

Trends and innovations in the market for legal services

Strategies for managing change and the use of paraprofessionals: a cross-sector study for the benefit of post-LETR providers of legal services

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PART TWO: THE LEGAL SERVICES SECTOR AND THE SHARED MANAGEMENT AGENDA

Introduction

The Legal Education and Training Review (LETR) Report² contemplates the nature of legal services and seeks to establish a framework to support and facilitate provision of these services. The market is experiencing ‘a time of unprecedented change with consumer demands, technology and the regulatory system fundamentally changing the way that legal services are delivered’.³ One essential feature of the framework will be how providers of legal services will manage this change and how they can best prepare their managers for that role.

This is not an issue faced only by lawyers. Other sectors have experienced an equally significant change, particularly in the public sector. This two-part paper asks whether the experience of management in the public sector can inform the current debate on management in the legal services sector (LSS). Part One⁴ proposed the authors’ theoretical model, which recorded their observations that change management in the public sector can be categorised into three strategies. Part Two considers the recent history of the LSS and finds that the changes faced resonate with those already experienced in the public sector. Through this cross-sector analysis, the papers reveal that there exists a shared management agenda, which may not otherwise have been readily apparent. Part 2 concludes by articulating clearly this shared agenda, with the aim of engaging stakeholders within the LSS, informing their debate as to how to implement and manage change and having impact by preventing them from reinventing the proverbial wheel.

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2 LETR Independent Research Team, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (LETR 2013).

3 SRA, *Training for Tomorrow: Ensuring the Lawyers of Today Have the Skills for Tomorrow* (Solicitors Regulation Authority 2013).

4 C Shephard and I A Todd, ‘Strategies for Managing Change and the Use of Paraprofessionals: A Cross-Sector Study for the Benefit of Post-LETR Providers of Legal Services, Part 1’ (2016) 67(1) Northern Ireland Law Quarterly 99.

The theoretical model

Students of business administration will be familiar with the standard theoretical models of managing change. As few in the LSS will be familiar with those models, the theoretical model from Part One⁵ is replicated in Table 1.

Table 1: Strategies observed in public sector management

1	Provide the service as before and meet every imperative for efficiency by requiring highly qualified staff to work harder
2	Substitute paraprofessionals for professionals
3	Substitute capital for labour

The conclusions of Part One

Part One concluded that, in the further education (FE) and NHS sectors, Strategy One had proven unfeasible. Both sectors were committed to Strategies Two and Three. The management agenda was to focus on the role of paraprofessionals (in particular, that they become less averse to risk to secure institutional objectives) and on the potential for capital deployment and development. It revealed a genuinely shared agenda across these sectors.

The legal services sector

This second part considers whether that shared agenda is confined to the public sector or whether it extends to the critically important sector of the LSS. How has the LSS sought to improve efficiency? Are Strategies Two and Three evident in the LSS and, if so, are the professionals and managers in the sector faced with the same shared management agenda as are managers in the public sector?

In no sector is the role of the professional and the paraprofessional being more openly debated than in the LSS. The LETR Report:

. . . highlights the emergence of a variety of new ‘non-legal’, hybrid and technician roles that are being developed within both conventional law firms and alternative business structures as well as the growing number of paralegal roles and the blurring of boundaries between the roles of the qualified solicitor and others directly involved in the delivery of legal services.⁶

As with the NHS, the use of the term ‘paraprofessional’ is, itself, problematic. ‘Paralegal’ remains undefined⁷ and Fellows of the Chartered Institute of Legal Executives (CILEx) are quite rightly likely to bridle at any apparent lack of respect for their hard-won professional status.⁸ However, to maintain consistency in the comparison of experience across sectors, all service providers who are not solicitors or barristers will be referred to as paraprofessionals (consistent with the approach of describing nurses as paraprofessionals because they are not doctors).

⁵ Ibid.

⁶ SRA (n 3) 15.

⁷ Rebecca Waller-Davies, ‘New Register Means Paralegals Will Be Regulated for the First Time as of Today’ *The Lawyer* 2B (6 July 2015) <<http://l2b.thelawyer.com/issues/l2b-online/new-register-means-paralegals-will-be-regulated-for-the-first-time-as-of-today/>>.

⁸ Alex Aldridge, ‘No Bachelors Required’ *The Guardian* (London, 21 February 2012) <www.theguardian.com/law/2012/feb/21/training-as-a-legal-executive>.

