RESEARCH ARTICLE

Transforming the legal profession: an interview study of change managers in law

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Abstract

A lively debate progresses about change to the professions, including law, especially change in the form of managerialism. 'Managerialism' covers the methods and beliefs of managers within organisations, used to actively influence, evaluate, and 'market' professional work. But what about when that managerialism is change itself? How do we understand managerialism-as-change? This paper reports on an interview study with change managers, or 'transformation leaders' in the legal profession. Transformation leaders offer rich insights into the dynamics of professional change because they are incontrovertibly change agents. They are also themselves a form of managerial change as a new cadre of managers within the professions; managers with 'hybrid' identities whose legitimacy in professional settings is not assured. The findings presented include: the change leaders' identities; the types of change being introduced; the constraints on and affordances for change in legal practices; and how change leaders secure, and sometimes struggle to secure, the authority needed to implement change. The concluding discussion highlights the study's contributions to our understanding of professional change and managerialism in the legal context – both *what* changes are being pursued and *how* they are materialising through certain 'managerial' goals, strategies, and the interactions of those with mixed identities and status.

Keywords: legal profession; change; transformation; change management; managerialism; technology

Introduction

The prevailing theme in the literature on professions, including the legal profession, is change. In analysing change, writers have described a broad transition from traditional professionalism (or autonomy, ethics, and special, indeterminate expertise) to managerial (defined shortly) and entrepreneurial (or 'innovative', commercialistic) logics.[1] Logics are belief systems which are then absorbed into identities, structures, and norms.[2] This move is being driven by internal and external

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[1]A Pinnington and T Morris 'Archetype change in professional organizations: survey evidence from large law firms' (2003) 14(1) British Journal of Management 85; DM Brock et al 'Archetypal change and the professional service firm' in WA Pasmore and RW Woodman (eds) *Research in Organizational Change and Development (Volume 16)* (Bingley: Emerald Group Publishing, 2007) p 221; F Bévort and F Poufelt 'Human resource management in professional services firms: too good to be true? Transcending conflicting institutional logics' (2015) 29(2) German Journal of Human Resource Management 102; M Noordegraaf 'From "pure" to "hybrid" professionalism: present-day professionalism in ambiguous public domains' (2007) 39(6) Administration and Society 761; D Weisbrot 'The changing face of Australian legal practice' (1986) 58(4) The Australian Quarterly 426; A Daly et al 'Changes in solicitors' firms and work 1990–2004' (2007) 204 Ethos 27.

[2]M Canning and B O'Dwyer 'Regulation and governance of the professions' in M Saks and D Muzio (eds) *Professions and Professional Service Firms* (Routledge, 2018) p 157.

forces, bringing changes that are desired by practitioners and their firms, and those that are less welcome, even threatening. 'Managerialism' comprises the methods and beliefs of managers within organisations, used to influence, evaluate, and 'market' professional work.[3] Employees can also act as their own managers.[4] Managerialism typically features 'around' traditional professionalism and is usually therefore regarded as a contaminating or competitive presence.[5] Recently, some have argued that in many contexts, managerialism aligns with and supports traditional professionalism, where the two logics are found in 'hybridised' blends, often purposefully so.[6] We know, then, that management represents a dominant change within the professions, in different combinations and with different meanings, but what about change as itself a form of management?

This paper reports on an interview study of 'change managers', sometimes called 'transformation leaders', in the legal profession. Change managers offer rich insights into the dynamics of professional change because they are incontrovertibly change agents. They import and influence professional change through their managerial activities, in the changes they implement. But change managers are also themselves a form of managerial change as a new cadre of managers within the professions. Change managers might be former 'professionals' (former lawyers, in the legal setting, but former accountants or doctors, for example, in others) or they might be working jointly in their organisations as both managers and professionals – change managers from these two groups could be termed 'manager professionals';[7] or else they will have come from outside the host profession, having trained in management, with their own 'professional' identities as 'professional managers'.[8] As managers in professional organisations, they possess, then, varying degrees of 'hybridity' in their professional identities.[9] Depending on their blend of professional versus manager and how that identity is used and how successfully,[10] their standing or legitimacy in their 'host' professions is something they must earn.[11] Lawyers especially have been shown to esteem 'pure' expertise, or that which expresses and supports 'pure' (legal, non-managerial) knowledge.[12] This paper examines the workings of change within the legal profession as enacted (or not) by change leaders representing a new class and form of management.

The law context is particularly intriguing, furthermore, in that the scholarship offers a paradoxical presentation of change. On the one hand, as indicated, several studies indicate that lawyers are

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[3]I Kirkpatrick et al *The New Managerialism and Public Service Professions* (Hampshire: Palgrave Macmillan, 2005) pp 43–44.

[4]To consider how 'professionalism' itself acts as a disciplinary mechanism, through the construction and self-enforcement of 'appropriate' work identities and behaviour, see V Fournier 'The appeal to "professionalism" as a disciplinary mechanism' (1999) 27(2) The Sociological Review 280. For a study of its workings in the context of the British parachute regiment, see T Thornborrow and AD Brown '"Being regimented": aspiration, discipline and identity work in the British parachute regiment' (2009) 30(4) Organization Studies 355.

[5]E Goodrick and T Reay 'Constellations of institutional logics: changes in the professional work of pharmacists' (2011) 38 (3) Work and Occupations 372; M Blomgren and C Waks 'Coping with contradictions: hybrid professionals managing institutional complexity' (2015) 2(1) Journal of Professions and Organization 78; M Noordegraaf *Public Management: Performance, Professionalism and Politics* (Palgrave Macmillan, 2015); MW Lander et al 'Drift or alignment? A configurational analysis of law firms' ability to combine profitability with professionalism' (2017) 4(2) Journal of Professions and Organization 123.

[6]Goodrick and Reay, above n 5; Lander et al, above n 5; Blomgren and Waks, above n 5; M Noordegraaf 'Hybrid professionalism and beyond: (new) forms of public professionalism in changing organizational and societal contexts' (2015) 2(2) Journal of Professions and Organization 187.

[7]For an example in the health setting: SC Bolton '"Making up" managers: the case of NHS nurses' (2005) 19(1) Work, Employment and Society 5.

[8]Noordegraaf, above n 6.

[9]For a study of hybridised professional identity (how these roles are claimed and used): G McGivern et al 'Hybrid manager-professionals' identity work: the maintenance and hybridization of medical professionalism in managerial contexts' (2015) 93(2) Public Administration 412.

[10]Ibid.

[11]For an example of legitimacy work in professional settings, see G Marnoch et al 'Between organizations and institutions: legitimacy and medical managers' (2000) 78(4) Public Administration 967.

[12]RL Sandefur 'Work and honor in the law: prestige and the division of lawyers' labor' (2001) American Sociological Review 382.

resistant to change and that their typical personalities act as blocks to intervention and innovation.[13] Additionally, the law, law firms, and the wider legal profession are depicted as slow-moving institutions, supported by practices and beliefs that make innovation difficult and often undesirable.[14] On the other hand, macro-level studies indicate that change is clearly occurring,[15] in some instances – such as remote working – rapidly accelerated by Covid-19. There have been studies on how certain forms of managerialist change are being mechanised; for instance, within the corporate sector, the use of billable hours, performance reviews,[16] risk management,[17] and legal project management;[18] for public sector lawyers, New Public Management (NPM) and its accompanying discourse of 'quality control'.[19] There are, additionally, several studies on the forms and consequences of change, especially to lawyers' professional identity and ethics.[20] Notwithstanding, there is little scholarship on change as management; on the identities, perceptions, and strategies of the specific groups within the legal profession who are introducing, furthering, or reworking change, expressly through managerial practices.[21] There is also scant reporting on the expertise they are drawing on to do so – and thus constructing in the process – and how they and their expertise fit into what might be a hierarchy of managerialism, given there may now be many types of managers and/or managerial practices within legal organisations. Finally, we know there are broad moves towards efficiency logics and adoption of technology or new ways of working as part of managerial (and entrepreneurial) change, but less is known about how this plays out on the ground within legal organisations, including in what forms they materialise – in other words, what actual changes fall under these categories – and what factors support or hinder them.[22]

This paper contributes to and brings together the discussions of change and managerialism within the legal sector, looking at change-as-managerialism through an empirical study of 'change managers' or 'transformation leaders' in law. Who are these professional managers or manager professionals? How do change managers perceive, and how are they responding to, the landscape in which they work; a landscape characterised by, as the literature reveals, both intense drivers of change, and entrenched barriers? What are the managerial beliefs, activities, and interactions within the organisations – what is called in some scholarship, the 'institutional work'[23] – among these individuals and groups in

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[13]See for example M Salomon 'Lawyer personality and resistance to change', Master's Thesis, INSEAD, 2014; and full discussion in Part 1(c).

[14]For a fuller picture of continuity and change, within a legal professional association, see J Rogers and D Hartstein 'You, us and them: the multiple projects of the New South Wales Law Society' (2019) 45(3) Monash University Law Review 716.

[15]Part 1(a) outlines these changes.

[16]I Campbell and S Charlesworth 'Salaried lawyers and billable hours: a new perspective from the sociology of work' (2012) 19(1) International Journal of the Legal Profession 89.

[17]AV Alfieri 'The fall of legal ethics and the rise of risk management' (2005) 94 Georgia Law Journal 1909.

[18]J Rogers et al 'Legal project management: projectifying the legal profession' (2020) 2(2) Law, Technology and Humans, https://doi.org/10.5204/lthj.1610.

[19]H Sommerlad 'The implementation of quality initiatives and the new public management in the legal aid sector in England and Wales: bureaucratisation, stratification and surveillance' (1999) 6(3) International Journal of the Legal Profession 311.

[20]L Welsh 'The effects of changes to legal aid on lawyers' professional identity and behaviour in summary criminal cases: a case study' (2017) 44(4) Journal of Law and Society 559; H Sommerlad 'The commercialisation of law and the enterprising legal practitioner: continuity and change' (2011) 1–2 International Journal of the Legal Profession 73; R Collier '"Be smart, be successful, be yourself…"?: representations of the training contract and trainee solicitor in advertising by large law firms' (2005) 12(1) International Journal of the Legal Profession 51.

[21]A notable exception in this law context examined in Part 1 is Empson et al's (2013) empirical study of the combined work of the managing partner (lawyer) and the management professional (accountant) in large law firms: L Empson et al 'Managing partners and management professionals: institutional work dyads in professional partnerships' (2013) 50(5) Journal of Management Studies 808; and Rogers et al, above n 18.

[22]Ibid.

[23]B Leca et al 'Introduction: theorizing and studying institutional work' in T Lawrence et al (eds) *Institutional Work: Actors and Agency in Institutional Studies of Organizations* (Cambridge: Cambridge University Press, 2009) p 1; T Lawrence et al 'Institutional work: refocusing institutional studies of organization' (2011) 20(1) Journal of Management Inquiry 52.

helping to bring about macro-level change? And how do they try to achieve legitimacy, as 'management professionals' with what would appear to be an ambiguous foothold in the legal profession and given they might be one of many managers or advocating for more than one type of managerial practice?

