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Survive or Thrive?

The legal landscape has changed: uncovering the concerns and expectations of independent lawyers and sole practitioners on the front line.



The Bellwether Report 2013

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Independent lawyers and sole practitioners are working harder than ever. The business landscape is fiercely competitive, and compliance is a major issue. Yet their appetite for practising the law is undiminished. Six out of seven wouldn't dream of swapping their independence for the anonymity of a large firm. They are motivated and optimistic. From 100 interviews, this report gathers the latest on their current concerns and their plans for the future. How to attract new clients? Where to invest? What efficiencies to make? After all, when the going gets tough...

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Executive summary

How can independent lawyers and sole practitioners survive and thrive in the emerging legal business environment? These are the results of 100 interviews.

The challenges

- Too much paperwork. Changes in compliance, such as the requirement to appoint a COLP and COFA, could not have come at a worse time. 70% spend more time on administration than before – while trying to cope with the demands of these lean financial times.
- Compliance is a major issue for 83%. Solicitors need more support, and do not get enough help from the Solicitors Regulation Authority or the Law Society. Instead, they look to LinkedIn and forums for advice. They live by the words: 'Comply or die.'
- Alternative Business Structures (ABS) and legal aid cuts are not this sector's most pressing concerns. However, 53% recognise that ABS increase competition and lower prices.
- 85% say their biggest challenge is securing new business. 45% are

considering increasing their marketing budget, but 61% say finding time to network is a major challenge.

- These are tough times for sole practitioners: one in five say their business is in decline.

The joys

- 81% are excited by hitting deadlines, winning cases and being involved in unusual legal issues. The freedom of 'doing your own thing' is a powerful motivator. Only one in seven would 'rather work for a large firm' even if it meant more security and less administration.
- Half report feelings of cynicism and stress and one-quarter feel 'under threat', but an overwhelming 80% describe themselves as 'optimistic, successful and proactive'.
- Four out of five are either 'very' or 'quite' confident about the future. But, let's not get carried away. This sector is realistic rather than gung-ho – only 14% are 'very' confident.

The future

- 60% hope to grow in the next five years. One in three would settle for stability. One-quarter are thinking of outsourcing. One in four is considering merging with another firm.
- Like sharks, small firms need to keep moving to survive. 80% say 'small firms need to constantly evolve' and some report frustration at their firm's lack of progress. Two-thirds believe small firms must specialise.
- 60% recognise the need to invest further in a firm's online presence. 45% of firms are considering increasing their marketing budget. Nearly 70% appreciate the need to network.
- More than half are considering greater investment in processes and technology. 62% plan to review their information sources, given the developments in platforms and services now available.

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Foreword

Nick West, Director of Legal Markets, LexisNexis

LexisNexis's report *Survive or Thrive?* takes the temperature of independent lawyers, sole practitioners and owner/lawyers in smaller law firms, to see how they are dealing with the current financial, regulatory and legal climate. We commissioned this research because we wanted to gain a thorough understanding of the challenges lawyers in this sector face and to identify what can be done to ensure they do not merely survive but thrive.

It is heartening to discover that despite all the difficulties the firms face, these lawyers still wish to continue running their own businesses and do what they do best: practising the law.

We expected that securing new business and dealing with the economic downturn would be some of the toughest challenges for this sector. What is more disturbing is that something the government can control is getting in the way of a healthy legal sector. Regulation is the one thing that policymakers can do something about. As one solicitor told us, *'we don't have a problem in doing the work; we have a problem in recording what we do'*.

Independent lawyers, sole practitioners and owner/lawyers in smaller firms are an important part of the legal landscape. Inevitably change means that high street law won't look like it did ten years ago. Sadly, some firms will not continue. Dealing with over burdensome regulation should not be one of the reasons they don't.

A clear message that comes from this research is that government and the regulators should look again at the level of regulation and the requirements they are asking of the small law firm.



Nick West
Director of Legal Markets

As a qualified solicitor, Nick leads LexisNexis' business in the legal market, serving law firms, legal practitioners and in-house legal departments. He is responsible for delivering LexisNexis' Legal Intelligence offering, comprising practical guidance, deep research, webinars, conferences and technology applications for lawyers.

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Introduction

This report is the latest in a series commissioned by LexisNexis into the changing legal services landscape. The focus here is on independent lawyers, sole practitioners and smaller law firms, and the particular challenges they face at this time of significant regulatory and economic change.

Interviews with this key group were conducted to discover how they are responding to such regulatory and economic pressures. The research aims to present a snapshot of their current working life and to explore their needs moving forward.

