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**Adapting to the New Legal Services Market: Can Law Firms Avoid Becoming a Comet?**

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Email: i.d.king@staffs.ac.uk**Abstract**

*In The Future of Law (1996), Richard Susskind predicted that new technologies would change beyond recognition the way in which the legal marketplace would operate and how legal services would be delivered. In The End of Lawyers? Rethinking the Nature of Legal Services (2008), Susskind expanded on and developed his theme by arguing that the position of traditional lawyers would be eroded if not displaced by the twin pressures of a demand for greater legal commoditisation and the ever increasing uptake of new legal technologies. We can see clear evidence from the High Street that traditional retailers such as Comet, Jessops and Blockbuster who fail to adapt to the changing nature of the consumer market have gone under, whilst new businesses such as Amazon, Netflix and Love Film have prospered. If there is encouragement for traditional law firms, perhaps it lies in the experience of traditional retailers like Argos and Next who have managed to survive by adapting their business model to embrace the increasing consumer demand for “click and collect”.*

*So how will the traditional legal market respond, and what impetus for change will be provided by the introduction of the Alternative Business Structure (ABS)? Ever since the concept of the ABS was introduced by the Legal Services Act 2007, opinions within the legal community have been sharply divided. Some see them revolutionising the legal market and the way in which legal services are delivered, introducing big brands such as Direct Line and the AA to the market for the first time. For many this is not viewed in a positive light; the Law Society has conducted an advertising campaign extolling the virtues of the traditional high street solicitors practice; Quality Solicitors, a network of independent solicitors, has recently conducted a viral advertising campaign contrasting “Faceless legal advice from supermarkets” with their own solicitors who “know their onions”. Recent research by The College of Law suggests that only 1% of law students would choose to work for an ABS over a traditional law firm. For others change has to be positive, and the introduction of greater competition and choice to the market can only be a good thing, with consumers being the big winners. In his latest book, Tomorrow’s Lawyers: An Introduction to Your Future (2013), Susskind encourages new and aspiring lawyers to embrace change if they are to succeed in this new legal landscape.*

*It is certain that some big players will enter the market; indeed, the Co-Op has been in the legal services market since 2006 and already has an ABS licence; others will certainly follow. These new players will surely provide legal services in a very different way to traditional law firms. However, many ABS applications have come from existing law firms, so in fact the greatest impact may be to encourage traditional firms with entrepreneurial foresight to grasp the opportunity to provide better, more competitive and more relevant services to their clients. Are law firms now recognising the need to adapt their business model? This survey will attempt to answer this question by analysing the evidence so far from the applications received by the Solicitors Regulation Authority, and the relatively small number of licenses issued to date. It will in particular consider the views of local and regional law firms, collected by survey and interview, some that have either already applied to convert or are actively considering doing so, looking at their motivations, hopes and fears. How do they view the future? Do they recognise a need to adapt, or can they survive and prosper using traditional models? If they fail to adapt, will they become a Comet?*

1. **Introduction: How the Legal Services Market is Changing**

The UK legal services market is an increasingly important part of the UK economy, with a total gross value (GVA) of £26.8 billion in 2011[[1]](#footnote-1), accounting for 1.5% of the UKs total GVA in 2010. Net exports of legal services have also grown rapidly in recent years, from 6.1% of total domestic output in 1995 to 11.1% in 2010[[2]](#footnote-2). The UK legal services market accounted for nearly 7% in value of the global legal services market, and 20.3% of the total European market in 2011[[3]](#footnote-3). So, when change occurs in this market, it is significant and potentially a major driver for change in the way in which legal services are delivered. When the Legal Services Act was first enacted in 2007, it promised not just change, but a radical overhaul of both the regulation of the legal profession and the operation of the entire legal services market in the future. There are three main areas in which the Act introduced significant change:

1. Creation of the Legal Services Board to oversee the regulation of legal services by approved regulators;
2. Introduction of the Office for Legal Complaints and the Legal Services Ombudsman to provide an independent complaints service for consumers; and
3. Licensing of different forms of legal practice, namely the legal disciplinary practice which allows solicitors to practice alongside other layers or non-lawyers, and Alternative Business Structures (ABS).