To address these questions, this paper reports on interviews with ten change leaders across the legal profession, working in organisations in Sydney. It is structured as follows. Part 1 positions the study within the scholarly discussion of managerialist change, showing also how managerialism has itself changed. In the process, this Part charts the broad transformations within the legal profession, tracing some of the oppositional forces just mentioned, of dramatic change and intense resistance. Part 2 provides the study's methodology. The findings that follow in Part 3 include: the change leaders' identities; the types of change being introduced; the constraints over and affordances for change in a dynamic organisation; and how change leaders secure the legitimacy and influence needed to enact (or attempt to enact) change. The concluding discussion reflects upon the study's contributions to our understanding of professional change and managerialism in the legal context – both *what* changes are being pursued and *how* they are materialising (or perceived to be so) through certain 'managerial' goals, strategies, and interactions of 'actors' working within organisations and with mixed professional identities and status.

1. Change and managerialism

Much has been written about change in the professions; what is often characterised as the demise of traditional professionalism in favour of more commercialistic or 'entrepreneurial', 'efficient', and 'expansionist' orientations.[24] As a growing portion of the literature reveals, these broad changes are 'actually' occurring in organisations, through managerialism – or the use of managers and/or their beliefs and methods to plan, administer and evaluate how people work.[25] In this Part, we examine three components of the literature: the need for managing change in the legal profession; how managerialism is changing or growing and becoming more multi-stranded; and 'change' as a form of managerialism and how it might be received by and affect lawyers.

(a) Managing change

For reasons primarily of efficiency and profit,[26] the broad trend across professions has been a growing acceptance of the need for, and resulting power of, managers over 'autonomous' practitioners.[27] As part of this development, in the legal profession, we see increasing prominence of non-lawyers within law firms, as human resources, marketing, information technology, and knowledge management[28] and, now, change management or 'transformation'.[29] However, as elaborated on below, the legitimacy

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[24]DK Holmes 'Learning from corporate America: addressing dysfunction in the large law firm' (1995) 31 Gonzaga Law Review 373; MS Winings 'The power of law firm partnership: why dominant rainmakers will impede the immediate, widespread implementation of an autocratic management structure' (2006) 55 Drake Law Review 165; SD Cameron 'Globalization of law firms: a survey of the literature and a research agenda for further study' (2007) 14(5) Indiana Journal of Global Studies 5; DL Spar 'Lawyers abroad: the internationalization of legal practice' (1997) 39(3) California Management Review 8.

[25]Kirkpatrick et al, above n 3.

[26]Kirkpatrick et al, above n 3, p 64.

[27]Ibid. We note, though, that this discussion is limited by the archetypes and myths of professionalism – there was never pure professionalism and indeed, we recognise the downsides to professionalism, as practised, for things like client rights, and for the diversity and inclusivity of the profession.

[28]Knowledge management is the systematic identification, improvement and use of an organisation's expertise.

[29]B Fasterling 'The managerial law firm and the globalization of legal ethics' (2009) 88(1) Journal of Business Ethics 21; L Muir et al 'Strategic issues for law firms in the new millennium' (2004) 1 (2–3) Journal of Organisational Transformation and Social Change 179; D Muzio et al 'Towards corporate professionalization: the case of project management, management consultancy and executive search' (2011) 59(4) Current Sociology 443.

of managers within a professional context is not assured, and the leaders of professional organisations are making different decisions, for instance, about whether to bring in external 'professional managers' (trained managers from outside the host profession) or rely on those we call, as suggested, 'manager professionals' (professionals jointly working as managers, usually the partners, or a more actively recruited and trained cadre of employees).[30] Scholars have noted that these decisions and relationships represent and influence wider contests about what it means to be a professional.[31]

The literature depicts, moreover, many of the main pressures that managers face, or the drivers for change, centred on the accumulation of client wants and needs, the demographic profile and desires of new recruits and younger employees, the affordances and demands presented by technological change; and accompanying trends in professional regulation. Client desires for better value, combined with the dissipation of fealty to particular firms, have resulted in their greater willingness to 'shop around' or retain legal work in-house. Further, in-house legal practice, defined by fidelity to a single entity client, has grown more prevalent. In-house teams themselves become 'expert purchasers of legal services' from external providers.[32] Their concerns over legal fees and increased scrutiny of costs, more specifically, have been shown to be major drivers of law firm change.[33] Hanlon pointed out, some time ago now, how client needs are, 'in reality', the needs of the 'powerful, informed and resourceful client'.[34]

Yet change is also being pushed by the demands of the profession and/or lawyers themselves. Statistics chart the progress of the legal profession, both in terms of economic growth[35] and towards greater inclusivity and democratisation.[36] Some posit that millennial[37] workers will not tolerate the gruelling demands of the largest firms (though these firms have continued to grow apace, and have been resilient in the face of general downturns),[38] and demands for flexibility and 'work-life' balance are a key driver for some NewLaw practices, for example.[39] Some argue that younger lawyers are

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[30]Kirkpatrick et al, above n 3, p 66.

[31]Sommerlad, above n 20; G Hanlon 'Professionalism as enterprise: service class politics and the redefinition of professionalism' (1998) 32(1) Sociology 43.

[32]Empson et al, above n 21, citing M Galanter and W Henderson 'The elastic tournament: a second transformation of the big law firm' (2008) 60 Stanford Law Review 1867.

[33]G Hanlon 'Professionalism as enterprise: service class politics and the redefinition of professionalism (with postscript: extinguishing professionalism?)' in M Saks and D Muzio (eds) *Professions and Professional Service Firms: Private and Public Sector Enterprises in the Global Economy* (Taylor & Francis, 2018) p 72, p 79; H Sommerlad and L Ashley 'The implications for gender of work in professional service firms' in Saks and Muzio, ibid, pp 144–145; F Anderson-Gough et al 'In the name of the client: the service ethic in two professional services firms' (2000) 53(9) Human Relations 1151; WD Henderson *Legal Market Landscape Report, Commissioned by the State Bar of California* (July 2018); WD Henderson 'From big law to lean law' (2014) 38 International Review of Law and Economics 5.

[34]G Hanlon *Lawyers, the State and the Market: Professionalism Revisited* (Macmillan Press, 1999) p 180.

[35]Despite the impacts of Covid-19: see eg T Babbitz et al 'COVID-19: implications for law firms' (McKinsey & Company, 4 May 2020), https://www.mckinsey.com/industries/financial-services/our-insights/covid-19-implications-for-law-firms.

[36]American Bar Association '2019 profile of the legal profession' Report; Law Society of England and Wales 'Diversity profile of the profession 2014: a short synopsis' (June 2015); L Ashley 'Making a difference? The use (and abuse) of diversity management at the UK's elite law firms' (2010) 24(4) Work, Employment and Society 711; H Sommerlad et al *Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices* (London: Legal Services Board, 2010).

[37]Popularly, those born between 1981 and 1996.

[38]Henderson (2014), above n 33, at 8; S Daicoff 'The future of the legal profession' (2011) 37(1) Monash University Law Review 7 at 30; J Williams et al 'Disruptive innovation: new models of legal practice' (2015) 67 Hastings Law Journal 1 at 17.

[39]Williams et al, above n 38, at 13‒14. Others, however, are sceptical about these developments, pointing to the longevity of the partnership structure, continuing dominance of very large firms, problems with NewLaw itself, and that inclusivity may be less substantial than it might seem on its face: Galanter and Henderson, above n 32; S Ackroyd and D Muzio 'On the consequences of defensive professionalism: recent changes in the legal labour process' (2005) 32(4) Journal of Law & Society 615; M Thornton 'Towards the uberisation of legal practice' (2019) 1 Law, Technology and Humans 46; American Bar Association, above n 36, p 47.

seeking a more entrepreneurial, innovation-focused agenda,[40] leading to changes to law firms' marketing[41] as well as more substantial changes to their operations.[42]

Meanwhile, technological change is also playing a role in meeting these demands for efficiency and entrepreneurialism. Lawyers' organisations are currently in the midst of 'disruptive innovation', 'LegalTech' and 'Uberisation'.[43] Alongside new ways of working (both chosen and compelled),[44] technology has allowed for an increase in the routinisation and commodification of legal work, adding to a process of 'de-professionalisation' that has been documented since the 1970s.[45] Where much legal work would traditionally have been performed by a single firm in a bespoke manner, a pattern of disaggregation or breaking down has been observed.[46] There is also a great deal of recent speculation about the automation of legal services.[47] This latter represents the latest (positive and negative) reconfiguring of legal work itself, occurring alongside changes to the legal workforce.[48]

Accompanying growth and change have been cycles of professional deregulation and re-regulation by the state – involving both loss of traditional monopolies and dramatic cuts in public funding, the second tied to NPM, but also greater choice in terms of organisational structure and financing.[49] Re-regulation has brought in a more strongly consumer focus – new remedies and shifts in identity presented by the language of lawyer or professional as 'service provider' – while supporting an agenda of national and international competition.[50] These pressures each represent potential drivers for change that managers need to identify, assess, and prioritise, and successfully respond to.

(b) Changing managerialism

But how are these wider, institutional pressures being understood and then acted upon or otherwise negotiated by managers within law practices? As signalled in the Introduction, this paper is interested in the managerial beliefs, activities, and interactions within legal organisations, of change managers in

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[40]M Kay 'What junior lawyers want' (2019) 169(7830) New Law Journal 19 ('Deloitte (Chelsea Ritschel, The Independent, 2018) found that 43% of millennials plan to leave their job within the next two years, with only 28% hoping to stay beyond five years. Reasons cited were that businesses were more focused on profit, selling services, and improving efficiency, rather than developing opportunities and wellbeing for their employees); R Kiser 'Why lawyers can't jump: the innovation crisis in law', Legal Innovation, 4 October 2020, https://www.legalevolution.org/2020/10/why-lawyers-cant-jump-the-innovation-crisis-in-law-205/.

[41]Collier, above n 20; A Mentkowski 'Law firm marketing in the age of social media: a toolbox for attorneys' (2015) 36 Northern Illinois University Law Review 1.

[42]JL Jacobowitz et al 'Cultural evolution or revolution? The millennials' growing impact on professionalism and the practice of law' (2016) 23(4) The Professional Lawyer 20; Kay, above n 40.

[43]'In the new entities, referred to variously as firms, platforms or networks, neither physical presence, place nor time are important. The ultimate manifestation of the "Uber lawyer" is an independent contractor wholly dependent on technological innovation, who chooses what work to do, where to do it and when to do it': Thornton, above n 39, at 47.