The report is divided in to five main sections:

1. Business challenges: what are the biggest challenges faced by the sole practitioner, independent lawyer and smaller law firm?
2. Job satisfaction and mindsets: how are these pressures affecting attitudes towards work?
3. Business health and confidence: how confident are this group about their future?
4. Adapting to thrive: what needs to change?
5. Management summary: how to stay on top.

Methodology

The findings are based on a study conducted in November 2012, comprising 100 telephone interviews and 6 in depth interviews amongst sole practitioners, independent lawyers and smaller law firms drawn from the LexisNexis database. The survey was carried out by Linda Jones & Partners, an independent research specialist, in conjunction with fieldwork agency QRS. Full details of the sample can be found in the Appendix to this report.

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Business challenges

“I think the marketplace for solicitors has been made unnecessarily tough. There is too much bureaucracy and too much regulation. We are regulated in much more harsh terms than others are. Firms feel isolated.”

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Business challenges

Much has already been written about the impending threat of ABS's and the reduction in legal aid funding. Though these definitely feature on the radar of those surveyed, they are not their most pressing concerns.

Not surprisingly, many key challenges are rooted in economic factors and the continuing economic uncertainty. However, changes in compliance regulations could not have come at a worse time for this sector. Not only are they battling with recessionary issues, but they have also had to personally shoulder COLP/COFA responsibilities on top of an already demanding workload.

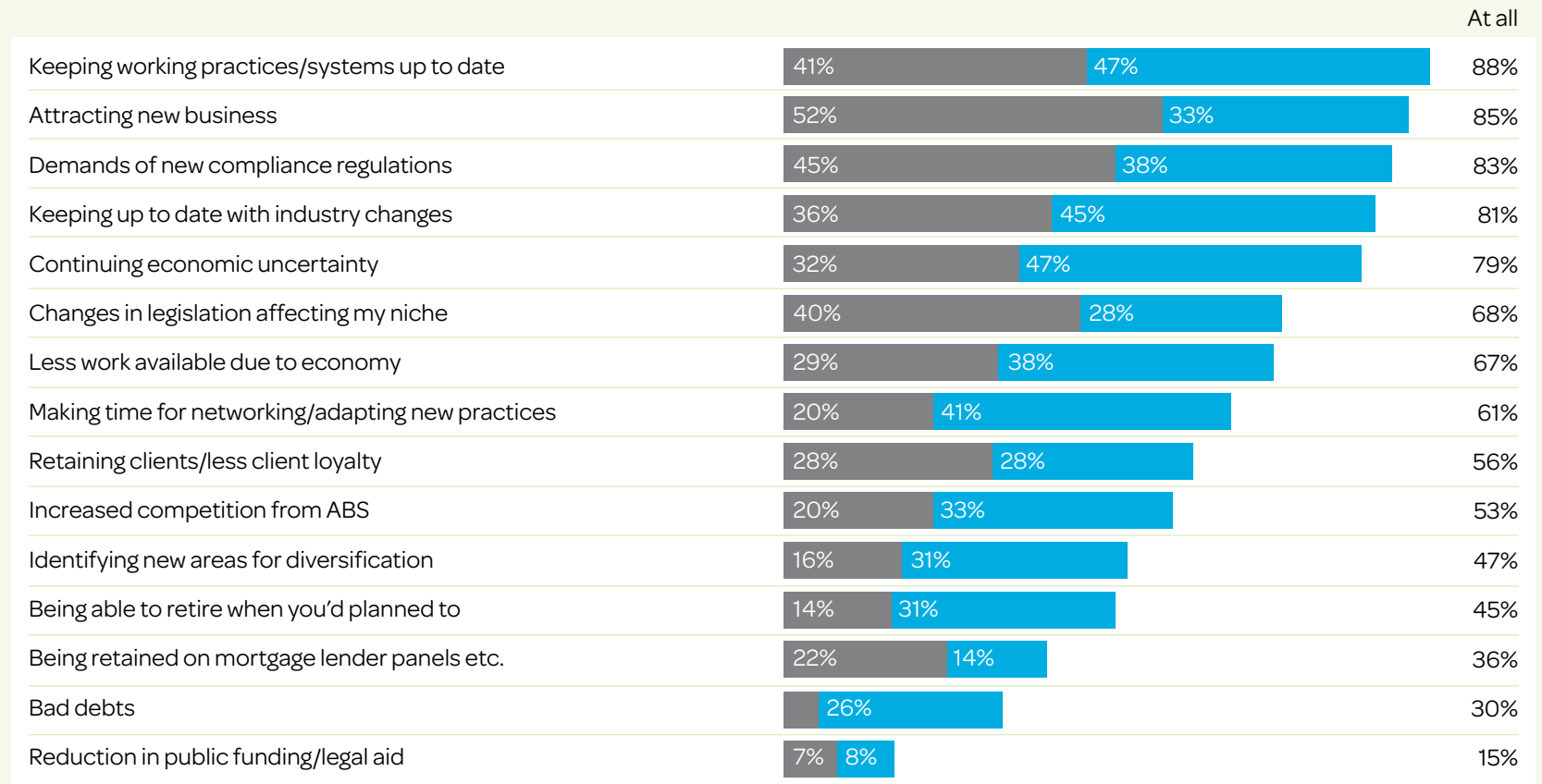
'It's like trying to push an elephant upstairs' was how one solicitor described it, and he is not alone judging by the 70% agreement with 'more time being spent on administration these days'.