However, in the first few years after the Act came onto the statute book, its impact seemed less than overwhelming, and far from the “Big Bang” that it had originally promised and which some in the legal professions feared. This was partly due to the delay in implementation of the last and potentially most significant change, the ABS. It was not until 3rd January 2012 that the principal licensing authority for ABSs, the Solicitors Regulation Authority, began accepting applications. Even then, it seemed that the ABS structure would be slow to take off. By July 2012, only eight licences had been issued.[[4]](#footnote-4) However, bearing in mind the intrinsically cautious and conservative nature of the traditional legal profession, this was perhaps not surprising. Writing in The Guardian in March 2011, Neil Rose characterised lawyers as ‘second movers’, and commented that:

“This October will not be the “big bang” some characterise it as – the law just doesn’t move that quickly. But in five or ten years’ time, the face of legal services could look very, very different”.[[5]](#footnote-5)

 Whilst it is clearly too early to know if Rose is correct in his assertion, the pace of change has increased dramatically over the last year, and by the end of January 2013 after 12 months of accepting licence applications, the SRA reported that 454 firms had commenced the application process, 117 had completed submission of all information, and 74 ABS licences had been granted, with a further 19 close to completion.[[6]](#footnote-6) As of 5th March 2013, the number of licences granted by the SRA had increased to 103[[7]](#footnote-7), with the number increasing all the time. Of these, some are significant new entrants to the legal services market, such as Parabis Law, Direct Line and BT, as well as organisations such as The Co-operative Legal Services who, whilst not traditional law firms, have in fact offered legal services for some years. Entirely new businesses have been established to take advantage of the new competitive opportunities, with Riverview in Wirral being one of the most notable examples. Personal injury firms appear to be starting a trend for ABS with insurers so as to minimise the impact of the Jackson reforms, particularly the ban on referral fees. The impact of businesses such as these on the market remains to be seen. But it is certainly true that the challenge they present, and the new ways of working that they represent, cannot be ignored by traditional law firms. As Susskind has commented,

“These kind of development are of profound significance and represent a major departure from conventional legal services...........No-one knows where this will lead us. It is too early for authoritative pronouncements about the precise outcomes. This is the nature of the market. All we can be sure of, I believe, is that major change is upon us”.[[8]](#footnote-8)

Early signs are that at least some within the traditional legal profession are facing up to the challenge that Susskind identifies. Major players such as Irwin Mitchell, Russell, Jones & Walker and Keoghs have already obtained ABS licences. Several members of the national solicitors grouping, Quality Solicitors have recently converted or are in the process of doing so[[9]](#footnote-9). However, a number of smaller firms have also chosen to convert; indeed two of the first three licences issued were granted to two much smaller firms, John Welch & Stammers in Oxfordshire, and Lawbridge in Kent, and two of the most recent converts are Hacking Ashton, a ten partner firm in Staffordshire, and two partner firm Astons in Northamptonshire[[10]](#footnote-10).

Recently, both The Legal Services Commission[[11]](#footnote-11) and The Law Society[[12]](#footnote-12) have published reports on the state of the current legal services market to identify attitudes, trends and perceptions. The purpose of this survey is both more limited and more focused: to investigate the impact of the introduction of ABS upon a range of typical provincial firms that form the vast majority (numerically) of the traditional legal profession, and to find out the extent to which ABS is a driver for change in the way that legal services are delivered, or if in fact other divers mean that such changes will happen irrespective of a firm’s view of ABS. We wanted to find out the extent to which they too share the vision of profound change identified by those such as Rose and Susskind, and, if so, whether they view such change as a challenge to their livelihood, or an opportunity to expand their business. Before looking at the results of the survey, however, we will consider in more detail what are generally considered to be the driving forces behind change with a focus on technology and the delivery of legal services, as well as considering some factors that may hinder the take-up of this new form of business, at least amongst some traditional law firms.

