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## MANAGEMENT

# Development of law firm training programs: coping with a turbulent environment

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Law firms, like all institutions in contemporary society, face severe challenges in managing change. The environment for law firms in the United Kingdom has been especially turbulent. Education and training are among the tools available in developing a rational strategy to respond to new circumstances.

In 1987 four London law firms had appointed full-time directors of education and training. These individuals met informally to support each other in the development of this new role, and subsequently they formed the Legal Education and Training Group (LETG). By December, 1990, the LETG had 96 member firms. Interests in the professional development of practitioners and firms, and how they relate to each other, made this phenomenon an irresistible magnet for study. This paper is written half way through an intended eight years following the development of training programs in several firms of solicitors. The goal of the study is to examine how the development of these training programs relates to firms' organizational development.

### **Method of project and theoretical frame of reference**

Nineteen firms and firm groups participate in the study. All are engaged in commercial practice, meaning their clients are principally individuals and firms engaged in commercial activity. The individual firms in the study range from approximately sixty fee earners up to firms among the largest in the world. Thus, even my smaller firms are "large" by comparison to the profession generally, and all of them seek to serve clients engaged in high value commercial activity. The firm groups, in which several firms associate with each other for infrastructure support and efficiency without merging their partnerships, include representation of those composed of

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substantial provincial firms with national coverage and a regional group with a more "high street" orientation (and doing some personal, matrimonial, criminal, and legal aid, along with commercial, work).

In 1990–91, the first, intensive year of the study, three of the firms agreed to my looking closely at their training programs during the course of a year. At each of these firms, I interviewed partners and senior staff with significant managerial responsibilities, followed the experience of a sample of trainee solicitors over the course of the year, observed a diverse sample of training events, and followed the firms' decision making processes regarding training. After grounding myself for four months at these firms, I began interviewing at the other 15 firms and firm groups. At these firms, their training managers are my principal source.<sup>1</sup> In addition to my law firm sources, I have interviewed external providers of training and consultation services and representatives of the Law Society and of the Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC). I also observed and participated in the meetings and proceedings of the LETG, which provided me an opportunity to hear my informants speak to their colleagues and each other and not just to me. By the end of the year, following the firms through changing circumstances over an extended period seemed worthwhile, and my informants professed themselves willing to cooperate. I returned for follow-up interviews one year later and, then, two years after that. Between times, I follow developments through correspondence, documents sent by the LETG to its membership, reports and consultation papers issued by the Law Society and ACLEC, and the legal press. I plan to continue the study through the 1997–98 academic year.<sup>2</sup>

Most of the factual material stated herein is stated on the authority of my informants.<sup>3</sup> What is their reliability, and what is the reliability of the reporting? My strategy was to ground myself in a few firms, with multiple informants and opportunities to observe training in action, to prepare me to interview my informants from the firms with whom I would have only a single connection: to ask the right questions, to understand their answers, and to listen with an educated skepticism. Participation in the LETG would help me understand my informants' culture and help me cultivate their loyalty to our shared project. External consultants and service providers would help me keep my firm informants' biased viewpoints in perspective. Many of my informants have read and commented on my working papers and reports along the way, commenting on what has rung true to them and what they felt could use correction. With time and distance, and changes of personnel at participating firms, my connection to my subjects is becoming more tenuous, but I hope to renew the connection with another extended visit at the end of the eight-year period of study.

Law firms, like organizations generally, are "open systems" which adopt technologies and organize themselves to do distinctive work and which conduct transactions with constituents in their environments to obtain the resources necessary for their survival.<sup>4</sup> "Management" has the function of monitoring traffic across boundaries for productivity and quality control. "Open systems" features are characteristic both of firms as a whole and of their component departments and offices, for which the encompassing organization is the environment. Change challenges firms'

internal organization and their management of their relations with their environments. Because firms are managed by humans, their responses to change will be influenced by rational and irrational, conscious and unconscious processes.<sup>5</sup> Turbulent environments evoke anxiety. Since work groups structure themselves and their work in ways which will minimize recurrent, pressing discomforts, the systems through which firms serve their clients should be understood in part as defenses against the anxiety engendered by solicitors' work situations.<sup>6</sup> I will exploit the implications of this frame of reference throughout this article, but especially under the heading, "Theoretical Considerations."

Much of the research in this tradition is done in intensive, consulting relationships in which clients are motivated to communicate openly with consulting professionals to best obtain their help.<sup>7</sup> My relationships with my informants have not provided me such an intimate view of the participating firms, but such studies are by their nature focussed on single, unique firms, self-selected by their desire to seek help. On the other hand, my sample is not large enough nor the data "hard" enough to justify statistical analyses. But work of that kind, such as the valuable studies of the Law Society's Research and Policy Planning Unit, must usually look at much larger and less coherent samples. The compromises made in the approach herein provides a window on a diverse, though not statistically representative, sample of a certain type of law firm. The material and conclusions generated should be valuable in the context of other research on the legal profession.<sup>8</sup>

In this article I will identify significant aspects of these firms turbulent environments, survey the firms' training program agenda, implementation, and management as I found them at the beginning of the study, explain some theoretical considerations bearing on training program development, and discuss developments in the firms and their training programs over the first four years of the study.

### **The turbulent environment**

To say that law firms are coping with a turbulent environment, refers to both internal and external changes.

#### *External environment*

Significant changes in the professional environment are many and interact complexly. While these changes impose new constraints, they also present new opportunities. Change is not always welcome, and firms seek to influence the environment to control change. I will tell this story incompletely, dividing the external environment into general and regulatory components. While painting with a broad brush, I hope to convey the picture sufficiently for present purposes. Such changes have been documented elsewhere and the knowledgeable reader will be aware of many of the following changes in the external environment.

*The general environment: demography, business, technology, and law.* Changes in the general environment include: changing demographics, the ups and downs of the business environment; increasing international trade, and developing technology. The changing financial environment is influenced by governmental participation: from actions with broad implications, like taxation and interest rates, to specific expenditures, like decreasing support for student grants. In 1990, the economy had benefitted from a continuing, substantial expansion of commercial activity since the early 80s. In the legal environment: Changing and new areas of law, for example environmental and European Community law, represented new expertise to acquire and new opportunities for business. Deregulation in the UK and integration in Europe presented constraints, competition, and opportunities for clients as well as for law firms. The extent European states would continue their traditional legal autonomy and the extent they would become subordinated to a federal European authority were unclear.

Law firms are affected by changes in other institutions. Other law firms, the direct competition, were growing, acquiring specialized expertise, and competing internationally. Other professions not only competed in new ways, but also worked alongside solicitors in interdisciplinary teams. And, definitely not least of all, clients have had more substantial in-house legal departments, were making more insistent demands for value, and have been more inclined to complain, sue, and change lawyers if dissatisfied. Changes in higher education (decreasing "real" salaries, increased course loads and bureaucracy, and an increasingly entrepreneurial culture) influenced those legal educators who found positions as trainers in law firms attractive.

One of the factors which my informants regularly cited to explain the expansion of firms' in-house training programs was the "recruitment crisis" which firms confronted in the mid '80s. Firms were then seeking to recruit increasing numbers of University graduates to respond to expanding business opportunities, but the supply of students seeking the legal profession was constrained by demographics and decreasing governmental grants to finance students' higher educations. Consultants informed firms that quality of training was one of recruits' foremost concerns, and firms began to do things, including hiring directors of education and training, with which they could show recruits the firm was taking training seriously. One result of the competition for recruits was that trainee solicitors became considerably more expensive: salaries increased substantially, and firms subsidized graduates' year of study for the Law Society Finals Examination (and even the additional year for the Common Professional Examination course for non-law graduates). While there was no longer an inadequate supply of recruits at the time I commenced my study, the desire to attract the applicants with the best qualifications limited firms retreating from these expenditures. In light of this increased investment, many firms thought that their traditionally haphazard approach to trainee solicitor development was inadequate. It was now more important that trainees be retained upon qualification and to be sufficiently "qualified" to justify retention. The majority of firms believed that the downturn in business, which was coming into their consciousness over the course of the first year, intensive year of my study, would be only a temporary

embarrassment to this strategy, but some firms were considering whether, in light of their particular circumstances, their recruitment emphasis should shift away from trainees to qualified solicitors.

Firms' responses to technological developments demonstrated their ambivalent response to the opportunities implicit in change. Because a substantial aspect of legal practice is the processing of information in preparation for decision making, the revolution in computerized information technology has presented firms with significant challenges, in competing with each other and in interfacing with clients and the government who process information in new ways. Many firms stated in their marketing brochures that they utilized state-of-the-art information technology, but for some this was limited to word processing, fax, and photocopier. Many went no further than a Lexis terminal in their otherwise conventional libraries and some not that far. As my study began, only a few were developing databases of their own or were exploring litigation support and "expert systems."

### *Regulatory environment*

Developments in governmental and Law Society regulation of the profession have affected firms through: changing requirements for qualification and continuing education; deregulation, which has resulted in new rights of audience for solicitors and new competition from other professions;<sup>9</sup> and progressive European integration. "Deregulation" may mean more competition, but ironically tends to bring regulation of new kinds.

The factor which most motivated firms to develop their in-house training was the Law Society's increasing requirements of continuing education. The Law Society's first requirement of continuing professional development (CPD),<sup>10</sup> introduced in 1985, applied only to newly qualified solicitors during their first 3 years of practice. With application from 1990, however, continuing education was substantially extended to require that all solicitors admitted since 1987 obtain 16 CPD credits each year for the remainder of their careers. The number of solicitors affected by this rule increases each year. Even more dramatically, by the end of the decade the Law Society will extend this requirement to all admitted solicitors. Significantly, the Law Society permitted law firms to qualify in-house programs for CPD credits.

The Law Society has also been reworking the legal education curriculum at the qualification stage. By the end of the first year of my study, there was a specified curriculum required of newly qualified solicitors during their first three years, a new (under development) curriculum for a Legal Practice Course (LPC) and examination (replacing the Law Society Finals) to take effect in 1993, and a new Professional Skills Course (PSC) (four weeks or part-time equivalent) to be required during the training contract. The largest portions of the new curricular elements are in the areas of practice (especially communications) and management skills. Substantial commercial firms have been inclined to feel ill-served by these developments because this skills training will be more expensive, which these firms subsidize by paying their future trainees' and newly qualified solicitors' course fees, and because the content and timing is viewed as inappropriate to the career development patterns

of lawyers in those firms. Firms influence curricular developments through their partners who are members of the Law Society Council and relevant committees and through the officers of the Legal Education and Training Group, who are mostly training managers from these firms, who meet with the Society's education directorate from time to time to offer constructive suggestions.

