas that performs at a higher level than either of the individual firms did previously.

To achieve this, the firms need a series of benchmarks against which to objectively assess pre-merger performance and maturity – and genuine objectivity can be a tough thing to achieve, especially in an acquisition situation with a dominant partner. Once this is done, targets for improvement and measures that will allow the assessment of post-merger performance can be established.

At a high level the following is a sample of some of the main considerations in each area that we use to assess performance and maturity:
Market

- Are client account plans aligned to your client’s strategic priorities and embedded in the way partners and their teams work on a day-to-day basis?
- Do you have a clear view of your pipeline of client opportunities? When is work forecast to be won? Are opportunities in need of a fresh approach to convert them? Does your weighted pipeline meet your target fees for the month or quarter?
- Are the outputs of your client satisfaction reviews analysed and communicated internally and used to implement genuine changes to your business?
- Is your proposition to your markets clearly identified and does it convey a compelling improved offering to clients compared with each firm’s previous proposition?

Market management covers your clients and targets, and how you interact with them. It encompasses the areas highlighted above as well as your competitive position, your business development plans, your approach to CRM, and your brand, marketing, and delivery channels.

People

- Is your approach to performance management and reward aligned with your business priorities? Are your firm objectives cascaded through your leadership team to all team members?
- Is your resourcing strategy flexed to adapt to the seasonal and cyclical nature of your business? Are you maximising new opportunities to choose where and how you locate your people?
- Do you respond to employee satisfaction feedback by making changes in the way your business is managed?

People management covers all aspects of attracting, retaining, and developing the best people in the market. It encompasses resourcing and reward; learning and development; your talent programmes; leadership development; and approach to equality and diversity. It recognises that people are the key differentiator in the professional services market and your culture is what defines your firm.

Financial

- Is your business plan supported by financial analysis and a budget cut by business area? How often do you report performance against budget and who gets this information?
- How long does it take your business to convert client work into cash? Can you reduce the leakage of value at each stage in the process at the same time as speeding up the process to transform cash flow?
- Do you have the right balance between cost management and investment to grow? Do you have metrics to manage costs by business area and a process for investment decisions?

Financial management covers the financial position of your business and how you manage financial performance to drive business growth. By aligning financial performance indicators with your business objectives you can track and deliver against your strategy. In this difficult economic climate, our strategic approach to managing costs can assist even the best managed firms to meet this business imperative and our advice on getting procurement and sources of finance right can make a significant impact to your bottom line.
Risk
- Do you have a clear and effective governance structure in place? Has management designed reporting lines to enable execution of authorities and responsibilities and flow of information to manage the firm’s activities?
- Does your organisation effectively assess, manage, monitor, and report risk? Is risk and control embedded in the way your business is run or is it handed off as the responsibility of a support function?
- Is your business compliant with all regulatory requirements and secure against reputational damage?

Risk management covers all activities to direct and control risk in your organisation. Risk, put simply, is the effect of uncertainty on your objectives. Effective risk management relies on your business objectives being clearly stated and your structure and reporting lines being established to ensure that risk and control are embedded in the way the firm is run.

Process
- How do you ensure that your most valuable and expensive professional resources are working in a streamlined and efficient way that directs their time to the highest value activity?
- Are your existing firm-wide business processes – from converting quote-to-cash, to client and engagement intake, to HR joiner/leaver/mover management – diverting valuable time and delaying urgent actions?
- Can project management best practices be applied to engagements to improve client satisfaction and profitability?

Process management covers identifying, mapping, analysing, and then continuously improving all of your client-facing and back-office business processes. Complementary automation and project management disciplines can be deployed to maximise the firm’s efficiency and effectiveness. Selected processes can be sub-contracted or outsourced to deliver further performance improvement.

Organisation
- Can best practice corporate structures be synthesised to enhance your professional firm models?
- How can matrix design and management resolve the inherent tensions between client, sector, discipline, and geography?
- Which alternative organisation design might provide the best approach for your business as it grows to span multiple practices, offices, and countries?