1. **ABS is Not the Only Way**

There are a number of reasons why law firms may consider converting to become an ABS, and significant environmental drivers which will make this the right choice for some firms. There are significant forces at work on and within the legal services market, quite separate from the Legal Services Act itself, which will drive many law firms to consider the ABS structure. To quote again from Susskind,

“market forces are sweeping through the legal services market in the UK and these will bring intense new competitive pressures for traditional law firms”[[13]](#footnote-13).

These market forces have been growing stronger and stronger over the last 5-10 years, and will only become more intense now that the Legal Services Act has opened the way for large organisations such as Direct Line and BT to enter the market. Khiara and Jones [[14]](#footnote-14) identify three drivers within the general commercial environment that will bear upon the legal services market. These are:

* Globalisation – increased ease and speed of communication facilitated by the development of the internet has created a market for global services and legal process outsourcing has expanded rapidly in recent years. Pressure from clients to reduce costs has forced law firms into exploring options for unbundling services via offshoring or north shoring.
* Consolidation –This process has taken place at all levels but, as Khiara and Jones indicate, the greatest consolidation activity has taken place within the high volume low margin sectors of the market[[15]](#footnote-15).
* Commoditisation – this means the process by which a service becomes less and less differentiated from the buyers perspective, so that buyers care less about where and from whom they buy. This is what Susskind terms “the more for less challenge”[[16]](#footnote-16). Because price becomes the determining factor for the buyer, the traditional response from law firms would be to compete on price or to exit the market.

The Law Society[[17]](#footnote-17) identifies four drivers of change, namely

* Demographic and buyer shifts – factors such as greater knowledge of what lawyers do, ability and willingness to shop around, falling levels of trust in professionals and increased focus on value for money.
* Government agenda and sector regulation – the political and regulatory agenda affecting the business sector generally, and sector specific matters such as liberalisation of the legal services market, and reform in areas of law such as legal aid.
* Global and national economic environment – inevitably, the legal services market will be impacted by macro and micro economic and changing patterns of world growth. More specific factors influencing the market are the use of English law in international commerce and dispute resolution, and the position of the City of London as one of the main global business and financial markets.
* Technological and process innovation – in particular the internet, the exponential growth of social media and mobile connectivity, and the consequent facilitation of new business strategies such as outsourcing and offshoring.

It can be seen that there is a clear overlap between the drivers highlighted by Khiara and Jones, and those identified by The Law Society, but also that those identified by the latter are themselves drivers of the consolidation and commoditisation drivers identified by the former. Analysis of their drivers leads Khiara and Jones to conclude that not only will new entrants enter the legal services market leading to increased competition from major companies well able to compete on price, but that traditional law firms, if they are to survive, will need to adapt, and find new ways of working. This analysis suggests that changes in business process will occur independently of the introduction of ABS, and that ABS itself is only one possible response to these wider commercial drivers, and possibly a driver in its own right due to the completion from new entrants and the access to new external funding that it facilitates.

This paper will focus on technological and process innovation and the way in which ABS has been a driving force to aid firms in developing their technology through external investments to allow them to challenge the traditional business model for delivery of legal services and how firms in Staffordshire and surrounding areas have responded.

A significant factor in changing how individual solicitors work is the rise of digital dictation which enables solicitors to dictate from their mobile phones anywhere they have a signal. They can dictate when waiting at court and return back to the office to find everything typed and ready to sign. There is a clear advantage in having the ability to charge twice for the same block of time which appeals to both firms and lawyers individually. Digital dictation also gives firms the flexibility of any secretary within the firm being able to process the work as it is available centrally and printed at any office. Files are no longer just paper files but digital case management software enables fee earners and secretaries alike access to individual client files held on the server as well as the paper file in the office. Use of digital technology like bigHand, a leading company in the market, is used by high street practices as well as international city firms. It is accessible to all levels of firms. It does however presuppose there will be someone to type the dictation, although that someone does not have to be in the UK. We asked about outsourcing in our survey and unsurprisingly it was not that popular.