Strategy Two has been a very significant part of the development of the provision of legal services. CILEx was established in 1963 (though it can be traced back to 1892)⁹ and the growing use of its members by law firms has led to significant developments in the status of legal executives. The Legal Services Act 2007 (LSA07) created a pathway for legal executives to become ‘authorised persons’ undertaking specified ‘reserved legal activities’ alongside solicitors and barristers.¹⁰ They are eligible to be partners in law firms, advocates and judges (the first legal executive judge being appointed in 2010).¹¹ It also introduced alternative business structures (ABSs), allowing legal executives to become partners in law firms. These changes offered significant opportunities to paraprofessionals and the LETR Report recognised that the LSA07 had triggered ‘a state of rapid development and transition’ in the LSS.¹² The UK Commission for Employment and Skills (UKCES) recognised a need to ‘up-skill paralegals in transactional work’.¹³ A growing paralegal market is emerging in Manchester, where manager-led paralegal teams have been established by Addleshaw Goddard, Berwin Leighton Paisner, Freshfields¹⁴ and DWF.¹⁵

Not all paralegal workers are, however, qualified legal executives and, again, there is a *hierarchy* of paraprofessionals, with considerable overlap both between paraprofessionals themselves and also between paraprofessionals and professionals. (Paralegal qualifications are also offered by the National Association of Licensed Paralegals and through the Institute of Paralegals (IOP).)

Together, these paraprofessionals have undertaken large volumes of work previously undertaken by professionals. A survey by CILEx revealed that, of those in their survey, most were fee earners and nearly a third were engaged in conveyancing, whilst a further third were engaged in probate/wills and personal injury.¹⁶ This was, at one time, core activity for many solicitors. The LETR Report records that some respondents to their survey described the scale of paralegal use at the high-volume end of the market as ‘staggering’.¹⁷ Indeed, the LETR Report pointed to reports of firms where recruitment had been ‘substantially’ or ‘entirely’ diverted from training contracts for aspiring solicitors to a common, paralegal route for entry, from which individuals could subsequently be selected for professional training depending on their proven aptitude and the needs of the firm.¹⁸ Recently, some firms have ringfenced training contracts for their own

9 CILEx, ‘Why Become a Chartered Legal Executive Lawyer: Facts and Figures’ (2016) <www.cilex.org.uk/about_cilex_lawyers/why_be_a_cilex_lawyer.aspx>.

10 CILEx, ‘What CILEx Lawyers Do’ (2016) <www.cilex.org.uk/about_cilex_lawyers/what_cilex_lawyers_do.aspx>.

11 ‘CILEx Fellow Becomes Deputy DJ’ *New Law Journal* (26 September 2013).

12 LETR Report (n 2) v.

13 UKCES, *Skills for Jobs: Today and Tomorrow: The National Strategic Skills Audit for England* (2010) <www.gov.uk/government/uploads/system/uploads/attachment_data/file/339960/national-strategic-skills-audit-for-england-2010-volume-2-the-evidence-report.pdf>.

14 Rebecca Waller-Davies, ‘Freshfields Ransacks Manchester Paralegal Market with Lure of Huge Salary Boost’ *The Lawyer* 2B (20 July 2015) <<http://12b.thelawyer.com/freshfields-ransacks-manchester-paralegal-market-with-lure-of-huge-salary-boost/>>.

15 ‘Apprentices Join DWF’s Paralegal Academy’ (23 September 2011) <www.insidermedia.com/insider/northwest/59321-apprentices-join-dwfs-paralegal-academy>.

16 CILEx, ‘Who Are Chartered Legal Executive Lawyers?’ (2016) <www.cilexcareers.org.uk/about-us/about-the-role>.

17 LETR Report (n 2) para 3.56.

18 *Ibid.* 2.136

paralegals.¹⁹ The Law Society: Junior Lawyers²⁰ claims that in 2012 there were twice as many paralegals (300,000) as solicitors (125,000) and barristers (12,000) combined. Moreover, whilst paralegal numbers²¹ are expected to rise by 17 per cent²² in the next decade, a biennial survey of law firms reveals a less attractive forecast in graduate vacancies.²³