Several regulatory changes are affecting the recruitment and deployment of legal staff. The Bar Council now permits lawyers who have qualified at the bar to work as employed barristers without terminating their ability to reactivate their right to act as counsel should they chose to revert to that career.<sup>11</sup> Further, the Law Society has recently adopted rules making it easier for barristers and foreign qualified lawyers to requalify as solicitors and rules which somewhat ease the way for legal executives,<sup>12</sup> who are supported by a professional association which has upgraded their qualifications, to qualify as solicitors. Barristers and legal executives working as fee earners in firms can advance far in status and salary without qualifying as solicitors. Finally, as "1992" approached, the year which was to bring dramatically increased integration in the EC, each EC state was faced with the agenda of sanctioning appropriate practice in its jurisdiction of lawyers qualified in other EC states (although the details which would eventuate remained very unclear and are, even now, still evolving).

On the front of restrictive trade policies: The Courts and Legal Services Act (1990) will subject solicitors to competition in work historically reserved to it (first in conveyancing, but more to come elsewhere). Solicitors already had rights to conduct trials before Magistrates and in other lower courts, and the limit on the amount in dispute within Magistrates' jurisdiction was about to increase significantly. Solicitors appeared in preliminary and post-trial hearings in the higher courts. And immediately upon the Lord Chancellor's Advisory Committee opening for business in spring 1991, the Law Society presented its petition for full rights of audience in the higher courts.<sup>13</sup> Clearly, such aspects of the professional environment will remain fluid and uncertain for some time. The expectation that in the foreseeable future there will be a common pre-qualification curriculum for solicitors and barristers is among the future tidings. With rights of audience, solicitors may take business from the bar, but then, the bar in the future may enter contracts directly with clients, cutting out solicitors. As the divided legal professions of England and Wales compete and interact with the unified professions of other EC states, adjustments seem inevitable. Indeed, a number of my informants do not expect the separation of the professions to outlast the decade.

In recent years, and increasingly, the Law Society's traditional, "hard" regulation focusing on individual lawyers has been supplemented by a more "flexible" regulatory approach focusing, systemically, on law practices. In general, the direction is to delegate to law firms authority and responsibility to develop goals and strategies for developing and maintaining practice quality and client care and to prompt firms to take collective responsibility for their firm's effective and responsible practice. This approach would permit firms to adapt general principles of responsible management to the circumstances of diverse practice areas, leaving to the Law Society the maintenance of baseline standards and requiring the Society's

complaints mechanisms to step in only in instances of system breakdown. Evidence of this approach may be found in the Society's authorizing firms to maintain in-house continuing education programs and maintain records of solicitors' compliance with CPD requirements, in The Law Society's *Solicitors' Practice Rules*, rule 15 (1991) on Client Care (with supporting advice, Law Society 1991a) requiring firms to establish systems of complaint handling of which clients must be appropriately informed, in a new scheme regulating firms taking trainee solicitors in training contracts,<sup>14</sup> and in the Society's encouraging firms to establish systems of quality maintenance. *Succeeding in the 90s: The Law Society Strategy for the Decade*, published during the first year of the study (April, 1991), demonstrated the significant role the Society was playing as an agent for change.

### *Internal environment*

As law firms adapted to their external environments, they changed internally as well.

*Size:* Many firms in the study doubled in size in the decade preceding the study, some even in the previous three or four years. Much growth came through recruiting individuals, but there had also been mergers and acquisition of groups from other firms. Occasionally, segments of firms which were no longer productive together had been spun off. Whatever the motivation and dynamics of growth, it was a fact of life by the time I came to the scene. Growth meant that some, but not all of these commercial firms had become more highly leveraged in ratio of equity partners to salaried legal staff.

*Restructuring of work and work groups:* As the nature and focus of work changed, commercial firms' traditional departments were complemented by new speciality groups, focusing on types of clients or on areas of work not fitting within the expertise of established departments, frequently drawing members from across the firm. Also, lawyers increasingly worked as members of teams instead of as Lone Rangers, or at least that was an expressed aspiration. Another restructuring feature has been establishment of offices in foreign states and associations with foreign firms. Some firms associated themselves in groups for mutual support of management functions and to achieve economies of scale without merger. Firms closed or spun-off departments if they were not sufficiently profitable in the context of the firm. The goal in restructuring is to mobilize and target resources to market opportunities.

Increased in-house specialized expertise in both litigation and substantive areas have made available within commercial firms services that formerly had to be obtained from barristers. Firms are less inclined to seek counsel's opinion, and the boundaries between solicitors and counsel in managing litigation are more fluid. With solicitors' increasing rights of audience and litigation experience (including the experience of employed former barristers, some of them requalified as solicitors), the opportunity costs of fee earning time may be the greatest incentive to employ counsel. (That is, it is more profitable for solicitors in commercial firms to earn fees at their desks and employ counsel to wait and appear in court.)



*Management structure:* Firms have made changes in management structures, in diverse ways and directions. Commonly, firms have increased management from the center, with the institution of service departments and officers in areas such as finance, marketing, personnel, library, information technology, and, of course, training. Most of the firms had altered their management structures in recent years, but the diversity of their solutions to their management problems was complete and extreme. For example, while one firm had located firm management in an executive partner and compact management committee, with only an annual partnership meeting to ratify their actions and recommendations, another firm had weekly partnership meetings. At that firm, all the partners receive reports of the work of all committees and took a collective view on the career development of all employed legal staff.

*Firm cultures:* It was commonly said that firms were becoming more corporate, more specialist, more competitively aware, and more oriented to economic productivity. It was also frequently said that firm cultures were strongly resistant to change.<sup>15</sup> Certainly, some had a vulnerable and anxious air about them. The increased readiness of firms to make lawyers redundant and of lawyers to move laterally to firms which provide greater opportunities have made loyalty less compelling. Firm cultures are as diverse as their management structures. Some firms are very closed regarding their governance structures and processes (even with their own staff), while at a few firms I was shown manuals in which the firms' structure and governing procedures were fully detailed. Integrating diverse cultures can be the most difficult aspect of firm mergers. In general, firms tend to be insular, and transactions representing clients tend to be the only occasions on which firms' diverse cultures meet.

*Increased overhead:* As a function of other changes, firm's have been confronted with increased overhead in capital and services, making demands on both fiscal and time resources. This is a factor to which firms' resistant cultures have great difficulty adjusting. (The problem has been less dramatic for firms already "large.") Management consultants commented to me that solicitors seem to be doers rather than planners.

Regarding both external and internal environments, lawyers may have wished that the current turbulence would be a transition from an old steady state to a new one. But the realistic expectation, as firms have learned, is that rapid change will be a continuing feature of their environments, and this is itself the environmental factor to which firms may find it most difficult to adjust.

## **The training programs**

### *Law firm agenda for training*

The initial goals for firms' development of training programs were to meet the Law Society's more demanding continuing education requirements, to recruit and train larger cohorts of trainee solicitors, and to develop new competencies (for example, in marketing) to support practice development. Degrees of investment and

sophistication for these goals are possible, but significant cost containment and direction of training resources to firms' needs can be achieved with modest investment in a training office, and I refer to this level of ambition as the "cost-containment" agenda.

On a deeper, "management agenda," training may develop firms' capacities to delegate authority more clearly and create the conditions for its effective exercise, to maintain quality standards, to manage people and their careers in a context where competencies may become obsolete and where salaried employees, vulnerable to downturns in business, are a larger portion of the firm, to overcome the technical and cultural obstacles to making the firm's know-how available to its staff who need it for maximum productivity, to manage resources for the increased financial and time demands of new management overhead, and to support a culture which values management and investment of time in it.

*Cost-containment agenda.* Firms were initially motivated to organize and develop their training programs to pursue training goals in which the easiest pay-outs in cost containment were available. A number of these first-level goals related to meeting the requirements of external regulation.

The Law Society's continuing education requirements increased the number of occasions on which qualified solicitors attended continuing education programs. Attendance at external courses was expensive both in terms of fees and in time away from the office. Attendance frequently involves whole or half-days away, although only a portion of the program may be beneficial to the needs of the attender or the firm. The inconvenience of programs and a low perception of their value resulted in lawyers delaying their pursuit of continuing education until the deadline for obtaining CPD credits was pressing, at which time beneficial programs were often unavailable. An external course may not benefit the competencies or culture of the firm beyond its impact on an individual attender. And the firm might have no institutional memory of the quality of the offerings of different providers. Happily, the Law Society permitted firms to qualify in-house programs to meet continuing education requirements. Firms could organize in-house resources to provide convenient, topic-relevant in-house programs, could evaluate outside providers for in-house programs where that was cost effective or where outside expertise was required, could negotiate with the outside provider to shape the program to meet the firm's needs, and could undertake program administration. Once firms provide in-house programs meeting many of their continuing education needs, they could manage attendance at external programs more actively and use training offices to gather data on their quality.

In addition to meeting training needs in traditional areas (transferring knowledge to junior staff or updating those more senior), in-house continuing education could help firms in areas in which their competencies were less established. These were newly developing legal areas, such as environmental law, EC law, and alternative dispute resolution, or supported business development, such as presentation skills for effective marketing or foreign languages to facilitate European or Asian

connections. With increased rights of audience, advocacy training was likely to be another area for new competencies.

The savings of bringing training in-house were very substantial. The expense of a single solicitor obtaining the required yearly sixteen CPD from external, commercial providers could easily exceed £500. Even "small" commercial firms had several assistant solicitors subject to the requirement, with the number increasing each year. For larger firms, investments in dedicated training facilities would be recovered quickly, but existing meeting rooms could be used in hours they would otherwise be vacant. Putting aside the case of training directors presenting programs in areas of their expertise, the expense of presenting in-house programs (without respect of the number of attenders) ranged from barristers, who might offer courses on a courtesy basis (no doubt to market their expertise), to academic law faculty, to presenters furnished by commercial providers (with fees which ranged from £800 per day to £250 per hour, an hour and a half program giving each attender two CPD credits). The most expensive presenters were the firms' own fee earners, for whom the cost was the lost opportunity for fee earning for the time required for preparation and presentation. While this cost was very substantial, using in-house presenters achieved collateral benefits, such as developing the offeror's presentation skills, cross-marketing of services, and developing uniform firm practices. There were some bargains in external programs, for example those presented on a non-profit basis by local law societies and free tickets to commercial programs provided as a courtesy to solicitors who made presentations at them, and training offices directed attention to these opportunities.