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Business challenges

How significant are each of these challenges and threats to your current business?



Agree strongly

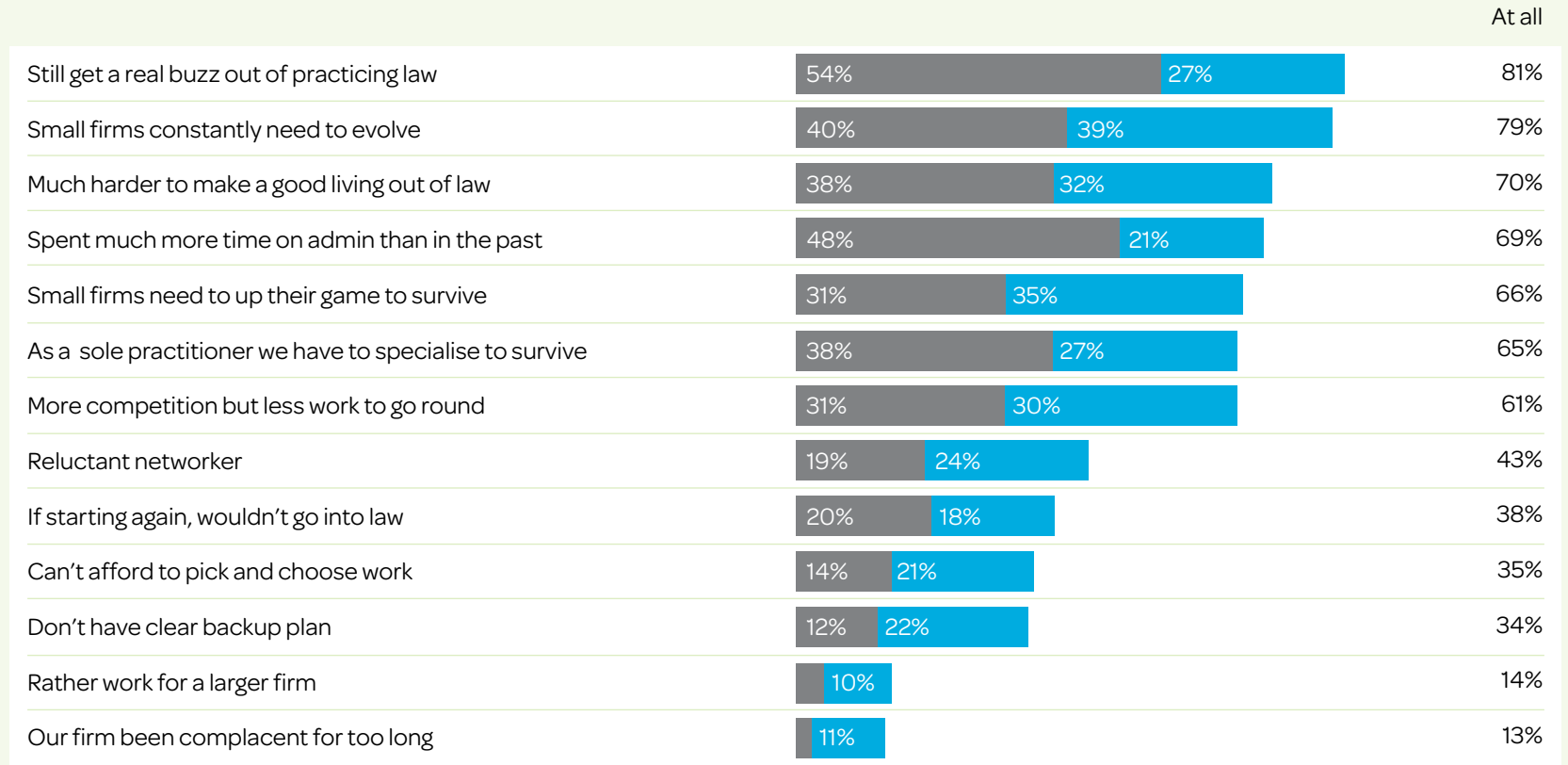
Agree slightly

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Current views

How much do you agree or disagree with each of the following statements made by other solicitors?