Technology has enabled remote working and the average solicitor can work from home more regularly than previously. It has also led to the establishment of ‘dispersed’ law firms such as Scott-Moncrieff and Associates who have a centralised administration and central indemnity policy but the solicitors can work as much or as little as they like, from wherever they like. They are also able to retain 70% of their billing which is a significantly larger share than most non partners can obtain.

Legal advice is no longer based solely on the hourly billing model. Just like employing an electrician, clients want a quote for the work to be undertaken. Fixed fee arrangements are on the increase and it is often the firms who have become an ABS who are leading in this field, although in some practice areas such as conveyancing and wills it is more mainstream than others. One of the firms interviewed told us that ABS had altered the way in which they looked at their firm as a business rather than being just about legal advice. Business professionals would be horrified it had taken them so long to realise this. Introducing new ways of working has proven to be key for many firms who are trying to harness new technologies to enable them to work smarter rather than harder and maximise profits. The influence of business concerns is forcing law firms to look again at how they work. Interestingly the age of some of our respondents was not a significant feature in their attitude to ABS. In fact some the older respondents (possibly because of their authority within the firm) were more innovative in their approach than younger respondents.

Technology, ABS and Commoditisation appear to be inextricably linked for some firms advancing down the ABS route. Many firms have converted to ABS to enable them to obtain external funding to alter the way they work, enabling investment in IT to facilitate outsourcing of key areas and work towards greater commoditisation. Certainly for firms like Irwin Mitchell the commoditisation of legal services is essential for the retention of institutional clients. More firms are working towards this approach although from our survey it appears to be only small steps being taken by a few firms at this stage.

The establishment of ABS firms like Riverview show how fundamentally different their approach to legal services is. Karl Chapman, CEO of Riverview says the current legal market is unsustainable;

‘Current models are not fit for purpose in a future where changing customer demands are triggering a wave of innovation. The partnership structure is fatally flawed, hourly billing has long been indefensible, high costs bases are crippling, and law firm balance sheets are weak. The idea that, at the end of each year, law firms distribute their profits and do not invest in their business or pay down debt is a bizarre one to the rest of the business world.’[[18]](#footnote-18)

Many traditional firms argue that their work is too specialised to be commoditised and that every client seeks a bespoke service tailored to their needs. However, Susskind describes the argument that legal work is bespoke in nature is, ‘to adopt cottage-industry methods when mass production and mass customization techniques are now available to support the delivery of a less costly yet better service.’[[19]](#footnote-19) So will the legal industry in Staffordshire and surrounds which once saw the start of the industrial revolution embrace ABS?

One interesting new development with ABS is the approach taken recently by some personal injury firms and insurers affected by the Jacksons reforms with the lack of income implications to both insurer and lawyers. It is perhaps this threat to both livelihoods which has made them consider ABSs in their droves. One such firm is NewLaw the 4th firm to register as an ABS has now teamed up with Aegeus insurance becoming Aegeus Law LLP, an ABS in its own right. This model is not the first and considering the number of press releases over recent days is unlikely to be the last. Perhaps in the face of major reform such as Jackson is to the PI industry, lawyers can be innovative and take advantage of ABS to aid their survival, albeit in a different form. Susskind states, ‘I do not see much of a future (beyond 2020) for most small firms in liberalised regimes’. [[20]](#footnote-20) We were interested to see whether this threat would make law firms become innovative and eschew their traditional ‘wait and see’ approach?

