The Changing Occupational Terrain of the Legal Aid Lawyer in Times of Precariousness

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Abstract

The cuts to legal aid provision since 2012 present a threat to traditional legal aid practice in England and Wales. This thesis examines the changing professional identity of civil and criminal legal aid lawyers in light of their shrinking industry and significantly diminishing funds courtesy of the Legal Aid, Sentencing and Punishment of Offenders Act (2012). Adopting a threefold (macro-meso-micro) approach, this thesis explores the social milieu of the legal aid world in terms of personnel, modes of operation, and positionality within the legal profession as a whole. The thesis is based on an ethnography of legal aid lawyers, with data collected over the period of a year (2016-2017) across various locations, accompanied by a collection of 30 semi-structured interviews to capture the lived experiences of those at the front line of legal aid provision. The findings indicate that the legal aid world operates as a 'profession within a profession' given its multifaceted, unique and somewhat marginalised status which contrasts its private counterparts. Although the profession has become increasingly precarious, this research demonstrates how lawyers compensate for this by retaining their resilience and demonstrating altruism towards their clients. The thesis identifies a 'shared orientation' as a form of working culture which has multiple functions. Firstly, it captures the cultural heterogeneity of legal aid lawyers and the multifarious character of the work. Secondly, the notion of shared orientation likewise functions as a form of cohesive coping mechanism in response to cuts to legal aid funding. Vitally, the shared orientation offers unity as a way of functioning in an otherwise fragmented profession. This thesis therefore contributes to a wider analysis of what it means to be a precarious professional in the 21st century, and the ability of those to continue working for the 'social good'.

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List of abbreviations

Abbreviation	Definition
BPTC	Bar Professional Training Course
CB	Criminal Barrister
CLA	Civil Legal Advice
CLS	Civil Liberties Solicitor
CS	Criminal Solicitor
FS	Family Solicitor
GDL	Graduate Diploma in Law
HS	Housing Solicitor
IS	Immigration Solicitor
LA	Legal Aid
LA Agency	Legal Aid Agency
LA Lawyer	Legal Aid Lawyer
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act
LLB	Bachelor of Laws
LPC	Legal Practice Course
OC	Occupational Culture
SO	Shared Orientation
WS	Welfare Solicitor

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Chapter One: Introduction

The 'Devalued' Legal Aid Lawyer

… is there a market for washed-up legal aid lawyers where the light has died behind their eyes, and they're just walking zombies?

(Marcus, a housing Solicitor)

This may just be the voice of Marcus, one man in a cohort of many, yet when sharing his insecurity, fear and apprehensiveness, he speaks for a profession beset by both fragility and precarity. In light of the 'new political economy of insecurity' (see Beck, 2000), the occupational identity of the legal aid lawyer (hereafter LA lawyer) has undoubtedly been challenged by cuts to the funding of legal aid (hereafter LA). LA is the provision of assistance to people otherwise unable to afford legal representation and is regarded as central to providing access to justice by ensuring equality before the law, right to counsel and right to a fair trial within the criminal remit (GOV, 2019). Provisions of LA within the civil remit are available in the form of controlled work through the Civil Legal Advice Gateway (CLA), licensed work, as well as housing possession duty court schemes (Shelter, 2019).

Following the radical implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (2012) (hereafter LASPO) in England and Wales, significant cuts to civil LA budgets threaten to change the LA terrain beyond all recognition. Many areas of law have consequently been removed from the scope of civil LA funding, such as private family law, welfare benefits, clinical negligence, debt, housing and employment despite much opposition from the legal profession (MOJ, 2017). Within less than a year of the implementation of LASPO, Grayling, under the Ministry of Justice published the *Transforming Legal Aid Consultation* (2013) paper, which sought to restrict the scope of advice and assistance, including advocacy in criminal LA for prison law (MoJ, 2013). While this was not enacted under LASPO, later rules meant that further cuts to LA fees for solicitors and barristers had driven many out of

the fields that were formerly covered by LA (Bowcott, 2018)[1]. Funding cuts resulting in demands for efficiency as part of broader neoliberal political ideology and austerity measures have undoubtedly led to significant changes in the occupational field as to be explored (see Newman and Welsh, 2019). This research is both timely and necessary. The cuts to LA are still impacting the legal landscape now and are yet to be resolved. Seizing the unique opportunity to observe the occupation in this period of significant modification, this research helps to both internalise and make sense of external changes to the organisational field.

1.1 Thesis aims and objectives

The intention of this thesis is to explore the occupational world of the LA lawyer in both civil and criminal remits, in light of the backdrop laid out above. LA lawyers have had to negotiate new working conditions which come to challenge their occupational identities as a result of cuts to LA provision. Crucially, this thesis hopes to understand how the LA lawyers now experience the profession relevant to their security (or lack thereof) in the contemporary climate. More specifically, how those working within the remit of LA cope with and become resilient to these broader macro changes. Capturing a snapshot of a depleted and diminishing occupational group provides a precious resource to aid in understanding and contributing to what it means to be a liberal professional in the 21st century.

The data are drawn from ethnographic and semi-structured interview methods over a period of 12 months in 2016-2017, due to their capacity to yield rich and nuanced data. By doing so, this thesis contributes to key literatures on the sociology of professions, altruism and occupational cultures. Stemming from a detailed investigation of the current legal context and its implications for LA lawyers - as well as literature analysis - the following research questions guide the overall direction of the thesis:

(1) What consequences have the reductions in funding and services had on the 'lived professional experiences' of legal aid lawyers?

[1] For clarification, the backdrop set out above will be known as 'post-2012 cuts' throughout this thesis.

- What is the relationship between precarity and legal aid lawyers' professional identities?

(2) What do the developments in the legal aid profession say about the nature of contemporary work and the capacity for state institutions, professional groups and individual professions to 'do good'?

- How do the cuts to legal aid funding affect the structural (in)security of white-collar professionals (lawyers) who chose to work in a more altruistically-minded as opposed to acquisitive sphere?

(3) How do the dynamics of culture and LA work interact within the post-2012 cuts setting?

- Do LA lawyers uphold a form of occupational culture?

The framework adopted in this thesis is threefold (see figure 1). Influenced by the work of Poelmans *et al., (*2003) and Kwan *et al.,* (2016), my own adaptation drawing on macro-meso-micro variables enables an in-depth investigation into the lived experience of the LA lawyer through a data-driven analysis (Flood, 1987). This framework spans across the varying levels of the profession to include: the broader economic context, the profession, as well as the professionals within it. This eclectic theoretical approach allows for a more refined and richer understanding of a complex occupation detailed as follows.

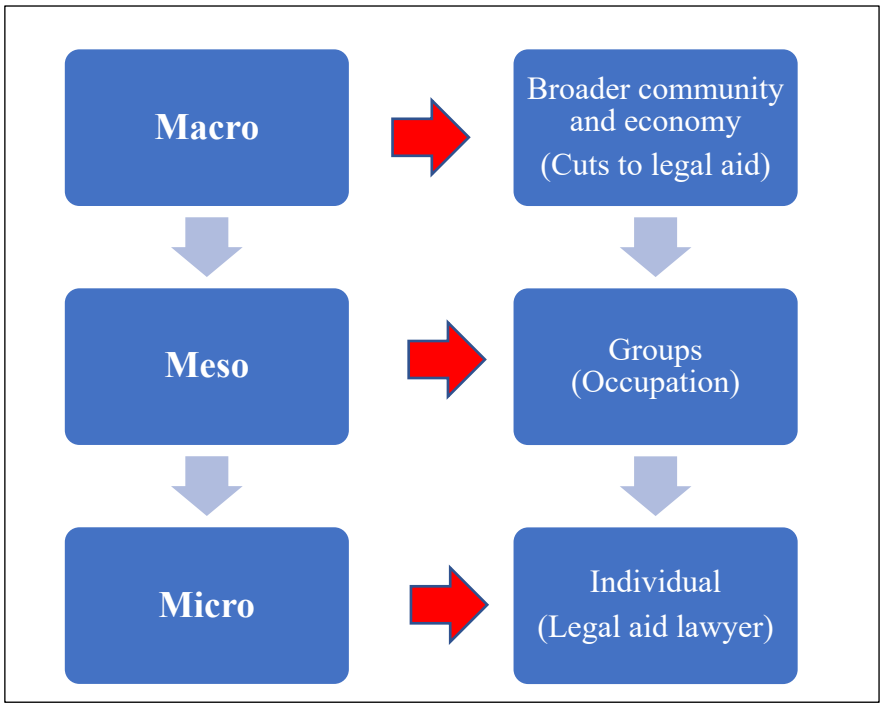


Figure 1: Threefold analysis: macro-meso-micro. (Source: self-elaboration)

1.2 A theoretical and contextual backdrop

Capitalising on the unique opportunity to observe the LA occupation in this period of significant change, this research explores changes both internally and externally to an organisational field. The macro-level variables identified in this research involve the examination of precarity and austerity on the LA profession. The impact of the cuts to LA on the economic, social, technological and legal levels are explored. Macro theories employed here surround themes of precariousness, professions and altruism. The meso-level variables investigated are professional and occupational mechanisms, drawing on theories of occupational culture. On the micro-level, the examined variables include individual employee experiences, the realities of practice, as well as day-to-day interactions with different agents. Here, micro interactionist theories (Goffman, 1956), as well as emotional labour theory (Hochschild, 1983), are utilised. Traditionally, threefold levels of analysis have been used within the remits of human resources, business management, organisational psychology, together with the sociology of work. Through this threefold model, combined with the two sets of gathered empirical data (observation and interviews), this thesis will be able to offer a comprehensive insight into part of the LA world. A single theoretical standpoint does not encapsulate or understand how broader contextual structures, the profession, as well as the professionals interact in a comprehensive manner. The three levels here complement each other and fill in the gaps that each level in isolation would not identify.

The precarious nature of work has attracted the attention of many sociologists of work (see Glucksmann, 2000, Pettinger *et al.,* 2006, Harper and Lawson 2003; Halford and Strangleman, 2009; 2015). The concept of 'precariousness' featured in various theories of 'late' or 'high' modernity by Beck, Giddens and others, and was later used in analyses of poverty (Standing, 2011). Standing (2011) defines the precariat as someone with a lack of secure work-based identity, who may experience modern labour insecurity. This individual may also be subject to 'status discord', where those with high levels of education may accept a lower occupational status and/or lower pay and conditions. Placing this in the backdrop of privatisation and deregulation from the

1990s, and fiscal austerity from 2010s, this thesis seeks to explore the changing nature and connotation of 'LA lawyering'.

Newman (2016) applied Marx's theory of alienation to suggest that criminal LA lawyers might be best described as 'alienated' as their work is increasingly pushed towards encouraging clients to a quick resolution through guilty pleas. He further argues that there has been a 'disenchantment' of the profession as it becomes compromised by broader structural factors, such as the outcomes of LASPO and subsequent cuts to LA funding. This has likewise resulted in an essence of professionalism being taken away as they become less empowered, as well as less able to uphold access to justice (ibid). Alienation in this sense is therefore "…used to describe a feeling of detached otherness, wherein people see themselves as somehow foreign to the world around them and distanced from the society in which they live" (Newman, 2016: 6). Alienation here can be seen as an outcome of the precarious backdrop in which the LA lawyer is currently situated. There has thus been a tendency of late capitalism to intensify conditions of precarity, "…eroding the fixity of previously existing work-based identities" (Sanchez, 2016: 22) which has resulted in increased alienation and more disrupted working practices. Precarity - and how it is conceived in this study, therefore refers to the erosion of existing work-based identities, modern labour insecurity, as well as status discord - all of which have significantly affected the LA profession and will be explored throughout.

