

The Law Gazette

Prominent legal figures give their predictions for 2011

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No one from whom the *Gazette* sought a prediction sees the year ahead as dull – 2011, according to lawyers, people who provide services to the legal profession, a government minister, and the profession's leaders, will be a year in which the economic context will remain extremely challenging. Firms' finances will come under close scrutiny, serious new competitors will emerge, and lawyers will be moving firms in ever greater numbers. And there is, of course, huge concern about the future provision of legal aid.

The political agenda is uppermost in many minds. The Ministry of Justice is committed to cutting £300m in its 2011/12 budget, which will have a massive impact on the justice system. Commentator and *Gazette* columnist Joshua Rozenberg believes that judges will come into conflict with policy-makers as cuts in government spending hit access to justice and the delivery of legal services.

Unsurprisingly, justice minister Jonathan Djanogly does not highlight cuts, but predicts regulatory challenges, and notes the huge changes that practices will need to undergo to provide legal services to many clients.

Des Collins, named *Gazette* legal personality of the year at the 2010 Law Society Excellence Awards, believes that the combination of Jackson's proposals on costs and legal aid cuts would result in important cases failing to reach court. A government response to both consultations is expected by mid-May.

Adam Makepeace, whose firm handles legal aid cases, thinks that estimates of the reduction in the number of practising lawyers are 'conservative'. This prediction may prove true for commercial law firms too. One measure of these firms' economic health, their positive contribution to the UK's balance of payments, worsened dramatically in 2009's figures – falling by over £300m compared to 2008. The 2010 figures, released this November, will be one indication of how tough the market remains. A further fall would be bad news for firms that have an international focus.

In that tough business environment, some minds are turning to the need for legal practices to market themselves better. *Gazette* blogger Chrissie Lightfoot sees new brands, trusted by the public in other contexts, entering the legal market. But she also points out that the data that existing firms have on clients, properly used, gives them a significant edge in seeking client loyalty and in winning new business.

For Serle Court's Khawar Qureshi QC, a new home for the Commercial Court is one of several reasons why London can retain its place as a destination jurisdiction for the resolution of international disputes.

Barings general counsel Sandie Okoro warns that economic recovery would not signal a return to 'business as usual' for commercial law firms – she sees legal spending patterns changing permanently, a challenge to which the magic circle will need to respond if they are not to lose ground to mid-ranking competitors.

David Pester, managing partner of TLT Solicitors, insists that a difficult economy will bring into focus talent management strategies – lawyers will move firm to influence consolidation, rather than firms looking to achieve formal mergers.

There will be major changes in insurance, others note. Many practices will be challenged by the SRA's new rules on indemnity cover, but ATE insurers are confident that clients looking to manage risk better will increase the appeal of their products. In IT, those who produce client-focused software for law firms believe that greater competition for firms from new entrants will increase demand for their products.

The recession began with problems in the property market, and property partner Suzanne Gill sees 2011 as another white-knuckle ride. And, like Pester, Gill sees 2011 as a year when rain-makers will leave firms that have failed to make the changes necessary to operate in a fast-changing market.

Adam Makepeace, partner, Duncan Lewis

'2011 is going to see some seismic shifts. I fear that the "worst case scenarios" in terms of the reductions in the number of solicitors and the reductions in the number of solicitors' firms are probably conservative estimates. My remaining hope is that the legal aid sector does not err in believing that the structure (or even existence) of legal aid firms is more important than the needs of our clients or the fundamental values of our profession. We must not misdirect the debate only to reflect later on how much more we have ceded as a result.'

David Pester, managing partner, TLT Solicitors, Bristol

'While there has been a lot of talk about consolidation in the legal market, and the pressures are certainly there, in the short term much of this may happen by people moving, rather than by firms merging. Mergers are, after all, hugely disruptive events for a business, and may take longer to deliver value or competitive advantage.