Organisation management covers the choice of operating model, organisational structure, individual and group legal entity, and management hierarchy. On an ongoing basis, the disciplines of business planning, leadership, management, corporate communications, and programme management are all brought to bear in ensuring the organisation thrives.

Infrastructure
- How do you connect increasingly distributed and mobile people and ensure quality, productivity, collegiality, and knowledge sharing?
- Should some of your work be done in a lower cost centre or by home workers?
- How will your office environment need to adapt to these and other changes in working patterns?
- Are there medium-to-long-term projections and plans in place for firm demographics and the requirement...
for real estate that fully reflect changes in the technology and infrastructure environment?

Infrastructure management covers the deployment of real estate, office workspace, on-site services, IT software, data and voice networks, business continuity planning, and an ever-expanding array of digital devices to support your business. The focus on large, static urban office buildings is shifting rapidly to a more flexible, mobile, and variable spectrum of locations that sits particularly well with the work of knowledge-based professionals.

Information

- In an age of information overload how can you ensure your people can access the critical pieces quickly?
- How can best practice in one area genuinely be shared and adopted throughout the firm?
- Can ‘big data’ concepts generate new insights and better business decisions in your firm?

Information management covers the overlapping challenges of knowledge management, information technology, ‘big data’, intellectual assets, document management, and business intelligence. Professional services of all kinds have always traded in information as their raw material, but the explosion in volume of available information, and channels to consume it, presents both a major strategic challenge and potential competitive advantage.

Risk and opportunity in the digital age

Merging or being acquired is pretty much the reflex response for law firms who have seriously determined they have to grow – whether that arises from a proactive drive to take opportunities available in the new market or a defensive decision that the firm is too small to thrive.

The last three years or so have seen a range of other routes to growth emerge. Many have only become possible as technology and communications have developed, allowing the marketing/winning of legal work to be separated out from the doing of it, and the work itself to be ‘unbundled’ into different tiers and types, often in different locations.

Many of these alternative growth structures provide the law firm with a much higher degree of control and continuity than merger. This allows them to retain many of the strengths and established facets of their firm, while still driving what can be an aggressive growth strategy. As new funding models continue to be developed in the wake of the Legal Services Act the breadth of these non-merger options will expand further. However, firms – perhaps especially those who are conservative and resistant to the requirement for significant change that merger engenders – can easily overestimate the inherent strengths of the current model and their ability to crystallise the potential returns from these models. In these cases money can be wasted and the firms future seriously endangered by taking on finance or contractual obligations in lieu of a merger. The merger option may have been the safer route after all for some firms.

One interesting aspect of the accelerating importance of the digital world for law firms is the greater prominence that IT issues have pre- and post-merger. There is certainly a risk of the ‘IT tail wagging the strategic dog’ in some instances, but – by and large – firms are right to put more emphasis on technology. IT can – and now regularly does – contribute to the breakdown
of a merger negotiation. If one firm has ageing hardware and software that requires a full-scale refresh this cost can be a serious disincentive to a prospective partner. This is a more likely scenario after five years of sustained economic downturn.

IT system incompatibility itself is less of an issue than it once was, due to widely used and available integration layers, web services, business intelligence tools, and XML. Firms are now regularly proving that they can bolt together separate firms’ systems rapidly for a merger, even if the ‘fix’ is only a temporary one. The biggest potential risk can come where firms assume that an immediate, large-scale ambitious integration or replacement programme is required; committing management bandwidth, large amounts of expenditure, and a high degree of reputational risk to a massive project that could have been held off until the client and human capital integration had been tackled can be a mistake.

There is a chance that firms could face a scenario where the technology and infrastructure costs and challenges around integration could derail an otherwise strategically sensible combination. In most cases this will be down to the costs involved – and excess real estate is more likely to be the source of this than IT. But in most cases the digital age has created a situation where better, faster, and cheaper integration of businesses is achievable: a fact likely to contribute to ever-more consolidation in the legal market over the next few years.