[44]For instance, the rapid shift to 'remote' working and court appearances: see eg M Ryan et al *Remote Hearings in the Family Justice System: Reflections and Experiences: Follow-up Consultation* (Nuffield Family Justice Observatory, September 2020).

[45]E Carroll and S Vaughan 'Matter mills and London-lite offices: exploring forms of the onshoring of legal services in an age of globalisation' (2019) 22 (1–2) Legal Ethics 3.

[46]Ibid, at 7; R Susskind *Transforming the Law: Essays on Technology, Justice and the Legal Marketplace* (Oxford: Oxford University Press, 2000).

[47]J Flood and L Robb 'Professions and expertise: how machine learning and blockchain are redesigning the landscape of professional knowledge and organization' (2019) 73(2) University of Miami Law Review 443 at 471, citing Deloitte *Developing Legal Talent: Stepping into the Future Law Firm* (Report 2016).

[48]F Bell et al 'Artificial intelligence and lawyer wellbeing' in M Legg et al (eds) *The Impact of Technology and Innovation on the Wellbeing of the Legal Profession* (Intersentia, 2020).

[49]N Semple et al 'A taxonomy of lawyer regulation: how contrasting theories of regulation explain the divergent regulatory regimes in Australia, England and Wales, and North America' (2013) 16(2) Legal Ethics 258.

[50]For a discussion of this in the Australian legal context, see J Rogers et al 'The large professional service firm: a new force in the regulative bargain' (2017) 40(1) University of New South Wales Law Journal 218; see also J Flood 'The re-landscaping of the legal profession: large law firms and professional re-regulation' (2011) 59(4) Current Sociology 507.

helping to bring about macro-level change. We are also interested in 'change' as a new form of managerialism. With so much going on, which managers and/or managerial practices are prioritised?

Historically, the lawyer partners acted as managers. In the 'P2' partnership, 'professionals were at once the operators, managers, and owners of the firm'.[51] By the 1950s, Australian law firm partners began to appoint office managers or managing partners and to set billing targets, as part of wider moves towards growth and specialisation.[52] These developments have continued and changed. As a salient example, Campbell and Charlesworth have shown how Australian law firms introduced performance review measures by reworking the billable hour from a measurement (costings) tool to a keystone of managerial control, fundamentally shifting relations between employed solicitors and management within firms.[53] Their research found that the discursive construction of the 'demanding client' was actually a cover for the time and work demands of the firm itself.[54] Other studies have shown how the corporatist managerial approach, in the law context adopted first by large law firms[55] (including as the reworked billable hour) were then transplanted onto the public sector, as NPM. Sommerlad's work in the UK has shown how NPM is occurring in the guise of 'quality control', curtailing professional discretion and in the process affecting the work autonomy and morale of primarily small firm private lawyers performing legal aid work.[56] As more recent examples, some law firms are now experimenting with a wide range of very new and unsettled management disciplines as applied to the legal context, such as project management, organisational design, process improvement,[57] and, as we investigate, change.

Empson, Cleaver and Allen's (2013) study revealed how these new identities and forms of expertise play out at the interpersonal level by examining two different types of managing professionals working together in large international law firms: the managing professional (lawyer-partner) and the management professional (accountant). It showed how their combined and complicated institutional work[58] is helping to integrate the corporatised partnership into the traditional partnership form.[59] Their study fits into a wider, organisations scholarship which indicates that the activities of managers to enact change within professional organisations (or else prevent change from happening) increasingly occur through the interactions of, as flagged, 'mixed' professionals – people with different facets to their identity and expertise or who derive from and/or form different groups. Picking up the legitimacy issue raised in the Introduction, that the acceptance of management is not guaranteed, this research shows that managers, as 'outsiders' or as 'insiders' with new, hybridised expertise, typically have unstable footing in these endeavours.[60] This precarious status reflects the historical circumstances in which their beliefs and practices ('managerialism') continue to have a less-than-comfortable relationship with other (traditional) 'professional' values and arrangements. As indicated, managerialism

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[51]DM Brock et al 'Understanding professionals and their workplaces: the mission of the Journal of Professions and Organization' (2014) 1(1) Journal of Professions and Organization 1 at 5, citing R Greenwood et al 'Ownership and performance of professional service firms' (2007) 28(2) Organization Studies 219. P2 refers to large 'professional partnerships', coined by Greenwood, Hinings and Brown: see R Greenwood et al '"P2-form" strategic management: corporate practices in professional partnerships' (1990) 33(4) Academy of Management Journal 725.

[52]O Mendelsohn and M Lippman 'The emergence of the corporate law firm in Australia' (1979) UNSW Law Journal 78 at 82–83.

[53]Campbell and Charlesworth, above n 16, at 89–122.

[54]Ibid, at 110–111.

[55]Ackroyd and Muzio, above n 39; S Ackroyd and D Muzio 'The reconstructed professional firm: explaining change in English legal practices' (2007) 48(5) Organization Studies 1.

[56]H Sommerlad 'Managerialism and the legal profession: a new professional paradigm' (1995) 2(2–3) International Journal of the Legal Profession 159.

[57]For a study of legal project management, see Rogers et al, above n 18; F Bell 'Legal design: a primer', Law Society of New South Wales Flip Stream, 2020.

[58]See fn 23 and accompanying text for term, 'institutional work'.

[59]Empson et al, above n 21.

[60]As one example, business coaches have been described as 'haunted by ontological insecurity' in their efforts to secure legitimacy as an industry: SR Clegg et al 'Desperately seeking legitimacy: organizational identity and emerging industries' (2007) 28(4) Organization Studies 495 at 509.

is typically or immediately thought to have a threatening, controlling presence.[61] Indeed, status professions – including law – are, or were, characterised by their members enjoying high autonomy over their work and its organisation or rather *not* being subject to external, superseding agenda and oversight,[62] including those detailed in the studies mentioned above (performance review, quality control, project management). Some writing within this wider discussion on the management of professionals (not just law) has focused on the strategies used by managers, usually management consultants[63] but also sustainability managers,[64] business coaches,[65] and 'change champions' in healthcare,[66] to prove their (pragmatic, cognitive and moral) legitimacy[67] to those they seek to influence.[68] In showing how change occurs, this scholarship depicts the 'muddles, misunderstandings, false starts, and loose ends' of these processes, and emphasises the possibilities of failure.[69] These mis-starts occur, in some part, because their efforts, including for legitimacy, are not successful or not straightforwardly so.

(c) Change as managerialism

As a final part of the theoretical backdrop, we turn to change managers, those directly charged with introducing 'change', and their role and approaches. Change is characterised in the literature as 'planned' or 'emergent'.[70] An emergent approach, with features that are not planned or plannable, views change as a natural process which cannot be 'managed' but only adapted to.[71] Tensions naturally bring about new ways of doing things, and order will emerge out of chaos, but organisational life is not governed by rules of cause and effect.[72] The emergent approach can be contrasted with an almost wholly opposing model for implementing change, a planned model,[73] associated with Kurt Lewin

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[61]For a discussion on how managerialism can and does support or overlap with 'traditional' professionalism, see Noordegraaf, above n 1; A Olakivi and M Niska 'Rethinking managerialism in professional work: from competing logics to overlapping discourses' (2017) 4(1) Journal of Professions and Organization 20.

[62]For a history of professional management, see Kirkpatrick et al, above n 3.

[63]J Kitay and C Wright 'From prophets to profits: the occupational rhetoric of management consultants' (2007) 60(11) Human Relations 1613.

[64]C Wright et al '"Hippies on the third floor": climate change, narrative identity and the micro-politics of corporate environmentalism' (2012) 33(11) Organization Studies 1451.

[65]Clegg et al, above n 60.

[66]J Hendy and J Barlow 'The role of the organizational champion in achieving health system change' (2012) 74(3) Social Science and Medicine 348.

[67]Pragmatic legitimacy is where managers are seen, 'based on a self-interested calculation', as beneficial or trustworthy. Moral legitimacy 'incorporates a positive normative evaluation' of the managers and what they do, using social reasoning (not personal). Finally, cognitive legitimacy is granted to managers who 'render the world comprehensible or taken-for-granted, reducing anxiety and militating against dissenting views that an existing order is in fact arbitrary and could be altered', as adapted from AD Brown and S Toyoki's definitions, from their research into the types of legitimacy given by individuals to organisations (here, inmates to their prison), 'Identity work and legitimacy' (2013) 34(7) Organization Studies 875 at 878 (citations omitted).

[68]Professionals in multidisciplinary workplaces must also make legitimacy claims: T Sanders and S Harrison 'Professional legitimacy claims in the multidisciplinary workplace: the case of heart failure care' (2008) 20(2) Sociology of Health and Illness 289.

[69]Leca et al, above n 23, p 11, citing F Blackler and S Regan 'Institutional reform and the reorganization of family support services' (2006) 27(12) Organization Studies 1843.

[70]B Burnes 'Emergent change and planned change – competitors or allies? The case of XYZ Construction' (2004) 24(9) International Journal of Operations & Production Management 886; J Van der Voet et al 'Talking the talk or walking the walk? The leadership of planned and emergent change in a public organization' (2014) 14 Journal of Change Management 171 at 174; B Burnes 'Kurt Lewin and the planned approach to change: a re-appraisal' (2004) 41(6) Journal of Management Studies 977.

[71]Stacey and Shaw's 'complex responsive processes' models: RD Stacey *Complex Responsive Processes in Organizations: learning and knowledge creation* (Routledge, 2001) and P Shaw *Changing Conversations in Organizations* (Routledge 2002), cited in E Cameron and M Green *Making Sense of Change Management: A Complete Guide to the Models Tools and Techniques of Organizational Change* (KoganPage, 3rd edn, 2012) p 145.

[72]Cameron and Green, above n 71, p 117.