'That means that 2011 will be all about talent management. Firms that plan well will attract good people either to a legal specialism that they have a genuine niche strength in, making them a go-to firm, or it will be a firm's service delivery model that attracts. In the latter case, they will get to work for the clients they focus on, on terms that complement and support the client and the firm – a partnership of the sort that other firms who do not define their areas of expertise and strategy may find harder to achieve.

'Some of these talent management decisions will deliver immediate returns – but others require a longer-term vision on the part of law firm partners in financing decisions. They may need to be ready to make those key investment decisions in 2011.'

Joshua Rozenberg, journalist and commentator

'Though the magistrates will celebrate their 650th anniversary in 2011, it's the full-time judges of England and Wales who'll find themselves holding the line when the needs of justice are threatened by government cuts. Led by a lord chief justice with a shrewd understanding of where the public interest lies, the judges will emerge, once again, as the only public service in which the public has any confidence.'

Sandie Okoro, general counsel, Barings

'There are clear signs that corporate clients' spending patterns are changing, with spending shifting both to in-house departments, and to silver circle and mid-tier law firms. One way for magic circle firms to fight for market share would be to find ways of offering clients some services in a way that meets their changed expectations on price. If they can establish a sort of "diffusion brand" line, they should be able to stay close to the client, better understand the client's business, and so continue to win the high-end work.'

Chrissie Lightfoot, Gazette blogger, author of *The Naked Lawyer*

'2011 will be the year the profession is truly rocked; not unlike the music industry, where traditional existing players witnessed their market share [disappear] overnight to new technologically web-based savvy players with innovative business models, for example, when MP3s hit the market. Mid-tier (and further down the chain) law firms which hold on to their traditional business model will encounter fierce competition and lose market share to consumer-savvy new entrants. Consequently, we will see consolidation of established players; and inevitably more lawyers will be thrown out of the legal nest (that is, more redundancies). This will be juxtaposed with the expansion of the latent legal market as new trusted brands and players enter the market with aggressive targeted marketing campaigns based on existing consumer knowledge, understanding and loyalty. For the first time in 800 years, the

profession will witness what it means to deliver extraordinary customer service levels and be compelled to raise its bar.'

Debo Nwauzo, founder and director, Black Lawyers Directory

'The coalition government will reverse the long-term decimation of legal aid (publicly funded work), accepting that failing to do so is damaging access to justice to those most in need. The number of university places to study law will be halved, with academic institutions committed to ensuring those graduating have a real chance of qualifying, should they wish to. In order to tap into a wider talent pool and recognising that some of our best and most senior lawyers today did not get straight As at A level, or a first-class or a 2:1 degree, recruiters will build a creative flexibility into the much professionalised graduate recruitment system. Like John Lennon said, "you may say I am a dreamer but I am not the only one!"'

Khawar Qureshi QC, Serle Court Chambers

'The end of 2011 will mark the opening of the Rolls Building which will provide a new home to the Commercial Court and the Chancery Division. The combined court complex is intended to ensure that London remains the pre-eminent centre for international dispute resolution.

'Some commentators are predicting that the new combined "Business Court" may well attract some dispute resolution matters from the arbitration sector. Much will depend upon how the questions of costs and delay are dealt with by the courts and the arbitration community'.

Richard Cohen, executive chairman and group counsel, Epoq

'During 2011, many law firms will begin the process of turning themselves into "businesses", invest in technologies that will increase efficiency, and make other infrastructural and cultural changes to adapt to increased public awareness of alternative legal service providers as well as fixed-price alternatives. Several major brands from the banking and insurance worlds will emerge as front-runners on the ABS scene, and so begin the process of challenging the high street.'

Desmond Hudson, chief executive, Law Society

'2011 will be a year of challenge, but also opportunity. Solicitors, with the assistance of the Law Society, are already adapting to what will be a new legal services market. Legal practices of all kinds are already changing the way they interact internally and with clients ahead of ABSs and while the new Legal Ombudsman establishes itself.