Other substantial cost-containment training benefits arose from firms having grown, in significant part, through recruiting larger cohorts of trainee solicitors. Firms thought that some of the trainees' educational needs might be met more efficiently through group activities, with less reliance on instruction by the individual solicitors with whom the trainees sat, especially as fee earners felt increasing pressure to focus on their contributions to firm income. Thus, firms undertook induction (orientation) programs to make basic firm and practice information available to trainees and to train them in generic skills relevant across the range of the firm's practice, and departmental induction programs were organized in many many firms for trainees as they changed seats. Being able to advertise high quality training programs was felt necessary to compete for the better qualified candidates in a limited pool of trainee recruits. And it was felt that a more structured program for trainees would better assure the competence of the pool from which a significant portion of the firm's future lawyers would be selected.<sup>16</sup>

In these circumstances, medium and larger firms found full or part-time training managers a good investment, even though they would themselves be able to present only a few of the range of desirable in-house programs. Those who were conventional law lecturers had their areas of substantive expertise. Some trainers had skills training competencies from courses on interviewing, negotiation, or advocacy, and others developed competencies in these areas on-the-job. (And non-lawyer training managers usually had interpersonal skills training competencies developed in their prior employments.) Communications and interpersonal skills

expertise were also adapted to presentation skills training for marketing. And particular trainers had other collateral competencies which firms exploited. For example, those who came to firms from positions in legal education frequently had connections with law faculties and experience working with undergraduate students which made them useful in recruitment. Academic expertise made some training managers valuable for research and publications (and the cost of their time for this may be less than it would be for fee earners). Or in firms that had been blind in adaptation to the kingdom of computers, a one-eyed academic might help lead the way in information technology.

These were the areas in which the pay-off to firms for having in-house training programs was most evident. Firms seemed certain to maintain training programs perceived to be sufficient to meet such cost-containment goals. While educational expertise was useful for program development, and continuing change would present continuing challenges, when training programs acquired established patterns and content which can be reused from year to year, the temptation would exist to limit further investment in program development.

### *Management agenda*

A deeper level of training goals are oriented to development of the practice management. Training on this agenda develops competencies to meet the challenges of changes in firms' internal environments. The solutions which firms adopt to cope with external change create new problems in managing the organization, in quality control, in managing people and their careers, in transmitting know-how, in managing increased overhead, and in developing appropriate culture and attitudes.

When firms were smaller and more intimate, they managed themselves largely through informal processes. Consequently, most lawyers had little management experience beyond managing their own work. Firms' new management burdens were often imposed on middle generation, or even younger, lawyers, while senior equity partners were left to get on with their familiar, fee-earning work, having the power to make policy without the responsibility for, or their own first-hand experience in, executing it. Thus, the relation between firms' formal and informal leadership could be awkward, especially while there were groups of senior lawyers who know each other well from days when firms were smaller. Larger, more bureaucratized firms needed to delegate authority more clearly and create the institutional arrangements in which delegated authority could be effectively exercised.

The rapid growth of firms had implications, also, for managing people and careers. Not only might the size of the group have grown beyond the point where everyone could be familiar with most members' work, but a very large proportion of the firm would have been with the firm only a few years. Those who were salaried employees and felt vulnerable to downturns in business constituted a much larger portion of the organization. Firms were beginning to develop and rely on formal appraisal programs to maintain quality and manage careers. In the larger firms, a personnel director, in office only two or three years (and probably not a lawyer),

might well have recruited half the firm's lawyers and be the only one in the firm with information on the development of all their careers. Developing appraisal systems, and training those who would administer them, was, and still is, an important, but sensitive challenge. Because informal methods of quality control were no longer adequate, the Law Society was prompting firms to adopt systems of client care and complaint handling and to explore systems for maintaining quality standards. Responding to these issues required firms to reexamine their professional roles and relationships, both within the firm and with clients.

Know-how ranges from craft skills and practical knowledge acquired by most lawyers to unique expertise amounting to trade secrets. In professional work, productivity and ability to compete depend on know-how, such as the ability to apply the abstract to the practical, the recognition of indicators which guide judgment, and knowledge of effective instrumentalities. Sveiby and Lloyd, 1988. When firms were smaller and expertise less esoteric, lawyers in a firm experienced and understood each others' work, and know-how was transmitted gradually, but effectively. In the new environment, transmission of know-how among firm sectors and between generations of lawyers might no longer occur easily or automatically. Attempting to transmit know-how through a "know-how system" involves identification and classification of know-how, translation of the craft skill to communicable form, and information technology capable of transmitting know-how from lawyer to lawyer. Systems for transmitting know-how could be a more valuable trade secret than the know-how itself.

Systems and technology, however, cannot ensure achieving a firm's goal that the firm's know-how should be available to all of its staff who require it for maximum productivity. The firm must have, as well, a culture in which sharing know-how is safe and rewarded in the face of competitive relations within the firm. Individuals may feel that it is their know-how that makes them uniquely valuable, and once their know-how is effectively shared, their value will be diminished. More drastically, while know-how technology will never fully replace lawyers' reliance on subtle judgments based in long experience with reliance on readily accessible "expert systems", particular special skills may actually become obsolete. Even when lawyers willingly share know-how with new generations, as they regularly do, the satisfaction of communicating it in a personal relationship and of guiding the neophyte in its proper use may be the incentive for doing so. And, in any case, firms should not become so enthusiastic about know-how systems that they lose sight of the limits of the know-how that can be transmitted through "systems" as opposed to personalized apprenticeship.

Management overhead now makes significant demands on firms' time as well as financial resources. Significant training issues involved include: What matters can be handled by employed staff and what matters implicate senior professional expertise and responsibility; what responsibilities can be delegated to junior partners or assistant solicitors; what support is required to permit lawyers and staff to fulfil delegated responsibilities effectively and efficiently; and how can the firm's culture and reward structure be altered to reward time invested in management. Managing increased overhead was especially difficult for firms seeking to grow and compete

with larger, more prestigious firms, because investment must be made in management infrastructure before increased returns are realized.

Developing firms' capacity to manage themselves productively, then, was a many faceted challenge, involving sophisticated understanding of organizations and individuals' roles within them, communications and other management skills, pursuit of "corporate" goals while maintaining appropriate loyalty to individuals, and a culture which values management and investment of time in it. These were aspects of education and training which were not usually part of firms' initial education and training agenda, but which were discovered by some firms, frequently with the help of directors of training and other service professionals with new roles in firm management. In 1991, however, many firms had not progressed very far in developing a management agenda for their training programs.

### *Implementation*

Training is the function of developing the competencies of a firm's personnel resources. Training is carried out:

- on the job and through training events,
- at the commencement of careers and through continuing update,
- through contemporaneous supervision and periodic appraisal,
- by formal and informal, tangible and intangible reward structures, and
- through changing environment and technology.

Law firms implement their training agenda in programs for trainee solicitors, for continuing education, and for practice development. On-the-job supervision remains the most pervasive and valued form of training. In training events, firms typically begin with education in legal content, both substantive and procedural, ("technical" training, as they refer to it) and move first, into skills training and, then, to management training. In method, the progression is from traditional, formal presentations to participatory formats which are more rewarding, but more demanding. In 1991, programs in many firms were still too new to have settled into a stable pattern or level of ambition. Management of the interaction between training programs, appraisal systems, reward structures, and information environments were, generally, in very early states of development, if deliberately managed at all.

*Trainee solicitor programs.* By the Law Society's regulations, qualification as a solicitor requires experience in training contracts lasting two years and providing trainees with a specified variety of experience. Typically, commercial law firms recruit new lawyers as trainee solicitors and rotate them through four, or sometimes five, "seats" in different departments or practice areas during their training contracts.

Trainees' viewpoints are heavily influenced by their status as marginal members of firms. Many feel naturally embarrassed by their inexperience and ignorance. And their experience as newcomers is repeated every time they change seats. Their

insecurities in becoming lawyers resonate with uncertainties in other changes in their lives, the majority of them making the transition from adolescent to adult.<sup>17</sup> And not long following their feeling comfortable in their trainee solicitor role, they become concerned with placement following qualification.

(a) *On-the-job training.* Without question, the training which both trainees and firms considered most valuable was the traditional sitting with experienced solicitors. In this context, trainees witness and try out models of solicitors' work, exploring how one produces and survives, even flourishes, on the job. These are matters which cannot be learned in the presentation of technical legal materials typical of their prior legal education and of off-the-job training events. Trainees' initial "practice" is supported by supervisors who provide guidance and keep trainees safe from making damaging mistakes. While these experiences are valuable for the routine aspects of legal work, of which there are many, they are critical for solicitors' more challenging and creative work, which goes beyond putting elements in set formulas or filling blanks in forms. In solving complex and subtle problems, tentative solutions prompt feedback on which practitioners reflect to find better solutions for the present matter and to educate the "instincts" which permit more resourceful and efficient production in future work. Mentors are critical to this aspect of learning professional craft.<sup>18</sup>

While the quality of the sitting experience was always a hit and miss proposition, depending on the qualities of the solicitors with whom trainees sat and the suitability of their work, it was under new pressure in the current environment. More fee earners specialized more narrowly in advanced, esoteric issues and felt more pressure to produce billable hours. When trainees more frequently got work from multiple fee earners, to compensate for solicitors' narrower specializations, the continuity of trainees' supervision and locating responsibility for it became a problem. Trainees in some firms were sitting more frequently with assistant solicitors rather than with partners, which had the advantage of trainees experiencing work in which they were more ready to participate, but at the cost of receiving supervision from less experienced lawyers and attenuating the knowledge and responsibility of the partnership for trainees' development. Firms were developing structures and techniques to cope with these issues, variously using trainee solicitor committees, training partners, personnel offices, and so forth, to monitor and manage the quality of trainees' sitting experiences. Still, the trainees best served were those who exercised initiative themselves to see they got the work and supervision they needed.

(b) *Training events.* All firms at which I interviewed had induction (orientation) programs for trainee solicitors when they commenced their training contracts. These programs varied in scope, but were at least aimed at orienting trainees in an alien world, including introductions to the work, organization, and geography of the firm. Many trainees had little or no experience of working in office environments, and introduction to the mechanics of the telephone and dictation and hints regarding working relations with lawyers and secretaries were very helpful. Also, introducing the trainees to each other as a mutual resource for practical and emotional support

could make a significant difference, (although in larger firms where trainees did not naturally encounter each other regularly in their day to day experience, development of this resource depended on events which brought the trainees together).<sup>19</sup>

On technical legal matters, trainees benefitted from departmental induction and training programs as they changed seats more than from firm-wide lectures, especially those lectures designed for the firm's experienced lawyers which were often at too high a level for trainees. Even firm-wide programs designed especially for the trainees could be problematic, because the timing did not account for their present needs. Trainees felt a need to fill in the gaps in their substantive and practical knowledge, but at a time when they were in a position to use, and witness others use, the new information. They could follow-up departmental programs with informal discussion, application, and questions to those with whom they had a working relationship. But departmental induction for trainees was expensive. It was addressed to a relatively small group and needed to be repeated every few months with each seat change. And only a few of the trainees would return to the department as assistant solicitors. Strategies for cost effective departmental induction was a pressing issue in many firms.<sup>21</sup>

The firm-wide programs for trainee solicitors likely to be most valuable were those directed to generic skills relevant across departments. In such programs trainees could explore and experiment with fellow neophytes, away from the scrutiny of those on whose evaluations they depended. The most easily introduced skills exercises were those directed to functions trainees were doing in their current work, such as drafting letters, instructions to counsel, and attendance notes (file memos summarizing the content of meetings). While firms' programs for trainee solicitors increasingly included instruction in interpersonal skills such as interviewing and negotiation, many partners were inclined to think this work was not worthwhile for trainees in substantial commercial firms, because it would not be until later in their careers that they would undertake these functions. A similar view is expressed regarding management training. And only a few firms had extended skills training to personal development in such matters as being appropriately assertive, supportive, collaborative, respectful, or aggressive, according to the relationship and the work to be accomplished.