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All of these key challenges translate into an increased workload, with little or no capacity for delegation. Working harder to meet these challenges has become the new reality for independent lawyers and sole practitioners, cutting across all aspects of their business. The 'business' of law is fast swamping the 'practice' of law in time management terms, at a time when the quality of client servicing is arguably more important than ever.

The main perceived challenges cut across all aspects of the business:

The most significant is arguably securing new business (85%). There is simply less business around due to the economy and more firms are competing for the decreasing supply available. This can mean that they have less discretion about the type of work they take on, 'even though you know it will end in tears for someone'. ABS's compound this problem (53%) by increasing competition. Also, by introducing lower and arguably unmatchable price points, they are effectively imposing price capping on many

services, and encouraging a more commodity buying approach by clients.

Keeping working practices and systems up to date is another major issue (88%), which is closely allied to the challenge of meeting the demands of new compliance regulations (83%). As one solicitor said 'We don't have a problem in doing the work, we have a problem in recording what we do'. Given the serious consequences of inadvertently failing to comply, the notion of 'Comply or die' is no understatement here, and this is widely recognised by solicitors – 'You try but it is very hard to fulfil

everything. It is always in the back of my mind. If you get a visit and you are not up to scratch, you are gone, finished'.

Generally finding the time to keep on top of any legislative and regulatory changes, at either an industry or specialist niche level, is a further key issue, at a time when resources are already stretched and changes are perceived to be happening at an unprecedented rate.

Marketing is also a key concern as business can no longer be expected to flow in unaided. This means keeping the company name salient, when promotional budgets

are likely to have been cut, and when there are already significant calls on their time. 61% view finding time for networking and adapting to new business practices a major challenge, particularly as it can often require a major cultural shift.

And indeed there is the increasing challenge of retaining the business you have (56%) as clients are perceived to be increasingly promiscuous and price conscious, whilst at the same time expecting 'a Waitrose service for a Lidl price'.

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50%

of the group surveyed view identifying new areas for diversification as a major challenge.

“The problem is in order to go and get that work, you have to put to one side or delegate down the responsibility of the bread and butter work - which is at the lower rate. You worry that you are reaching out for the juicy stuff but ...are torn trying to cover everything. That is difficult.”

This is just a snapshot of the tactical day-to-day challenges and pressures. In addition to this, there is the need to find the time to plan strategically for the future; especially as anticipated retirement dates may be being pushed further into the future. Time is needed to analyse whether their business is future proofed, or whether a change in direction is necessary. Just fewer than 50% of the group surveyed view identifying new areas for diversification as a major challenge. It is one that can all too easily get put on the back burner, however, until confronting the issue becomes inevitable.

– ‘You are running to keep the money coming in and the machine running. It needs time to sit back and think about what is next and time is at a premium.’

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Job satisfaction and mindsets

“I like the freedom I have got and the autonomy over my own career. It is as much freedom as you can get from being someone who needs money to pay a mortgage. I have partners to whom I am accountable to; I work with them rather than against them... I know friends who work for larger companies and they have no autonomy whatsoever.”

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Job satisfaction and mindsets

This all begs the question of how these pressures are affecting the mindsets and confidence of smaller firms. Interestingly, there still appears to be considerable emotional resilience, despite the stresses and strains outlined in the previous section.

This does not mean that smaller legal firms are not succumbing to deep despair from time to time, but that there are still compensations to working in an independent legal practice, regardless of the economic and legislative landscape.

Two key factors help to keep this sector feeling more positive – the continued buzz of practicing law and the fact that ‘being your own boss’ is still seen to be an attractive life choice.

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Advantages of working in a smaller firm

What do you see as the main advantages of working as a sole practitioner/in a smaller legal firm these days?

Flexibility/freedom	40%
Independent/own boss	24%
Closer client relationships	15%
None!	9%
Cost effectiveness	8%
Can offer bespoke service	5%
Speed of response to clients	5%
Ability to move quickly	5%
All others 5% or less	

'I absolutely thrive on it... I love the buzz; I thrive on the stress'.

Though not all cases are going to be equally challenging, and smaller firms feel they have less discretion about the nature of the work they take on these days, there is no doubt that involvement in unusual cases, winning cases and hitting deadlines still acts as a powerful drug, and continues to excite (81%). Involvement in more demanding cases can therefore help to confirm their choice of profession, which might otherwise

have become jaded.