'Innovation among our members is coming to the fore and will continue to do so in 2011. The year contains major challenges: the SRA proposals on professional indemnity insurance, which will exacerbate the low volume of transactions; changes in lenders' panel membership; the introduction of outcomes-focused regulation; and cuts to legal aid. With Law Society initiatives, such as the Conveyancing Quality Scheme, Risk and Compliance section and Lexcel to name a few, the profession can prepare for the new era in legal services.'

Jonathan Djanogly, justice minister

'I predict a lot of talking and listening in 2011 – because we all care so much about the services we provide – and a lot of action as a result. There's plenty to discuss, including: how well will the new complaints and regulatory systems work? What will alternative business structures mean for firms? How can we make more use of new technology? And how can the legal and advice sectors best serve their clients as well as providing value for money? In 2011 the legal professions will face large changes in financially difficult times, but I believe those challenges will bring opportunities to find better ways to provide the right services to the people who need them.'

Des Collins, senior partner, Collins Solicitors, 2010 Gazette Legal Personality of the Year

'If the government goes ahead and implements Lord Jackson's review of civil litigation costs, and further slashes legal aid funding, as looks increasingly likely, we will see important cases not reaching court owing to a lack of funding.

'Ultimately, the consequence of this is that questions will be asked at the highest level as to how those without fantastically deep pockets – whether individuals or as groups through class actions – set about righting wrongs through the courts.

'Lord Jackson's review is heavily skewed in favour of defendants, and it will require significant innovation from law firms to find ways to help those in need to seek redress. 2011 may well turn out to be a very interesting year indeed.'

Peter Smith, managing director, legal expenses insurance and head of after-the-event insurance, FirstAssist

'As we continue to endure difficult economic conditions, we are likely to see alternative risk management strategies adopted by businesses undertaking commercial litigation. As with any other area of business, management will be looking to cut costs and ATE insurance can assist by providing financial risk management, while still enabling access to justice.'

Martin Ellis, director, specialist professional indemnity insurance broker, Prime Professions

'With the SRA consultation on changes to insurance arrangements for the profession under way, we can expect to see a significant transformation in the approach adopted by firms towards PII and risk management in 2011. The financial consequences of planning for and adapting to the new regime could be astronomical for some firms. Without the pressure of a single renewal deadline, insurers would be able to assess individual firms and individual risks in far greater detail, meaning that robust risk management policies will be paramount, especially for smaller firms.'

Suzanne Gill, partner, McGrigors

'In property I think we'll continue to see a diverging split between prime and secondary investment properties, which can only be exacerbated by the release of sites from banks' bad debts schemes.'

'The changes to tax accounting for leases should prompt occupiers to start thinking about buying freeholds instead of leasing, but I think this will be a very slow process. My prediction for the first movers are technology and energy companies, where sites are laden with plant and hard to relocate. Retailers in prime high street locations should look for opportunistic purchases as well.'

'2011 should test the management team at City firms as never before. Well-run firms will have made the necessary structural adjustments by now, and should be encouraging their partners and staff to focus on pulling together as a team, to further that firm's goals. Other firms will continue to see profits eroded, prompting key rain-makers to move elsewhere.'

The year ahead

- 14 February 2011: close of the consultation on Ministry of Justice green papers on legal aid and civil costs.
- May ? : likely government response to the Ministry of Justice consultations on legal aid and civil costs.
- 6 October 2011 – new kids on the block: the Solicitors Regulation Authority expects to license the first Alternative Business Structures to provide legal services to the public in England and Wales.
- November 2011: Office of National Statistics publishes *The Pink Book*. The 2010 book showed a drop of £334m in the legal sector's contribution to the UK balance of payments to £2.5bn in 2009. The statistics are a key 'health' indicator of the UK legal sector's economic strength.
- November 2011: missing monarch: the Queen's Speech, traditionally held in November, has been postponed to Spring 2012, to tie in with the introduction of fixed-term parliaments.
- 2011-12: missing £300m: the Ministry Of Justice forecasts its expenditure for 2011-12 to be £8.6bn – down from £8.9bn in 2010-11.



The Law Society

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