The rationale of introducing trainees to training in interpersonal skills was that it equipped them to learn effectively from and be critical of the practices they observed and that, while they might not have responsibility for interviewing and negotiating in substantial set pieces, their work involved gathering information and working out arrangements in numerous transactions, and they were developing habits which would shape their future practices. And from trainees' viewpoint, since the firm and the trainee were not committed to each other beyond articles, trainees were owed a reasonably complete basic preparation for practice. Further, delay of training in this area might develop attitudes that skills and management training are not important. Finally, this was an area of training likely to use participatory methods, such as role playing, which can develop attitudes in trainees to take responsibility for their learning.

A device used in the induction program of one firm illustrated how these issues



can be integrated into matters of immediate concern. At this firm, rather than have representatives of the firm's departments come to the induction program to speak to the new trainees about the work of their departments (which was the method at most firms), the training director organized the trainees into groups which were each assigned to learn about one of the firm's departments and report back to the group. Each group had to:

- manage a meeting to organize itself to do its work,
- decide what information it wanted to gather,
- allocate tasks to its members (considering their competencies) to gather information, including interviewing responsible partners,
- sift, collate, and structure the information for a report to the larger group, and
- delegate responsibility to make that report.

Thus, in the course of learning about the firm, its work, and its structure, the trainees commenced their learning on a variety of interrelated skills and management issues and were prompted to take active responsibility for their learning. (As an incidental benefit, partners saw trainees in a different light and learned what issues were important to them.) It spoke volumes regarding the culture in law practices generally that most of my informants at other firms thought this device could not work in the context of their firms.

Firms said that their programs for trainee solicitors were investments in their futures. During the recruitment crisis, having an organized training program seemed necessary to compete for recruits. Firms' future lawyers should be well trained, and firms were not confident the traditional approach was in itself adequate to the task. Having invested heavily in trainees, it was important to make the most of them when they came and to hold on to them when they qualified. And even with trainees a firm could not retain, their training should be a good advertisement for the firm.

Trainees told me at the beginning of the year in which I followed their experiences that they valued firms' investments in training and the impetus, organization, and expertise which directors of training brought to their firms. By the end of the year, however, some of these trainees were wondering whether the reality lived up to the rhetoric: In their experience, training programs sometimes conflicted with work they had to do for clients. Programs they were required to attend were sometimes inadequately designed or prepared to meet their current needs. Occasionally, they felt like guinea pigs for partners trying out material they were developing for the CPD lecture circuit. And they received conflicting messages regarding which programs they were expected to attend. This may have been part of firms' general problem of allocating time to non-fee earning activities, or it may have evidenced a low priority to training, in general, or trainee solicitor training, in particular. Or it may have reflected firms' difficulties in managing their resources in this time of transition.

At the end of the first year of the study, it was a question whether firms' more ambitious investments in trainee solicitor programs would survive the economic downturn. Recruitment was no longer under pressure. Some firms were wondering whether their limited training resources were better invested in assistant solicitors

than in trainees who might not continue with the firm. And some firms were concerned with the quality of the trainees recruited in the tight market, wondering whether these were trainees the firm would want to retain. In this environment, existing ambivalence regarding trainee solicitor programs might become more salient: Did the value of the training really warrant the opportunity cost of taking trainees off the job (considering their current substantial salaries). Trainees might represent unwanted growth. Some partners wondered if present trainees would be sufficiently tough and share identity with senior lawyers who got their training through hard knocks on the job. And one could easily envy the resources invested in trainees. This ambivalence was evidenced by competition for trainees' time between training programs and the fee earners for whom trainees worked. The rate of trainee solicitors' attendance at training programs designed for them may, in fact, have been a good indicator of a firm's commitment to training.

*Continuing education and practice development programs.* Continuing education maintains and updates knowledge and skills and transmits them from experienced to younger lawyers. Practice development training is intended to enable firms to move in new directions and acquire new competencies. At the outset, continuing education was most frequently aimed at those assistant solicitors who were still being introduced to the fundamentals of a departments' work (and, therefore, was often useful for the trainee solicitors in the department as well). This group coincided reasonably well with firms' solicitors admitted since 1987 of whom CPD credits were then required. While all the firms I examined provided sufficient opportunities to obtain CPD credits in-house, most firms still made substantial expenditure for attendance, especially by senior fee earners, at external programs, for special expertise and to facilitate making contact with solicitors from other firms.

Practice development training was motivated by firms' strategic needs and was directed to lawyers across the firm according to the needs of their work roles. Practice development training in emerging areas, such as environmental and European Community law, was common. Foreign language training was increasingly supported to facilitate international practice. Practice development in new skills and roles, for example in alternative dispute resolution and firm management (including appraisal training), was appearing, though more slowly. Firms, especially those for whom managing growth had been difficult or whose growth had involved substantial discontinuities in work and structure, were discovering the importance of management competencies, such as supervision, appraisal, delegation, and team development. These competencies might come to be viewed as generic competencies expected of lawyers. A few firms were developing programs to target skills and management training on solicitors' needs as they made significant career transitions, that is, when they were newly qualified, first supervised trainee solicitors, became team leaders or departments heads, and undertook senior management roles.

In method, training programs (for trainee solicitors, continuing education, and practice development) were still predominantly "talking heads" for one to two hours. Even with skills training, it is possible to stand up and talk, and invite

questions and discussion, without demonstration or practice. These were very passive learning experiences, with audience preparation infrequently expected and materials usually distributed on the spot. Allocating only an hour or so to a topic was severely constraining. A frequently stated ambition of training managers was to introduce more participatory formats, including case studies, small group discussion, role plays, and games. The Law Society's standards at the time for accrediting programs assumed traditional formats and inhibited use of participatory formats.

Several factors prompted this adherence to traditional pedagogy. Most lawyers' experience was limited to traditional educational models and found the format an effective way of acquiring information. Further, traditional training presented by in-house lawyers had side benefits for building competencies in marketing and for cross-selling expertise across the firm. Probably the dominant factor, however, was that this was the most time efficient way of satisfying the Law Society. Some firms occasionally provided programs of half or full days, protected from interruption; a few, especially the firm groupings, supported residential programs of a weekend or longer, which allowed greater latitude in program design, not to mention more focused attention of participants. But many lawyers were reluctant to allocate this much time away from fee earning, either for themselves or for those they supervised, especially for training agenda and methods that were for them unproven.

"Talking shop" departmental and specialty group meetings, frequently during lunch hours, were an increasingly frequent feature of lawyers' training, facilitated by the Law Society's more flexible criteria for one credit programs. Some departments had a long tradition of this, while in others it was revolutionary and resisted. Because these events occurred in smaller groups of colleagues, they were more likely to meet the level of the group, include give and take discussion, explore the practice implications of new developments, share know-how, share views on managing client and pending matters, and promote shared responsibility and team building. These could be the occasions on which those who attended external programs reported their learning to their departments. Talking shops were sometimes used for cross-marketing within firms, both to promote the use of interdepartmental expertise and cross-selling a firm's services to clients. This was a flexible format which responded to the needs of the group, and such events were becoming a significant laboratory for exploring new ways of training.

At the beginning of the study, some firms were beginning to discover the value of skills and management training, but for most firms it was still very early days. Surprisingly, to me, management training was in some respects more readily accepted than skills training. Lawyers conducted profitable practices with their existing skills in interviewing and negotiation. "Experts" might criticize solicitors' practices in interviewing and negotiation, but those practices were experienced as "working," were deeply embedded in the professional culture, and would not be easily dislodged. In contrast, solicitors who had assumed new managerial roles in new environments, and who were frustrated by their difficulties in allocating time to management and obtaining cooperation from their colleagues, were now less certain.

Management systems at department and team level cannot work without support from the larger management of the firm, and some firms were recognizing that management training should include, even start with, overall firm management. Effective management depends on the firm's structure which, in turn depends on the firm's circumstances and goals. A firm's structure might need to be adjusted to make effective management possible. Because in-house training directors were part of the management systems and group dynamic being examined in management training, they were not in a position to do this aspect of management training themselves, even when they had the expertise.

In these circumstances, external management training providers experienced increasing demand for their services. Some firms themselves perceived the need for management training with an organizational dimension. Others were reeducated in the process of negotiating programs with providers. The productivity of skills and management training was very limited by traditional formats and by the time resources that solicitors were thought willing to allocate to the work. Trainers had to cope with a mind set that training is a finite exercise, in which the job can be accomplished by conveying information in time-limited programs. With a concern that accepting work within traditional constraints was setting them up to fail, responsible providers might have to decline work where the firm was unwilling to commit sufficient learning time. Because the aim of management training is to alter the behavior of managers and the teams they lead, follow-up is as important as the initial training. "Action plans" developed in management training need to be supported and reexamined in light of experience and the continually changing environment. In order for external management trainers to be effective, they must have trust and knowledge of the firm, and some external trainers considered that a continuing relationship with firms would be productive. But management training was mostly negotiated episode by episode rather than on long term contracts. In-house and external trainers were in a marketing phase in this work, hoping that a taste of skills and management training would motivate fee earners to ask for more. As these training events can be very engaging, the strategy might work, and solicitors might be more likely to put themselves in trainers' hands for training in unfamiliar competencies.

In 1991, the scope of firms' continuing education and practice development programs ranged from those that were statically providing the minimum necessary to facilitate meeting the Law Society's CPD requirements to those that were extensive, experimental, and developing. As the group of lawyers required to obtain CPD credits expands, firms are challenged to make the necessary additional investments in continuing education and practice development programs benefit firms' productivity.

*Appraisal, reward, and information systems.* Development of the competencies of firms' personnel resources is supported and constrained by supervision and appraisal, by reward structures, and by the practice environment (including information systems). Training can educate managers regarding the relations of these

factors and help them shape managerial processes to support training. The elements of a firm's service environments need to work in a coordinated way and be developed with their mutual needs in mind. Some firms were managing this much better than others.