The challenge - and opportunity - for social research is to explore further what it means to be a liberal professional within the 21st century. Freidson (1994:13) states that:

> Most sociologists have been inclined to see professions as honoured servants of public need, conceiving of them as occupations essentially distinguished from others by their orientation to serving the needs to the public through the schooled application of their unusually esoteric knowledge and complex skill.

Professionalism as a concept has a long and complex history. Whilst traditionally 'ideal-type' professionalism has been viewed in a typically positive light, as professions typically upheld a moralistic responsibility to 'serve society' (see Carr Saunders and Wilson, 1933 and Parsons, 1939); from the 1960s onwards,

professionalism was heavily critiqued in terms of how it entrenched power inequalities (Johnson, 1972; Larson, 1977; Abel, 1988). In the context of LA, the professional identity and autonomy of the LA lawyer has regularly been called into question by researchers in the field. As Abel (1988) notes, while barristers have always had a long-standing professional identity, the professional identity of solicitors did not acquire coherence until the 19th century. While barristers were members of a collegiate institution (the Inns of Court)[2] which both defined professional boundaries and instilled solidarity; solicitors were not. The solicitors' primary function within their division of labour came in two forms: (1) to act as general agents for the gentry and (2) handling all necessary preliminaries to litigation (Abel, 1988: 139). Likewise, there were no set entry requirements for solicitors. They had to construct their entry requirements almost from scratch, unlike barristers, which have always been viewed as a typically elite profession (*ibid*).

Bradley (2019: 27) argues that: "…solicitors had acquired respectable status by the early twentieth century" as society had begun to accept the idea that public money could be used for legal representation, and solicitors were viewed as vital actors within the field of law. As Abel noted in 1988, the legal profession "…found its clearest expression in the last half of the nineteenth and the first half of the twentieth centuries" (307). During this time, both solicitors and barristers functioned for the most part as private individuals, and the similarity in their working environments and backgrounds allowed for regulation in the profession. From the 1980s, there was greater heterogeneity in both the backgrounds and working environments of lawyers as a result of the proliferation of voluntary associations which result in 'divergent agendas' (*ibid*). As a consequence, the self-image of the legal profession has diverged away from nineteenth-century traditions, as the key actors (the lawyers) within it now face "…collective consumers, academic institutions, and a deeply involved state" (Abel, 1988: 308).

[2] There are four Inns of Court which form the professional associations for barristers in England and Wales. Gray's Inn, Lincoln's Inn, Inner Temple and Middle Temple. It is compulsory for all Barristers to belong to one of them as they uphold both disciplinary and supervisory functions (The Bar Council, 2019).

Katz (1982: 29), albeit in the US context, states that poverty lawyers have always had a 'limited professional role' as they tend to handle the 'dirty work' as opposed to 'clean law practices' unlike their private counterparts. In the English and Welsh context, LA lawyers are likewise marginalised by the wider legal profession, as well as wider society, a theme that is weaved throughout the thesis. Morrell (2006) holds the introduction of the mass legal aid scheme responsible for the decline in professional status amongst criminal defence lawyers. Cuts to LA funding since 2012 have further challenged the legitimacy of LA lawyering, and concerns surrounding LA provision are still yet to be fully resolved. As even more responsibility has been ceded to the government, the professional control over LA has been further challenged (see Sommerlad, 1996). Harnessing access to the law remains precarious, and this has significant effect on the professional identities of those working within the field. As levels of regulation and bureaucratisation increase, LA lawyers are forced to move further away from the "…role in which they had been afforded autonomy where the application of rules is reliant on professional judgement" (Welsh, 2017: 559). Increased bureaucratisation now results in those practising in LA spending less time helping people through individualised forms of justice, and more time doing paperwork (Nash, 2018).

As the legal profession has shifted from being almost an entirely private profession in the 19th century, to now containing parts that are both public-facing and state-funded, analyses of altruism prove useful here (Andreoni, 1989). Altruism can be seen as a defining value of professionalism, integral to public service in the form of 'the professional ideology of committed service to others' (Mungham and Thomas in Dingwall and Lewis, 1983; Friedson, 1973; Erlanger and Klegon, 1976). As will become apparent, altruism or 'do-gooding' plays a significant role in the encouragement of LA work. However, as a result of bureaucratic processes and increasing external pressures to LA funding, those within the field become more and more dissatisfied as their ability to practice in a humanistic manner becomes restricted. As Simon (1998: 1) notes: "no social role encourages such ambitious moral aspirations as the lawyer's, and no social role so consistently disappoints the aspirations in encourages". Albeit in the US context, this likewise speaks to the English and Welsh context. As Newman and Welsh (2019) identify, criminal defence lawyers now have to 'churn' out their clients similar to that of a production line, and evidence of this can

also be seen across other specialisms as to be explored. There remains an urgent need to 'humanise' the justice system if the 'social good' element of LA work is to be saved (Bell, 2011). Thus far, those in the field have been relatively powerless in fighting back against austerity measures (Newman and Welsh, 2019). As those working in LA face harsher working conditions, their professional decline is becoming increasingly apparent, and this forms the basis for the analyses in this thesis.

Traditional understandings of what it means to be a 'professional' LA lawyer are now 'undermined by the global neoliberal turn in the late 20th and early 21st centuries' (Francis *et al.,* 2017). Barriers such as the privatisation of legal services, as well as more intrusive and destructive austerity measures shrinking public services undermine the very nature of the work (Newman and Welsh, 2019). The concept of 'New Professionalism' coined by Egetenmeyer *et al.* (2018) will offer the ability here to look closer at the changed professional identities of the LA lawyers in a threefold manner: as part of society, as an organisation, and as the individual professionals that work within it.

Typically, LA lawyers are subject to a 'limited professional role' in the sense that their capabilities, significance, and career development are restricted in comparison to their private counterparts (see Katz, 1982). Previous research on 'professions' has tended to look at the lawyering profession as a single united profession; however, LA lawyering is a distinctive segment of the wider lawyering profession as they face a very different working environment to their private counterparts in many ways. Consequently, LA lawyering requires its own unique analysis acknowledging its position as a 'profession within a profession'. This standpoint will frame and situate this research throughout, enabling greater nuance and accuracy in the overall analysis.

1.3 Rationale for the research

In light of the precarious backdrop outlined above, questioning how this all affects the LA lawyering profession is vital. Perhaps even more importantly, however, is the need to examine why lawyers remain working within the LA field. Relatively little attention has been paid to LA lawyers by sociologists and criminologists. Various disciplines have contributed to the understanding of lawyering more generally. As an under-

studied, yet vital part of the mechanics of justice, this thesis approaches the field of interest within the wider socio-legal remit.

In the 19th/20th centuries, legal professions were of interest to the founding fathers of sociology, including Durkheim, Weber and Marx (see Boon, 2015). Much of the existing research more specifically on LA lawyering, or 'poverty lawyering' is based on US lawyers or focuses on the pre-2010s climate. Some attention has been given in the socio-legal remit to the LA lawyer. Recent studies, which inform this thesis, have tended to address specific elements of the lawyering role, including: the lawyer-client relationship (Newman, 2013), legal aid reforms (Sommerlad, 2004; Hynes and Robins, 2009), newly qualified lawyers (Boon, 2005), entry into the profession (Duff *et al,* 2000), lawyer mobility (Francis, 2005), lawyer ethics (Boon, 2002; Webb, 2003; Boon, 2015) or specific fields of law i.e. criminal defence (Stephen *et al,* 2008; Tata and Stephen, 2006; Welsh, 2017; Newman and Welsh, 2019). However, there remain significant gaps in the literature on the wider profession and the occupational and professional identities of the LA lawyer, across both civil and criminal remits. Researchers tend to look at civil or criminal lawyers separately; therefore, by looking at both areas this will provide a broader analysis of the profession overall.

As the new legal services market emerges, questioning whether those practising in the field are adequate for the new demands is vital (Flood, 2014). As Boon (2015: 3) argues: "It is not too dramatic to say that there may not be legal professions as we have known them for centuries for too much longer". It is contended that this backdrop will not only have significant implications for the future of LA lawyering, but this research also reinterprets an occupational culture in light of contemporary developments, which has been overlooked by existing literatures.

1.4 Thesis structure

Chapter Two lays out a contextual basis for the rest of the thesis to develop. First, a brief history of LA provision and development is discussed. The second section of the chapter gives a practical insight into the LA profession, addressing the different types of lawyers who work within the remit of LA due to its multi-faceted nature. This informs the macro-level analyses throughout.

Chapter Three reviews the literature in a threefold manner. On the macro-level, literatures surrounding the sociology of work, precariousness, white-collar work and professions are explored. The meso-level examines existing general literatures on occupational culture, as well as other justice-related occupational cultures, including the police and prison officers for purposes of comparison. Micro-level literatures on interactionist theories, legal scholarship and LA lawyering are explored. The literatures studied across the macro, meso and micro levels helped to ground the chosen research questions, by situating them in relevant academic debates. This chapter identifies deficiencies in the literature, justifying the aims of this thesis. While the sociology of work proves useful in analyses of work; this framework does not encapsulate the diverse and unique world of the LA lawyer, hence the introduction of literature on the meso and micro levels.

Chapter Four considers the epistemological and methodological approach used within this thesis in the form of a 'liquid methodology'. The ethnographic method used as a tool for this sociological enquiry is further justified reflexively, and a research confessional is given to outline the positionality of the researcher. Here I outline the development of my own research understanding and practice, inspired by Van Maanen (1988). This is coupled with an extended discussion on the research process and ethical considerations. Finally, the chapter concludes the justification for employing an ethnographic methodology.

Chapter Five tells the over-arching macro story of the individualised world of the LA lawyer, drawing on themes that inform routes into the profession. These include education and training, as well as demographics including gender, age, social class and race; all of which come to inform the rhetoric of the modern LA lawyer. This chapter is foregrounded with existing secondary literature, data and statistics, punctuated intermittently with descriptive ethnographic accounts and individuals' experiences as obtained from the interview data. This is done purposely to situate subsequent analysis to tell an over-arching story. As will become apparent, the LA lawyer continues to face professional inadequacies in education and training, and patriarchal elements still remain particularly within the remit of working as a barrister. The final section of this chapter outlines how LA lawyers are viewed by the wider

legal profession, popular discourse, as well as wider society. In doing so, it highlights that the profession faces fragmentation on two levels: (1) as a result of cuts to LA funding, and (2) as a result of their marginalisation within the wider legal profession, as well as in popular discourse.