Similarly, the advantages of being your own boss are quite clear at a time when work/life balance has become a much publicised aspiration and an indicator of personal success. Though the freedom to 'do your own thing' is perhaps more perceptual than actual, it is still a powerful motivator – 'I guess the freedom is more perceived than real, which is attractive anyway. Maybe you

are deluded but you believe in it'. As such, only 1 in 7 agree that they would 'rather work for a large firm', even though this might provide them with greater security and lessen the scope of their administrative responsibilities.

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Business health and confidence

“Tough. That is the overwhelming feeling of solicitors in small firms. Times are tough. It was ok until the crash. When the crash came, markets disappeared.”

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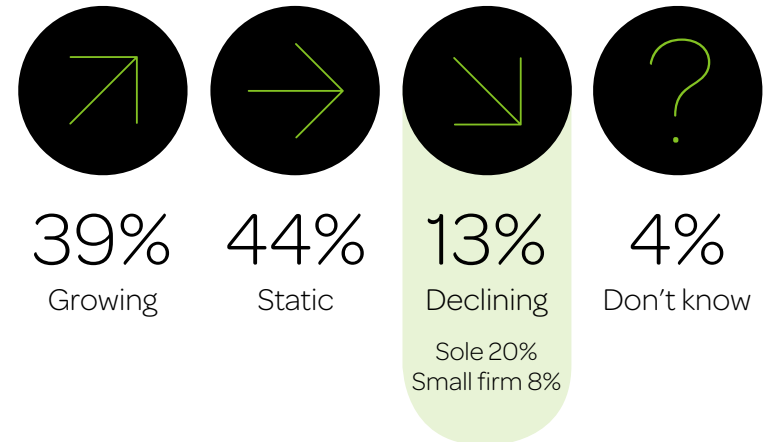
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Business health and confidence

The prevailing mood is more optimistic than may have been expected.

It is clearly hard to stay very positive given the current economic backdrop, but many of our smaller companies feel that they have already weathered a significant storm.

Practice performance vs 3–4 years ago

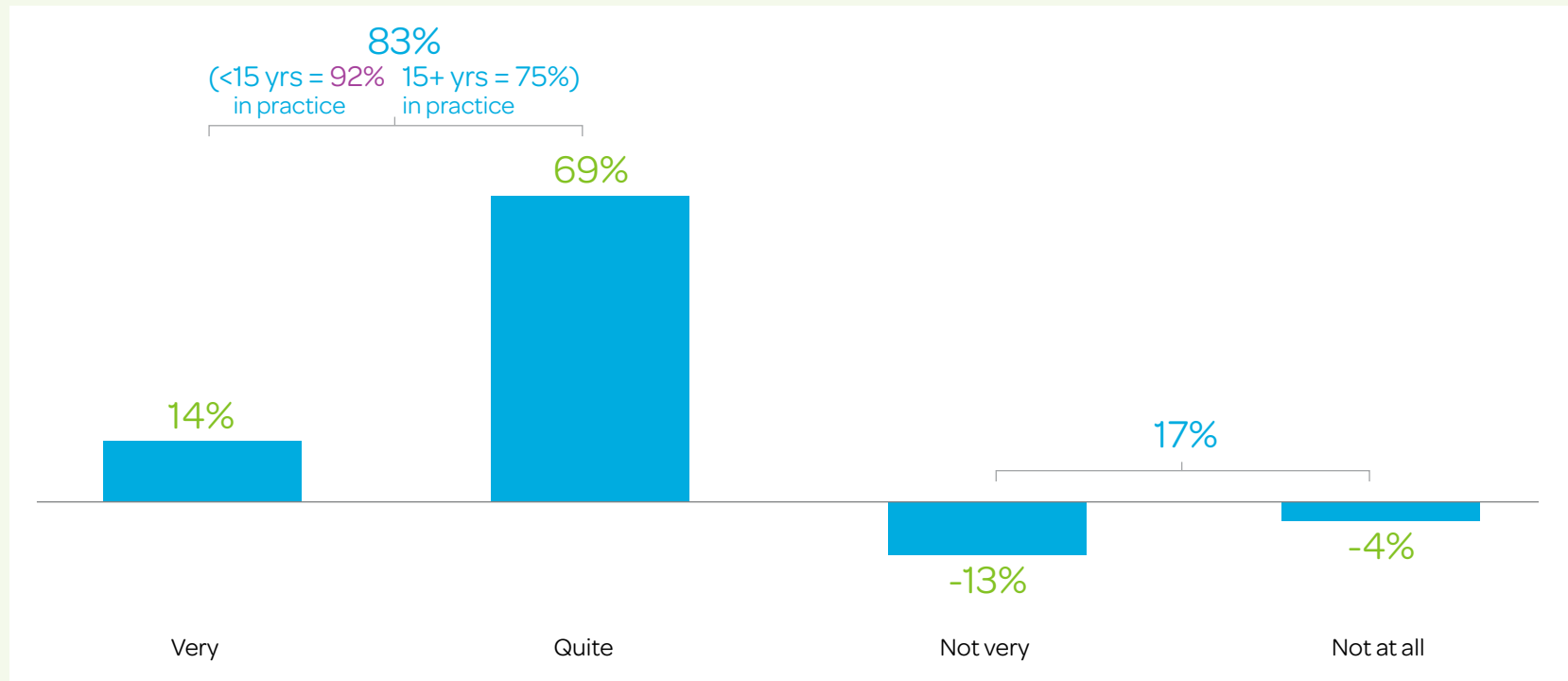


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Confidence level looking forward