In 1991, a number of the firms in the study were in the initial stages of developing appraisal systems. Only a few had appraisal systems of long standing or ones which appraised partners as well as salaried fee earners (although this was said to be the eventual ambition of most). Properly conceived, appraisal is a two-way process which reviews the development of the individual's career in the context of the firm, resulting in action plans both for the individual and the firm to serve each other better. Action plans may include training, modification of the work context (including better supervision and management), and specific goals for improving job performance.<sup>21</sup> Prior supervision is a source of information for appraisals, and appraisals provide guidance to future supervision. Appraisal should be a collaboration for the mutual benefit of the individual and the firm, not the occasion for establishing the basis for salary reviews or promotions in status.

Proper appraisal requires interpersonal skills and an understanding of the roles and relationships involved and, therefore, is a significant agenda item for management training. Training is especially important while appraisal is new to firms, because without specific experience of models for appraisals, partners would be likely to rely on models from other roles which might be inappropriate. Indeed, partners usually had had no previous training designed for analogous roles and had much to learn (or relearn) in communications and managing relationships. In one resourceful effort in launching an appraisal program, a firm provided training for the individuals whose progress was to be first reviewed, because the roles adopted by appraisers would be influenced (trained) by their interaction with the individuals appraised as much as by formal appraisal training.

Appraisal should have significant interaction with firms' training programs: One subject of appraisal should be the individual's prior use of and future needs for training. Cumulatively, this process provides data for assessment of the firm's existing training programs and future training needs.

Training programs and appraisal systems are ineffective unless they are congruent with firms' reward systems. Rewards include, of course, compensation (in its various forms) and advancement in status. Individuals are strongly motivated to behave in accordance with the pleasure (as perceived) of those who may have power to influence granting these rewards. One of firm managements' biggest challenges is to see that training, appraisals, and reward systems communicate consistently in accordance with firms' policies.

Individuals are also rewarded by their experiences of accomplishment and functioning with satisfaction on the job. These rewards, which may be the strongest of all, are functions of many facets of work environments. Firms' information systems are very significant for this purpose, both the systems which manage the information which is processed in work on clients' matters and information about the firm and its governance.

The materials of legal practice include legal authority and commentary,

know-how, client information, and firm resources (including diverse expertise). The accessibility of these areas of information are not only a necessary condition for work productivity, but also for the satisfaction with which work is accomplished. Firms range from the primitive to the highly sophisticated in their development of data bases in different information areas and in their systems for gaining access to them. Computers can provide ease and speed in gaining access, but workable information systems are possible without hi-tech. Computers do not control the quality of the information stored in data bases (garbage in, garbage out, they say) nor of the systems by which the information is classified. Reliance on a computer system that does not work is certainly one of the most frustrating work experiences there is (and some solicitors have been frustrated, indeed, when their firms experienced bugs in shifting to new information technology systems). Inadequately developed information systems are a significant constraint on training, as well as on other firm functions. (Of course, staff require training in the use of information systems.)

The systems which provide access to information about firms' practice managements are also significant features of work environments. Some firms had internally closed cultures about their managements and power structures, and anxieties associated with uncertainties about firms' developments in uncertain times may have induced previously open firms to close up. In contrast, I saw a few firms whose practice manuals purported to document in detail the firms' structures and governance processes. The adoption of quality control processes (such as those that would comply with the standards of the British Standards Institute), as the Law Society was advocating, would require significant documentation of firm governance. Alongside the formal structure of responsibilities, however, every firm had an informal structure of authority which corresponded only more or less with the official one. The role of equity partners in firms where full ownership was not shared among the entire "partnership" was often shrouded. The temptation was to retain admission to inner cores of firm information as a reward of increased status, finally of firm ownership. Closed cultures, however, tend not to support the trust and collaborative relationships which support the development of firms' personnel resources.

Appraisal, reward, and information systems must "fit" firms' cultures. My informants believed that any attempts to introduce systems that are too open to be acceptable to a firm's power holders would not be sustainable. The tensions inherent in these matters were pressing issues for management agenda training.

*Collaboration among firms.* Two constraints that inhibit training are the added overhead of training offices and programs and firm insularity which limits perspective and the availability of information. The effects of both constraints may be lessened by collaboration among firms. I have encountered inter-firm collaboration in collaborations limited to shared training and in multi-purpose groupings.

For firms with similar practices, training at introductory levels for trainee and newly qualified solicitors has been done on a multi-firm basis without risk to competitively sensitive information. Cost and quality can be controlled and

programs shaped to meet mutually agreed goals. At the beginning of the study, three large City firms had shared a negotiation training program for their trainee solicitors. Since these firms had trainee cohorts large enough to permit cost effective training on their own, this collaboration must have been motivated for the benefits of transcending firm insularity. Trainees confronted the differences in their firms' cultures, were trained in an ethic of professional cooperation, and were prepared to work for clients' benefit with lawyers from other firms in spite of their differences. Another benefit of multi-firm training was the opportunity for trainers from the diverse firms to learn from their collaboration and share support with training colleagues. Some training focused collaborations were repeated from year to year while others were isolated events. While there have been some false starts, training collaborations have been an increasing phenomenon.

Multi-purpose associations of firms, such as the firm groups participating in the study, usually started with informal contacts among partners of similar firms, geographically situated so that they did not compete directly with each other. While the firms benefitted from the informal exchange of practice information, it occurred to them that they could achieve significant benefits by sharing some other management functions. And shared training was among the first enterprises of each of these groups upon their formal association. (Bulk purchasing, data base development, marketing, and cross-referral were other group functions.) By their nature, these groups benefitted from training away from the office (frequently on a residential basis). Sharing management and know-how information was a highly valued feature of these groupings, and these groups' training programs had significant participation by senior solicitors. Group training programs appeared well developed and supported by reliable commitment.<sup>22</sup>

### *Training management*

The development that precipitated this study was that, in recent years many, larger firms, or groups of firms, had allocated a *portion* of the responsibility for the training function to a training office with a specialist director of training. But with or without a training office (and with or without consultancy from outside providers), responsibility for managing aspects of the training function were allotted, in many different patterns, to the firm-wide executive partner and committee, to a firm-wide training partner and/or training committee, to departments (and to department heads, training partners, training fee earners, and/or committees within departments), to a trainee solicitor partner and/or committee, to principals and supervising lawyers, and to a variety of non-fee earning managers (in addition to training directors) including personnel officers, librarians, marketing directors, and practice managers/finance officers. The existence of such offices, the training responsibilities allocated to them, and their reporting relationships varied widely among firms.

Firms frequently delegated to departments responsibility to develop training programs which met their needs. Substantial departments usually appointed training partners (and/or training assistant solicitors). The very largest firms might have specialist training directors in their main departments. Departmental training

partners frequently formed a firm training committee, which might be chaired by a firm training partner or by a director of training. Training committees or training offices might report to managing partners, or there might be a partner on a management committee with responsibility for training. There was usually a trainee solicitor partner, sometimes with a committee, with responsibility for recruiting trainee solicitors, managing their sitting arrangements, and overseeing the review and recording of their progress. Trainee solicitor partners might work with the support of a personnel office or of a training office. Where fee earner appraisal programs existed, a personnel office might support/direct that process. There seemed to be infinite variations. The structural relations among elements of training management, and of training management to other areas of firm management, worked to support training much better at some firms than at others.

The minimum functions of a training office included: registering in-house courses with the Law Society for CPD credit, booking places on external courses (where approved and budgeted), booking outside presenters for in-house courses, providing administration for in-house programs, and keeping records of CPD credits earned by solicitors. Where training offices were headed by specialist directors, training offices could, further:

- provide training in selected areas,
- give trusted, conveniently available training consultation informed by knowledge of the firms' circumstances and strategies,
- develop training programs that met firm-wide needs (for example, language training and the various aspects of management training),
- coordinate training with other management services and represent training in management teams, and
- provide central leadership for development of firms' training.

Firms will have training offices of some kind. If not located with a specialist director, training office functions might be the responsibility of a training partner, a practice manager, or a librarian. The greatest cost in not having a director of training is that training is, then, at the lowest priority of the individual given training development responsibility.

In one aspect, all training offices operated as in-house service providers. That is, they market their services to and respond to demands for training from the firm's diverse departments and the trainee solicitor program. To varying extent, training offices also act as part of firms' central management, as an instrument for strategic development of firm resources and for quality maintenance. The service provider role was significant at all firms, but the connection to management ranged from tenuous to well-developed. Reflecting this, some directors of training were closely connected to the managing partner or the executive committee, while others were situated as more or less independent institutions within the firm (or just outside the firm in the case of associated groups of firms). Both situations had benefits and costs. In a partnership, where power and authority are widely distributed among "independent" professionals, the most firmly established position for a director of training might be based on the successful marketing of training expertise, and



reliance on central authority could be a crutch, providing immediate support but leading to weakness over time. And successful work as an educator in professional development requires an independent position to promote trust in one's clients. On the other hand, if firms were to become more coordinated and develop more collaborative, corporate cultures, they would need to pursue a management agenda in training, and this seemed unlikely to come by popular demand.

In 1991, many directors of education and training were still the first to occupy that office in their firms, and the roles they were creating for themselves were not limited by the job descriptions the firms first had in mind. Many firms found their training directors more valuable as educational consultants and program designers than for any particular substantive expertise they might have. The dimensions of the role varied among firms in the extent to which the firms' training agenda went beyond first-level goals, in the particular training management responsibilities vested in the training director, and in the accumulation of non-training work undertaken in marketing, recruitment, personnel, information technology, research, consulting in areas of substantive expertise, and fee earning. "Full-time" directors of education and training were by no means always employed full-time on training. Being drawn in too many directions and having inadequate resources to accomplish work undertaken were prominent hazards. Some, whose contracts at first had been too easily negotiated, found difficulty in declining additional responsibilities.

Directors of training and education could be solicitors or barristers, legal educators, or non-lawyers with training backgrounds in other institutions such as accountancy firms. Some firms hired "professors" for their substantive expertise and research and publication skills (and, some have said, for their prestige). Others sought educators with experience and interests in non-traditional skills areas of legal education. I frequently heard the opinion that non-lawyers would not be sufficiently respected by solicitors and, thus, could not work with the necessary authority. The problem, more likely, may have been that non-lawyers would be suspect as not understanding and valuing the legal culture and as not being subject to the known social controls of the legal community. The non-lawyer directors of training I interviewed appeared to be doing an effective job. Their independence of the profession could be a source of strength as well as a problem, but their positions often felt isolated and uncomfortable. Some firms more than others have continued as male clubs, and in that context being a non-lawyer and a woman may be especially difficult.