Chapter Six builds on chapter five to explore key trends, themes and threads which inform the effect(s) consequences in reductions in funding and services have had on the 'lived professional experiences' of the LA lawyers, specifically addressing research question one. A lot has changed in the regulation of the legal profession in recent years (see Boon, 2015). This chapter explores the motivations of the legal professionals who choose to enter/remain in the field despite its precarious nature. The motivations explored here are: (a) working in LA by default because the area of expertise/ specialism is primarily funded through LA means; (b) individual aspiration, i.e. financial/ educational; (c) altruistic or 'do-gooding' motivations. This is combined with a discussion on the reconceptualised professional identity of the LA lawyer using Egetenmeyer's (2018) concept of 'New Professionalism', drawing on themes including post-2012 cuts hurdles, the impact of the LA agency, capped progression and career trajectories. This chapter concludes that the LA lawyer faces a more demarcated working environment in the context of the post-2012 cuts as their professional identity has been re-configured, calling for a much more acquisitive approach to their work. This chapter therefore argues that the LA lawyer can be likened to the position of the precarious worker due to restricted work practice, the even more short-term nature of the work, as well as the inability to be able to look at the occupation long-term due to the unpredictable and uncertain nature of the macro-backdrop in which it is placed.

Chapter Seven offers an insight into the marginalised practice of the LA lawyer as a result of insufficient resources, restricted practice and low rates of pay. LA lawyers' deep engagement with their clients and broader social justice orientations allows the lawyers to 'make do' in a profession whereby they are marginalised professionally (Zaloznaya and Nielsen, 2011). As will become apparent, gaps between aspirations versus the reality of LA practice, are resultant of unstable lawyer-client relationships, the disorganisation of time, as well as occupational burnout. Hochschild's theory of emotional labour (1983) is deployed here. Vitally the LA lawyers continue to cling on

to their client-centred practise despite all the challenges they face as a response to their overall marginality. Their ability to continually offer a holistic 'one-stop-shop' is examined, looking at the extent to which LA lawyers act in an altruistic manner. While those in this sample pool are facing significant hurdles with being able to practice holistically, surprisingly within their aspirations, they still attempt to cling on to the holistic imperative very tightly. This chapter, therefore, addresses research question two.

Chapter Eight examines how the cuts to LA have challenged the occupational identities of the LA lawyers through a meso-level in-depth examination of their occupational culture, specifically addressing research question three. Emergent from the data is an LA working culture in the form of a shared orientation (SO). This is identified as a more suitable framework of analysis; a cultural model which is sustained by both teamwork and individualism, likewise capturing the cultural heterogeneity of the profession. As evidenced in this chapter, the SO (1) offers unity as a way of functioning in a multi-faceted and fragmented occupation; (2) fortifies support systems and collegial relationships in the face of diversity; (3) transcends occupational boundaries as well as negotiating personal and professional overlap; and (4) is a way of 'finding your feet' beyond the remit of formal education and training. Combining these aims, the SO acts as a meso-level response and coping mechanism to the broader macro-threats, which come to affect the everyday micro-workings of the profession.

Chapter Nine combines the macro-meso-micro analyses in the form of a composite character called Erica. Built-up through the 30 interpretive stories of the participants in this research, this chapter highlights and summarises the dominant themes that have arisen from the data, fundamentally encapsulating the ethnographic data and giving voice to all of those involved in this research. This captures the more nuanced and micro-details and brings all the empirical themes together to tell the story of the LA lawyer.

Chapter Ten places the arguments made into a coherent conclusion and offers both suggestions and implications for further study. To this end, the 'new' LA lawyer is very much in a precarious position, as not only has the relationship between the lawyer

and client changed but so has the relationship between the lawyer and the state. The professional status of the LA lawyer has been undermined, and they face an even more 'limited professional role' (Katz, 1982). They still attempt to hold on to their 'ideal' altruistic profession. By clinging on to their ideal profession in a cohesive form, this allows them to get by in a profession whereby they are otherwise marginalised and demoralised. The existence of a 'shared orientation' enables and facilities this, offering a new contribution to understanding the working world of the LA lawyer.

Importantly, this research offers a socio-legal exploration of a hidden occupational world. In doing so, it employs a unique three-fold framework to encapsulate the multifarious and nuanced nature of the LA profession. What emerges, is a new way of understanding working culture of the LA in the form of a SO framework making an original contribution to the literature.

Chapter Two: Wider Research Context

Legal Aid Provision

This chapter offers a detailed insight into the historical development of LA to set the scene for subsequent chapters. It likewise outlines the different types of professionals who work within the remit of LA, as it is a multifaceted occupation. As to be made clear, LA work has always been subject to cuts to funding which has had a continuous impact on the provision, access and practice of LA. This has been further exacerbated in the post-2012 setting as to be explored. This chapter lays the groundwork for succeeding exploration.

2.1.1 Historical development of Legal Aid

Central to popular perception, England has had a long tradition of providing access to the legal system for all, with free LA constituting a significant social equaliser for those who lack means but are aggrieved (Breger, 1982); however, this has not always been the case. There had been *In forma pauperis* from the 12th century, in which barristers were compelled to act for free; however, criminal LA provision was officially first introduced in 1903, with the implementation of the Poor Prisoners Defence Act. This Act empowered courts to grant LA to a prisoner with insufficient means '…desirable to the interests of justice' and was an attempt to modernise the system to further avoid any miscarriages of justice (Levenson, 1977: 523). One of the driving forces behind the introduction of civil LA provision was the Royal Commission on Divorce (1909-12) (see Paterson, 1971; Morgan, 1994; Regan *et al.,* 1999). This drew attention to the demands required from the legal profession and likewise questioned its capability of responding to not only divorce matters but also the broader legal needs of the working classes (Bradley, 2019). However, the commissions' inability to meet people's legal needs principally around divorce, coincided with the First World War, which simultaneously reduced the numbers of solicitors. Following on from this, the Lawrence Committee (1919 & 1925) and the Finlay Committee (1926 & 1928) were called in to look at civil LA provision. With the former report looking at divorce cases more specifically, the latter addressed broader matters of crime and justice. The Finlay Report failed to enthuse lawyers to

take on ‘poor people’s work’, and it also did not meet the demands of providing wider access to the law (*ibid*). The Rushcliffe Committee then came about in 1944 to improve access to legal advice in England and Wales, recommending that LA should be granted to all criminal cases which met the criteria of being in the ‘interest of justice’. In the civil remit, the committee suggested set criteria for eligibility of LA assistance. This formed the first substantial foundation to LA provision.

England and Wales made further attempts to implement LA as a public service in 1949 through the partial implementation of the Legal Aid and Advice Act 1949; however, its full implementation was not until 1955. Despite this, it only covered the High Courts and not the County Courts, which was problematic as this omitted a large bulk of cases (Bradley, 2019). Likewise, while there was no coverage for advice before 1955 (*ibid*), Abel- Smith and Stevens (1967) state that LA provision was already narrowing in the late 1950s despite only just being made available. The Benson Committee (1978) followed and played a central role in both the provision of LA as well as the nature of the profession. The Benson Committee argued that bias-free sources of legal advice were needed and agreed that the Citizen’s Advice Bureaux, as well as Community Law Centres, would be key providers working alongside the Government to offer more efficient legal advice. The first law centre to open its doors was in North Kensington in 1970. The primary purposes of law centres were to campaign and gain justice for the most impoverished in the community (NKLC, 2019). While they used public funds, they were seen as charities/ non-profit firms and could, therefore, be more antipathetic to the state. Alongside securing wider means of justice; law centres were brought about as a response to acknowledged deficiencies in the LA scheme that existed at the time, such as the failure to provide LA funding for those most at need.

As opposed to being an impartial legal service; however, the Benson Committee felt that these centres were seen as predominately campaigning organisations for certain sections of the community. The Benson Committee had to wait four years for the (then Conservative) Government to respond; however, their suggestions were not implemented in any significant way, and only some of their recommendations were

taken up, i.e. the Legal Aid Board[3] (Bradley, 2019). A consultation paper was published in 1995 and a White paper in 1996, as the Conservative Government began to prioritise constraining the LA budget within their spending estimates (Brooke, 2016). The Access to Justice Act in 1999 created a new Community Legal Service and Criminal Defence Service but plans implemented by this Act failed by 2005 due to an increase in cost, which was increasing at an exponential rate (*ibid*). During this time, the Crown Court absorbed criminal LA (*ibid*). Between the years of 2005-2010, the LA budget became somewhat stable, but the divide between the needs of the Government and the legal profession over LA contracts became much wider.

LA spending jumped to £2.2bn in 2010, which was a stark increase from £1.4bn in 1995-6 (Bowcott, 2018). The focus of the Labour Party election manifesto in 2010 was to cut LA funding, particularly within the criminal remit. The aim was to move away from resorting to lawyers for all justice-related matters in an attempt to encourage mediation rather than litigation (Labour Party Manifesto, 2010). Following on from this, the Coalition government implemented LASPO as a cost-saving review, which in turn would significantly reduce the scope of cases. However, the focuses of cuts to LA were far from Labour's intention of helping to protect the frontline services through the encouragement of mediation. At this point, the Legal Aid Agency (hereafter LA Agency) took over. They remain responsible for LASPO and its operation, and as a consequence, the government now have more direct control over the LA budget as there has been a shift in the role of the legal profession in determining legal right.

As a result, the process of getting access to LA has become far more onerous as new evidence requirements were introduced. LASPO, which came into force on April 1st 2013, has gone beyond its core aims as legally aided assistance is becoming both unsustainable and unattainable for those it seeks to serve. Efficiency has been prioritised over due-process, and justice is being denied every day (The Law Society, 2019). It has been argued that 'financial status', as opposed to 'legal need' has taken priority, as the latter is no longer seen as a 'fundable category' (Flynn *et al.*, 2016).

[3] The Legal Aid Board would be made up of members appointed by the Lord Chancellor, as well as members of the Law Society and the Bar Council (Bradley, 2019: 36).

Increased efficiency is not only encouraged within the wider Criminal Justice System; however, efficiency is now used as an indicator of success for courts and legal practitioners. In response to cost-shifting, likewise, the entitlement and eligibility criteria for LA provision has become more stringent, which means that many now do not qualify for help (Law Society, 2019). Issues surrounding both efficiency and accessibility now permeate the system.

As identified by the Ministry of Justice (Parliament, 2015), the main aims of LASPO were to:

1. Discourage unnecessary and adversarial litigation at public expense
2. Target legal aid to those who need it most
3. Make significant savings to the cost of the scheme, and
4. Deliver better overall value for money for the taxpayer

The theme of discouraging unnecessary litigation at public expense has always been the central anxiety surrounding LA provision, as it formed the justification for earlier committees (Lawrence 1919, Finlay, 1926, etc.). The Government stated at the time of LASPO that the reforms would take 3-5 years (Law Society Review, 2017). In the spring of 2013, the LA budget was drastically cut by £350m a year (Guardian, 2017). Before the implementation of LASPO, LA was granted to 925,000 cases annually; however, the year after its implementation, this figure dropped significantly to 497,000 cases equating to an overall decline of 46% (Amnesty International, 2016). Shortly after this, a further £220 million was due to be cut from the LA budget, following drastic proposals (MOJ, 2018 in Gibb, 2013). Not only has this led to a growing gap between provision and need, but the brunt of this has been placed on the shoulders of the LA lawyers themselves (Law Society, 2019). The impact of LASPO has undermined access to justice, which in turn has led to wider strains on the Justice System (Law Society Review, 2017). These developments are bringing greater precariousness to both LA professionals and the poor who stand to lose vital access to legal dispute resolution and right affirmation mechanisms.