How is this migration into their work viewed by professionals? Perhaps unsurprisingly, reactions in the LSS closely reflect the broad trend revealed in other sectors. CILEx reported²⁴ that, when responding to a survey in 2009 in which it was required to identify barriers to career progression, a 'staggering' 35 per cent identified their colleagues' attitudes towards them and their qualification. James O'Connell of IOP finds 'that young lawyers have contradictory attitudes towards paralegals at a time when there are concerns about jobs in the legal profession' and speaks of 'the old prejudices against non-solicitors'.²⁵ These attitudes are mirrored in comments provided by paralegals to The Lawyer2B's recent Paralegal Healthcheck Survey, on their worst experience as a paralegal, including 'Being treated like something the qualified lawyers have trodden in. Until they need their backside hauling out of the fire in a rush.'²⁶

Again, the issue becomes one of distinguishing between paraprofessional and professional work. Every development appears to make the task harder. In 2009, CILEx launched a Graduate Fast Track Diploma to offer law graduates an opportunity to secure CILEx status and, through this, recognition as a lawyer.²⁷ The introduction of the graduate programme raises, in conceptual terms, a significant issue in terms of distinguishing between professional and paraprofessional work. In the case of graduates qualifying, on the one hand, through this CILEx diploma and, on the other, as solicitors, individuals in both groups will be (i) qualified to practise, (ii) have work experience and (iii) possess a law degree containing the core subjects required by the Solicitors Regulation Authority (SRA). Can the difference between them be explained solely by their separate experience between graduating and qualifying? Is the content of the Legal Practice Course (undertaken by aspiring solicitors) and the experience gained under the training contract sufficient to make

19 Richard Simmons, 'Hill Dickinson ringfences training contracts for its own paralegals' (2016) <http://12b.thelawyer.com/hill-dickinson-ringfences-training-contracts-for-its-own-paralegals/?cmpid=wedit_2391688>; and Richard Simmons, 'Exclusive: Trowers Ups Trainee Intake Size and Ringfences Training Contract Roles for its Own Paralegals' (2015) <<https://12b.thelawyer.com/exclusive-trowers-ups-trainee-intake-size-and-ringfences-training-contract-roles-for-its-own-paralegals/>>.

20 Alex Aldridge, 'The Rise of the Paralegal' Law Society (30 July 2012) <<http://communities.lawsociety.org.uk/junior-lawyers/advice-and-features/rise-of-the-paralegal/5046486.fullarticle>>.

21 Kathleen Hall, 'Number of Legal Executives to Grow 17% in Next Decade' *Law Society Gazette* (London, 6 June 2014) <www.lawgazette.co.uk/practice/number-of-legal-executives-to-grow-17-in-next-decade/5041562.article>.

22 Jonathan Clifton, Spencer Thompson and Craig Thorley, *Winning the Global Race? Jobs, Skills and the Importance of Vocational Education* (Institute of Public Policy Research 2014) <www.ippr.org/files/publications/pdf/winning-global-race_june2014.pdf?noredirect=1>.

23 CFE Research, *The AGR Graduate Recruitment Survey 2015 Winter Review* (2015) <www.agr.org.uk/CoreCode/Admin/ContentManagement/MediaHub/Assets/FileDownload.ashx?fid=143118&pid=11533&loc=en-GB&fd=False>.

24 Institute of Legal Executives Group, 'Fair Access to the Professions: Progress Report' (2011) <www.cilex.org.uk/pdf/ILEX%20Milburn%20Report%20for%20email.pdf>.

25 Aldridge (n 20).

26 Richard Simmons, 'Lawyer 2B's Paralegal Healthcheck' (2016) <http://12b.thelawyer.com/paralegal-healthcheck-survey-2/?cmpid=wedit_2391688>.

27 Jonathan Rayner, 'ILEX Fast Track Route Proves Popular' *Law Society Gazette* (London, 31 March 2011) <www.lawgazette.co.uk/news/ilex-fast-track-route-proves-popular/59785.fullarticle>.

this distinction? The development of higher-level apprenticeship qualifications at levels five to seven²⁸ as part of an additional non-graduate pathway into qualifying as a solicitor further muddies this particular water. In a policy statement, the SRA has said: 'there may not be a need for us to specify, or even recognise, pathways to qualification',²⁹ and it is currently exploring this idea through the proposed Solicitors Qualifying Examination.³⁰ However, that policy statement continues to refer to the paralegal as distinct from a qualified solicitor. Paraprofessionals may well feel able to construct a strong case to argue that, in their current role, they already meet the outcomes set out in the SRA's recent Statement of Solicitor Competence³¹ and should be reclassified as qualified solicitors. The Law Society noted that the statement 'leaves open the question of what competence should look like when the person is a solicitor as opposed to a legal executive or paralegal';³² the SRA has stated that regulation of paralegals is not within its remit.³³ On 18 July 2014, CILEx announced it was launching an enquiry³⁴ to understand whether paralegals could meet the market needs of the future.³⁵