No one coming new to the director of training role could have had a complete background for the job, and professional development of trainers was an issue. Training directors did much self-teaching on the job, but some trainers attended external courses to expand their capacities, especially in skills and management training.

Directors of education and training in law firms tended to have higher status (and salary) than did corresponding officers in commercial enterprises (where training offices tend to be part of personnel departments), especially where training directors were lawyers who had occupied leading positions in educational institutions. But the status of training directors, nevertheless, varied. At some firms, they

had “partnership status” and might be eligible for being made partners if they qualified as solicitors. At other firms, however, the position was clearly that of a professional, but inevitably salaried employee. It was a question, in any case, how this position would fit into the life programs of those coming to this role. Many training directors’ first interests drew them to careers in non-profit, public service institutions, and they might not have come to these entrepreneurial institutions had not higher education and other public institutions in the UK become such frustrating places to work in the 80s. I have speculated that some directors of training, while currently enjoying a challenging and well-rewarded job, might be working to reform the profession or society from a new position or obtaining credentials and developing competencies which would support them in later career changes. In any case, the marriages between many directors of training and their firms would depend on their programs operating at the management agenda level. Only in those circumstances would the work continue to be challenging and satisfying, and only on that basis would firms continue to feel their substantial investments in training directors justified.

### **Theoretical considerations**

Theoretically, the first problem is to draw a boundary around the concept of “training program.” In my work I conceive of skill as behavior effective to achieve chosen goals and training as the modification of behavior. I am sufficiently a “behaviorist” to understand that our interaction with all features in our environments has training effects. In this study, I have viewed the “training function” in firms to be training with the purpose of furthering selected goals and a “training program” to be those factors which firms deliberately manipulate with a view to furthering the training function.<sup>23</sup>

A training program is one of the tools available to help a firm cope with change. New knowledge and new skills enable lawyers and other staff respond constructively to new dimensions of their continuing work. More dramatically, experienced personnel may be trained to work in new specialities when their work areas are no longer profitable, preserving for the firm its investments in professional development and staff loyalty. The knowledge and skill of its staff are a professional firm’s principal assets, and they will diminish in value over time if they are not developed.<sup>24</sup>

Rationality, of course, does not always prevail. Firms’ development, in general, and their training agenda, in particular, are affected by “submerged agenda” not fully subject to rational control. While training manager informants responded with great interest to this part of the analysis, they frequently changed the articulation from “submerged agenda” to “hidden agenda,” evidencing their recognition that they worked amidst informal authority structures in which firm members share information and goals not disclosed or recorded in official processes. But the theory goes further, as I will argue below, than “hidden” agenda, to “unconscious” phenomena, that is, to the idea that lawyers in firms, like humans generally, sometimes know not what they do.

A non-lawyer training manager whose previous work had been in a large accountancy firm told me the biggest, and most distressing, surprise of working in a law firm was how "political" the job was. This training manager was not simply delegated the responsibility to do the job, and provided the circumstances to get on with it, but had to fight for authorization and resources at every step. The suspicion was always that those with real power in the firm would exercise it in ways which would meet their personal needs. But all who work in professional firms must manage their conflicting interests rooted in the personal agenda of their life programs and in their defenses against anxiety.<sup>25</sup> I hypothesize that firms' insularity is determined less by caution to avoid giving away competitive secrets than it is a fear of exposure to others' judgement.

Rational behavior requires reliable knowledge of circumstances, but reality testing in rapid change is inherently illusory: distinguishing reality from myth is difficult, and people agreeing and acting on myths is part of reality.

Change implies loss. Individuals join a profession and develop their careers as part of their personal agenda of realizing the "Dream" of their futures (Levinson *et al.*, 1978). Too drastic a change in the premises of professional life, consequently, threatens a serious loss. Our "conservative instincts," based in our largely unexamined acquisition over a lifetime of an understanding of the world in which we live, permit us to accommodate change comfortably only as a gradual process and will prompt us to deny change if we can (Marris, 1974). We are ambivalent about change even when we think we are embracing it for new opportunities, because in making desired changes, one may have to give up pleasurable, happy, important things. Even an addict giving up a habit admitted to be unhealthy leaves comforts behind.

These factors operate in groups as well as in individuals. Positively, environmental changes present new opportunities for profit, new challenges for exercising professional skills, and new possibilities for acquiring and exercising power and control. Negatively, change entails loss. Certainly, this includes the possible losses which may occur if the firm and its members are unable to compete successfully in the new world. But even if one competes successfully, change means giving up familiar and satisfying circumstances and relationships. Entrenched cultures, developed during decades of operating in expanding economies with increasing availability of staff candidates, produced relationships and attitudes among peers and between senior and junior staff. Like individuals whose expertise becomes obsolete or unmarketable, groups attempting to maintain their identities and privileges experience change unwillingly and have losses to grieve.

Investment in retraining can protect firms' investment in their personnel, but requires direct confrontation of the fact of change. I suspect that "submerged" agenda in discussion of quality and client care systems is to find means to pacify clients and the Law Society without requiring fundamental change in the qualities of professional relationships, between lawyer and client, between senior and subordinate, and between peers. Solicitors do not know how much change will be enough and may worry that important aspects of their professional selves are not safe. Training programs are caught in the middle: While they are the intended engines of

change, they are also assigned the task of controlling change to keep it within tolerable limits, unconsciously to see that nothing important happens.

Training programs are one arena in which firms negotiate their agenda for their futures. This occurs most obviously as investment is made in the content of training programs, but the negotiation is also acted out in training events, where images of the firm's work are displayed and diverse expertise is marketed within the firm. To a degree, this negotiation is conscious and deliberate, but frequently training participants will focus on the narrow matter before them without acknowledging the broader implications for "what kind of firm this will be," in content and in style. Especially as training events go beyond "talking heads" presenting technical material, to give and take discussion and role playing in skills and management training, this process becomes more active. It is very interesting to observe experienced lawyers participating in discussions of interviewing and negotiation. Whatever agenda trainers may have intended, there is more than skills training, narrowly conceived, going on.

Turbulent environments evoke anxiety which engenders defensive behavior, and individuals' anxiety reverberates through social systems engendering systemic social defenses. Hirschhorn's sorting of social defenses into categories of "basic assumptions," "covert coalitions," and "organizational rituals" has seemed appropriate to me to law firms.<sup>26</sup> Basic assumptions are unconscious myths which engender contagious emotional moods, prompting behavior according to primitive strategies for survival: to fight or flee from enemies, to be cared for by omnipotent leaders, or to witness the creation of saving visions of their futures.<sup>27</sup> Fighting spirit, trust, and hopefulness each support aspects of lawyers' work, but such myths may lead firms to act unrealistically. Covert coalitions, controlling anxiety through more durable and sustained sets of relationships and echoing the character of family life, easily flourish in law firms' isolated work groups and alliances among senior lawyers. Organizational rituals are the most durable defenses against anxiety. Impersonal procedures and practices that persist seemingly immune to rational examination are common in legal work and the management of it.

In social defenses, firm managers, staff, and departments risk being placed in roles which satisfy the groups' emotional needs. For example, in dependency cultures, revered leaders may be all powerful and members incompetent, or in fight/flight, members may be divided into those who are strong and weak, and the weak sacrificed. Because such roles occur in response to unconscious emotional needs, those most vulnerable, and therefore most anxious, are those most likely to appear irrational, while those in more secure positions, unaware of their own participation in the groups' emotional life, may feel comfortably in control of themselves. The group may depose or expel those fixed in negative roles in the fantasy that doing so will eliminate the group's problems. Such actions, based on distorted perceptions, may be dysfunctional to work and leave an inheritance of guilt when members become aware of what they have done. The typical defense against groups' ability to victimize its members is to homogenize the membership, discouraging the recognition or utilization of diverse competencies and, therefore,

undermining effective teamwork. By the same token, work may be approached in routine rather than creative ways.

Of particular importance to this study are the implications of occupying a role in a firm as "one who cares about training." Firms will use those who care about training to fulfil functions that will pacify those constituencies that demand training. But the role may carry negative value connotations, not just because it is not fee earning, but because the role is viewed, unconsciously acting on ambivalence regarding training, as subversive and disloyal. I hypothesize that those who have been most interested in the "submerged agenda" aspect of my analysis tend to be those who care about training and feel insecure in their status in their firms. By this hypothesis, what happens to "those who care about training" is an indicator of firms' support of training.

The structure and culture of law firms affect group dynamics. A rational allocation and organization of resources depends on the firm's task. I hear frequently that the firm's task is to be profitable, but this cannot be adequate; rather the firm is to be profitable through the practice of law. Images of the profession are what attract new members to it. They come to make money in a particular profession with traditions of working relationships. The tacit, settled understanding of the norms of professional work are challenged by change, but firm members' differences in these regards are avoided as much as possible to keep peace in the family.

The family analogy is surprisingly apt. While firms have grown substantially, even the largest (with more than 1,000 lawyers) are not "large" institutions by commercial standards. Especially, viewing the number of owners in firms who have ultimate control, we are looking at "small business" organizations where there is significant scope for management through informal processes.

Several factors reinforce firms tendency to persist as collections of practices with dispersed authority rather than to become corporate institutions. Legal work product must be customized to meet the needs of each client. The responsibility of solicitors to their clients remains a significant source of authority, and the cultural tradition is that it is the lawyer rather than the firm that serves the client (and, indeed, it is frequently the particular lawyer, rather than the firm, that the client chooses). Lawyering is viewed as an individual art or craft which cannot be standardized. Advancement depends on patronage: to have opportunities to prove oneself and to be given seals of approval of increased status.

Even within firms, there is significant diversity in governance and culture among departments and groups within firms. While firms no doubt have much to learn regarding management principles and practice, they will not be able to simply import models of management from commercial institutions.

Submerged agenda operate in firms as a whole and in subgroups and factions. I certainly do not suggest that law firms are dominated by mob psychology. But these are processes which occur in degrees in all groups, alongside the mature and rational aspects of their functioning, and law firms are not immune. We should not be surprised when newly established management systems are subverted by the persistence of informal ones.

Because submerged agenda are not fully conscious, there is no clear boundary

on this level between training agenda and other firm functions. Training is significantly involved in the process, however, because it is one of the functions which reaches all sectors of the firm. Training managers are in mediating roles as they negotiate, conduct, and administer programs serving different firm units. Having training programs in-house has the function of making training more subject to firms' submerged agenda.