Initially 80% of the general population qualified for LA, but by the early 1990s this dropped to roughly 45%, and currently it has been suggested that as little as 20% of the population are now entitled to LA, following the introduction of stringent means

testing (Bowcott, 2018; Law Society, 2017). As the fixed allowances for expenditure taken into account by the LA means tests have reduced, such changes have also been deemed 'counter-intuitive' as those on state benefits are now considered 'eligible' to pay for their advice and representation (Law Society, 2017: 2). Within the civil remit, the maximum gross income cap for financial eligibility has not taken into account inflation rates since 2013 which has had an adverse effect (*ibid*). While before LASPO, anyone receiving means-tested welfare benefits would automatically qualify financially for LA, the new capital means test is now far more stringent than the eligibility for means-tested benefits. The means test has now meant that a large proportion of low-income earners with a minimal amount of capital can no longer receive LA (*ibid*).

In light of the above, the LA lawyer's role is to mitigate these changes and ensure that those eligible get access to justice via means of LA funding. As external pressures increase through restrictions on LA fees, many are turning away LA work altogether. The lack of LA lawyers practising in some areas has resulted in 'advice deserts', meaning that people in certain parts of the UK can no longer find legal experts to consult when in need (Law Society, 2019). Even in areas where access to LA is available, some of the initial free legal advice is only available via the 'Government's Mandatory Telephone Gateway', and evidently, telephone advice provision is not always appropriate as it can be an obstacle for people who may struggle to articulate themselves on the phone/ have the time to stay on hold (Law Society, 2017). Additionally, due to the shrinking nature of the profession as a result of LA provision, the quality *and* quantity of LA provision has been affected considerably (Law Society, 2019).

The information considered above points to several propositions about the nature of LA that will feed into the exploration in this thesis. LA has been through many transformations over the years. The LA agency has made the process of obtaining LA far more bureaucratic, which has wider ramifications for the legal professionals working in the field. LA provision is restricted, and the quality of LA service and provision has been reduced due to pressures placed on the lawyers practising within this remit. Not only do the lawyers have to represent vulnerable clients; however, they also have to fight for LA funding, face bureaucratic hurdles as a result of the LA

agency, engage in new systems involving telephone gateways and online portals[4], as well as taking on as many cases as possible due to the shortage of those practising in LA, resulting in 'advice deserts'. The occupational terrain of the LA lawyer has become far more fragmented during these times of precariousness. How the profession operates, forms and upholds its purpose within wider society has altered, calling for an exploration which this thesis addresses.

2.2.1 Different types of legal aid lawyer

This subsection seeks to outline the variations within the profession for purposes of clarification. It likewise offers insight into the multifaceted nature of the occupation, outlining the different types of lawyer and the distinctions in their specialisms, positions and workplaces.

Solicitors are qualified legal professionals that perform the majority of their work in a firm and/or office environment. Their clients include individuals, businesses, charities and public sector organisations. Solicitors are primarily litigators; however, some are able to 'advocate,' i.e. and represent clients in court. Their day-to-day roles tend to include conversing with clients, taking client's instructions and advising them on the specific area of law about which they are seeking advice. They also gather evidence in preparation for court cases, negotiate with both clients and opposition parties, supervise agreements, as well as co-ordinate the work of all parties in a given case. They typically prepare a case and then pass it on to a barrister or specialist who will advocate for the client in court (Slater and Gordon, 2019). Solicitors hire barristers to represent a case in court, offering legal arguments and persuasive representations to get the best possible outcome for the client. A barrister, therefore, advocates both on behalf of the solicitor, as well as the client. Over 80% of barristers are self-employed in England and Wales and typically work in chambers, despite all being independent of each other. Solicitors, on the other hand, tend to be employed by one firm and therefore work together as one entity (*ibid*). Solicitors can also be self-employed if they choose to be. A private lawyer is paid and retained for by the client, whereas an

[4]The LA online portal provides access to the LA agency's core applications for providers and LA Agency staff (Gov, 2017).

LA lawyer is appointed on behalf of the client via a firm, law centre or the Legal Aid Agency, and is government-funded.

LA funding follows the division in law of types of case, typically falling into two categories, civil and criminal. Civil includes family (public + private); immigration; housing; mental health; other non- family matters. 80% of housing matters are legally aided, which explains the significant weighting of housing lawyers in this research (Ministry of Justice; Legal Aid Agency, 2018: 10). Criminal is split into 'crime lower' and 'crime higher'. The former covers: police station advice, magistrates' court and prison law and constitutes the volume of cases. The latter includes all work in Crown and Higher Courts (*ibid*).

There are variations in the amount of LA work each workplace offers and therefore, different varieties of professionals practising within LA exist. These include private practitioners who accept LA work as a side-line, lawyers whom do LA work predominantly and also accept *pro bono* work (free legal advice), as well as those who work at neighbourhood law centres or firms whose existence largely depends upon LA funding. Law centres have existed since the beginning of the 1970s and are community-focused. They exist to defend the rights of local people who cannot afford a lawyer themselves. They all act entirely on a not-for-profit basis; however, they can use LA schemes (Law Centres Network, 2019). Likewise, LA is provided through private law firms, and the government pays for this[5]. LA caseloads in this context can vary. While some may take on a lot of LA work (90-100% of their workload), others may only take on a minimal amount (10-20% of their workload). Pro bono (unpaid) work may also be offered alongside this.

This chapter has addressed the complexities of the LA profession for purposes of clarification. This thesis now delves into existing literatures to further ground the study.

[5] As will be made evident in the Methodology Chapter, the firm (Silverman and Co) used as a research base within this study is an example of this.

Chapter Three: Literature Review

Locating the swerving narrative of the legal aid lawyer in the academic literature

There is a dearth of literature on the LA lawyer – much of which is non-specific American, and pre-1990s. Jack Katz wrote the seminal *Poor People's in Transition* in 1982. His work opened up a wide field of exploration of North American *pro bono* lawyering, but less attention has been paid to their British counterparts. As Kemp (2010) observed, there had also been very little empirical research into the take-up of legal advice and representation. Newman (2013) interrupted this silence with his ethnographic study on the lawyer-client relationship under legal aid in the context of criminal defence.

The occupational world of the LA lawyer holds a substantial amount of appeal for sociological and criminological researchers for a variety of reasons. As well as addressing an underexplored occupational group, this research helps to advance sociological debates within the study of occupations and occupational cultures. Very little research has been done on the occupational culture of LA lawyers. Likewise, situating the profession under the concept of precarity offers an interesting exploration which can later contribute to broader conversations around what it means to be a liberal professional within the 21st century. LA lawyers are a very unique occupational group. The LA lawyer upholds a very distinctive, yet complex role as they sit on the peripheries of the wider lawyering profession, as seen from chapters one and two. They likewise sit on the peripheries of the welfare state and voluntary sectors which differentiates them from other lawyers as explored.

Due to the complex nature of the LA world, a threefold analysis has been adopted (see figure 1). On the macro level, this research draws on literatures on precariousness and the sociology of work. Theories of altruism and white-collar work are explored. The sociology of work is a well-established field and allows for the exploration of different forms of work. LA lawyering is not a typical profession; however, in the sense that not only does it challenge expectations and stereotypes as outlined, but altruistic as opposed to acquisitive tendencies are encouraged within the role. While typically,

professions are seen as being 'highly paid' (i.e., doctors, accountants, lawyers, engineers, etc.), LA lawyers defy traditional professional stereotypes. The LA lawyering occupation should be viewed as a 'profession within a profession', as while it falls under the category of lawyering, it upholds distinctive features which differ to the wider lawyering remit such as varied motivations, differences in practice and diverse morals and values. This complexity makes the exploration more multifaceted and unique, which is why meso and micro frameworks are additionally employed. On the meso level, literatures on occupational cultures are considered. On the micro-level, this chapter explores the existing legal scholarship on both the lawyering profession in general, as well as LA lawyering more specifically. Theories of symbolic interactionism and dramaturgy (Goffman, 1956), as well as emotional labour theory (Hochschild, 1983) are also examined.

The literatures studied across the macro, meso and micro levels ground the chosen research questions, and situate them in relevant academic debates. Such line of structure utilised within this review is, therefore, a vehicle for the development, application, and conceptualisation of this original study.

3.1 Macro: situating the precarious professional

The LA lawyer has been placed in a precarious position following the cuts to LA funding. Zizek observed that in the contemporary world: "…the chance to be exploited in a long-term job is now experienced as a privilege" (2012: 9). Precarious work or 'precarity' has been a popular focus within the realm of work and labour over the past decade (Hewison in Harper and Lawson, 2003). The origin of the term (precarité) can be traced back to the 1960s when Bourdieu initially coined the term to describe the colonial working class, and then later a mode of dominance emerging from 'a neoliberal restructuring of the global economy' (Jorgensen, 2015: 962). The concept of 'precariousness' has also featured in various theories of 'late'/'high' modernity (e.g. Beck, 1992; Giddens, 1991), and was later used in analyses of poverty (Standing, 2011) and crime (Young, 1999). The term 'precarious work' is not straightforward to define as measuring the levels of precarity within work is difficult, and temporary work "…does not constitute all of the forms of work considered precarious" (Standing,

2011: 434). Sennett (1998) and Beck (2000) have theoretically provided sophisticated analyses of precarious work under contemporary capitalism. These key works view the workplace as enduring 'epochal shifts that have sweeping cultural and personal consequences' (in Vallas *et al.,* 2009). Evidence of this can be seen within the LA lawyering world as justified in this thesis.

Beck's (2000) work on the 'brave new world of work' likewise draws upon issues of precarity in line with issues of job fragmentation and the broader political economy of insecurity. "The job for life has now disappeared: paid employment is becoming precarious; the foundations of the social welfare state are collapsing normal life-stories are breaking up into fragments…" (Beck, 2000: 3). Beck seeks to utilise his notion of risk society to analyse the uncertainty and loss of full-time employment within the contemporary era. In line with the ideas posed by Bauman, Beck maintains that a process of fragmentation and individualisation has undoubtedly occurred, and as such we now live in a 'political economy of insecurity.' Importantly, as will be seen, the LA lawyer stands as a bulwark against the erosion of 'ordinary people's' rights and security, and thus the increasing precariousness of LA lawyers has the potential to have a considerable knock-on effect.

Standing's (2011) work is centred on a new group in the world, or in other terms, a 'class-in-the-making'. In an attempt to revitalise the debate on defining the precariat, Standing (2011: 1) argues that the 'precariat' comprises people without an anchor of stability. It is argued that since the 1970s the neo-liberal model has called for a return to the market as market principles come to permeate every aspect of day-to-day life. Of particular resonance is the increase in labour market flexibility, which is resultant in the transferal of risks and insecurity onto the workers themselves, as well as their families (*ibid*). Likewise, those who have high levels of education, but may accept a job or occupational role of lower status or those who experience modern labour insecurity including the lack of long-term contracts or protection of employment (*ibid*).