[73]Van der Voet et al, above n 70, at 174.

in the 1940s.[74] A planned approach sees organisations as 'stable entities', capable of setting change goals in advance and moving towards them. The emergent approach instead sees organisations as subject and adapting to their environments; the process of change is 'open-ended, often bottom-up' adaptation.[75] Another difference in emphasis is on the role of the (change) leaders. In an emergent approach, leaders are critical, but more for 'sense making' and 'redirection'; in a planned approach, leaders are 'heroes' who set a vision and drive change.[76]

Meanwhile, in addition to working out what type of approach is suited to the organisation within the wider, shifting circumstances already outlined, research would seem to suggest that the change manager role in a legal context is likely a very challenging and dynamic one. Several parts of the literature indicate that lawyers typically refuse change and that their institutions are characteristically well-established and resistant to change. Studies, including large, empirical, and comparative surveys, have shown that lawyers typically possess qualities that make them, as a group, difficult to change. These qualities include being highly sceptical (doubting the motivations of others), cynical, pessimistic, critical, risk averse, urgent, and resistant to authority.[77] Urgency is characterised by impatience, immediacy and a desire for economy in everything – ranging from conversations to work processes and relationships.[78] Within their pressurised environments and in part due to the stressful, client-facing and sometimes public (courtroom) nature of their roles, lawyers are more likely to suffer from significant psychological distress,[79] which makes resistance to change even more likely.[80]

Moreover, lawyers tend to resist managers, especially outsider-managers, and, as mentioned, devalue non-legal knowledge.[81] Salomon, in his interview study of 25 managing partners, consultants to law firms, people that coach lawyers, and others with experience in the legal industry, reported on interviewees observing a change proposal being presented to lawyers. After endless questions and cynical remarks, even those lawyers who were initially favourable withdrew support. Interviewees described scepticism 'spreading out like an oil slick over the audience'.[82] Salomon suggests that some of this scepticism may be rooted in lawyers' practice experience:[83] for example, lawyers who work in mergers and acquisitions and litigation learn from experience that external changes can undermine the profitability of a transaction or case. They are quite reluctant then to initiate change within their own environments.[84] Salomon's interviewees said that people start expressing what

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[74]Lewin's work continues to underlie many accounts of change: Burnes, 'Kurt Lewin', above n 70, at 986, citing C Hendry 'Understanding and creating whole organizational change through learning theory' (1996) 48(5) Human Relations 621 at 624. Lewin argued that a successful change project involved three steps: unfreezing, or upsetting equilibrium to enable new behaviour; moving through a trial and error process; and refreezing so as to prevent regression: Burnes at 985–86, citing K Lewin 'Frontiers in group dynamics' in D Cartwright (ed) *Field Theory in Social Science* (London: Social Science Paperbacks, 1947); TG Cummings and EF Huse *Organization Development and Change* (St Paul MN: West Publishing, 4th edn, 1989).

[75]Van der Voet et al, above n 70, at 173.

[76]Ibid, at 174.

[77]L Richard 'Herding cats: the lawyer personality revealed' (2002) 29(11) Report to Legal Management 2; J Foster et al 'Understanding lawyers: why we do the things we do: results from the Hogan Assessment Project of Lawyer Personality' (White Paper, Hogan Assessment Systems and Hildebrandt Baker Robbins, 2010); DL Rhode 'What lawyers lack: leadership' (2011) 9 University of St Thomas Law Journal 471, Salomon, above n 13.

[78]Richard, above n 77, at 5; Foster et al, above n 77, p 7.

[79]See, for example, N Kelk et al 'Courting the blues: attitudes towards depression in Australian law students and lawyers', Monograph 2009-1, Brain and Mind Research Institute and Tristan Jepson Memorial Foundation (January 2009); Law Council of Australia *National Attrition and Re-engagement Study (NARS) Report* (February 2014); C Kendall *Report on Psychological Distress and Depression in the Legal Profession* (Law Society of Western Australia, 2011).

[80]S Oreg 'Resistance to change: developing an individual differences measure' (2003) 88(4) Journal of Applied Psychology 680 at 681–682.

[81]Sandefur, above n 12; Salomon, above n 13.

[82]Salomon, above n 13, p 50. One of Salomon's participants, a law firm leader, reported that, due to this type of scepticism, he minimised internal discussions on change proposals and went ahead and implemented the change that he had in mind with the support of a small group of allies. If the reaction was positive, he made the change more permanent; if the reaction was negative, he was flexible and reversed the change.

[83]Ibid, p 53.

[84]Ibid.

Oreg and others have called 'cognitive resistance':[85] 'what is the hidden agenda behind the change process?' and 'how would it affect my position?'.[86] In the current political and business environments that have subjected lawyers to increased competition and regulation,[87] as described above, lawyers today may not hold a strong belief (real and perceived) that they are able to determine their own fate, a necessary feature for change to be positively received.[88] This may be especially true of corporate lawyers, a number of whom have been found to believe that they cannot disagree with their 'sovereign client'[89] for fear of losing business.[90]

Along with this picture of lawyers resisting managerialism, an established literature describes the law, legal profession, and legal system as slow-moving institutions. The idea that professions are good at resisting change is known in the wider professions' debate over their enduring authority as the 'continuity thesis'.[91] Some of this resistance is desirable, supporting citizens' needs for certainty, predictability and efficiency regarding the law and legal proceedings; as well as the need for lawyers to have settled regulatory arrangements around which to align their work. Other aspects of change resistance are more self-serving and pragmatic: to protect work jurisdictions and their financial and status rewards.[92] The writing in this respect has typically looked at the professional bodies, courts, and law schools. But law firms or the law firm partnership have proven to be especially robust, and continue to be so. For example, Muzio and Ackroyd's (2005) study showed how senior partners in large law firms have elongated internal hierarchies to protect their authority and rewards as defensive moves against outside pressures.[93] Empson and colleagues, in their study cited above, found that senior managers typically operate within the traditional ownership and control structure, thus maintaining the 'beliefs and behaviours', of the professional partnership.[94] Indeed, other research has revealed the biggest (and growing) impediment to change in law firms to be the partners themselves.[95]

Notwithstanding, in the context of law particularly, we do not know much about these managerial 'change' dynamics, and certainly little is known about these newer groups of managers charged with bringing in or implementing change, including the change managers. The broad landscape seems to be presenting urgent, potentially stimulating opportunities for change, as well as major blocks and friction points, but we still need to know how this situation is being perceived and navigated from within legal practices, or how change as managerialism is taking place.

2. Methodology

The purpose of this study is to understand the workings of change in the legal profession as enacted (or not) by 'change leaders', as professional managers or transformation professionals, but many in

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[85]S Oreg 'Personality, context, and resistance to organizational change' (2006) 15(1) European Journal of Work and Organizational Psychology 73; SK Piderit 'Rethinking resistance and recognizing ambivalence: a multidimensional view of attitudes toward an organizational change' (2000) 25 Academy of Management Review 783.

[86]Salomon, above n 13, p 54.

[87]Outlined in Part 1(a) and (b). See also Rogers et al, above n 50, at 226.

[88]S Oreg et al 'Change recipients' reactions to organizational change: a 60-year review of quantitative studies' (2011) 47(4) The Journal of Applied Behavioral Science 461 at 487.

[89]A Sturdy 'Customer care in a consumer society: smiling and sometimes meaning it?' (1998) 5 Organization 27 at 30.

[90]Salomon, above n 13.

[91]E Freidson *Professionalism: The Third Logic* (Polity Press, 2001); Ackroyd and Muzio, above n 39.

[92]Writing over decades, Abel has shown how the legal profession has historically been able to maintain high barriers to entry and control over participation, against powerful countervailing forces: Two of his major works depicting this are: RL Abel *The Legal Profession in England and Wales* (Blackwell, 1988) and R Abel *English Lawyers between Market and State: the Politics of Professionalism* (Oxford: Oxford University Press, 2004). For a discussion of how these public and professional interests overlap at points, see Rogers and Hartstein, above n 14.

[93]Ackroyd and Muzio, above n 39.

[94]Empson et al, above n 21.

[95]Altman Weil polled Managing Partners and Chairs at 801 US law firms with 50 or more lawyers, and received completed surveys from 398 firms (50%), including 45% of the 500 largest US law firms and 52 per cent of the 'AmLaw 200': Altman Weil, '2018 Law Firms in Transition Survey' (2018) xv at http://www.altmanweil.com//dir_docs/resource/45F5B3DD-5889-4BA3-9D05-C8F86CDB8223_document.pdf, p 15.

hybrid roles and/or with previous experience as lawyers. We conducted ten in-depth, semi-structured interviews, some in person and some over the phone, lasting 50 to 90 minutes. Interviews were conducted in accordance with ethics approval,[96] between June 2019 and March 2020.

We sought interviews with change leaders from different sectors of the legal profession. This diversity allowed us to garner multiple perspectives and experiences[97] of change management, to find 'patterns of regularity' that explain what the change managers are doing, how, and for what purpose.[98] Nine interviewees worked and predominantly dealt with change in legal settings. One had a broader responsibility, in a very large organisation, for a legal team but also for other teams and departments comprising several thousand people in total. Limitations of this design are that no interviewees came from small firms or from outside metropolitan areas, specifically, Sydney, and our sample is small and non-randomised. More significantly, our focus is on one professional group of change leaders, omitting other firm or company leaders, and those within organisations who are the recipients of change. This means that elements of efficacy (or causality) cannot be known, but also that a rather unidirectional account of interaction and legitimacy emerges. A more prismatic sampling would have improved our understanding of the drivers behind change and more of the micro-dynamics of the activities of change managers needed to devise and agree upon change ideas (if agreement is ever truly reached) and to then implement them. The interview accounts of leaders did nevertheless present a frank, contextualised account of change beliefs and practices, including points of tension and legitimating strategies, and there is no reason to believe that they are atypical[99] or would not be agreed upon by others, including the lawyer employers and change recipients, in the organisations.

Our aim was to achieve a purposive sample of change leaders working specifically in the legal context. There is little data available about change leadership within legal organisations in Australia, but recent surveys attest to a growing focus on innovation.[100] Waye, Verreynne and Knowler reported that 44% of the 185 law firms in their survey had 'an innovation strategy',[101] implying a particular mindset and set of goals. These authors found also that larger firms were more likely to be engaged in 'innovative activity' than smaller firms.[102] We anticipated that those in formal 'change' roles would tend to be located either in large law firms, NewLaw enterprises with an especial focus on innovation,[103] or large corporate organisations. For this reason, we had, as noted, no participants based in small or solo law firms or small organisations.

The resulting group of participants was diverse in terms of age with equal numbers of males and females. Professional backgrounds were varied, too: five had qualified and practised as lawyers but had now moved into full-time 'change' or knowledge management or innovation roles. One continued to practise law combined with an innovation role in the firm. Only one, a change specialist, had university level qualifications in change management, but many had accumulated years of experience in managing change, and most had engaged in forms of education on the topic.

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[96]UNSW Human Research Ethics Approval HC190063 granted 16 April 2019.

[97]C Robson *Real World Research: A Resource for Users of Social Research Methods in Applied Settings* (Wiley, 3rd edn, 2011) p 24.

[98]E Babbie *The Practice of Social Research* (Cengage Learning, 14th edn, 2016) p 11 at p 13.

[99]J Eekelaar and M Maclean *Family Justice: The Work of Family Judges in Uncertain Times* (Oxford: Hart Publishing, 2013) p 77.

[100]V Waye et al 'Innovation in the Australian legal profession' (2018) 25(2) International Journal of the Legal Profession 213; E Chin et al 'State of legal innovation in the Australian market' (Alpha Creates, 2019).

[101]Waye et al, above n 100, at 224.

[102]Ibid, at 225. Henderson found the same thing, saying 'organizational innovativeness is strongly correlated with size, even in law firms': 'Innovation diffusion in the legal industry' (2018) 122 Dickinson Law Review 395 at 429.