Bringing submerged agenda into awareness and subject to rational examination should be an important benefit of management agenda training. Because dealing with submerged agenda is a "therapeutic" matter, a firm "stuck" in difficulties in its organizational development may need the help of an outside, disinterested consultant qualified to assist the firm manage group dynamics. However, care should be taken to obtain the services of a provider competent to consult without colluding in the firm's ongoing fantasies. Pursuing this aspect of management agenda training will help individuals and the group make use of the positive elements inherent in the emotional aspects of work experience. The most effective and responsible practitioners are those who mobilize their emotions to support their work. On the other hand, there is a significant risk that submerged agenda, if ignored, will obstruct achieving firm goals.

## **Developments**

In the last four years firms' environments have continued turbulent, and the long recession was the aspect of the environment most dominating everyone's consciousness. When the study began in 1990, the first informants talked about the impact of firm expansion and the recruitment crisis. By summer, 1991, awareness of the business downturn was affecting firms' thinking, and the opportunity to follow the firms through a business cycle was one factor influencing me to make this a longitudinal study. We thought at the time that when I returned for my one-year follow-up interviews, business would be starting to revive, but that was not the case and worse was yet to come. On my next visit, two years later, there was generally a sense of revival, but no one expected vigorous growth.

The recession had varied effects on different departments within firms, and those effects varied over time within the recessionary period. Litigation departments were busy with insolvency work while property and corporate sectors languished. Insolvency work progressed through phases of bankruptcy and debt collection to professional liability work, which more recently became a growth area for litigation and insurance departments. Some property departments that had executed redundancy exercises earlier in the recession found themselves somewhat understaffed as business picked up. There has been expansion of foreign work, including opening of new offices in Asia, Eastern Europe, and the Middle East, although some larger firms that had felt relatively immune to the recession because of their international practices became aware of their vulnerability as the recession grew world-wide. While work in the European Community did not grow in accordance with expectations, EC law has become ever more pervasively relevant to all areas of commercial practice. While only a few firms expect to pursue growth by taking advantage of new

rights of audience, some firms reported that facing the issue has produced a greater advocacy consciousness within the functions that were previously open to solicitors. Similarly, while firms have not yet profited from alternative dispute resolution (beyond traditional areas of commercial arbitration), there is a concern for being prepared for the possibility that clients may acquire an increasing interest in ADR.<sup>28</sup>

Six of the fifteen individual firms in my study moved premises since the beginning of my study, mostly as a result of commitments made before the recession.<sup>30</sup> These firms, and a number of others, adopted new information technology, which contributed to the turbulence of these firms' internal environments. Adjustments in space and new information technology always involve changes in working relationships and present training needs.

While a few firms are modestly smaller or larger, most firms in the study have varied little in their number of fee earners in the last four years. There has been more change in the size of departments within firms. There has been lateral movement among firms rather than retraining for movement among departments within firms. There is a consciousness that the path to partnership is longer and more selective and that for more young solicitors, their careers at the firms at which they have started may be for a limited time. At the same time, several firms are paying more attention to appraisal at senior lawyer levels, to career development issues in appraisal, and to stage specific management training.

Law firms have not solved the problem of making personnel decisions with an eye to unknown business conditions two or three years in the future. In general, firms have not cut back drastically on their trainee solicitor intake and have endeavored to maintain, as much as possible, their rates of retention as trainees qualify.<sup>30</sup> But the slowdown in work created problems for some new solicitors who continued at the firms at which they trained, with senior solicitors holding on to work which would otherwise challenge younger solicitors in their career development. Firms made redundant solicitors in whom they had made substantial investments, with the likelihood (already realized in some instances) of being shorthanded with increasing business. In general, then, making and recouping rational investments in young lawyers remains an issue for many firms. There is some evidence that many of those hired laterally are likely to move on again in a few years' time.

I am not privy to clear information regarding the firms' financial situations through the recession. I have been reminded that profitability does not necessarily vary directly with growth and volume of business. The possibility that careers of junior lawyers have been sacrificed to maintain or increase the current income of senior equity partners is a morale issue for some firms.

Some firms have changed managing or senior partners in this time period, but the frequency does not seem to me greater than one would expect in "normal" times. In a few instances these transitions have been the occasion for changes in management structure, but this does not compare with the numerous recent changes in structure I heard about as I began the study. Firms, however, seem to have a greater "management consciousness," a consciousness that competitiveness will require an ability to assure quality throughout the practice. At the beginning, I heard only skepticism regarding external certifications of firms' management standards

(such as BS 5750, a qualification of the British Standards Institute applicable to commercial firms generally), but in the interim more firms have invested in that qualification.<sup>31</sup> Though most firms participating in this study are not going that route, I did hear, for the first time, from several sources about Investors in People (a new management quality scheme supported by government subsidized grants). Still, not many have conquered the problem of managing the feudal collection of practices which is typical of law firms.

As the recession loomed, there was obviously concern that firms would seek to cut back on less essential services and that training programs and offices would be seen in some firms to fit that category. In fact, this has occurred at only one or two firms in this study, and even there, some of the losses have already been recouped. Indeed, a few firms which were relatively "backward" in their training as the study began have done some catching up. And in the firms in which there has been turn over in training managers, this does not appear to have been an occasion, in participating firms, of downgrading training.

The Law Society's new regime of regulating firms to take trainees has had little impact on firms participating in the study. One exception to this is that a few firms have taken seriously the Law Society's suggestion that solicitors providing seats for trainees should have training in supervision.

Except for a few firms that have been catching up, there has been little change in programs for trainee solicitors in this period while firms awaited the impact of their first intake from the new Legal Practice Course in fall, 1994, and were preparing for the burden of the Professional Skills Course.<sup>32</sup> Most firms concluded that they could not anticipate what, if any, differences the LPC would make in the knowledge, abilities, and expectations of their trainee intakes and would make adjustments in their trainee solicitor programs after the differences were known. It will take a couple or more years for the dust to settle. The most general expectation has been that the changes in the LPC, without changes in foundation legal education, would make only marginal differences in trainees, either in increased skills or in decreased technical knowledge.

Meanwhile, firms had to prepare for the provision of the PSC for the new trainee intakes starting last fall. Firms in this study are providing all or most of the PSC in-house, but frequently in multi-firm collaborations. The majority of firms were relying on external providers to present the PSC modules for their trainees, although the training offices of established firm groupings, which already operated something like external providers for their groups, were more likely to recruit their own presenters than to rely on established external providers. Factors that have prompted multi-firm collaborations for the PSC include: the reduced costs which come with the buying power of a larger group; sufficient numbers of trainees to facilitate multiple course sessions, so that not all of a department's trainees would have to be away for the PSC at the same time; uncertainty regarding the training needs of graduates of the new LPC; and little expectation that the PSC's prescribed syllabus gives much opportunity for specially developed programs uniquely advantageous to firms. Indeed, I have not found any general enthusiasm for the PSC from training managers. Training time away from departments is a scarce resource, and



the required PSC curriculum is not sufficiently responsive to the needs of trainees at these firms to be the best use of it (although for those firms that have had difficulty prying trainees away from their seats for extended blocks of time, this is a foot in that door).

Greater maturity rather than substantial change has also been the story with Continuing Professional Development programs. Pressure from the recession prompted some firms to exercise even stricter control over attendance at external programs. At many firms, the tendency for CPD training to be planned and executed in departments has increased. There is increasing use of case studies and participatory formats, and some trainers report a change in expectations regarding formats, with increasing discontent with talking heads.<sup>33</sup>

The extension of CPD requirements November, 1994, to an older cohort of solicitors was not generally expected to pose problems, although some firms were surprised in checking their records that a larger number of solicitors than expected would have to increase their participation in training. For some senior solicitors, the need for more specialist training would present new challenges and a likely new market for external providers. The Law Society's increased flexibility in the activities for which CPD credit may be obtained has eased the burden of and increased satisfaction with CPD and has, indeed, been one of the most significant developments in training regulation since the beginning of my study.<sup>34</sup>

It would be too strong to say management training has been flourishing, but there does seem to have been a changing climate. I heard of at least one instance of management training resulting from partnership demand rather than being pushed at them. There were firms working to establish programs of management training appropriate to career development stages and using appraisals to develop individual training plans. I heard of external consultation or mentoring for managing partners and of managing partners with formal management qualifications. Still, I didn't hear much in this period about development of client care or appraisal training.

Generally, training management has been stable. In a number of instances, I heard of devolution of responsibility for training to departments, with increased willingness and ability of departments to take responsibility for the development of their training programs. In the larger departments of larger firms, there are a number of non-fee earning staff (usually, but not always, legally trained and/or experienced) specially employed for the purpose. In some instances, changes in managing partners or training managers have been the occasion of some change in management and service structure. Some training managers reported more positive relations with other service managers (personnel, IT, library, etc.), and I heard no reports of worse relations. In a few firms, departments have "information officers" with responsibility for interrelated aspects of these service areas.

Of the nineteen firms and firm groups participating in the study, ten had one or more changes of training manager during these four years. We wondered from the beginning, and especially with the recession, whether changes in training managers would be the occasion of downgrading ambitions from development to maintenance of training programs. But in the firms participating in this study, changes in training manager did not bring a decrease in status or ambition for training.<sup>35</sup> In some

instances, the change has been from individuals with legal credentials to a non-lawyer, but this has not led to a reduced training agenda. Usually the new training managers have sought to develop existing programs, but occasionally have made fresh starts. In May, 1994, all the training managers appointed since I had last visited the firms two years before reported good support from their firms or groups, and the morale of training managers seemed generally good.

Providing support for an increasingly diverse cadre of training managers has become a challenge for the LETG. Trainers new to the field continue to find the LETG invaluable for contacts and support, and a useful subgroup of "deputy" training managers has developed, but some veteran trainers are feeling less attachment and support. Of course, the LETG's function representing the firms' interests and experience to the Law Society and ACLEC has continued very significant and, perhaps, become increasingly so, and veteran trainers are most active in this satisfying activity.<sup>36</sup> New training opportunities in programs in external institutions are developing, and a few training managers have begun to develop new activities with external providers. It remains to be seen whether such opportunities will draw restless training managers (who may feel their opportunities within firms have too limited scope) away from their firms or be the complementary activity which will make it possible for them to remain.