To this end, "the precariat is far from being homogeneous"; however, those seen as precarious are linked in specific ways (Standing, 2011: 22). It seems to be those that share the sense that their labour/ occupational status may be instrumental,

opportunistic, as well as precarious or insecure by nature (*ibid*). Of particular relevance is how Standing (2011: 23) applies this to corporate life. It is argued that temporary staff members, casual staff members and the 'salariats' who have little control over voting rights and decisions within a firm, all experience a sense of 'precarity' within their role (*ibid*). The lawyer has traditionally been defined as a 'salariat'. Standing (2011) further argues that the salariat is drifting into the precariat. The salariat has traditionally been defined as having secure employment, paid holiday, pension schemes and sick pay. However, this distinction has later been criticised as arguably; there is not a permanent divide between the precariat and the salariat (Screurs *et* al., 2011).

The precariat is said to experience the four 'As': anger, anomie, anxiety, as well as alienation, and while the individual may not experience all four at once, individuals can be 'linked to the precariat' through certain features of it (Standing, 2011: 33). Building on this, Standing (2011) denotes that one of the worst outcomes of the commodifying market society is productive 'idleness. In other words, intensified labour results in passive 'play'. This is the idea that many individuals now find themselves 'spent' because of their employment, and therefore have no motivation or inclination to join in more active leisure activities other than simply watching television. The precariat is now under constant 'time-stress', having to devote all of their time to their employment; however not knowing whether this will offer a reliable road to economic security of a professional career (*ibid*). The workplace is, therefore becoming or, arguably, has become an 'unfamiliar zone of insecurity'. The extent to which the LA occupational terrain can be likened to an 'unfamiliar zone of insecurity' is explored.

Increasingly, those working within LA face the *precariousness* associated with attempting to cling on to LA contracts. It has been argued that increasingly liberal workers are being made to manage the risks of their own employment which leads to 'uncertainty, instability, vulnerability and insecurity' across a number of different occupations which has resulted in the rise of precarious workers (Standing, 2011; Hewison in Harper and Lawson, 2003: 438). As Jorgensen (2015: 961) notes: the precariat is a result of "…decades of neoliberal policy hegemony resulting in flexibilization of the labour markets, insecurity, uncertainty and risks across social

strata". In other words, there has been a shrinking of working rights. As Choonara writes (2011: n.p.) "All workers can find themselves in a more or less precarious position". Likewise, while Standing (2011) argued that the development of the precariat is a 'new tendency'; "unemployment, underemployment, insecurity and precariousness are hardly new conditions for the working class", and thus Standing's work has been somewhat criticised (Jorgensen, 2015: 963). While the precariat is not a new phenomenon, the theory offers a toolbox to understand contemporary work practices and new forms of working identity formations which this thesis utilises.

In turn, the increased precarity of work has also led to a hollowing out of professional ethics and collective norms' leading to what Sennett (1998) has coined the 'corrosion of character'. Sennett examined the impact of New Capitalism to reveal two distinct worlds of work: (1) the vanished world of structured, hierarchical organisations where a sense of personal character mattered, and (2) the brave new world of work based on risk, flexibility, short-term teamwork and the 'ability to reinvent yourself on a dime' (Sennett, 1998). The latter has led to the erosion of our sense of 'character' and long-term aspects of our emotional experiences (Sennett, 1998: 10). Of particular relevance he offers justification for this process in line with the concepts of drift, lack of routine, the restructured and flexible nature of time, the illegible nature of modern forms of labour, the increased pressure to take 'risks' within the context of employment, as well as the changing work ethic in line with how to deal with failure (Sennett, 1998). Sennett (1998) delves further into the meaning of this insecurity felt by many, further arguing that as such, this has not only had a significant effect on individual moral identity; however, also on wider collective social relations. Linking the instable working conditions within Western contemporary society with the damaging effects this has on the human condition, Sennett (1998) further recognises that in order to be a 'good employee' within new capitalism, is the idea that capital is now extremely short-term and thus one must avoid any lengthy commitment, be mobile and be very flexible. This echoes with the work of the LA lawyer as they are required to be not only extremely flexible in practice due to the diverse nature of LA work, but also are unable to commit to their work in the long-term due to the unstable post-2012 cuts' context. While arguably conditions of high or late modernity may be conducive to these contemporary working patterns, conditions of neoliberalism have undoubtedly affected the instrumentality that many occupations are used to. Little research has been

done on the effect of this on white-collar professionals in general, and more specifically LA lawyers as later explored. Questioning further how increased precariousness in the workplace has likewise affected the LA lawyers professional sense of character feeds into later analyses.

Roderick (2006) situates the concept of 'precarity' in his work on professional footballers. While this article is based on the footballing profession, it offers applicable methodological and theoretical insight utilising precariousness as a main variable. Employing the personal narratives from 47 semi-structured interviews with professional footballers obtained via a snowball sampling technique, the article raises the question of insecurities stemming from the social relations in this particular type of work. Roderick (2006) explores footballers' coping mechanisms to overcome insecurities surrounding identity, demeanour and professionalism that arise from these precarious working conditions. These include the creation of friendship networks inside the game, as well as adopting 'dramaturgical selves' as famously emerged from Goffman's (1956) work on the presentation of self (Collinson, 2003; Roderick, 2006). As the players are often swamped by their work and cannot leave their workplace very often, they can distance or cover up their feelings to manage the impressions they receive from others. This is done by adopting a workplace front, particularly when in the company of their team-mates (Goffman, 1959; 1961). The extent to which LA lawyers uphold coping mechanisms arising from insecurities surrounding identity, demeanour and professionalism as a result of increased precarity are later explored.

This research will thus seek to provide an empirical case study to better sociologically understand the notion of 'precariousness', which is said to define increasing spheres of contemporary life. In light of the above, this chapter asks the extents to which the LA lawyers themselves are aligned to the position of a precarious worker, offering a novel analysis of the subject matter (Standing, 2011; Beck, 2000; Moorhead, 2014; Roderick, 2006). The LA lawyer has to juggle the spontaneity of their work, combined with the short-termism that permeates their role on a day-to-day basis as a result of the clientele they deal with. As such, this thesis addresses this by asking whether this constant control vs lack of control results in the lack of work-based identity and a broader sense of occupational dismantling, therefore placing them in the position of the precarious worker. Despite this, questions are also asked as the extent to which LA

lawyers have ever had a linear time structure and progression pattern. For instance, lawyers have not necessarily had salaried positions for that long, as legal work has traditionally been paid through billing schemes. Fundamentally, changes to the legal aid regime that encourage the enactment of acquisitive as opposed to altruistic modes of work as a result of the privatisation of public services, as well as the removal of systems of state welfare can, however, also be seen as contributing to the precariousness experienced by both civic-minded lawyers and their clients. This will now be situated within the broader remit of the sociology of work and professions.

3.1.1 Sociology of work

Representations of labour cannot be understood without drawing on the wider field of sociology of work (see Sennett, 1998; Beck, 2000; Hodson and Sullivan, 2002; Harper and Lawson, 2003; Ackroyd *et al.,* 2005, Wharton, 2005; Vallas *et al.*, 2009). Bauman (1998) maintains that work has been held in a central position within the Western World since industrialisation, shaping both individual and collective identity. Of particular relevance here is the ability of the discipline of the sociology of work to look at work on the macro and micro levels. For example, the discipline recognises that what goes on at the ground level in micro individual worker interactions should be contextualised with broader social structures that affect working conditions. The interaction between the macro and micro levels enables the discipline to offer a real understanding of work, further justifying the threefold analysis utilised in this thesis.

The sociology of work is a field that had become progressively overlooked within the wider sociological literature (see Castillo, 1999; Strangleman, 2004; Strangleman, 2005; Halford and Strangleman, 2009). The field took particular resonance in the sociological profession after 1945 (Dennis *et al.,* 1956; Salaman, 1974; Nichols and Beynon, 1977). Strangleman's article responds to the call for a discussion about future trends in sociology within the context of work, paying particular attention to its marginalisation in recent years because of a change in focus within the academic division of labour and economic modification. Adopting the Scott/Urry (2005) analogy: sociology as a discipline as a 'scavenger' [a parasite feeding off other bodies of knowledge] or the 'queen' [a self-conscious overarching account of human activity], Strangleman (2005) argues that the discipline needs to become a 'scavenger-

queen'. This requires a combination of existing theories and new accounts of work to be merged. Arguably, studies of work during the mid-20th century were driven by core sociological concerns, which fed off existing bodies of knowledge coined by Marx, Durkheim and Weber. Dramatic changes to professions shook the field within the 1970s and 1980s however, and the research area became quiescent as older approaches identified were no longer applicable (Gorman and Sandefur, 2011). Strangleman (2005) states that as a result, on the one hand, the sociology of work has become fragmented and neglected in recent years, yet work and employment remain pivotal to our societal existence. Glucksmann (2000), Pettinger *et al, (*2006), Harper and Lawson (2003) have likewise contributed to the field in line with the work of Strangleman (2005), calling for a more 'scavenger discipline' and interdisciplinary approach in order to paint the picture of the sociological imagination within the context of work. This is still yet to be fully heeded. The line of argument here is that while the field of sociology of work should still pay attention to traditional theories of work, what is needed are up-to-date human accounts of working activity that contribute to the field. This thesis seeks to contribute to that by offering a snapshot into the contemporary working world of the LA lawyer.

Castillo (1999) sought to address the wider positioning of the field of the 'sociology of work', arguing that it had reached a crossroads by the late 1990s. He raises significant criticism of the subject matter and seeks to further offer a solution to what has become a paralysed discipline. "Without deepening reflective understanding of its own (assumptions or) principles", Castillo denotes, the focus of the sociology of work has become stagnant and 'self-reproducing' (21). In order to overcome this, he argues that there is a need for a 'sociology of the sociology of work' in order to reach, explore and achieve its frontiers which may involve the transition into unfamiliar territory. He makes use of a metaphor coined by Clifford Geertz, the idea that 'we need to look through the sociology of work, rather than looking at it'. Of significance here is his concern that knowledge accumulated by the profession is not being transmitted to society as a whole. Castillo argues that sociological knowledge does not often become common knowledge, and when it does, it is applied knowledge. Castillo (1999: 21) argues that much of the leg work which occurred over 25 years ago remains neglected: "…the future of the sociology of work lies in contributing to the theoretical (and political) task of revealing the real and complete nature of work, of production and of

the situation of the men and women who work", which means exploring its limits through an analytic framework. To contribute to this wider body of literature, this thesis offers a 'genuine' snapshot analysis of a profession. It, therefore, seeks to produce knowledge accumulated directly from the profession, and document this through both observational and interview techniques in order to gain more of an awareness of a profession that is typically concealed from society as further explored.

Strangleman and Halford (2009) suggest that both images and visuals as part of a visual ethnography or through photo-elicitation can be useful in this context. In reflection upon the methodological tools used within the field of the sociology of work - with the call for ethnographic and aesthetic methods - this study offers an ethnographic 'representation' of the working world LA lawyer as fully justified within the methodology located in chapter four to capture their working world, and contribute to further knowledge.