How would you describe your confidence looking forward?



Compared to a few years ago, when the downturn was initially felt, the majority (just over 80%) describe the state of their business as either static (44%) or growing (39%).

'Not booming but not about to crash and burn' is the underlying refrain we heard from our sample. However it's significant, though perhaps not surprising, that the proportion of firms in decline is most marked amongst sole practitioners, where it accounts for 1 in 5.

Confidence in the future performance of their practice is inevitably boosted by the fact that they have successfully weathered the storm so far.

As such, we see similar levels (i.e. 4 out of 5) describing themselves as either very or quite confident about the future.

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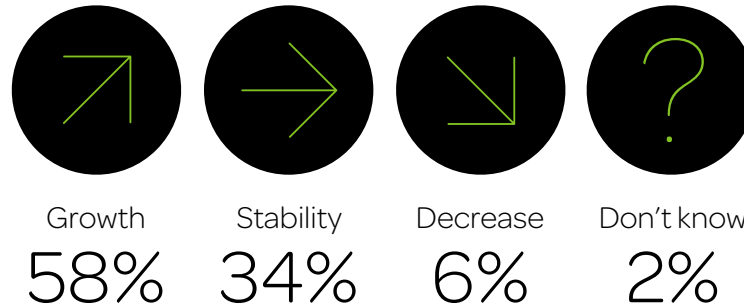
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“We are aiming for growth and better ways of undertaking the work that we do. Making sure you convert what enquiries there are into fee paying work. And then retaining those clients. Clients have less loyalty now than they used to have.”

If we take a closer look at the pattern of ratings however, this so-called confidence emerges as cautious rather than bullish – only 14% describe themselves as very confident, less than half the equivalent figure recorded in the 2011 survey amongst larger legal firms. So the mood of this smaller sector is one of quiet and realistic optimism, influenced by past achievements, and can in no way be seen as gung-ho bravado.

5 year plan

Thinking ahead 5 years, is the plan for the practice to grow, to continue to trade at a similar level, or to downsize?



Their forward business projections appear to be founded on both their past performance and the appreciation that significant changes will be needed to deliver against this expectation. As such, almost 60% hope to grow across the next five years, with a further 1 in 3 settling for stability.

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Adapting to thrive

“I do enjoy what I do. If you get a good result in court, it is a buzz. But it is more difficult every year - and I can't see it getting any easier.”

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Adapting to thrive

Whatever their level of optimism looking forward, there seems to be a consensus that this will only be achieved with radical change.

A reluctance to adapt is surely a recipe for failure, and those working for more traditional firms seem frustrated at this refusal to move with the times. As one younger solicitor told us,

'My colleagues are lovely but they need to up their game and make the business more streamlined. I think they are wasting money, they could do more but they are set in their ways'.

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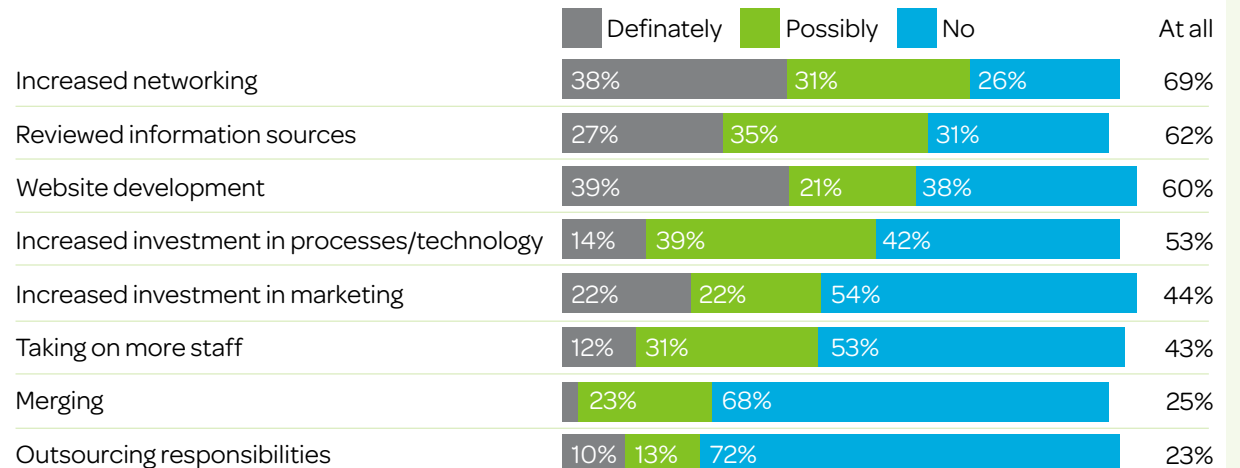
80%