Part One indicated that one possible way of distinguishing between professional and paraprofessional is the supervisory role of the professional. The LETR Report noted that the issue of 'supervision of paralegals within regulated entities was frequently raised'.³⁶ It sets out an analysis³⁷ of the workload of solicitors in 2012 compared to 1991. It reveals that, in 1991, solicitors would spend 7 per cent of their time engaged in 'supervision, being supervised or discussion with co-workers'. By 2012 this activity represented 8 per cent of their time. Neither the percentage of time spent nor the increase in this percentage suggests that this can currently form the basis for the distinction. Francis³⁸ notes that 'in practice, the legal executives interviewed reported that they undertook comparable work to solicitors, headed up departments, are treated as quasi-partners, supervise trainee solicitors and generally operate with what they describe as ninety per cent autonomy, with little control exercised by supervising solicitors'. In The Lawyer2B survey, 14 per cent of paralegals said their work was not properly supervised by qualifying lawyers.³⁹

An underlying assumption when considering the role of the professional is that professional level work is more complex and demanding than that of the paraprofessional. There is, however, little in the workload analysis undertaken by the LETR to support this. For example, in 1991, solicitors spent 2 per cent of their time on 'legal research'; by 2012, a period of rapid expansion in the deployment of paraprofessionals and, presumably, a

28 Law Society, 'Routes to Qualifying' (2016) <www.lawsociety.org.uk/law-careers/becoming-a-solicitor/routes-to-qualifying>.

29 SRA (n 3).

30 SRA, 'SRA proposes a Solicitors Qualifying Examination for All New Solicitors' (7 December 2015) <www.sra.org.uk/sra/news/press/sqe-consultation-2015.page>.

31 SRA, 'Statement of Solicitor Competence' (2015) <www.sra.org.uk/solicitors/competence-statement.page#>.

32 Law Society, *SRA Training for Tomorrow: A Competence Statement for Solicitors. Response of the Law Society of England and Wales* (2015) <www.lawsociety.org.uk/policy-campaigns/consultation-responses/competence-statement-for-solicitors>.

33 Laura Clenshaw, 'Paralegal Paradox: A Lawyer by Any Other Name?' *Solicitors Journal* (London, 18 July 2014).

34 Ibid.

35 CILEx, 'Paralegal Enquiry' <www.cilex.org.uk/about_cilex/paralegal_enquiry.aspx>.

36 LETR Report (n 2) para. 3.56

37 Ibid 38, table 2.6.

38 Andrew Francis, *At the Edge of Law: Emergent and Divergent Models of Legal Professionalism* (Ashgate 2011).

39 Simmons (n 26).

corresponding movement of professionals to **A-team** work, that percentage had risen by 0.5 per cent. An anonymous paralegal writing in *The Lawyer*2B states: 'I do the exact same work as a solicitor but for half the pay.'⁴⁰ The recent survey by the same publication found that 'on a day-to-day basis, half of all paralegals surveyed said the work they are asked to do is essentially the same as that of a trainee'.⁴¹

It is difficult to resist the notion that the current distinguishing feature of legal professionals is simply that they share the same 'cultural capital'⁴² of having accessed the profession through the university – law school – training-contract route. Despite some notable attempts to move away from this,⁴³ it is likely that the elite firms will continue to recognise this model, defined by a marked preference for certain universities or for first-class honours degrees. It is not uncommon for firms to accept applications only from candidates with a minimum of 300 UCAS points⁴⁴ which, in effect, can dismiss those who emerge from a foundation degree route. CILEx notes that 81.5 per cent of its members do not have parents who attended university and only 2 per cent of its members have a parent who is a lawyer.⁴⁵ Yet *The Lawyer*2B's survey reveals that 86 per cent of paralegals surveyed did have a degree,⁴⁶ suggesting many are first-generation graduates. Should cultural capital distinguish the professional from the paraprofessional? If not, what distinguishing characteristic will replace it?