The sociology of work further explores how work and culture interact, which fits nicely with the aims of this thesis. Harper and Lawson's (2003) collection of 23 short empirical studies of how certain professions understand, define and manage their work as a result of their relationships with their peers is a useful base to draw upon here. The line of argument presented is that the concept of culture should be applied to the study of work; however, the literature on the cultural study of work has fluctuated over time like the wider discipline of the sociology of work and needs to be updated (*ibid*). Between the years of 1970-2000, there were roughly 55 journal articles and significant book chapters on the cultural study of work per decade. Since then, between 2000-2001 only eight key works were identified, and this number has not changed much since then (Harper and Lawson, 2003: xvii). Within the works listed in Harper and Lawson's collection, various authors delve into the history of the sociological research within this field. Harper and Lawson (2003) offer an insight into the field through five sections: work as social interaction, socialisation and identity, experiencing work, work cultures and social structure, as well as deviance in work. Whilst the majority of the professions mentioned by the authors are not directly related to LA lawyering, Lively's (in Harper and Lawson, 2003: 347) work entitled *Occupational Claims to Professionalism: The Case of Paralegals* focuses on the ways in which paralegals justify their 'structurally subordinate positions relative to those of attorneys'. Through

the paralegal's understanding of being a 'professional', Lively argues that this status allows them to conceptualise their acceptance to doing the more 'demeaning' aspects of their role. In turn, this increases their 'moral worth'. The professional practices of LA lawyers are traced in this thesis to ask the extent to which the professional identities of the LA lawyers have been challenged in light of cuts to LA funding. Moreover, in line with the work of Lively (2003), the 'moral worth' of the LA professional will be explored as their role has become more demoralised in the context of the post-2012 cuts. Stemming from the wider discipline of the sociology of work, the sociology of professions will be explored below.

3.1.2 Sociology of professions

The term 'professional' has been present in sociological research for many years and has typically been used in the context of describing classic professions, such as teachers, doctors, as well as lawyers. Professionalisation embodies both small-scale and large-scale organisational changes that take place within the walls of a given profession. Professionalisation, as a theoretical concept, roots from the concept of work. In line with the process of professionalisation, early works in the field of professions sought to examine which occupational groups constituted 'true professionals' (see Carr-Saunders and Wilson, 1933; Marshall. 1965; Parsons, 1939, 1954). Three principal theoretical traditions have underpinned the study of professions: Weberian, Marxist and Structural Functionalism (Durkheim, 1950; Weber, 1978; Friedson, 1970; Johnson, 1972; Larson, 1977 and Parkin, 1979). Carr-Saunders initially classified the five primary professions. These included: armed services, clergy, medicine, education and law, all of which produce services as opposed to goods (Carr-Saunders and Wilson, 1933).

In line with the discipline of the sociology of work and professions, professionalism began with the view that professions could stabilise society as they not only had a 'collective-orientation'; however, they were typically seen as altruistic (Parsons, 1954; Marshall, 1963). The central role of these professional groups was to help maintain the 'conscience collective', a term coined by Durkheim (1950) to describe how society functions with a 'union of ideals and values'. In this sense, professions were seen as a way of preventing societal dysfunction. Contemporary functionalists, however, soon

became very critical of professions in light of increasing bureaucracy, managerialism and routinisation as they became more embedded in administrative procedure (Merton, 1957, C Wright Mills, 1956). At this time, studies surrounding professions then began to focus on structural conditions that impacted professionalism practices (Caplow, 1954; Millerson, 1964; Wilenski, 1964; Larson, 1977). As professions became subject to more bureaucratisation, the more 'emotionally detached, and professional expert' emerged which resulted in the depersonalisation of work (Weber, 1977: 231). Professional status was traditionally rooted in the 'notion of gentlemanly conduct' amongst members of a given group which guaranteed the integrity of the profession (Broadbent *et al.,* 2005: 3). As work became more calculated, predictable and controlled, Friedson (1970) observed an imbalance of power, which reinforced the power of elites who could maintain positions of privilege through their autonomy over those with less power and autonomy.

The frameworks employed in this thesis fall under the sociology of professions, a subdivision of the sociology of work and occupations. Questioning the extent to which the professional identities of the LA lawyers have changed as a result of funding cuts, demanding efficiency as part of broader 'neoliberal political ideology and austerity measures' is key (Newman and Welsh, 2019). In light of the ongoing deregulation of the legal services market resulting in the end of professional self-regulation (LSA, 2007), indicators of professionalism in this context are gradually being eroded (see Boon and Whyte, 2019). Under traditional understandings of professionalism, Smith (2013) argues that the primary duty of the defence lawyer is to obligate themselves to the client while remaining emotionally detached. A lawyer's professional image is crucial to understanding their practice, and although cuts to LA funding are not new as evidenced in chapter two, it is the 'threat of extinction' that has led lawyers to react to these broader changes in the current context as explored (Fouzder, 2018).

Sociologists note that for any work labelled a 'profession'; it must be paid and also must require some form of specification or expertise in the form of examination and training or particular competences to be able to do it (Hwang and Powell, 2009; Saks, 2012). However, all the studies cited take for granted the objective 'validity of professional categories', and a blanket definition of a 'profession' does not warrant the variations in the professional work (Lively in Harper and Lawson, 2003: 348).

Problematically, while professionalisation practices have been contested in the literature, as they are seen as both favourable in some respects but oppressive to society in others, many studies on professions have also failed to take into account the individual actors that comprise the professions in question highlighting a significant gap in the literature (*ibid*).

Johnson (1972), Larson (1977) and Abel (1999) have heavily critiqued the term professionalism in the context of lawyering. They argue that the term depicts ideas of exercising power, maintaining monopolies and overcharging under the 'guise' of being a benevolent expert who is the only suitable person to complete the job. Furthermore, differences in private vs. public sector professionalism have brought about distinct organisational dynamics which cannot be managed single-handedly (Perkin, 1989 in Broadbent *et al,* 2005: 3). Noordegraaf (2016) builds on the notion of 'changing professionalism' which is not only interlinked with occupational settings, but also societal developments. 'New professionalism' now focuses on the varying levels, including society, organisation and professionals. As Egetenmeyer *et al.* (2018) argue, all of these levels need to be integrated when analysing professionalisation processes in the current working context. Once a small, homogenous 'guild-like' institution, the legal profession in England and Wales is now large and highly fragmented (Krause, 1996). As Oakley and Vaughan (2019: 109) argue: the social organisation of professions in the context of legal practice 'reflect complex relationships of interdependence and interconnectedness' which are shaped by 'vast social, economic, and technological transformations of globalized late capitalism'. All of which can affect the professional independence of the lawyer. The diversification of the lawyering field, as well as a shift in professional lawyer practice since the 19th century - as outlined in chapter one and two - opens up new challenges which would benefit from being addressed sociologically as justified in this thesis.

3.1.3 White-Collar Work

Traditionally, lawyers have been categorised as white-collar professionals. The relevance of the terms 'white collar' and 'blue-collar' are of significance here, with their rootings in Belgian labour law (Engels, 2002). Arguably, the contrast between blue-collar work and white-collar work is becoming increasingly smaller as white-

collar workers face more precarious working conditions (Standing, 2011). White-collar work can be loosely defined as 'salaried office workers' or those who engage in non-manual labour work, as opposed to blue-collar work, which incorporates those who perform manual labour and are typically from the working classes (Shirai, 1983; Prandy *et al,* 1982; Hopp, Iravani and Liu, 2009). In conjunction, white-collar work has also been further specified on a three-tier scale: on the clerical, professional and managerial levels (Coates, 1986 in Hopp, Iravani and Liu, 2009: 2). Building on a more recent definition of white-collar work, Hopp, Iravani and Liu (2009: 2-3) portrayed the term through two contrasting dichotomies: intellectual vs. physical work, and creative vs. routine. For instance, it is said that white-collar workers rely on a set of unrelated ideas and novel concepts, while blue-collar workers are said to engage in repetitive work on a regular basis (Davenport and Prusak, 2002; Perry-Smith and Shalley, 2003 and Shalley, 1995 in Hopp, Iravani, and Liu, 2009: 3).

Progressively, formally secure, white-collar jobs are subject to the type of degradation traditionally associated with blue-collar work, and this is becoming an increasingly middle-class problem (Beck, 2000). The degradation here refers to increased job demands, less pronounced motivational processes, more perceived ill-health, higher intention to retire early, as well as fewer rights (Screurs *et al*., 2011). There have been critiques over white- and blue-collar categories of work as they reinforce class disparities, however (Schreurs *et al.,* 2011). Likewise, the varying professional identities between barristers and solicitors have therefore meant that they have not always equally fitted into the definitions and dichotomies of being 'white-collar'. Barristers obtained their professional status much earlier than solicitors as outlined in chapter one. Assessing the extent to which LA lawyers face barriers that traditionally blue-collar workers have faced is of interest, as those within the field feel a sense of displacement both on the micro-level - within the field itself, as well as on the macro level- within broader society as a result of cuts to LA funding.

3.1.4 The professional as an individual actor

Having drawn on theories of precariousness, as well as the wider sociology of work and professions above, the professional as an individual actor is prioritised here. This speaks well to the framework of 'New professionalism' coined by Egetenmeyer *et al.*

(2018) as outlined above, and addresses a gap in the literature, as highlighted by Harper and Lawson (2003). The individualised nature of the role is important to consider because no two LA professionals are the same, as outlined in chapter two.

Becker (1970) and Ritzer (1971) first considered the role of individual actors within the professional context. They brought to light the possibility of a gap between criteria of professional performance and individual members of a given profession's actions. As noted by Becker (1970) "…folk symbols serve to organize the way individuals think about themselves and society" (in Harper and Lawson, 2003: 350). In this sense, 'profession' as a symbol encourages individuals to view work in a particular way aligned with a particular set of behaviours and status.

Ritzer (1971) coined the term 'professional nonprofessional's'. He argues that all members of a given occupation are placed on a professional continuum, and professional status is applied differently to the various individuals within that given occupation, dependent on their position (*ibid*). Each actor within the LA remit faces different experiences, motivations, working practices and hurdles, and this proves vital as explored in subsequent chapters. Likewise, those working within LA may also uphold different motivations to work within the field, as fully outlined in chapter six. For many, working for the 'social good' plays a significant role, as the altruistic components of LA work appeals. Andreoni (1989: 1448) describes the feeling of having a 'warm glow' and 'having done their bit' often acts as enough incentive to warrant altruistic work. Likewise, Smith (2000) suggests motivations for altruistic work: (1) mutual aid, (2) service to others, (3) participation in governance and (4) advocacy. Given an LA lawyers' sub-ordinate position to their private counterparts, often their altruistic tendencies are used to appropriate their professional identities (as to be explored in chapter seven). Do-gooding is likewise a term that has featured notably in the US literature on poverty lawyering, as thoroughly explored in the final section of this chapter.

Although the field of sociology of work can assist this analysis in some ways, it can be likewise critiqued in others, when looking at the working context of the LA lawyer. On the one hand, the discipline of the sociology of work has reached a 'crossroad' with regards to its academic offerings which has left a significant gap in the literature.

Likewise, the solicitor has not traditionally been the ideal subject for the sociology of work discipline, as it is arguably an 'atypical' role which does not follow the same linear time structures and employment progression patterns as 'traditional forms of work'. Likewise, solicitors went through the process of professionalisation much later on than barristers. The LA lawyer can also be seen as a self-directing professional as opposed to an employee as is justified in later chapters. As made clear in section 3.1, the contextual and historical basis of the field, as well as the footings of the sociology of professions, assists this research as the discipline of work forms the primary basis of this thesis. The literature considered above points to several macro theoretical prepositions about that nature of contemporary work that continues to underpin the analyses throughout, including professionalisation, precariousness, and altruism. These themes feed into analyses later on.