[103]There is no fixed definition of 'NewLaw', but it signifies some material divergence from 'traditional' firm structures (in pricing and billing, flexibility, workflow, and/or use of virtual communications) and their management. Thornton, above n 39, references an interview with Eric Chin, now Principal of Alpha Creates legal consultancy, as the person who coined the phrase. Chin originally conceived it as comprising legal process outsourcing firms, lawyer secondment firms and fixed fees legal service firms that 'leverage on demand lawyers', but now sees it as any alternative or managed legal service: see interview available at https://joseflegal.com/blog/interview-with-eric-chin-the-man-who-coined-the-phrase-newlaw.

No	Pseudonym	Gender	Organisation type	Background
IV1	Simon	Male	NewLaw	Director, strategic consulting role No legal background Extensive experience and formal qualifications in change management
IV2	Luke	Male	NewLaw	Head of legal transformation Qualified and practised as a lawyer
IV3	Anita	Female	Large company	Legal transformation lead for in-house legal team No legal background Extensive experience in change management
IV4	Naomi	Female	Large law firm	Law firm partner / Head of innovation Qualified and practised as a lawyer
IV5	Dan	Male	Law firm	Lawyer / Innovation role within medium-sized firm Founder of a not-for-profit organisation exploring law, technology and change in legal services
IV6	Elle	Female	NewLaw	Legal transformation manager Qualified and practised as a lawyer
IV7	Ravi	Male	NewLaw	Member of transformation team Law degree but never practised as a lawyer
IV8	Michael	Male	Large company	General counsel/ Legal executive Qualified and practising lawyer Training in leadership and change
IV9	Jacqueline	Female	Large company	Transformation lead / Human resources manager Extensive experience in change management
IV10	Corinna	Female	Large law firm	Head of legal operations Qualified and practised as a lawyer

Participants' contact details were initially found through searches for change leaders specialising in legal transformation who had engaged in public speaking or educational activities on these topics. Participants were recruited by an email which attached the Participant Information Statement and Consent form. Some initial interviewees made recommendations for further interviews, so a limited form of snowball sampling was also used. Ultimately, all but one person contacted ended up taking part in an interview. With participants' consent, all interviews were audio-recorded and later transcribed. Approximately half were conducted by phone and half were face-to-face.

Participants were interviewed in their professional capacity as change personnel. A semi-structured interview guide formed part of Ethics approval. Participants were asked about the following areas and topics:

- their professional backgrounds and route to change leadership;
- a recent change project – its purpose, how it was approached, and if it 'succeeded';
- the management of change – strategies, resources, outside expertise;
- barriers to change (and testing the lawyers-as-resistant theory);
- enablers of change; and
- implications for legal education and training.

Questions were also devised spontaneously during interviews to follow up on issues as they arose. Interviewees shaping the course of the discussion in this way was deemed important for allowing unforeseen topics to be raised and for interviewees to expand on areas of importance or meaning to them.

We began with a thematic approach to interview analysis, coding for high-level topics such as drivers of change, purposes of change, barriers and enablers of change, and strategies for managing change, as applied to lawyers and their organisations. Within these categories we were interested in interviewees' perceptions and experience of their role, as well as the prior experiences and organisational practices which appeared to shape their views. Our initial high-level coding therefore gave way to a more interpretivist, conceptual analysis.

In the Findings that now follow, we focus on the ways in which our participants as change managers approached their work in their efforts to change legal practices and lawyers. We do not provide a step-by-step change framework, which we have written on elsewhere.[104] Rather, our aim is to show what precise changes they sought to introduce and how the managerial strategies used by change managers were especially tailored to the legal context; its organisations, people, pressures, and opportunities. Of significance were the ways that change leaders had to navigate not only the implementation of change with the 'change recipients', but the managerial hierarchies of the workplace – convincing the leadership, in a context of competing not just with lawyers' priorities but other managerial imperatives. We note where the change managers' beliefs and methods illuminate something of the relationship between the different 'professionals': the professional manager, the manager professional, and the established (lawyer) professional. As we detail shortly, our interviewees fell into all these categories.

3. Findings

(a) Who are the change leaders?

As we established in Part 1, today's professions are increasingly run by managers with different blends of identity and expertise, conforming to and shaping different professional logics. Our sampling table depicts how six of our ten participants had experience as lawyers but had moved into change leadership roles, either exclusively or split with their lawyer job. Several described their role as having been designed especially for them, or they had moved out of legal practice to a range of non-practice roles, including those that had transformation bolted on. Luke had had some experience in non-practice roles (HR, business development), as first steps away from large firm practice, but preferred being in 'change' because it required, in his view, legal expertise. Corinna and Naomi, working in large firms, had come to change – each through around ten years of legal practice first, then knowledge management, tech, and latterly, innovation roles. We discuss below the differing perspectives on the benefits of having a legal background oneself when working as a 'change' person, and the significance for identity within a professional community.

Of those who had not practised as lawyers, two had started in financial services and re-trained in 'transformation' in that sector before moving to manage change in legal settings; another, Jacqueline, had always worked in human resource management. Ravi had a law degree but had not practised, rather working in non-lawyer, technology-focused roles in legal settings. He self-described as part of a 'translation layer' between lawyers and others in the legal services organisation.[105] Using the language of liminality, typical of apprentice professionals,[106] he said: 'I'm still in that hybrid, middle space between our lawyers … So being that translation layer, perhaps. That's the way I like to operate'.

Reflecting these mixed backgrounds and hybridised roles, participants went by different job titles. They identified as being 'in transformation', 'an organisational design specialist', head of 'legal

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[104]For example, J Rogers and F Bell 'Change leadership for a dynamic profession', *LSJ Online*, 19 October 2019.

[105]This role has been called a 'professional hybrid' which moves between managerial and professional groups: C Croft et al 'Broken two way windows? An exploration of professional hybrids' (2015) 93(2) Public Administration 380; see also S Paton and D Hodgson 'Project managers on the edge: liminality and identity in the management of technical work' (2016) 31(1) New Technology, Work and Employment 26.

[106]KM Pierce 'Betwixt and between: liminality in beginning teaching' (2007) 3(1) The New Educator 31; J Rogers 'Feeling bad and being elite: a comparative analysis of the anxieties and uncertainties of aspiring barristers' (2014) 13(1) Comparative Sociology 30; AFTS Mohamed et al 'Ambivalence, hybridity and liminality: the case of military education' in R Land et al (eds) *Threshold Concepts in Practice* (Sense Publishers, 2016) p 77.

transformation' or 'innovation'. Dan, a lawyer, had been given a particular additional title to encompass his 'change agent' role. Job titles also reflected different ways of defining themselves. Most had not formally trained in change management or similar. The non-lawyers who saw themselves now as 'organisational design', 'transformation', or 'change' consultants had the highest number of formal qualifications and distinct forms of training. Simon had completed three university qualifications (post-graduate/executive certificates) in the areas of change management and human behaviour. Anita was mentored by a colleague and then trained via the 'Lean Six Sigma' accreditation.[107] These two saw themselves as 'transformation' people and fit the 'professional manager' profile. Michael, a general counsel (known in his workplace as a 'legal executive'), had completed a change management course through a professional body, and been afforded extra training by his organisation in select leadership programs and various 'change' modules but he saw himself as a lawyer-manager.

(b) Types of change

The interviewees were sensitive to the broader context driving the need for change – and thus, for their roles in their organisations. They identified key galvanising forces for change: client desires; workforce (namely lawyer) motivation and engagement; and generalised pursuit of business efficiency, often through utilising technology, and allied with 'fear of missing out' in a competitive climate. The change leaders' awareness of these drivers goes also to their authority and sense of authority, representing claims they could and did make to their organisations about the value of their role; indeed, it seems likely that firm leaders created their roles because they had a similar sense of these pressures.

Interviewees were working on projects of varying scale and scope. Most of the changes the leaders were introducing would be characterised as 'emergent', that is, as mentioned, with features that were not entirely planned or plannable.[108] Simon focused very much on cultural change within law firms – identifying and where necessary attempting to shift dominant cultural paradigms. Three who worked for very large organisations (Anita, Jacqueline, and Michael) had been part of teams tasked with transforming work structures and practices, including major structural changes. Michael discussed a move to a 'horizontal' rather than siloed structure, and Jacqueline had been part of a large-scale transformation project towards working in 'Agile teams'.[109] She explained, however, that these types of change still entailed massive cultural shifts: 'there's a lot of cultural change you need to embed alongside processes, practices and structural change'.

Others referenced trying to get lawyers to work in new ways, often via increasing or changing their use of technology; some projects were aimed at increasing the use of automation in legal work. Michael said, 'we look at repeat advice we give, and we figure out a way to avoid a human having to do that' and Naomi described a similar logic. Automation inevitably focused on work processes and practices – Luke referred to lawyers becoming more like 'process engineers', and Elle explained 'what I do is, basically help lawyers be more efficient in the way they deliver legal services. So, we work very closely with the tech team to think about how we could improve our processes'. One delicate balance with lawyers is that in creating certain innovations – those around lawyers' 'workflow' or 'how they do their work' – lawyers' own autonomy and mastery are reduced.[110] 'So there's this real tension

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[107]'The six sigma method is a project-driven management approach to improve the organization's products, services, and processes by continually reducing defects in the organization': YH Kwak and FT Anbari 'Benefits, obstacles, and future of six sigma approach' (2006) 25(5–6) Technovation 708 at 708.

[108]See Part 1(c) for a discussion of emergent change.

[109]For managers who use it, 'Agile' is not just a business buzzword. It is a particular approach to project management, one with an iterative (done-in-pieces) methodology that 'values human communication and feedback' to adapt to change and produce tangible working results after each iteration: A Conrad 'What exactly is agile? A definition of agile project management', *Capterra*, 18 November 2019, blog post available at https://blog.capterra.com/definition-of-agile-project-management/.

[110]For an examination of the impacts of AI and other technology on lawyers' wellbeing, see F Bell et al 'Artificial intelligence and lawyer wellbeing' in Legg et al, above n 48, p 239.

between providing a real strict process for how you do legal work and also [lawyers'] engagement' (Luke). As with the structural changes, though, these 'ways of working' projects were fundamentally about getting lawyers to think and behave differently.

Change leaders pointed out that the changes they were making were either designed by senior management for the change leaders to then implement; devised and pitched by the change leaders themselves; or a combination. Each entailed different sorts and levels of negotiation (persuasion, education, compromise) between the change leaders and the lawyer partners, and then the lawyer 'change recipients'. Technological change, which many projects involved, was seen as especially challenging because of its iterative nature: the need for ongoing experimentation, impossibility of perfection, and reliance on user feedback were tedious for lawyers (Anita, Naomi). We discuss this interactive dimension further in the concluding section of this Part, when discussing the work undertaken by change managers in navigating managerial hierarchies.