A small Hertfordshire family law firm, Betteridges has recently had their application to become an ABS approved. The firm consists of five fee earners and three support staff. Their reasoning for becoming an ABS was to maximise the impact of their web presence divorcesolicitor.com. One could argue that by registering the web address in 2000, they demonstrated signs of innovation already as at this stage many small firms had not even considered having a website let alone registering a generic address such as Betteridges have done. In the Law Society Technology Survey in 2011 an astounding 26% of firms did not even have a website.[[21]](#footnote-21)

Other ABS such as Red Bar Law have utilised the ABS opportunity to go into business with a non lawyer with a radically different way of delivering legal services. Red Bar Law is owned 50:50 by a lawyer and a non lawyer. They deliver all fixed fee legal services and are available 24/7 for their clients, and pay their barristers within 24 hours. Any of the three approaches would cause consternation within many traditional high street firms.

Another way for firms to adapt, albeit a challenging one for many firms, is to secure external funding via an ABS structure. The challenge is not only to adapt to a new and often alien business structure in which external, non-lawyer investors will have significant influence over the management of the firm, but also simply to attract external investment in the first place. There are a number of factors that potentially may deter external parties from investing in law firms. For one thing, it is inherently difficult to value what is essentially a people business. There may also be cultural and structural barriers, as the traditional management ethos of law firms, based on the Partnership Act 1892, is to aim for consensus and inclusivity. Partners have been expected to multi-task; as Howard and Roskill describe it,

“Not only must they be good at the law, but they must also excel at selling, finance, people management and so on”[[22]](#footnote-22)

This ethos may well be viewed adversely by those more used to a top down, corporate management approach, where businesses are supported by specialist marketers, finance professionals and personnel managers. A reluctance by the firm to accept a change in culture is likely to deter potential investors (interestingly, as we shall see later when looking at the results of the survey, one firm that has already converted to an ABS and received significant external investment perceives this change of management culture as being perhaps the biggest advantage they have derived from the decision to convert). For some firms, the prospect of this loss of control will inevitably be a major barrier to conversion. A recent survey by The Law Society suggested that amongst top 200 firms there was a lack of interest in ABS largely due to a reluctance to cede control to external investors[[23]](#footnote-23). But it is unlikely that external non-lawyers will wish to invest in law firms unless partners are prepared to relinquish control (and status); they simply will not accept the need to work within the traditional processes and cultures that exist within most law firms. It is also possible that the extensive regulatory structures existing in the legal services market will deter some potential investors familiar with a more liberal regulatory regime[[24]](#footnote-24).

So, in spite of the many advantages, not all firms will be able to or wish to embrace the ABS business model. Our survey, then, looked at attitudes of a range of traditional, local law firms to the prospect of converting to an ABS structure, to find out which if any of the drivers identified above, positive and negative, are currently influencing local law firms. We also asked about their delivery of legal services by outsourcing, fixed fees amongst others.

1. **Survey – Attitudes of Law Firms in Staffordshire**

This was a small survey, but one which we feel provides a representative snapshot of the views of what might be termed the silent majority of law firms in England. The legal services market in Staffordshire is fairly typical of most parts of England outside of the main cities, with a large number of small, high street firms who derive the majority of their income from traditional areas of work such as property, family law, civil litigation, personal injury and wills and probate. There has been some consolidation within the market in recent years, and at least some of the firms surveyed have expanded their businesses in recent years by following an acquisition strategy. However, due to its location between Manchester and Birmingham, the major national and international law firms are largely absent from the Staffordshire legal market.

In the survey, we obtained the views of twenty one law firms in Staffordshire. These varied widely in size from small firms with one to five partners, to two firms with over thirty partners, and included two firms that had already converted to become an ABS. We conducted the survey by online questionnaire, followed up in some cases by face to face or telephone interview. As well as asking the firms about specific business structures we asked them to rank in order of importance a list of matters that they considered when selecting an appropriate business structure. Perhaps unsurprisingly, financial considerations were considered to be of most importance; with ‘capital protection’ ranked first and ‘maximising income’ ranked a close second. However, four of the firms identified “flexibility to take advantage of business opportunities” as the most important factor, and this came out third overall. ‘diversification into non legal markets to minimise risk’ was the lowest ranked consideration overall which shows how a traditional approach has been adopted whereas a business orientated person would perhaps look at diversification for opportunities as well as to minimise risk.