Importantly, the sociology of work addresses professions and work more generally through its blanket approach; however, it does not appreciate or identify enough the institutional impact and shaping of occupational culture. This thesis now moves and adapts beyond the sociology of work, to consider a framework that allows for a more in-depth and more nuanced exploration of the precarious workplace and LA environment on the meso-level. In line with Castillo's work, this thesis therefore contributes to the 'sociology of the sociology of work', through its threefold analyses drawing on structural, organisational and individual levels. This chapter now proceeds with an exploration of the literature on occupational cultures. Meso-level literatures have demonstrated further the need to look at LA lawyering as a 'profession within a profession'. A form of working culture that distinguishes their work from others is presented as an emergent finding.

3.2 Meso: studying occupational cultures in the wider justice setting

> "On the broadest macro level are overt behaviours, written rules and policy; second, is a sense of what ought to be (values); third those things are taken for granted as 'correct' ways of behaving within the organisation".
>
> (Deering, 2011: 25)

Deering's excerpt above facilitates an understanding of the elaborate make-up of occupational culture. The concept of occupational culture has been explored by several different scholars as to be explored (Christen and Crank, 2001; Loyens, 2009; Schien, 2010; Miller and Rayner, 2012; Whelan, 2015). Bourdieu (1977) coined the term 'habitus' to describe taken-for-granted assumptions that are learned and passed on. Durkheim (1992) likewise states that professions develop a distinctive culture. Here, a basis for the development of the LA lawyer working culture is formed.

Rather than attempting to apply the framework of occupational culture in its existing formations to the working world of the LA lawyer, the analysis draws on themes emerging from the existing literature to construct an appropriate cultural model of their work. As a concept and a framework, occupational culture offers an essential tool for understanding the working life of a given occupation and can understand how the macro and micro connect in the working context (Alvesson, 2013). A way of understanding the richness of occupational life, culture captures the "…local understanding, everyday interactions, and on-going social relations" (Fine and Hallett, 2014: 1775). Models of occupational culture are 'expected to both interact and conflict', and some become a barrier to revealing the real realities of a working world due to their deep-seated and generalisable nature (see Malmi, 1997; von Meier, 1999; Johnson *et al,* 2009). Rather than looking at the LA profession through the lens of existing occupational cultures, this thesis uses the literature to construct a model which naturally emerges from the working world of the LA lawyer, which forms the basis of chapter eight.

Occupational culture as a theme has had a long history, particularly within the field of sociology of work, and was developed by students of E.C. Hughes (Becker, Habenstein, Goffman, Strauss *et al.* in Farkas and Manning, 1997: 52). Yet, the concept has rarely been examined comparatively across professions, allowing little room for cultural analysis of human work (Hughes, 1958; Farkas and Manning, 1997). Those working within this sociological framework acknowledge that working groups tend to uphold occupational-specific 'sub-cultural responses' such as beliefs and values, which are relational to the organisational and occupational environments in which one is situated (DiMaggio and Powell, 1991; Manning, 1995; Ouchi and

Wilkins, 1985; Ritti, 1994; Sackmann, 1991; Schein, 1985; Cochran and Bromley, 2003). As Whelan (2015) notes, the definition of the term 'culture' is involved in its own right, with many scholars offering various competing conceptions, particularly within the organisational and occupational literature (Alvesson, 2002; Alvesson and Sveningsson, 2008; Kummerow and Kirby, 2014). For Schein (2010: 17), "just as our personality and character guide and constrain our behaviour, so does culture guide and constrain the behaviour of members of a group through the shared norms that are held in that group". In this respect, culture can, therefore, be referred to as shared beliefs or' basic underlying assumptions', which undoubtedly influence an organisations' functioning as examined (Schein, 2010: 18; Whelan, 2015: 6).

One of the most prominent features of the term culture is that it can be defined in multiple ways (Driskill and Brenton, 2011). For example, culture as a variable is thought to be able to predict and cause-specific outcomes, such as values and norms influencing productivity (*ibid*: 28). Scholars have therefore paid interest to how cultural aspects can help predict effective organisational practice (see Collins, 2001; Deal and Kennedy, 1982; Peters and Waterman, 1982 in Driskill and Brenton, 2011: 29). The second dominant approach to defining culture is as a metaphor for organisational life (Martin, 2002; Martin *et al.,* 2006; Whelan, 2015: 5). The term culture, in this sense, is used as a process, and the organisation becomes interchangeable with the culture (Driskill and Brenton, 2011). While the former interpretation of the concept of 'culture' relates to features of an organisation, the latter interpretation draws more on the anthropological roots of the term, suggesting that culture is something that an organisation is. Martin *et al.* (2006) maintain that culture is something that exists in varying organisations and something that can be identified and linked to outcomes. As Whelan (2015) denotes, understanding culture as a variable lays a boundary, which can be separated again into two opposing positions: the *integration* perspective (Deal and Kennedy, 2000; Schein, 2010; Whelan, 2015: 5) and the *differentiation* perspective (Whelan, 2015: 5). The *integration* approach ultimately takes the view that the role of culture within organisational and occupational structures is related to the attitudes and values shared across the entire organisation as a whole. The second interpretation, referring to culture as a *differentiation* perspective takes the view that there is no broader integrated organisational culture as such, rather just organisational subcultures which do

constitute as one cultural entity (Whelan, 2015; 6). It is likely that individual organisations will also experience elements of both (*ibid*). Ott (1989) acknowledges that organisations may also have subcultures, which may oppose or supplement the dominating occupational culture (Burke and Davies, 2011). This thesis explores the working culture of the LA lawyer; the extent to which opposing organisational/occupational cultural models apply, and to what extent lawyers might have more of a 'professional' than 'organisational' culture.

Culture is one of the most significant relational properties of a workgroup as it dictates behaviours, interactions and the ways in which occupations work. Occupational culture provides insight into certain professions on a micro basis, locating distinctive norms and values, as well as any unwritten rules of the occupation. As Deering (2011: 25) notes, there is a multiplicity of definitions of culture and more specifically, workplace culture. Manning (1995: 360) refers to occupational culture as: "accepted practices, rules and principles of conduct that are situationally applied, and generalised rationales and beliefs." Alongside this, Hofstede *et al.* (1990) maintain that values remain at the core of any culture, which often dictates the behaviour which goes on inside it. On this basis, it is often assumed that the occupational cultures of particular workgroups, such as the police, prison officers, security personnel, as well as within the wider justice field can shape the way they interact both with insiders and outsiders of that specific field (Whelan, 2015). Despite the conceptual difficulties in defining 'culture' and 'occupational culture', they are useful tools for examining the extent to which particular values and beliefs come to pervade different occupational groups (Burke and Davies, 2011). The distinctive norms and values, and well as the unwritten rules of the LA world, are explored in line with the work of Manning (1995) and Hofstede *et al.* (1990). This 'binding' quality of a working culture can likewise inform the extent to which LA lawyers interact with their peer groups, within the wider criminal justice field and with the general public, in line with the work of Whelan (2015).

Lawyers are said to uphold homogenous traits which are passed down to each generation (Schiltz, 1999). The notion of passing down working traditions through generations is a significant feature of occupational culture. Reiner (2000: 85) defines 'occupational culture' as a "complex ensemble of values, attitudes, symbols, rules and

practices, emerging as people react to the exigencies and situations they confront, interpreted through the cognitive frames and orientations *they carry with them from prior experience*". Values are the core shared element of any cultural group and are transmitted through the culmination of shared history over time (Deal and Kennedy, 1982; Schein, 1999; Hofstede and Hofstede, 2005; Brief and Nord, 1990; Jacks *et al.,* 2011). The transmission of values and shared practices amongst old and new employees therefore plays an essential role:

> During initial interactions with newcomers, the established occupational community transmits to new members those shared occupational practices (including norms and roles), values, vocabularies and identities- all examples of the explicit social products that are indicative of culture in organisation.
>
> (VanMaanan and Barley, 1984 cited in National Defense University in Burke and Davies, 2011: 4).

As time passes, previous experiences are used to determine future action and behaviours associated with the occupational culture in question, which in turn becomes 'shared practise' (Johnson *et al.*, 2009). VanMaanan and Barley's (1984) insight into how occupational, cultural traits are transmitted can be used a basis for action of the unifying influence of shared attitudes and values within a particular organisation (Johnson *et al.,* 2009). These values then play a strategic function in a given occupation. A shared occupational culture can "…provide labels (a language) and categories, accounts of how things are done, accounts of how they should be done, in certain situations, and a set of assumptions about why this is the case" (Herbert, 1998 in Burke and Davies, 2011). This thesis, therefore, plays a very significant role in identifying and constructing the hidden working culture of the LA lawyer, not only for the sake of those working in the field but also for wider understanding of how the profession works.

Hofstede *et al.* (1990 in Gottschalk, 2012: 7) maintains that occupational culture is often 'holistic, historically determined, socially constructed and difficult to change', and this has been highlighted in the literature particularly in relation to police and prison officer cultures as to be unpicked further (Reiner, 2000; Arnold *et al.,* 2007). In this vein, the 'deep-seated' nature of some occupational cultures can have an

alternate effect, becoming an obstacle to change and progression in its own right (Burke and Davies, 2011: 4). Alvesson (in Edgell *et al.*, 2015: 269) argues that a form of working culture can "…be seen as a set of blinders, making people subordinated to a set of taken-for-granted assumptions, values and meanings". Likewise, some organisations or occupational groupings may not operate as a distinct unit and applying culture in this sense can be difficult if occupations are differentiated. The challenge is that "…ideas, values and symbolism shared by broader groups of people, associated with civilizations, nations, regions, industries and occupations" means that the local micro context needs to be understood in line with more macro contexts in order to "…understand cultural manifestations at the organizational level" (*ibid*: 270). This justifies the choice to not just apply traditional models of occupational culture to the LA world. Allowing a working model to emerge naturally from the multifaceted LA occupation overcomes the critiques of existing analyses of work and culture.

This section has examined the literature surrounding occupational and organisational cultures on a broader scale. To this end, these unique sub-cultural responses and occupational mind-sets have been voiced principally within the field of law enforcement (Skolnick, 1966; McNamara, 1967; Westley, 1970; Van Maanen, 1974; Bitner, 1974; Brown, 1981; Fielding, 1984; Reiner, 1985; Chan, 1997; Farkas and Manning, 1997; Crank, 1998; Cochran and Bromley; 2003: 88). However, the body of literature on this subject matter has become somewhat outdated. As Loyens (2009) stated, there is a need for a broader approach to occupational culture research in line with the wider climate. As Alvesson notes: "In order to understand cultural phenomena at an organizational level, not only the 'meso' (organizational) level but also the micro and macro forces need to be investigated", which fits nicely with the threefold aims of this thesis. Mindfully, while culture acts as guiding force to shape workplace reality, at the same time it also can offer a 'taken-as-given' view of a given reality, and this is important (Alvesson in Edgell *et al.,* 2015: 279). The literature on occupational culture used within this thesis inevitably guides the analysis, yet the meaning of the work of the LA lawyer is not limited to being aligned strictly to an occupational culture framework in a deductive manner. Alternative aspects and meanings of the how culture comes to interplay with the work of the LA lawyer as emerged from the data are therefore considered, as thoroughly explored in chapter eight.