ABSs have potential to pose a significant challenge to existing entities. Not only may they utilise hierarchies of paralegal staff to reduce unit cost, but they also have considerable potential, through economies of scale, to deploy capital (Strategy Three). At times this may be intellectual capital, enabling the development of new structures (such as the training partnership created by Co-operative Legal Services and Manchester Metropolitan University, noted by the LETR Report).⁴⁷ More often, however, it will be the introduction of sophisticated IT systems to substitute for labour and reduce further unit cost.

The deployment of IT may be the Achilles' heel of the professionals. It has been noted that one-third of the paraprofessional workforce is deployed in the conveyancing function. Perhaps it should also be noted that this is an area where consumer complaints are high;⁴⁸ it is the second most complained-about area of law.⁴⁹ The Legal Ombudsman concluded that keeping to agreements over cost, ensuring delays are kept to a minimum and maintaining good lines of communication with consumers are key. A scan of consumer comments on the internet will reveal that these are the very issues on which

40 Anonymous, 'I Do the Exact Same Work as a Solicitor but for Half the Pay' (2016) <http://l2b.thelawyer.com/issues/l2b-online/my-paralegal-story-i-do-the-exact-same-work-as-a-solicitor-but-for-half-the-pay/?cmid=wedit_2391688>.

41 Simmons (n 26).

42 Francis (n 38).

43 R Garner, 'Exclusive: Law Firm Clifford Chance Adopts CV Blind Policy to Break Oxbridge Recruitment Bias' *The Independent* (London, 9 January 2014) <www.independent.co.uk/student/news/exclusive-law-firm-clifford-chance-adopts-cv-blind-policy-to-break-oxbridge-recruitment-bias-9050227.html>.

44 Chambers Student, 'Application and Selection Criteria' (2016) <www.chambersstudent.co.uk/law-firms/getting-a-training-contract/application-and-selection-criteria>.

45 CILEx (n 9).

46 Simmons (26).

47 LETR Report (n 2) para. 3.69

48 SRA, 'Supervision and Enforcement Strategy for Conveyancing' (19 April 2011) <www.sra.org.uk/sra/strategy/sub-strategies/supervision-enforcement-strategy.page>; Clenshaw (n 33).

49 YouGov plc for the Legal Ombudsman, *Consumer Experiences of Complaint Handling in the Legal Services Market* (2012) <www.legalombudsman.org.uk/downloads/documents/publications/Part-A-First-Tier-complaints-YouGov-180912-Final.pdf>.

consumers 'go public', with no reluctance to name firms. These complaints may or may not be justified, but they are highly visible and have the capacity to draw out managing partners who invite complainants to contact them to address problems. Whilst commendable in the short term, this is unlikely to be an appropriate long-term approach to quality control. The deployment of paraprofessionals in conveyancing has been supported by investment in IT. How do the professionals assure themselves that the process adopted is sound and flexible? (For example, if a firm is used by a bank and sometimes it represents bank and purchaser and sometimes bank only, does its process differ in the latter case to avoid delay?) Where is the intervention capacity to address system failure in individual cases? Some of these issues involve tactical supervision, some involve a more strategic supervision and management oversight. Are these skills currently deployed in the LSS? Were they deployed by NHS professionals to ensure that NHS Direct achieved its policy goals?

At a higher level of deployment of IT, will new entrants to the LSS be able to utilise their capacity to align with the knowledge sector (see above) and to deploy capital to be able to promote system-changing innovation? Susskind recognises that emerging systems are now able 'to outperform paralegals and junior lawyers when reviewing and categorizing large bodies of documents'.⁵⁰ The LETR Report noted that professionals in the LSS recognised the benefits of *automation* (doing things faster or easier), but were drawn less to *innovation* (doing things differently).⁵¹ There are, here, obvious dangers for legal professionals.

The LSS: conclusion

The LSS clearly shares the public sector management agenda. The pressing nature of the relationship between professionals and paraprofessionals and the relationship between labour and capital create issues which are no less acute. The LETR Report provides a timely opportunity to address the issues in a rational and transparent manner.

THE SHARED MANAGEMENT AGENDA

From the outline provided above it is now possible to articulate the components of the shared management agenda and to contemplate the manner in which some of them may be addressed.

1 Managers must design, monitor and modify strategies for service delivery which ensure appropriate supervision, provide for flexibility of approach and allocate responsibility for system improvement.