(c) The setting for change: barriers and enablers

In describing the settings in which they were implementing change, interviewees discussed their perceptions of the main barriers hindering change but also some enablers – these being, of course, interconnected. For example, interviewee Simon said that all change innovations *should* involve getting rid of 'barriers' to change. In this formulation, good change interventions are those that break down barriers so that the 'goal' is reached. The change leaders accounts were not homogenous, and indeed were at times of conflict – matching a picture of change mediated by the specificity of individual workplaces but also the complexity of the landscape in which it was occurring. Here, we have broken these down into two overlapping kinds of settings or contextual features: organisational and professional; and those connected specifically to the individual change recipients being lawyers. This analysis represents the constraints over and affordances for the change managers' institutional work within their organisations,[111] as they saw and experienced them, and sheds light on certain aspects of 'continuity' within the profession.[112]

(i) Organisational and professional

Several features of the law firm architecture itself were singled out by the change leaders as problematic. One related to managerial structures. According to Simon (not himself a lawyer), lawyers acting as managers – but without the proper training – was sub-optimal. It reflected and reinforced the incentives of the partnership, an arrangement prioritising short-term planning, as profits are shared out among partners rather than being put into longer term research and development. Simon further identified a lack of clarity among and accountability between managers and employers, and diminished trust within the legal organisation as all acting as barriers to change. An in-house change leader (Michael) was also less than optimistic about systemic change within law firms while the partnership structure remained. He felt that in-house lawyers were better placed for innovation: 'I think in-house is probably at the vanguard of innovation in the legal profession…I think the large law firms, private practice in particular, have a model that has worked for them for many years. It's made many people very rich'. He also noted that law firms are rarely engaged in restructuring – whereas in his own organisation, this type of rearranging could seem almost continuous. Meanwhile, Simon also characterised the typical lawyer-client relationship as 'unusually strong' – reliant on time-honoured relationships or habits rather than disinterested evaluation. In his view, this led to a lack of feedback-seeking and reflectiveness among lawyers and their firms, to see how they might improve.

Views from within law firms were, unsurprisingly, different. The change leaders in these firms felt that the fact that their positions existed was testament to the firm leadership's support for their initiatives. Nonetheless, Naomi detailed how her role, designed for her, and on par with an equity partner, was critical to her changes getting through. She referred to her role as having grown from the 'ground

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[111]Empson et al, above n 21.
[112]Freidson, above n 91; Ackroyd and Muzio, above n 39.

up', in contrast to other firms which might have 'a 20 year or so partner who has then moved into an innovation-related role'. She said 'I think [making me equity partner] signalled to the firm, as well, the investment that they were willing to make. I think partly because of that as well, we [she and her team] get a huge amount of traction with our partners'. Even without such power within the firm, some change leaders enjoyed the open-mindedness and support of a new crop of managing partners (Dan, Luke). Investment was, however, a crucial step: several referred to ideas foundering when it came to the implementation stage.

How to fit 'innovation' and change projects around lawyers' daily work was a persistent challenge. Several noted that, though a 'dip' in productivity or revenue when a change is first implemented is to be expected, this was concerning and off-putting for lawyers, focused on their own, individual performance (Anita and Naomi). Likewise, Corinna described a widespread change that would especially benefit only one practice group within the firm, and the challenges of getting lawyers to adopt it for the sake of the greater good. Some recognised that lawyers rarely had the space to think about this 'bigger picture' (Michael, Luke). Luke, for instance, spent a lot of time thinking about how to improve systems – but conceded, having practised himself, that this type of reflection would be 'tiring' for lawyers.

More specifically, the focus on remunerative work was all-consuming. Naomi said: 'The billable hour is definitely still a barrier to change because … people think about it in that context. You know, value creation is still considered in the context of the billable hour'. This was linked to lawyers being time-poor but also an inability to 'value' one's activities in any other way. This challenge carried over even into a NewLaw firm which did not use time-based billing: '[To resist changing, the lawyers] say that their clients – that's how their clients like it' (Elle). She described the difficulty in getting both lawyers and clients to be comfortable with the use of a time-saving software, saying that some would still prefer to bill according to time and an individual doing the work. Appeals to what clients wanted were difficult to unseat, as clients were always prioritised. It points to the managerial hierarchies flagged in our Introduction and identified in other research, where 'change' projects – even those which are efficiency-driven – struggle to gain priority over the 'real' work of billing time and related performance review.[113] As we pick up again shortly, Dan and Luke both emphasised the importance of a strong business case to 'protect' internal innovation initiatives.

These types of structural issues were perceived as having a symbiotic relationship with other barriers – for instance, cultural and relational barriers were entangled with the structural encumbrances of partnership. Simon felt that different firms have 'dominant practices' to which their lawyers align over time. His examples included a 'permission culture' (where no one does anything unless the CEO says so or gives permission), risk averse, and a masculinist ('aggressive', 'sexualised' and 'sexist') one. This means both that change may be more or less likely, but also that any change that does take hold can be warped by the dominant practice or culture. A good change leader, Simon said, will bring in an intervention that both gets the desired result *and* changes any 'unfavourable' behaviours within the wider culture.

(ii) Lawyers' personalities, training and work

The responses of the change leaders supported, to a significant but not complete extent, the theory outlined in Part 1 of lawyers as change resistant. It was noted that legal organisations tended to be slow and incremental in their changes: Anita, referring to a particular change, explained that 'the legal team had worked in the same manner for more than 25 years'. Luke pointed out that insurance incentives and disciplinary structures also encourage risk aversive behaviour over change.

Change leaders identified certain personality traits of lawyers as impediments to change. In the literature outlined, cynicism correlates the most strongly to a negative response to change, and lawyers tend to be highly cynical.[114] This barrier was raised by at least one participant who described the 'highly cynical' as the 'biggest worry'; 'the ones who command the water cooler …who will spend

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[113]Campbell and Charlesworth, above n 16.
[114]See Part 1(c).

time telling you all the reasons why something won't work and then telling everyone else and being highly influential in that' (Michael). However, the change leaders were more typically concerned about 'perfectionism' and 'impatience'. These traits, they said, meant that lawyers expected the change to be 'perfect' before trying it, because that is their 'mindset'.[115] Michael, who singled out 'cynicism', also said that lawyers always want a 'playbook' to follow and are uncomfortable with 'figuring it out' as they go along.

The change leaders also understood these forms of resistance as contextual, specifically, related to fears about being replaced or devalued by AI or other technologies[116] (Michael, Elle, Luke). Michael felt that resistance stemmed from a 'fear of irrelevance':

> So, a number of lawyers thought about this and said, 'OK, so you're telling me that we're going to have a real focus on the areas where we add value, and some of the routine, repeatable, high volume work might be a candidate for automation, you might be outsourcing, that's what I do, that's my value and I all of a sudden feel threatened, if I am not doing that, what am I going to do?'

There were also associated work practices which were ingrained: asking lawyers, for instance, to use a centralised pool of precedents was against their instincts to do things their own way and not share their work (Elle).[117] Luke made a similar point when discussing a technology project trying to encourage lawyers to give more succinct and focused advice, noting that their training and risk aversion meant lawyers were more likely to give too much in their advice ('50 key issues') and not enough actual 'advice' or 'tangible answers'.

Some felt that lawyers tended to deny the need for change, and were typically not interested in, for example, data establishing the need for it.[118] Though he expressed at the same time concerns about the legitimacy of change managers,[119] Ravi thought that there was a lack of knowledge among lawyers about change as an ongoing process: 'I think there is bemusement, from a lot of lawyers, around what the role of transformation is, transformation as a function, so what our team does and how that ties to us wanting change'. He felt it was problematic that 'people haven't bought into the idea of continuous improvement' – the idea that change was a constant, and ongoing, process. This was despite the fact that, based at a NewLaw practice, he felt its culture already attracted lawyers who had 'bought into the brand… so they've come here wanting a change. So that's quite a different situation I think from the more traditional firms which are stuck with the partnership model and are trying to shake things up'.

In change leaders' accounts, however, lawyers were not depicted as homogenous. There was a sense that lawyers were better primed for change than the literature suggests. Naomi reported that lawyers were now attuned to what was going on in the wider environment and understood the need for change. Dan, the youngest change leader, came to realise that his 'student' perception of lawyers, 'as laggards' was swiftly overturned once he began practice: '… there's a level of business savvy and opportunity-identification that is in the DNA of business minded practice leaders'. He felt that 'stereotype[s] about lawyers … [are] probably driven out of the way institutions work and the way courts

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[115]These frustrations align with lawyers' concerns about the importance of time, and the need to pass on costs to clients – as Campbell and Charlesworth, above n 16, fn at 100.

[116]For discussions of these themes: Bell et al, above n 110, and F Bell et al 'Lawyers' wellbeing in the (robotic) face of technological change' in A Sifris and J Marychurch (eds) *Wellness for Law: Making Wellness Core Business* (LexisNexis, 2019).

[117]Campbell and Charlesworth, above n 16, at 107. Moreover, the legal profession is built on individual practice, rewards and accountability. Finally, sharing goes against the wider social culture built on the cult of the individual: J Weinstein et al 'Teaching teamwork to law students' (2013) 63 Journal of Legal Education 36 at 46.

[118]Conversely, another interviewee thought that lawyers' general tendency toward the rational meant that data was needed to persuade them.

[119]See Part 1(b) on the search for legitimacy. The studies cited in this section present similar findings: the frustration and fears for managers related to people not understanding what 'we' (managers) do.

work and things'. This type of environment, with its business and innovation focus, encouraged the change leaders in feeling that they were increasingly important to their organisations.

Lawyers' personalities were also identified as conducive. For example, their scepticism and risk aversion (analytical skills) were seen also as positives, that could be anticipated and harnessed by change leaders. Anita, a non-lawyer change leader, having worked previously with accountants, thought these qualities – that, as a change leader she 'loved' – marked out lawyers in particular: 'When you're implementing something, you want to pull out the risks and issues…Lawyers are all about risk. And the ability for them to tell you where the risks are coming or where the risks could be, it just flows'. She also described lawyers as 'solution focused'. Simon said, 'I think lawyers are sceptical about tech solving the problems that they want to solve. But I think that's okay if it's more [about] interrogating, "What's the actual need we're trying to solve and does tech do the right thing?"'. Dan thought that lawyers were naturally good at thinking about multiple stakeholders, and pros and cons, because their professional obligations meant they already had to 'figure out what the best answer is' not just for the client, but also 'in light of our ethical duty to the Court'. For him, this meant lawyers were already in an analytical process of 'constant reflection and refinement'; and that their duties were a positive check on non-legal decisions.

(d) Securing legitimacy and influence

To be influential and effective, the change leaders needed to secure legitimacy that, depending on the context, related not only to their innovation but also to themselves; their identities, role, and 'transformation' as a discipline. This endeavour involved three activities: proving themselves and their expertise; deploying inclusivity and transparency; and navigating and harnessing organisational hierarchies in which they were not the only ones with a managerial role.