What next?
Is the established structure of the legal market really crumbling around us? It certainly seems to be in the B2C legal space, and that extends to the adjacent market for SME businesses also. The changes in the UK B2C market in particular are dramatic and accelerating every few months. While there is a big spectrum between a one partner-firm handling conveyancing, wills, and divorce in a market town and a Magic Circle firm, the legal market remains connected. Many firms in the mid-market corporate/commercial space are reliant on the money made from a tier of bread-and-butter private client, small business, and straightforward repeat work for larger companies. As that market gets eaten away rapidly, turnover and profit will shrink and create big challenges which will drive firms towards merger or intense competition for B2B work on price. In this way, changes in each tier of the market affect and accelerate change in the more valuable tier just above; contagion, to use the dominant geo-political concept of this decade.

However, nobody ever does well predicting fast and inevitable transformation in the legal market. There are some strong ‘drag’ factors:

- There is clearly a place for high end, premium advisers for ‘bet the company’ work. Many firms are working hard to establish this position.
- Strong niche players who are well regarded and well capitalised can resist the momentum towards consolidation for a while yet.
- Protectionism in many markets will buy time for traditional firms to adjust.
- An established alumni General Counsel network – especially strong in the US – will continue to select their preferred law firms and use established models of scoping and pricing work.
- Fear of litigation and subpoena, notably in US corporations, will lead buyers to keep a lot of their legal work in the ‘bet the company’ category reserved for the best and most expensive law firms.
However, law firms can respond – and UK firms in particular are doing so more than ever. They can innovate and be entrepreneurial. But there are boundaries and constraints that firms are working under, which restrict their room for manoeuvre. The prevailing partnership model makes for slow and often compromised decision making. Full distribution of a shrinking profit and partner expectations built up in boom years continue to drive short-term behaviour, which generally dis-incentivises innovation and a reimagined client service standard. In particular, the necessity that firms cannibalise their own revenue – apparently cutting off their own arm in terms of offering new fee rates and structures and promoting preventative legal advice – is impossible to contemplate in some firms where the short-term partner agenda dominates.

The other problem with many current responses to these big changes is that the vast majority of firms believe their strategic direction is to go upstream and upmarket; to establish their position as one of the ‘bet the company’ tier of firms at the premium end of the market. Very few firms are implementing a strategy which consciously aims to dominate the lower-to-mid-value space, volume business, or a highly niche service line. At an individual firm level, that can make some sense. However, when we view the market as a whole it is nonsensical. In all markets there is a tiny, top-of-the-pyramid slot allocated for the premium players and yet in legal everyone is clamouring to occupy it.

A question for us all is ‘so what’? If we lose many, even most, of the established mid-to-large firm ‘names’ in the next few years and see a highly consolidated set of large players with a few niche firms in the mix, does it actually matter? Do we need so many 200-year-old firms of solicitors? Most pertinently, how much does it matter to the partners, the staff, or the clients? At some point, market choice could genuinely become adversely limited, but with over 10,000 law firms in England and Wales today, that is a very long way off. No major shift in any market will be achieved without there being a number of individuals who lose out and legal is no different, but is the overall positive impact for clients, the economy, and the revitalised legal market worth localised pain?

Conclusion

The emerging digital age law firms will employ a wide range of legal entity, business model, and governance structures in order to deliver legal services. A strategic focus on organisation engineering, previously largely ignored as so little was likely to change, will be a fixture on the agenda of firm leadership. As a minimum, we are seeing the emergence of the engineered firm and in some segments of the legal market the emergence of the corporate firm.

The new model law firm, whether serving business or consumer legal markets, will:

- Select from a range of structures and legal entities, with traditional partnership the choice of only a minority of firms.
- Import standard corporate governance best practice and internal governance structures.
- Establish group structures, probably mixing corporate and partnership elements and tuned to different geographies, as it grows.
- Employ non-lawyer leaders and proven lawyer leaders hired from other firms as CEOs and COOs.
- Either be part of the rapid consolidation of all segments of the market or differentiate as a niche or boutique service provider.
- Explore alternatives routes to growth, including network, franchise, and referral arrangements.
- Be either acquirer or acquired in merger and acquisition transactions; seldom an equal merger partner.
- Create powerful international legal brands using structures such as the Swiss Verein.