It is clear that long-term imperatives for major increases in efficiency cannot be accommodated by the adoption of Strategy One. Although this strategy is, invariably, the initial short-term reaction to change (particularly before the true significance of the change has been recognised), it is impossible to sustain. There is, however, a risk (possibly fundamental) of abandoning a strategy without a full appreciation of its strengths. Whatever its limitations, the underlying feature of Strategy One is that it continues to deploy professionals within a regime which has been designed or has evolved with this in mind. The professional will have been assumed to be, within limits, a self-starter requiring little *supervision*. Professionals have sufficient expertise to develop, with experience, the *flexibility of approach* which enables them to modify or disregard parts of a process they consider unsuitable to a particular case. They are, therefore, able to deliver a *bespoke* service within an individual transaction. This is the approach expected of lecturers, doctors,

50 Richard Susskind, *Tomorrow's Lawyers: An Introduction to Your Future* (OUP 2013).

51 LETR Report (n 2) para. 3.88

solicitors and barristers. What is less expected of the professional, because it is less apparent, is their *system improvement* role: however, they do deliver it. Professionals encounter difficulties, experience delay, face opposition, become frustrated and, sometimes, fail to deliver. These experiences shape their future approach. This behavioural change, whilst intuitive and informal, is, nevertheless, an expertly considered and managed change to the system and an active, if subconscious, role of the professional.

When Strategy One is set aside, the supervision, flexibility of approach and system improvement features are rarely, if ever, formally considered and provided for in the new model. The new regimes for service delivery must be expressly designed, and subsequently monitored, to incorporate these features. Without this, the new model will not be fit for purpose and will not be capable of delivering the full range of business objectives. This will reveal itself in different ways across the sectors. FE students will make clear their resentment in using materials with flaws they have highlighted repeatedly. Managing partners may find they are corresponding on the firms' websites with complaining clients.

This system improvement role is not to be confused with the narrow technical function of ensuring that equipment is efficient and guidance is up to date. Rather, it is one of constantly evaluating the functioning of the entire approach to service delivery to ensure that it is capable of achieving business objectives.

2 Managers in areas of activity which involve the deployment of paraprofessionals need to identify the risks to the system and to business objectives inherent in an aversion to individual risk-taking by the workforce. They need to establish criteria for determining acceptable risk and make clear the individual accountability for both risk-taking and for avoiding risk-taking. They need to devise reward and support structures which are compatible with the organisation's overt approach to risk-taking.

The FE management agenda raised the need to empower paraprofessionals to react, in a timely manner, to system shortcomings to maintain customer satisfaction. (This need is an articulation at a tactical level of the strategic requirement set out above.) Moreover, it was recognised that addressing this need involved risk to the integrity of the system. The NHS is clearly identifying areas of activity which will succeed in achieving their objectives only if individuals can be encouraged to accept levels of risk-taking they have not previously experienced. It has also experienced policy objectives not being achieved because of an in-built aversion of staff to take limited risks in one transaction in order to provide a better level of support to the totality of transactions.

The LSS approach to risk has been to set express limits to the authority of an individual to, for example, undertake a 'reserved legal activity'. Less attention has been given to identifying the risk-taking a firm is prepared to countenance; instead a pattern of risk-taking can emerge simply as the aggregation of the activities of a group of individuals. Being overt and clear about the levels and nature of risk-taking is, of course, difficult to achieve the more innovative and less routine the transaction. In the case of encouraging paraprofessionals to be more flexible, more willing to make decisions for which they are accountable and able to balance the relevant priorities of individual transactions against the totality of transactions, it is, however, essential that this clarity be created.

3 Managers will need to establish a clear rationale for the deployment of professional staff. Having done so, they will need to ensure professionals are prepared, and resourced, for their allocated role. The cost of providing this resource will require managers to secure a return by ensuring professionals are not competed into non-professional work.

Inevitably the deployment of paraprofessional staff has brought with it a need for clarification of the role of the professional. It has proved difficult to establish the

defining differences between them, but certain common approaches have been identified. Whilst these approaches will not be universal, they do point to a major change in the way professionals have operated previously. Where a professional is to become, or continue to be, the person who undertakes the most complex transactions (**A-team** work), they will need to be equipped to undertake this work through training, which is likely to be subject-based, and by access to the time and resources necessary to undertake research. Those responsible for their deployment will need to recover these costs by ensuring they are not competed away into lower-order transactions and will, equally, need to reduce risk by ensuring that paraprofessionals do not stray into **A-team** work. To enable these deployments to be made, there needs to be a common understanding of the identifying characteristics of this more complex area of activity. If this common understanding cannot be achieved, it may be possible to conclude, albeit controversially, that in specific areas of activity **A-team** work does not exist. In such a case, it may be possible to conclude that these areas are a new form of 'reserved activity' where a professional is *not* to be deployed, on the basis that the opportunity cost is too high. Susskind describes this ability to identify work that can be routinised and undertaken more efficiently as 'the great opportunity for change'.⁵²