(i) Proving themselves and their expertise

Regardless of authority and background, the change leaders knew that, in order to be effective, they needed to prove *themselves* to the lawyers, and not just the merit of their innovations. But there were different views about whether it was more advantageous to be a 'manager professional' (having legal knowledge and practical experience, if not just the status attached to the degree) or a 'professional manager' (without it, and with management or some other qualification) in establishing this legitimacy and therefore influence. These beliefs positively correlated to the participants' own backgrounds. Varied views about the importance of having a law background foregrounds one of the strategies change leaders used (ie their legal knowledge and experience), but here we point it out as a way of suggesting that the change leaders with legal backgrounds still held onto that part of their identity and felt more included in a professional community because of it. In an echo of the 'professional purity thesis',[120] the former lawyers all expressed the importance of their legal backgrounds as engendering confidence, bringing empathy, and generally being held in esteem by change recipients. In contrast, the non-lawyer change leaders tended to emphasise their own specialised knowledge and track record in implementing change.

Having legal practice experience, the lawyer-managers argued, means being better able to 'understand the areas of practice' (Corinna). They could also appreciate lawyers' relationships as vitally important things for lawyers, especially their relationships to the lawyer managers and 'the dynamics of the teams' (Ravi). Besides this sensitivity, having a law background helps with 'clout and rapport' before and during any change process. Corinna said: 'People who haven't practised, don't know the right questions to ask, can't build rapport as easily'. She felt that her years of experience as a lawyer were often enough to get change recipients 'across the line', 'trying [the innovation] once' to get them to 'see for themselves'. This, she continued, can make all the difference given lawyers' typical

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[120]See Sandefur, above n 12.

personalities. 'Lawyers are sceptical; they want things to be logical first. Most of the big change movements [I've successfully led] are when I've been able to convince people to give it a go'. Ravi, working in tech and change in a NewLaw setting, also saw that possessing a law degree was helpful when interacting with lawyers, though more as a marker of capability, 'a status thing'. He explained: 'the fact that I can say I've got a [law degree], puts some at ease. …I think quite a lot still hold on to the idea of status'. Lawyer interviewees tended to emphasise that it was this standing as lawyers or former lawyers which carried credibility with other lawyers, as well as attaining change 'results'.

These (lawyer-trained) change leaders were largely agnostic when it came to specific change methodologies and training. Luke, a lawyer-change manager, recognised the 'super valuable' expertise of 'project managers, designers, Agile, project manager type people'. However, he thought this was 'input' you could enlist from outside, via consultants, as needed; to train the lawyer managers to then test out and develop. Shedding light on why he was not overly concerned about the precise nature and boundaries of change management as a discipline, he said:

> I think a lot of people in the industry… have a view that you need to have a non-lawyer change manager on your team, or a non-lawyer designer, or a non-lawyer Agile coach. I'm much more of the view that, at this stage in the industry's development, it's going to be much more valuable if [different] people [including lawyers] are doing a lot of these things and trying them out.

Across all the change leaders, there was no especial consensus on skills, qualifications, or core expertise for change management. The range of change methodologies which leaders employed further attested to the sense that formal accreditations had only a loose relationship with the work to be performed, and that most skills were being learnt 'on the run'.[121] The fluidity in terms of management lore indicated that for most, certainly the lawyer change managers, their strategies were developed via experience and experimentation, learned and adopted in ad hoc fashion on the ground.

Notwithstanding, the non-lawyer change leaders focused on, as indicated, special knowledge and skill and results to a greater extent. Anita, a non-lawyer, argued that credibility was attained from delivering successful outcomes. She described some of the distinct expertise of a professional change manager: they introduce systems that 'lawyers are not used to', primarily 'governance frameworks', like steering committees, project plans, 'critical paths', fixed timelines, and other systems that make 'everybody aware of what their role is in the change, and aware of what their responsibilities are'. Drawing on her training in certain change methodologies, Anita felt that the most important elements when commencing a project are the scope and for everyone to understand where they fit in the process. Jacqueline, an HR manager, said that change management comprised: 'technical things like being able to do impact assessments and being able to do that effectively, risk and issue management… and problem-solving and [the] multiple skills that come with that, instructional design, so being able to design training that people might need'. She explained that these skills, and knowledge in areas such as organisational behaviour and communications, would be prioritised over formal accreditations by those recruiting new change leaders.

Jacqueline also felt there was benefit in 'multidisciplinary crews' or different, interactive, mostly non-lawyer teams to 'deliver' change, which, in effect, is 'cultural change, structural change and process/practice change'. She thought that having a lawyer in charge of the change team was good – for the 'context of the organisation and how it works', but that they needed a non-lawyer team around them: 'change expertise, comms [communications] expertise, and people expertise'. Jacqueline described, moreover, how much of the 'change' work was done largely behind the scenes, with the 'change' people,

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[121]The interviewees referenced an array (or hodgepodge) of management methodologies and tools such as Agile (an iterative project management system and set of practices or 'ceremonies'); Google's Objectives and Key Results; Lean Six Sigma; the '3S framework' (story, strategy, solution); David Rock's 'SCARF' model'; Boston Consulting Group's 'Ready, Willing, Able' framework; Heron's six intervention styles. Some were running design events, including hackathons and design jams. Finally, some were using software programs as well, including Agile's KanBan (incremental and longer term than Agile).

collaborating with 'HR and comms people'. The 'inclusivity and transparency' we describe as a dominant strategy below was therefore of a curated and sometimes selective kind. Indeed, some non-lawyer managers seemingly saw change as something organised mostly among the different managers and management groups, where the change recipient lawyers' grant of legitimacy was not always needed.

Nevertheless, Jacqueline also indicated that change expertise was possibly the easiest to pick up from another discipline: 'If you have to sacrifice one, if you've got HR and comms people with change experience, then that's probably okay. Otherwise, some change expertise would be good'. Luke, meanwhile, was agnostic as to the expertise or skillset of a change manager perhaps because, as a lawyer, he had less at stake in the development of change management as a separate identity and profession. Similarly, Naomi, also a lawyer, felt that abstract change knowledge 'doesn't work for [our lawyers] … Kotter steps or whatever[122]… it doesn't resonate with them'. Instead, she prioritised empathy and knowledge of their working conditions.

(ii) Inclusivity and transparency

In working to implement change among lawyers, the change leaders espoused inclusivity – involving lawyers in the change process, displaying empathy, and investing emotional labour in bringing them onside – and associated with this, transparency in their communications and processes. Inclusivity and transparency supported an emergent design but, as suggested above, they were a matter of degree.

There was general acknowledgement that it was important to involve lawyers early on in defining 'the problem you're trying to solve' (Anita). Dan said, 'I think one of the most cost effective, potentially zero cost, ways of starting a change management process is to listen in very carefully to people who do the day-to-day work about what sort of problems they face'. Ravi, a non-lawyer, described just how granular and mundane this understanding of the problem needs to be, indicating something less romantic about a change leader's role than they themselves perhaps had envisaged. Giving the example of automating legal documents, he said:

> It's very easy to go in with a whole big plan of how you might want to 'change the world', automating documents, but in practice a lot of lawyers were really concerned about being able to find the right thing really quickly, or not having to enter client information every single time or sort of repetitive stuff. Or even knowing where documents would be stored at the end of the day. So, I think getting the basics right has been something we've really tried to work on but perhaps didn't start looking for.

This realisation came about, as he put it, 'because we've forced ourselves to talk more to the lawyers', suggesting it was something the change leaders initially did not think they needed to or should have to do (or perhaps wanted to do).

Other change leaders confirmed that an inclusive approach is critical, in which lawyers are asked for their input and ideas, and help devise and customise the solution (Anita, Corinna, Luke, Naomi, Simon). Anita, a non-lawyer change manager, said that lawyers especially needed to be 'led to the outcome' as opposed to having the solution 'given' to them. She, and Michael (both working in in-house legal departments), also detailed careful strategies for persuading 'detractors', typically relying on one-to-one, empathic communications. Meanwhile, a more inclusive approach was not necessarily always pursued out of principle, but rather because it was more practical and less embarrassing for the change leaders to have a certain small number of change recipients testing out the innovation and giving feedback until it was worth sharing with the wider organisation.

At the same time, promoting emergent change was difficult in the legal context because lawyers commonly dislike uncertainty or, more specifically, its emotional displays.[123] Almost all the change

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[122]JP Kotter *Leading Change* (Harvard Business School, 1996).

[123]For a study of the emotions of lawyers, specifically barristers, see LC Harris 'The emotional labour of barristers: an exploration of emotional labour by status professionals' (2002) 39(4) Journal of Management Studies 553. This suppression

leaders highlighted challenges associated with this. This meant attaining a balance between needing clear structures and fora for gaining lawyers' feedback about the change and not overdoing transparency. A few noted that a transparent approach can be grating. Michael described a process in which the leadership team told the lawyers the details of the change as and when they became known to the team; they were honest about not knowing exactly what that change would look like. He said: 'We communicated in an incredibly regular way several times a week: big town hall sessions, "this is what we know right now", we had materials, we had Yammer groups,[124] we had "ask us anything sessions" … There was no shortage of information'. But, he continued: 'The most positive feedback we got was that "you [the change leadership team] were super transparent the whole way, [but] sometimes you over-shared…and we just wanted you to get on with it; we thought the process went too long"'.

However, the interviewees felt that it was better to be straightforward about not knowing exactly how the change would unfold, than pretending to know everything or simply waiting for 'certainty' and not communicating anything (Anita). This represents, as Jacqueline explained, 'a shift from the old way of managing (planned) change in which is usually very quiet until it's finalised and then people get informed about it'. Jacqueline recalled how a more inclusive and transparent approach to change was even embodied in the workplace architecture, in one instance:

> the rooms that we [she and her team] worked in were transparent, literally; we weren't in a special blocked off space. People could walk in and out of the room we were in … So it was really different, which was good because it symbolised [that] we want to work differently, we want to be more transparent, we want to be more two-way, we want to co-create solutions.

Indeed, transparency extended to the change managers themselves: a lawyer-manager stressed the importance of being accessible or 'always visible to the target audience' (Corinna). A non-lawyer manager (Anita) said, 'I'll give anybody airtime, I will always talk with people', and that she made this clear to lawyers. This indicates how managers are themselves managerialised, in their needing to be visible and available at all times.

To relate this to the earlier discussion about the ideal background of the change manager, Simon, a non-lawyer, felt strongly that lawyers being managers and therefore handling these decisions around inclusivity and transparency was 'highly problematic', due to lawyers' typical mindsets.[125] Indeed, Michael, a lawyer change manager, confirmed this to an extent when he reflected that in the past, his own 'lawyer' traits – of overthinking and catastrophising ('going to the worst case scenario', of being sued by an employee) – meant that his approach was perceived as being (and was to some extent 'in fact') 'under an enormous veil of secrecy and without transparency', which, he said, made the process less successful and undermined credibility for future change programmes. Luke also commented that in a past project, not enough feedback from lawyers was sought, because as a lawyer himself he mistakenly thought that he knew what the feedback would be.