agree that 'smaller law firms need to constantly evolve'.

Two thirds believe not only in the need for smaller firms to 'up their game', but also in the imperative to specialise, especially as a sole practitioner. As one solicitor explained: *'If you are alone the more specialised you are the better. You are your name and your goodwill. You become synonymous with the stuff you do. That is important.'*

Planned changes next year

Do the practice objectives for the next year or so include any of the following?



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These themes suggest that though 'going alone' can be attractive in theory, there is a need to build more of a support system in order to reduce vulnerability.

This more progressive outlook is characterised by open-mindedness about implementing change, in order to service this new legal landscape. These planned changes cut across many aspects of the business, but can be broadly grouped into three themes: the marketing of the business, more effective ways of dealing with cases, and staffing/servicing levels.

In marketing terms there is a widespread recognition of the need to invest further in web development (60%) as this is often an under-utilised resource. Just fewer than 70% also appreciate the need for greater networking in this new landscape, and this was a

recurring theme across the depth interviews we conducted. *'We as a firm tend to be a bit insular and haven't embraced these sorts of things'* was a typical observation, and it was recognised that this was a state of play which could not continue: *'As a firm we are not very connected and it is one of the things we have to improve. We accept we have to be part of things. We have never done seminars either or conferences. We will need to'*. Unfortunately many, by their own admission, are still somewhat reticent in putting themselves more centre stage.

Around 45% of firms are also considering increasing their

marketing budget, as most can no longer expect business to come in of its own accord.

Changes in working practices are also on the cards to improve efficiency. Just over half are considering greater investment in processes and technology and 62% are planning a review of their information sources, given the developments in services and platforms now available.

Staffing changes, albeit a lower priority, are also under consideration, given the onerous workload outlined earlier. Though employing in-house is the more common solution, almost 1 in 4 is considering outsourcing as an

approach. Anecdotally, those who had already gone down this route recognised the benefits of employing specialists and felt that their decision had already paid off. *'We are buying in technology, we are recruiting the right people and we are investing in marketing through a guy we have taken as a part time marketing consultant. We are setting up a blog'*.

Merging may also be a good strategic option, and is under consideration for around 1 in 4. Such a move can help with the sharing of responsibilities, and could also complement spheres of activity, as a form of staged or controlled diversification.

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Areas to benefit from advice/support

In which of the following areas do you feel your business would benefit from advice or support?

Ongoing compliance and SRA regulation	C	76%
Accessing legal information cost-effectively	P	65%
COLP/COFA roles and responsibilities	C	64%
Risk assessment and Professional Indemnity Insurance	B	55%
Identifying new business opportunities	B	53%
Money laundering	C	47%
Complaints procedures	C	43%
Marketing	B	41%
Networking	B	40%
CPD (Continuing Professional Development)	P	39%
Business strategy	B	39%
Client retention	B	38%

B = Business of Law (6)
C = Compliance (4)
P = Practice of Law (2)

Any Compliance 81%
Any Business 76%
Any Practice 70%

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Being smaller and leaner is only viable if you can plug into a bigger support network when the need arises.

In this respect our solicitors were honest about the range of areas in which they would benefit from external/additional advice and support. Not surprisingly, compliance tops the needs list, given the recent COLP/COFA regulatory changes, and the uncertainty as to how this will work in practice. *'Nobody knows because the SRA and Law Society are unable to give us any guidance. Probably because they don't know themselves.'*

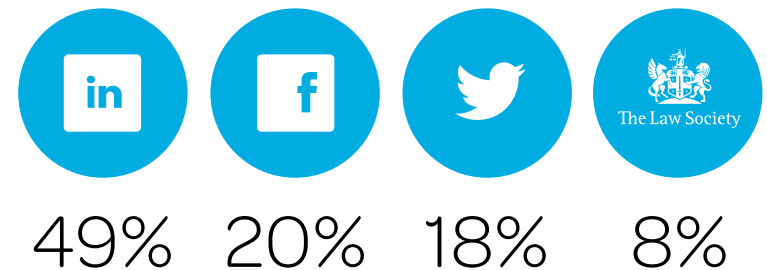
Key here is an almost equal need for help in areas relating to both the practice and the business of law – from cost-effective accessing

of legal information to identifying new business opportunities and marketing. Given this widespread recognition of the need for support, it is disappointing, though perhaps not surprising, to find that most legal professional bodies are not really felt to be satisfying this need. *'There is not enough support for people working by themselves. There is no guidance. All you have are the SRA and The Law Society to inform you about the regulations and effective practice. But it is not enough.'*