Should the professional be the person who supervises the paraprofessionals, the level and nature of the supervision needs to be established. It is clear that there are *hierarchies* of paraprofessionals. This hierarchy is clearly capable of delivering routine, domestic supervision (such as time-keeping, holiday arrangements, workload allocations, throughput measurement). The supervisory role of the professional has to be determined in this context to ensure, yet again, that they are undertaking **A-team** work. It is likely to result from the strategy for service delivery referred to above and from the strategic supervision, flexibility and system-improvement requirements of the strategy.

4 Managers need to secure the role of professionals in the operation of IT systems. They need to ensure their primacy in the specification, evaluation and modification of the systems and in the commissioning of alternative systems where the desired service cannot be delivered entirely through IT. To enable the professionals to undertake this role, they will require personal development and the utilisation of protocols which prevent their disempowerment.

The deployment of capital across the sectors has revealed a range of needs. Where IT is to deliver core services, its design cannot be delegated to technical support managers, software suppliers or consultants. The system has to be capable of delivering the defined service. This, in turn, requires the service to be clearly specified and for managers to be capable of identifying the features of service delivery where no compromises can be made. This is a role for the professional. To enable this role to be performed, some degree of personal development will be required. However, it will not be an objective to transform the professional into an IT expert and protocols will need to be established to ensure documentation is comprehensible to the professional. Bespoke IT systems are expensive and, by definition, untested. Consequently, it is likely that generic systems will often be adopted. The clearly specified service requirement is even more essential in these circumstances, for only a close reconciliation of the specification and the technical capacity of the delivery system will reveal areas of service delivery which cannot be delivered through the system. Alternative means of delivering these areas will then need to be identified. Only in this way can the manager ensure that the core service is not defined by the nature of the IT product.

52 Susskind (n 50).

In addition to the use of professionals to secure the integrity of service delivery when IT systems are introduced, there is a need for high-level monitoring and evaluation of the continuing use of the system. Often this is delegated to a technical support manager. Invaluable though these managers may be in ensuring the technical reliability of the delivery system, they cannot be expected to ensure its continued relevance to determine the need for modifications following an assessment of customer satisfaction or the outcome of strategic supervision interventions. The professionals need to 'own' the system, which implies control of the system.

The performance by professionals of these high-order functions, as a routine and significant part of their duties or, indeed, as their sole or primary occupation, is not currently a feature of professional life. It seems certain that the NHS would be in a better place in relation to IT if it had been.

5 Managers will need to deploy an HR strategy designed to support staff, at all levels, affected by a period of profound change. The strategy will need to secure support for essential changes and reveal opportunities as well as threats. As part of this strategy managers will need to maximise opportunities for career progression.

The deployment of very large numbers of paraprofessional staff is likely to lead to a demand for clear career progression routes. Without these routes, large numbers of people will have no opportunities for advancement in circumstances in which they see themselves as performing to the same level, or at a higher level, than their better-remunerated professional colleagues. The effect on workplace morale is predictable. (The Lawyer2B survey⁵³ revealed 'numerous paralegals complained that the most demoralising thing about their job was "not earning as much as the qualified solicitor sat next to me doing the same work".) All of the features of the strategies for improving efficiency outlined above have, within them, the risk of alienating and demoralising the workforce. Opportunities abound, but they will not be apparent or welcome to all. The management of profound change is extremely difficult for both those being required to change and for those called upon to lead and manage the change.

Conclusion

The LSS faces an immense challenge to embrace the changes it is facing and emerge strong and with integrity into the new marketplace. Rather than reinventing the wheel, this paper recommends that the LSS learns from the public sector. This paper has analysed and expressed, generically,⁵⁴ strategies for change employed in the public sector and finds that the changes facing the LSS can be usefully analysed using these strategies. The paper concludes that there exists a shared management agenda, which it has sought to reveal and articulate clearly and which can inform the current debate on LSS management. There is, now, the opportunity for further analysis of specific areas that resonate most with managers in the LSS.

⁵³ Simmons (n 26).

⁵⁴ See Table 1 above.