Interestingly, when considering possible changes to the business structure, only one firm other than the two that had already converted had even considered converting to an ABS. Of much more interest to the firms surveyed was incorporation, with 50% having at least considered this change, this result presumably heavily influenced by the desire to protect capital which was identified as the top factor influencing choice of business structure. A substantial proportion, 44%, had also actively contemplated merger.

Attitudes to ABS vary widely. Some were predictably hostile, with comments such as:

“It will make high street practices extinct”

“Reduce high street firms/choice”

“The death of the high street firm, domination by supermarkets and an erosion of the law as a profession”

Some firms were ambivalent, rather than hostile:

“The widening of choice available to clients, but this does not necessarily ensure they are getting the best quality of service”

As this suggests, for many increased competition was the key factor, which some at least viewed as positively:

“Diversify the market and increase competition”

“Competition but also potential for combined professional services offerings”

“Survival of the fittest who embrace the opportunities to deliver a better service for clients”

“positive effect which will open vast opportunities for business and cross selling services”

However, in spite of these often unenthusiastic comments, only two firms saw ABS as nothing but a threat. The vast majority saw ABS as an opportunity (39%) or as both threat and opportunity (50%). In spite of this, though, the results of the survey certainly seem to support Neil Rose’s categorisation of lawyers as “second movers”[[25]](#footnote-25). When asked about their approach to ABS, comments such as “cautious”, “considered”, “open minded” ‘sceptical’, and “wait and see” were common, suggesting that many firms will adopt the traditional lawyers approach of maintaining their current way of doing business unless and until that business starts to become adversely affected financially. In stark contrast, those firms that have already converted to ABS clearly saw themselves as “leaders” and “innovators”, and one senses that the positivity flowing from such responses will drive the firms’ business forward over the next few years. One thoughtful comment was “ABS are seen as competition, but there is also an opportunity for smaller businesses to market a more bespoke/boutique approach”. Another comment was “healthy scepticism without complacency.” Which suggests that not all firms identify ABS with a “pile ‘em high, “sell ‘em cheap” approach to business, and that as has already been the case, at least some small, niche practices will decide to convert to become ABSs.

An interview with a partner in one of the firms that had already converted to ABS provided some interesting insights into the reasoning behind the decision to convert, and the business advantages that they had already gained from the decision. The main reason for converting, and the greatest benefit gained from conversion, was identified as professionalization of the management of the business. Under the traditional partnership model, the need to achieve consensus amongst a group of partners, often with disparate interests and priorities, can often lead to an excessively conservative approach, avoiding the really big decisions, and simply carrying on doing the same things due to a lack of agreement as to whether and how to change things. Under the traditional partnership model, solicitors are promoted to partnership on the basis of their talent at legal work. Having become partners, they then have to multi-task (as identified above[[26]](#footnote-26)) and many of these tasks will be knowledge skills and expertise quite different from their legal skills, and with which many partners may struggle. So, the ability to professionalise management under the ABS structure, with a managing director/CEO taking most day to day management decisions, and an external board of non-lawyer business specialists approving major investment decisions, can be seen as a major advantage of the new structure. This allows the lawyers to specialise on what they do best, with business decisions taken by experts who can take a more professional and objective view than is often the case with traditional law firms. Interestingly, operating the business on a more professional basis was also seen to be attractive to clients, especially commercial clients, who appreciate having their legal work carried out by a more “commercially savvy” law firm.This has led this firm to consider outsourcing and venture into this area for their more ‘routine’ work. They are also looking at commoditisation of legal services.