As such, there is a tendency to look to 'non-traditional' sources and peer group organisations

to bridge this gap. Over half, for example used LinkedIn, and 65% used forums, if only on an occasional needs-related basis.

Groups participants belong to:



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Management summary

Browbeaten but not downtrodden, this sector feels they bear the brunt of legislative and regulatory changes. Despite this, we found that a cautious optimism still prevails, alongside a continuing belief in their chosen career path.

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Management summary

Not surprisingly, many key challenges are rooted in economic factors, although changes in compliance regulations have compounded this pressure. Shouldering such new and uncertain responsibilities alone, in addition to the stresses involved in attracting and retaining business, and the increased paperwork now prescribed, is clearly taking its toll. As a result, the 'business' of law is fast engulfing the 'practice' of law in terms of the demands on their time, at a stage when quality of client servicing is arguably more important than ever.

Interestingly, there still appears to be considerable emotional resilience, despite these stresses and strains. Hence the mood of this sector is one of quiet and realistic optimism, rather than gung-ho bravado. It, however, is widely recognised that survival will only be achieved if working practices are significantly updated.

This sector will need to work hard to carve out a new infrastructure of support, if they are to continue to deliver the quality of professional service which has ensured their success to date. The research suggests that being smaller and leaner is only viable if you can plug into a bigger support network when the need arises.

Overall, the challenges to be faced are many and varied, and the independent lawyers, sole practitioners and smaller law firms who survive, will be those who keep on top, forward plan and significantly amend their working practices.

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Appendix:

Our quantitative sample

Our sample comprised 100 sole practitioners, independent lawyers and smaller law firms, drawn from the LexisNexis database. It breaks down as follows:

- small firms 60% (i.e. average practice size of 5.7 fee earners), sole practitioners 40%
- 70% describe themselves as specialists
- broad area split including London, North, Midlands and South.

Practice type

Do you work as a sole practitioner or as part of a small firm?



Description of practice

Would you describe your practice as a general practice or a specialist/niche practice?



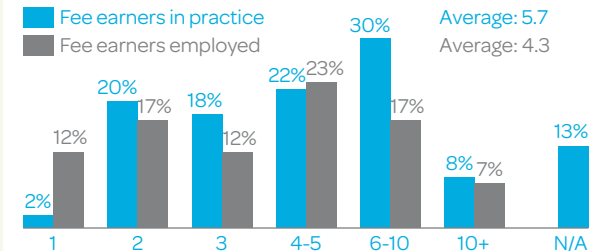
Demography

Base: All (100)

Sex:	Age:	Area:
Male 59%	25-34 16%	London 32%
Female 41%	35-44 26%	North 23%
	45-54 33%	South 25%
	55+ 24%	Midlands/East
	Median 47%	/Wales 20%

Size of practice (including self)

How many fee earners work in the practice including yourself? BASE: 60



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About LexisNexis

Over the past 200 years, LexisNexis has combined a deep understanding of the legal profession with technology innovation to help practitioners work more productively, advise with confidence and better manage their organisations. Today, our services help lawyers - of all shapes and sizes - apply legal intelligence to better meet clients' needs.

LexisPSL Practice Compliance is an online risk and compliance toolkit designed to help your firm get in line and stay in line. Visit: www.lexislegalintelligence.co.uk/compliance

With 23 other practice areas to choose from - and prices and packages that reflect the number of fee earners in your firm, visit: www.lexislegalintelligence.co.uk

Join the debate:

Independent lawyers, sole practitioners and smaller law firms are under siege. ABS, the SRA, the Law Society and Legal Ombudsman are ramping up the pressure - and all on top of the daily challenges and decisions that small businesses face: what level of Professional Indemnity Insurance to take, why spend money on marketing, how to get clients and keep them coming back for more.

Who has the time to actually practice law?

The Business of Law blog has been set up by experts, for experts. For lawyers to share knowledge with other lawyers about how to not just survive these more competitive times, but to thrive.

In time, we hope to build the definitive resource for independent lawyers. An online destination that can help us all do business better. What we like to call: a thrival guide for these troubled times.

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www.lexisweb.co.uk/blog/businessoflaw/BR

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