For firms' training programs, these years have been ones of relative stability, but ones of increasing maturity and an ambivalent relation to the Law Society's developing regulation of education and training. While the Law Society's initiatives have represented unwelcome expense and intrusion, I heard of a number of instances where firms have taken advantage of the Law Society's prompting to introduce training developments. Indeed, the interaction between firms and the Law Society has been interesting to observe. The interaction seems to me an awkward dance in which the couple frequently steps on each others' toes, but manages overall to move in a coordinated way. Thus, the Law Society has, over these years, promoted greater management consciousness through several means;<sup>37</sup> firms, with leadership of training directors and senior management, experienced and came to have greater appreciation for management training; the Law Society began in 1994 to develop standards for CPD management training and an ambition, within ten years' time, to have practice management standards, including that firms have a responsible solicitor "qualified to manage,"<sup>38</sup> and the LETG adopted as a theme for its 1995 annual conference, "Managing to Survive and Succeed."<sup>39</sup>

## Summary

How effectively do law firms use training as part of their strategies for coping with the dramatic changes in their external and internal environments which continue to challenge the capabilities of their personnel? At the conclusion of the first year of the study, it appeared that cost-containment training agenda, oriented to meeting the requirements of Law Society regulation and meeting the basic information and skills needs of practice development, yielded easy pay-outs and were not very threatening. Deeper levels of management agenda training were more challenging and more

introspective and, therefore, more likely to come up against submerged agenda of emotional needs and group dynamics.

At that time, I found wide variation in the maturity and ambition of training agenda implementation. Many firms did not go very much further than conducting training designed to provide less expensive CPD credits and meet their minimum obligations to their trainee solicitors. Some firms, however, had made impressive progress in developing their training programs and seemed firmly committed to continued development. Trainers, generally, were subject to the frustrating constraints of format limitations and of fee earner time available for training. The degree of commitment beyond first-level goals was still emerging, and, therefore, the who and what of training offices was not clear.

With the economic recession, some firms cut back on their investments in training (and other recently developed offices) as less essential functions. A few directors of training and their firms were already parting. Other firms were determined to maintain their investments in training (and in marketing, information systems, and so forth) as essential to their flourishing in continually changing environments. We could not know, whatever we may have been inclined to believe, which strategy would better assure firms' survival.

At that time, I had optimistic and pessimistic views of the future of law firm training. The optimistic view was that training would evolve and develop over time:

- While the Law Society did not get everything right, it had been a positive force for change and seemed to learn from experience. Its developing approach in regulating *practices* was very constructive.
- The medium of training had its own compelling logic. Satisfied customers would ask for more and contribute their own inventions.
- Some firms' commitments to training were very strong, and they would demonstrate the benefit to others.

The pessimistic view was that:

- In the environment of increasingly deregulated and internationalized professions, the Law Society would be unable to maintain its influence.
- The professions (domestic and international) would collude to maintain their self-justifying habits.
- The anxieties generated by an increasingly complex and uncertain world would cause the less constructive aspects of firms' submerged agenda to obstruct firms using training to help them manage change.

Looking back over my summary of developments over the three years since, one would say there are a number of positive signs in the establishment of training programs in the firms participating in this study. Some firms that had done little to go beyond a minimal, cost-containment agenda when I first interviewed have made substantial progress in developing full-service training programs. There have been instances of senior lawyers making more sophisticated demands of training programs in participatory methods and in agenda (including management training). In a number of firms, departments have taken on greater responsibility for developing

and managing their own training. In retrospect, most training budgets survived the recession very well. Turnover in training managers has not been the occasion for downgrading the position's roles and functions.

What accounts for these positive signs in hard times? Possibly, it is simply a matter of learning over time, and fairly rapid learning at that. One expects changes in culture to occur very slowly, and many training programs were very new in 1990–91. The steady water drip from training managers (and their allies), the LETG, and the Law Society seems to have had effect. And lawyers' experiences of training must, generally, be positively reinforcing.

This may make a bit too rosy a picture of scraps gathered from diverse places. Experiences of management training do not translate immediately and easily into better personnel relations and morale. There is still tension between the impulse to make the employment of trainee solicitors presently profitable and the need to invest in them for the future.

A question I began asking myself during my 1994 visit relates to the implications of firms' greater investment in quality systems and control across firms. Will this eventually result in greater uniformity in culture and practices among departments? If so, will it make retraining lawyers with shifts in business more feasible and desirable, rather than making redundant lawyers in whom firms have made substantial investments while expensively recruiting laterally lawyers who are likely to move again? These factors, along with further development of management training, are likely to serve as barometers for the future development of training as a tool for organizational development.

### Acknowledgement

I am grateful to the Institute of Advanced Legal Studies for providing me with facilities as a Visiting Fellow in 1990–91, and for publishing my first working paper on the project in 1991.

### Notes

- [1] In only one of my participating firms is the training manager principally a fee earner.
- [2] I am conducting a parallel study following the careers of the young solicitors whose experiences as trainee solicitors I followed in 1990–91.
- [3] My informants communicate with me on terms of confidentiality, and much of what I write in these pages, relying on their information, cannot be publicly documented.
- [4] This frame of reference has its roots in work done at the Tavistock Institute of Human Relations which melded psychanalytic and social science perspectives. See Miller & Rice, 1967; Rice, 1963.
- [5] Hirschhorn, 1988; Lawrence, 1979.
- [6] Menzies, 1967.
- [7] E.g., see Menzies, 1967, and Hirschhorn, 1988.
- [8] See e.g., articles in Willis & Skordaki, 1996.
- [9] The Conservative governments exploration of policy regarding legal services resulted in enactment of the Courts and Legal Services Act in 1990. The goals of the act were to promote greater competition and accountability. The Lord Chancellor's Advisory Committee on Legal Education and Conduct was established by the Act to review proposed changes in regulation of legal services by autonomous professional bodies, including the Law Society and the Bar Council, and recommend action to a committee composed of four senior judges and the Lord Chancellor.

- [10] Until 1993, when changes in measuring and accounting for CPD went into effect, this was known as “continuing education.” This was not a change in substance, and for consistency I will refer to continuing education as CPD throughout the text. The developments in the Law Society’s regulation of education and training summarized here and in later sections of this article may be traced in Law Society, 1990, 1991–1994.
- [11] The requirement that barristers be sole practitioners had prevented them working in “employed” positions, whether for government, in-house in business enterprises, in solicitors firms, or otherwise.
- [12] For “legal executive” one can read paralegal, but legal executives tend to be on the more expert, more independent end of the paralegal spectrum. Charges for their services are, generally, made on the same basis as they are for solicitors, and legal executives are frequently included when firms count their numbers of “fee earners.”
- [13] Law Society, 1991c. The other matter the Advisory Committee was taking up immediately was rights of audience for employed barristers. While the motivating concern was with barristers employed in the Crown Prosecution Service and other governmental departments, the Advisory Committee considered the issue generally, with implications for barristers employed in solicitors’ firms and legal departments of commercial institutions. The result of the Advisory Committee’s deliberations and the judges’ final action was for solicitors in firms to have full rights of audience, on conditions of experience and training, but not for employed barristers or solicitors employed outside firms. Lord Chancellor’s Advisory Committee on Legal Education and Conduct, 1993a,b,c. The first solicitors to assume full rights of audience did so in January, 1994. Rights of audience for employed solicitors and barristers are still in contention.
- [14] Historically, in form, an individual lawyer, known as the “principal,” was responsible for the scope and quality of trainees’/ articled clerks’ experience, whereas the new regulations recognize the reality that training contracts are administered by firms.
- [15] See Maister, 1993, pp. 202–204.
- [16] Looking to the time, when it was expected the Law Society would regulate firms taking trainees, a trainee solicitor program supported by a training office might facilitate the firm meeting the qualifying criteria.
- [17] See Greenebaum, 1990, pp. 286–293.
- [18] See Schön, 1983, pp. 79–102; see also Maister, 1993, ch. 14.
- [19] In their anxiety over starting work, many trainees would not be able to hear or remember material they would not be using right away. A good office manual that trainees could refer to were better used than first-week lectures on accounting procedures.
- [20] Videotapes, written or computerized aids to using precedents, and collaborative training with other firms are among the possibilities worth exploring.
- [21] David Maister argues that professionals’ goals should be to continually expand their practice capabilities to avoid “wasting” their professional assets. See Maister, 1993, ch. 13.
- [22] Another recent development at the beginning of my study was consortia of smaller firms instigated by an external commercial concern which provided the training and administration. While these consortia began with a training focus, their extension to other economies of scale seemed natural. These firms were competitors in aspects of their local practices, but shared concerns regarding their more substantial clients being lured to larger practices in commercial centers. What would be possible for these firms to share in light of their competitive situations would be interesting to see. If my speculation is right that insularity is motivated as much by fear of being judged as it is to guard trade secrets, then these consortia may be a profitable laboratory for the development of the benefits of more open cultures (within the limits of obligations of client confidentiality and restrictive trade practices legislation).
- [23] This conception of training is broader than the idea of “training program” that my informants most naturally had in their minds which made the scope of my interests broader than what some of my informants expected when they first agreed to participate.
- [24] See Sveiby & Lloyd, 1988; Maister, 1993, ch. 13. Maister argues further that developing the

capacities of present staff is more critical since demographic scarcity will make hiring talent laterally more expensive. *Id.* ch. 18.

- [25] See Greenebaum, 1990.
- [26] Hirschhorn, 1988, pp. 57–70.
- [27] See Bion, 1961; Riach, 1970.
- [28] A number of firms have selected alternative dispute resolution for the optional portion of the PSC advocacy module.
- [29] Speaking of turbulent environments, during this period an IRA bomb in the heart of the City of London caused extensive damage over a several block area, causing many commercial enterprises, including some law firms to relocate, at least temporarily.
- [30] A few informants have suggested that firms have sought to disguise the extent to which they have drawn back in these regards.
- [31] During this period, the British Standards Institute and the Law Society negotiated an adaptation of BS 5750 appropriate for law firms. Law Society, 1992.
- [32] At my May, 1994, visit for follow-up interviews, the news filtering to firms regarding the quality of the first year's offerings of the LPC was mixed. It was difficult to know whether the positive and negative reports varied with the diverse schools offering the course or the expectations and receptivity of diverse students experiencing an unfamiliar mode of education. With many programs having been put together in a short period, executing unfamiliar modes of training, growing pains were inevitable.
- [33] Some of my young solicitors group confirm an increased quality in departmental training. Distance learning and television formats have yet to make a significant impact in these firms. Several firms had subscribed to television CPD, but satisfaction was low. The fees were too high and the content pitched too low; and some subscriptions would not be renewed, especially if significantly lower costs could not be negotiated. Experience and competition will likely produce more attractive products in the future.
- [34] Two or three of my young solicitors group reported deficient training hours on renewing their practice certificates, receiving no comment or only mild admonition from the Law Society.
- [35] It is, perhaps, too early to make judgments about a couple of very recent changes.
- [36] The LETG member firms benefit substantially from the concomitant return information from this interaction. The LETG subscription is very modest, and it is puzzling that LETG membership has grown so modestly in recent years.
- [37] See e.g., Law Society, 1993.
- [38] Minutes of a meeting between the Law Society and the LETG, Redditch, England, September 30, 1994.
- [39] Minutes of the LETG Committee meeting at London, December 12, 1994.

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