As expected, the other major benefit of ABS identified by those firms that had converted was access to external sources of finance. This was seen by both firms as crucial, allowing them to make major spending decisions quickly without worrying about the cost of financing the partnership debt, and thus allowing them to become a more agile, responsive business. Repayment of capital to equity partners, thus freeing them from personal financial risk, was also identified by one firm as being a major benefit arising from ABS conversion. This availability of funding can be an advantage when resources are required for major investments in technology required to transform business models.

Of the firms surveyed 78% provided legal services using a mixture of hourly billing and other types of legal products. Only 11% still undertook solely hourly billing for legal services. Of the range of different ways in which legal services could be billed 78% of firms used packaged products such as standardised employment contracts. 50% offered a fixed fee helpline for legal advice. Perhaps due to the high number of firms undertaking personal injury work, 50% offered conditional fee agreements. With 22% offering a hybrid discounted conditional fee agreement and 22% offering a damages based agreement scheme. Additional services were fixed fees, free advice clinics and what was described as a ‘no win-lower fee agreement’.

In terms of practice areas it was clear that hourly billing was still the norm for litigation work although some firms offered packaged products, conditional fee agreements and fixed fees for this area. Packaged products were highest as expected, in conveyancing, although employment was also quite high with wills and probate a close third. Outsourcing was identified in criminal litigation although this may have been interpreted as the use of police station agents rather than mass outsourcing of for example typing.

When asked to comment on the success of their alternative methods of providing legal services there were some predictable answers such as;

“worked well in successful cases!” and “certainty for clients and fee income certainty...”

But some were surprising;

“Fixed Fee Divorce- totally unsuccessful. I created a whole suite of documents etc and have not had one query.” This may well change with the impact of the removal of public funding from family law cases.

Whereas some showed early signs of adaptation, “CFA used in commercial/civil matter as clients looking for alternatives and a shared risk outlook.” Which contrasts with the results for litigation which was highest for remaining the bastion of hourly billing. One respondent commented that their fixed fee employment service was successful and attractive to clients. Another had introduced packaged products for employment and residential conveyancing ‘but are in early stages and it is too early to judge.”

When asked what factors they considered to be barriers to the delivery of legal services by alternative methods the most popular was ‘cost’, quickly followed by ‘Client resistance/lack of understanding’ and third was ‘fee earner resistance.’ Client resistance may be an important and often neglected barrier. One partner interviewed questioned clients’ readiness to embrace new ways of doing business, having established an on-line service enabling clients to obtain a simple divorce at significantly reduced costs, only to find that there was almost no demand for the service, clients preferring to pay more for a more personal service.

Cost was somewhat predictable and perhaps links to the attraction of ABS and sources of external funding. ‘SRA regulation and compliance’ was the least popular barrier with ‘IT knowledge’ and ‘IT resources’ being towards the bottom of the list which was a little unexpected.

Many firms are embracing new technologies and consequently new ways of working, but often the decision to commit is based purely on financial grounds rather than innovation. In some of our survey responses it was interesting to see the relatively high numbers of support staff still employed by firms despite the rise in technology. There still seemed to be a member of support staff to each fee earner albeit some of the support staff may be IT support rather than just secretarial. Perhaps the legal secretary is no longer under threat and may be valued more now than previously? Or has the legal secretary taken on more duties and developed into IT support as well as typing and fee earner support.

Evidence from follow up interviews certainly suggests that cost pressures are driving firms to move towards a “paralegal model” where much of the traditional fee earning work is carried out by lower paid paralegals, and that this is developing as an important career path for law graduates.

1. **Conclusions**

Back in 1996, long before the drafting of the Legal Services Bill began, Susskind wrote the following:

“What will not be sustainable is any continuation from the position in today’s legal paradigm whereby the legal profession enjoys an exclusive position as the interface between individuals and businesses on the one hand and access to the rule of law on the other”[[27]](#footnote-27).