(iii) Navigating and harnessing organisational hierarchies

For successful implementation, there was a strong sense among the participants that they and their teams needed to understand and mobilise the organisational hierarchy. In advocating for their strategies and actions to the different groups, they were, in the process, also securing 'their' form of managerialism over others. Securing the support of senior (lawyer) management was critical. Dan referred to the approval of 'particular personalities [in the firm] who are the decision makers'. Simon said that persuading 'the top', or those who are most invested in the old model, was imperative. Anita agreed,

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of uncertainty might be traced to professional socialisation more broadly, which some have theorised as a process of hiding this uncertainty or developing a 'cloak of competence': J Haas and W Shaffir 'The professionalization of medical students: developing competence and a cloak of competence' (1977) 1(1) Symbolic Interaction 71.

[124]Yammer is a social networking application for discussions within organisations. Instead of sending email, topics are posted to certain groups within the organisation.

[125]See above at Part 1(c).

referring to being undermined by '[having] a group that agrees with you, then walks out the door and does something completely different'. Luke, a NewLaw transformation leader, saw 'communications' that aligned the innovation with other, existing or more straightforward managerial objectives as essential to 'protecting' the innovation from being cast aside. Given that one of the main overarching drivers for managerial activity is profit,[126] it is perhaps unsurprising that three emphasised that any innovation needed to have a 'business case' (Corinna, Dan and Elle). Where the innovation was conceived of by the change managers and not the partners, it needed to be sold to the partners as serving another, already-existing firm objective, such as attracting new clients. Dan explained, half-jokingly:

> Because if a decision maker in a law firm doesn't see that the innovation project has led to some 'multibillion-dollar unicorn side business', you know, then it's a failure. So, what I've been trying to do is incentivise the innovation in the firm [as a means] to build other things, like business development.

Naomi felt that effectiveness largely came down to the level of authority given to the change leader. They might be 'very enthusiastic around these particular areas … but have no authority to do anything' within the organisation. They then are slowed down or even lose credibility by having to 'go through a series of stakeholders' to get anything done.

Several change leaders referred to the challenges of connecting all members of large organisations to a sense of broader purpose or mission, or that purpose being poorly defined and articulated in the first place. For change to diffuse into the wider organisation, both Luke and Naomi described the need for what they called 'ecosystems' or 'innovation networks', of formal and informal change agents, each 'embedded' into the organisation to 'make sure it actually filters down to the day to day doing of work'. Indeed, though change leaders felt they needed the support and imprimatur of those above, their emphases were on relational networks, rather than management from the top, also evidencing something distinct from traditional styles of management. Elle described a wider movement, from change leadership as 'top-down' to, now, 'bottom up' in which change leaders work to convince people one by one. This more democratic approach also suits an 'emergent' design. Corinna, a former lawyer, saw the change leader's role as marked out because it must interact with all parts of this system. In her view, other 'knowledge' managers, such as 'HR, Finance, or Business Development' are able to work 'just with the business owners (the partners)' whereas change managers need to work 'up and down the chain'.

Many of the participants highlighted the idea of tying innovation to formal rewards, thus integrating management forms (change and remuneration) that could otherwise act in opposition. To Simon, this method 'unlocked' critical constraints posed by billable hours and lawyers' lack of time. Jacqueline, based in a large organisation, explained the raft of motivational, push/pull options available to encourage buy-in, from rewards and performance review, to social exclusion. It was important to achieve a balance between giving lawyers the opportunity to participate and recognising that they had other preoccupations. However, a related strategy was to give lawyers a distinct context for thinking about or otherwise contributing to innovation.

To this end, it was not only the change leaders 'disguising' innovation activity within other managerial objectives; it was also asked of lawyers, or afforded to them, to increase buy-in. For example, Naomi, a large firm change leader, explained that their lawyers can now work up to a certain number of 'innovation hours' each year, pursuing or helping test out strategic projects, which counts the same as billable hours in performance review. She said: 'And the partners have no idea when they walk into the performance review what percentage is attributable to the innovation component'. In this way, in many legal contexts, innovation is still something which needs to be hidden rather than something a lawyer could be proud of in their performance review. Being remunerated and recognised for innovation hours is, thus, not quite a 'formal reward' but more a 'formal non-penalty'.

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[126] Kirkpatrick et al, above n 3, p 64.

Concluding discussion

The theme of change is among the most salient in the professions' literature, notably in the form of managerialism. This paper brought these together by investigating change *as* managerialism through an interview study of change managers in the legal profession; a new group of managers using a growing management discipline to inspire, impose, or otherwise induce change within legal practices. The study shed light on the forces, types, workings, and effects of change as managerialism in the legal profession. It also illuminated certain elements of 'change' as an ongoing pressure for lawyers and their organisations; a pressure that is more or less accepted or resisted by legal practices, to some extent, in their adoption and treatment of change leaders.

First, the change leaders pinpointed the drivers for change, confirming several sources identified in the literature: the client, the workforce, and a general belief about the need for 'continuous improvement' for greater efficiency. They also referred to a fear of missing out, indicating a competitive as well as performative aspect of change, wherein firms need to be seen as 'doing' change like their referent peers. In thinking about how this form of managerialism is taking root, the change managers can and do use these drivers as claims when advocating their own value, and, given the change managers' presence in their organisations, sometimes in the upper echelon of the partnership, it seems that the firm leadership have also accepted these as the reality. The findings also revealed the affordances or enablers of change, from the inside, for example, in the belief that lawyers typically now understood the need for change and that their skills in critical thinking made them, in fact, good partners for the change leaders, because they were quick at identifying problems and assessing solutions.

Yet managing change within legal practices, and being accepted as a manager of such change, involved struggle. Change leadership is by no means consistent or assured and, like other forms of management, entails effort and resistance, trial and mistakes.[127] Indeed, while the current discussion of professions describes their dramatic change, or need for dramatic change, the images of the law and lawyers are – or have been – that they are unchanging and resistant. The change leaders reported that there continue to be several barriers to successfully initiating and implementing change. A major reported block was the typical personalities of lawyers, mostly in their perfectionism and impatience, but also their cynicism and fear of innovation reducing their own relevance. Structurally, the main perceived barriers were the arrangements of the traditional law firm, the partnership; the billable hour and the competitive culture supporting it; and the personal, idiosyncratic (or non-reflective) nature of the lawyer-client relationship.

Moreover, and to contribute to our understanding of managerialism in the legal profession, the findings indicated that change management fits within a wider hierarchy of managers and managerialism. The change managers explained how, for example, in pitching their ideas, they needed to contort their innovations to support the 'business case' of increased profit and efficiency, the most powerful, encompassing drivers of managerialism. The change leaders must forge a network of supporters, working up and down the organisational hierarchy, in order to convince managing partners, lawyers and administrative staff of the merit in their roles and projects. During this process of implementation, they said they could be 'sidelined' by lawyers' 'fee paying work'. 'Change' was second and subject to a pre-existing and more important 'change', the billable hour. The notion of subjecting innovation to other management methods came up again in performance reviews, where, in one firm, lawyers were able to secretly count 'innovation hours' as billable hours. In this way, managers still approach change within the legal profession, at least the large firms, in a shrewd, somewhat or sometimes covert fashion.

Moreover, if management is marked out by seeing and evaluating, change leaders were themselves subjects of management, of the partners they had to convince, but also of the lawyers, as change recipients, to whom they needed to be 'visible' and 'available' and ultimately prove themselves as legitimate. This again shows how transformation, as a form of management, is not yet entrenched and its practitioners, reportedly more than other types of managers, had to have everyone onside. Our

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[127]Leca et al, above n 23, p 11, citing Blackler and Regan, above n 69.

understanding of managerialism tends to be presented as singular and totalising, instead of itself involving hierarchy and degrees of performativity. Our study highlighted that managers are themselves employees, with different types and levels of authority, and where their managerial practices are unsettled, overlapping, and unequally valued.

Reflecting this ambiguous status, we also saw mixed (emergent and planned) practices among the change managers. They described the need to be transparent, inclusive, and collaborative with the lawyers, and the discomfort they felt in having to communicate their uncertainty to them and indeed, in some cases, in having to involve them at all. But in other aspects, the change leaders remained insulated, working with other non-lawyer managers to formulate and implement change from the sidelines in a more structured, 'planned' approach. We also saw different views about whether a legal background helped in successfully implementing change. Naturally, these views divided according to the participant's background, with the former/concurrent lawyer-managers (manager professionals) seeing it as critical to the empathy required to get projects 'across the line'; and the non-lawyers (professional managers) emphasising the formal methods of change management to give structure to the process, possibly reflecting too their own interest in the wider discipline of change management as an aspiring profession. As managers in professional contexts, representing a 'bridge between two different systems', our interviewees have to move between different worlds, lawyer and manager, with more time spent in and greater loyalty to one.[128]

In addition, the picture that emerged revealed facets of the wider state of 'hybridised' (traditional, managerial, and entrepreneurial) professionalism, where professional organisations increasingly comprise mixed groups and disciplines. The findings showed how managers themselves have different managerial backgrounds and skillsets, and beliefs about the value of them. Interestingly, 'transformation' seemed to be the managerial discipline that a few of the managers (not the two who had the most formal training in it), said could be picked up on the job or on which you could seek outside expertise, so long as other management expertise, such as HR, was available. Again, there appears to be within and among legal practices, status jostling among 'non-lawyer' managers too, and not only, as has been documented, between so-called 'outsider' managers and 'insider' professionals (partners and lawyers).[129]

As a final contribution, our findings also illuminated the *types* of change being brought into legal practices. We know that professions are changing, including, broadly, by introducing technology, and this study revealed precise examples of what this means and, thus, where the priorities of change are, including: modifying work structures, getting lawyers to use technologies to streamline advice or other aspects of work, and/or improving workplace culture to be more innovative, team-oriented, and dynamic. Overall, the change leaders talked of a move from lawyer to 'trusted advisor', something that would seem to signal traditional professional identity centred on trust, but here it meant someone who can provide many forms of 'professional' expertise to the client. Indeed, one of the participants described the goal as changing lawyers into 'process engineers'. This symbolised powerfully that, through change-as-management, lawyers are themselves transforming into managers, or at least this is the hope; managers responsible for 'optimising' work processes so that they run desirably for the client, cost-effectively for the organisation, and, ideally, positively for themselves.

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[128]'As a bridge between two differing systems, the change agent is a marginal figure with one foot in each of two worlds': EM Rogers *Diffusion of Innovations* (Free Press, 5th edn, 2003) p 368.

[129]Empson et al, above n 21. We do not use 'non-lawyer' pejoratively, though we are aware that such terminology might perpetuate status hierarchies.