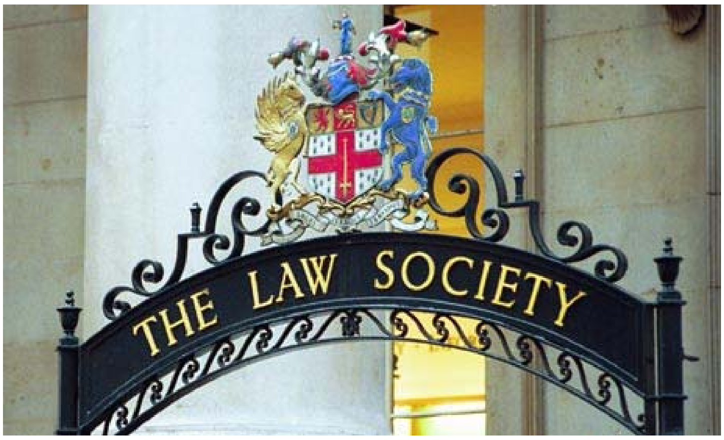
guardian.co.uk

Big hurdles to leap as big business eyes entry to legal aid sector

Will corporate investors be interested in entering an impoverished sector?

Jon Robins
guardian.co.uk, Wednesday 22 December 2010 14.35 GMT

A larger | smaller



The Law Society has been calling for a more sensible commercial environment for legal aid. Photograph: Sarah Lee for the Guardian

In the brave new world of legal services, 2011 is set to become the year of the alternative business structures (ABS).

For the uninitiated, the introduction of ABS – which permit the external ownership of law firms – is expected to, as one commentator put it, "blow apart the established conventions".

The prospect has prompted much breathless coverage in the legal press. Nonetheless, the news that the country's biggest civil legal aid firm, Duncan Lewis, was hoping to be taken over by a public company still came as a shock.

"Would investors really be interested in legal aid?" one sceptic asked on a blog. "The Legal Services Commission is being scrapped, civil fees are being cut by 10% across the board, several areas are being taken out of scope, £100m is being recouped by any means necessary, best value tendering is coming in.

"Surely it's time to get out of legal aid, now that's an idea, so if I can just get someone to buy me out ..."

Indeed. A cynical view, but one that no doubt struck a chord with the legal aid lawyers coming to terms with last month's green paper, which effectively dismantles the civil scheme as we know it.

Two themes look likely to dominate 2011 – the liberalising agenda of the Legal Services Act 2007 and the imperilling of access to justice for ordinary people who fall foul of swingeing legal aid cuts and the wider civil justice reforms. But does the former have anything to do with the latter?

Is big business likely to be interested in an impoverished legal aid sector?

Quite possibly – because as Carolyn Regan, former chief executive of the Legal Services Commission, has said, the £2bn budget acts as a "government bond backing legal aid".

"It is a good bet," she said. "Even if it was £1.8bn, it's still a big whack of government guaranteed dosh."

Tony Williams, the founder of the Jomati consultancy and a former Clifford Chance senior partner, has been advising Lyceum Capital.

He calls the sector "a massively fragmented market and horrendously difficult to manage".

He tells me: "In many ways consolidation is right. If you look at it from a business perspective, the opportunity to have one main customer ... in other words, the government ... where there is no credit risk and, yes, [I] could see an organisation that could easily mop up £100m of legal aid work over the next five years."

However, as he points out, the sector is a "bunch of cottage industries" with most firms at the £50,000 turnover level, "and they need to go a hell of a long way before they get to the point where you can invest in IT and do some serious work".

I spoke to Duncan Lewis practice director Adam Makepeace last week to find out how the merger plans were going.

He reckons that "even after the cuts" a scheme with £1.7bn of turnover – with £100m for crime in London – is a "very attractive market" if the work is done profitably.

But he had a very different take on the ABS debate. If ministers want to reshape the legal aid sector by forcing consolidation in the market then they need external investment, because it is a "debt-leveraged" business.

"Ministers are driving consolidation. I don't think that there is an appreciation about the amount of cash firms are going to require if they want the consolidation to happen as opposed to the whole system simply falling over. Frankly, we need some help."

The Law Society has also been calling for "a more sensible commercial environment for legal aid", especially with regard to cashflow problems and firms being taxed on work in progress.

"Business consultants seem to start their advice with 'give up legal aid'," says Richard Miller, the society's legal aid manager.

Jon Robins is a freelance journalist and director of the research company Jures