It can now be seen that this legal paradigm was indeed not sustainable. Societal and economic changes were inevitably pushing towards the creation of a new legal paradigm (to use Susskind’s terminology. The changes introduced by the Legal Services Act simply facilitated and provided a vehicle for these changes in the creation of the ABS. Like it or not, the legal services world is changing. Co-operative Legal Services recently announced that in its first year of trading as an ABS, it increased its revenue by 12.8% to £33 million, and achieved a small tax free profit of £26,000 in spite of incurring significant one off investment costs[[28]](#footnote-28). They now provide a broad range of legal services, including family, conveyancing, personal injury, employment, will writing and probate. Just a few weeks previously, The Law Society had revealed that for the first time in living memory the number of solicitors in private practice had fallen[[29]](#footnote-29). However, the same survey reveals a degree of complacency amongst law firms regarding ABSs, with only 25% of firms surveyed concerned about the threat of competition from ABSs[[30]](#footnote-30). This complacency or perhaps more accurately lack of concern, is to an extent hinted at in our survey, with comments such as:

“I do not believe in the short term it will have an impact”, and

“Providers of bespoke legal services will see little impact”.

The most common attitude that we detected, however, was one of “wait and see”, a very typical lawyers approach to any form of change. It is clear, though, that those firms that have already embraced change and have chosen to convert to ABS see themselves as being pioneers and leaders rather than followers, and they certainly feel that this pioneering attitude, of being ahead of the game, will provide them with a significant competitive advantage over other more conservative law firms when it comes to surviving and prospering in the brave new legal services world. What is surprising from a business perspective is how almost evangelical some of the new ABSs are about their new approach to legal services. It does not appear to be a trade secret, rather something they wish to shout about.

Chapman[[31]](#footnote-31) predicts that;

‘The leading legal businesses of the future will not be partnerships. Hourly billing will, for the overwhelming majority of legal work, be replaced by fixed models and other pricing models that deliver certainty. .. Technology will play its proper role in supporting high quality service delivery, rather than being focused primarily on time recording. Law firms that bury their heads in the sand and hope that things will return to normal will wither and die.’   [[32]](#footnote-32)

There are signs of this happening already within Staffordshire and surrounding areas but in quite small steps at the moment. Our survey does suggest that most firms do accept that the way in which legal services are delivered has to change, although with a high degree of uncertainty as to the extent of the changes demanded by, or even acceptable to, their clients. A commonly held view, though, is that legal services can successfully be delivered in new and more innovative ways whilst maintaining the traditional law firm structure. Only time will tell whether this belief is well founded, and that those firms adopting the traditional lawyers “wait and see” approach to ABS will be able to successfully compete with new ABS entrants to the market and with those firms who have taken an early decision to convert. Perhaps the success of the “click and collect” method of retailing does suggest that clients want evolution rather than revolution: greater convenience, but still with some personal contact with the business they are dealing with.

1. The Law Society, *Legal Services Industry Part 1 – an Overview*, (2012),18 [↑](#footnote-ref-1)
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3. Ibid 23 [↑](#footnote-ref-3)
4. Robins, “*ABS fab?”*,(2012) 162 NLJ 887 [↑](#footnote-ref-4)
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10. Legal Futures (n7) [↑](#footnote-ref-10)
11. The Legal Services Commission, *Market Impacts of the Legal Services Act 2007 – Baseline Report (Final),* 2012 [↑](#footnote-ref-11)
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19. Richard Susskind, *Tomorrows lawyers* (1st OUP 2013) 24 [↑](#footnote-ref-19)
20. ibid 57 [↑](#footnote-ref-20)
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24. Khiara and Jones (n 14 )411 [↑](#footnote-ref-24)
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31. Karl Chapman, (n 8 ) [↑](#footnote-ref-31)
32. Karl Chapman, (n8) [↑](#footnote-ref-32)