Evident from this exploration, (a) occupational cultures are in part shaped by the nature of the role/job undertaken, as well as broader social structures, (b) occupational cultures can be identified across a variety of occupations, (c) these broad accounts of belief and practice do not manifest in pure terms in empirical reality, (d) more occupational subcultures can exist, and (e) taking a broad lens towards professions and teasing out the various subcultures provide useful findings as it traces out the contours of a given occupation. The extent to which the LA working culture is based on a broader set of values and norms which are common to the LA lawyering profession, as opposed to a specific culture of a particular firm, office or organisation may prove to be more valuable in this context. Further exploration of existing literatures assists with this. In the context of criminal defence, lawyers have always demonstrated an inclination to form a 'cohesive courtroom workgroup' despite its traditionally competitive nature (Legal Action Group, 1992). Bourdieu (1987) considered the field of legal practice as characterised by 'competing forms of professional judgement'. As Newman and Welsh (2019: 71) note: "…the competitive nature of the structure of criminal defence services discourages firms from working together…and their ability to provide services which create the best conditions for access to justice". Often defence lawyers prioritise cooperation over confrontation as it is more in keeping with the interest of their clients (*ibid*). Newman and Welsh (2019: 71) further argue that lawyers "…are introduced to a culture which favours cooperation and cohesion over the challenge of politically driven practices." Maintaining this culture can be problematic when situated in the context of the post-2012 cuts, where their professional values are weakened, and they have little ability to change that due to their weakened ideological positions (*ibid)*. The lawyer workgroup, therefore, maintains a fascinating area of study.

This next sub-section examines the existing literature explicitly on occupational cultures within the wider justice remit, which provides room for cross-comparison later on. Attention is placed here on policing culture, prison officer culture, as well as wider legal cultures (Priestley, 1972; Duffee, 1974; Kauffman, 1988; Chan, 1996; Waddington, 1999; Glomseth *et al.,* 2007; Chambliss, 2010; Crewe *et al.,* 2011).

3.2.1 Policing Culture

Policing culture has played a central role in occupational culture literature for many years (Fielding, 1984; Reuss-Ianni, 1983; Lahneman, 2004; Barton, 2004; Christensen and Crank, 2001; Glomseth and Gottschalk, 2009; Gottschalk, 2012; Crewe *et al.,* 2011). "The notion that the police possess a distinctive occupational sub-culture lies at the centre of much research" (Waddington, 1999: 287). The literature on policing culture has typically focused on policing organisations as 'independent units of analysis' in isolation from other occupations (Whelan, 2015: 2). Concentration has been given to features such as underlying beliefs, values, approaches to everyday work and in general more localised debates, keeping the cultural analysis entirely inside the field of policing and avoiding any broader comparisons with other security intelligence agencies, or within any wider organisations outside of the policing field (Manning, 1997; Waddington, 1999; Loftus, 2009; Cockcroft, 2012).

Emerging from a localised analysis of police, Whelan (2015) identifies that varying occupational cultures exist within the wider policing culture. Glomseth *et al.* (2007:96) recognise four dimensions of policing culture: traditional culture, theoretical culture, planning culture and team culture, with the latter being the most relevant influencing practices of team-work, solidarity and knowledge sharing. 'Team Culture' ultimately provides a sense of cohesion amongst the officers, '…inspiring policing officers to unite together to solve crimes" (Glomseth *et al.* 2007: 96). Burke and Davies (2011:4) highlight the importance of past experiences as unifying influences within policing practices, which in turn become entrenched. Reiner (2000) recognises the specific core features of the policing culture to be: an exaggerated sense of mission, a craving for exciting crime-oriented work; masculine exploits; a willingness to use force; informal working practices; suspicion; social isolation; cynicism; defensive solidarity; pessimism, and intolerance. Irrevocably, these features are said to have considerable influence over how police officers act and identify themselves (Reiner, 2000; Loftus, 2009: 2). This reflects the isomorphic relationship that police officers have with the 'wider arrangements of social disadvantage' (Reiner, 2000: 136). Skolnick likewise argues that such police culture arises from 'common tensions that are inherently associated with the job of being a police officer' (Skolnick in Loftus, 2009: 17). Questions are asked in this thesis, the extent a form of working

cultures emerges from the everyday tensions that are inherently associated with being an LA lawyer. The macro-analyses, combined with the meso-analyses, paves the way for this exploration.

In line with this, Glomseth and Gottschalk (2009: 9-12) developed 21 'police personnel values', which sought to represent the different dimensions of police performance culturally":

> [Time management; change vs. tradition, individualism vs. group orientation; freedom vs. control; privacy vs. openness; informal vs. formal; individual competition vs. cooperation; equality vs. hierarchy; short term vs. long term; work vs. balance; task vs. relationship; direct vs. indirect; act vs. plan; practical vs. philosophical; security vs. challenge; integrity vs. productivity; firm leadership vs. individual creativity; open vs. closed; handicraft organization vs. knowledge organization; stability vs. instability and learning vs. non-learning organisation.]- **21 'police personnel values'**
>
> (Glomseth and Gottschalk, 2009: 9-12)

Employing Whelan's (2015) differentiation model, Cochran and Bromley (2003: 89) recognise the sub-cultural response of police officers to include: negative attitudes towards legal restrictions and institutions, police administration and bureaucracy, as well as in general towards citizens, idealizing aggressive and authoritative approaches towards 'crime-fighting' (*ibid*). Despite being of American origin, this work highlights some of the critical features of policing sub-culture. For instance, the need for autonomy (see Manning, 1995; Sykes and Brent, 1980), the need for suspicion: 'every person is viewed as a liar and a crook' and the idea that officers must 'maintain an edge' (Van Maanen, 1974: 118). This 'us vs them' outlook, therefore, becomes very common (Rubenstein, 1973; Tauber, 1970; Sparrow *et al.,* 1990).

Waddington (1999) notes that the police are a very 'insular' group and make a clear distinction between 'us' (themselves) and 'them' (everyone else) (in Loftus, 2009: 14). The sub-culture often stresses loyalty as a key cultural component; officers must abide by a 'code of silence', avoiding any snitching inside of the occupation, which

may create further partitions. This can be described as being quasi-militaristic (Bitner, 1967; Westley, 1970; Brown, 1981; Reuss-Ianni, 1983). This literature provides a basis for analysis (despite the differing contexts between police officers and LA lawyers) with regards to the development of a group culture, and its positioning within the wider criminal justice system and the work associated with it. For instance, it can be noted that policing culture emerged from the pressures associated with the policing role itself as examined in this section. The extent to which this similar logic has contributed to the emergence of an LA lawyer culture is explored.

Police ethnographies have fuelled a large part of contemporary discussions of policing (Banton, 1964; Skolnick; Westley, 1970; Rubinstein, 1973; Reiner, 1978; etc.). Central to popular perception, policing culture is built up of traditional norms that are shared consistently across the ranks as a way to deal with the strains of the occupation (Paoline, Myers and Worden, 2000). Alterations to the makeup and composition of the occupation, as well as broader organisational changes are to be considered and the extent to which these factors fragment this traditional, orthodox model of policing culture (*ibid*). As Loftus (2009: 1) states: the majority of articles and literatures on policing culture are reliant on ethnographic studies which are often decades old and often pre-date macro-transformations that have since taken place. An example of this is the shift towards more community policing which ultimately may call for less focus on the masculine and thrill-seeking nature of the role. Recruitment patterns have also changed, and the demographics of police officers arguably are now much more varied (*ibid*).

Authors within this field have repeatedly identified habitual internal themes, which come to pervade the policing culture; however, have often failed to recognise important external contextual events, which come to impact the cultural ethos of the policing occupation (Loftus, 2009). Whilst contextual and situational variables have been previously recognised as contributing factors to policing culture as the way in which officers act within their police station or car, to how they act with the public by the likes of Sykes and Brent (1982), Rubin and Cruse, (1973), as well as Worden (1996), wider factors have rarely been considered. For example, Waddington (1999) further recognised the importance of the police ‘canteen culture’ during off-duty periods and the extent to which the behaviour during these periods reflected into the

cultural working practices of officers on duty. As stressed by Hawkins (1976), often, the literature has focused too much on this 'canteen culture' and less on the operational side of things. For as Waddington (1999: 291) states: the policing culture could be bifurcated, consisting of an 'internal' canteen culture, and an 'external' operational culture. This dual 'insider/outsider' nature of a working culture feeds into later exploration.

Loftus (2009) carried out an ethnography across a period of 18 months, incorporating both observational and interviewing techniques to analyse the English police force. From this, she sought to investigate the 'period of transition' and the extent to which these classic characteristics as identified above have survived external changes and pressures to the police force. Recognising that there remains to be a 'remarkable continuity' with these old themes, Loftus (2009) maintains that the orthodox studies of policing culture remain to have significant value. 'Timeless qualities' still exist because of the underlying, sustaining pressures that remain to impact the occupation considerably. Loftus (2009: 18) argues that only 'wider social change' will have any chance of achieving radical cultural reconfiguration. Gravelle (2011) sought to further examine police organisational culture in relation to the current economic climate and the recent changes in government, highlighting the importance of independent research into police organisational strategies in times of austerity (*ibid*). Ingram *et al.* (2013: 365) employed survey data on a multi-level approach across five municipal police agencies to examine the extent to which the culture within 187 different workgroups is shared, as well as the extent to which it differs. From this they found that officers within particular work-groups shared some occupational outlooks, yet across groups stated otherwise indicating "the monolithic characterizations of police culture might have overstated the widespread attitudinal homogeneity among occupational members" as different officers were seen to adapt to the strains of the role in very different ways (Ingram *et al.,* 2013: 387). They stress the limitations of their research design, calling for the incorporation of a qualitative research methodology including observation, interviews and longitudinal research designs to fully comprehend how culture is developed and transmitted amongst officers (Ingram *et al.,* 390). Applying features of this more recent research on policing culture, this study offers the same insight into the world of the LA lawyer, addressing both the

parallels and the disparities across the broader field of justice. This raises questions about how homogenous the working culture of the LA is.

It is clear from existing literature that policing culture has been viewed in a particularly negative light often being described as 'pervasive', 'malign' and 'potent' (Waddington, 1999: 287). Even the police uphold this 'cynical and pessimistic view of their social world' (Loftus, 2009: 13), and this has been said to have a significant impact on the attitudes police officers have towards the general public (Rubinstein, 1973; Skolnick, 1994; Westley, 1970 in Reuss-Ianni and Ianni, 1983). Waddington's (1999) analysis of the policing occupational culture sought to recognise the importance of the existence of such mechanism, offering insight into their 'fearful reality', acting as a palliative in this respect. The extent to which any cultural-occupational mechanisms are used as coping mechanisms and/or emotional management resources in such a dynamic and high-pressured context as the LA sector is later explored.

Prenzler (1997) sought to offer a critique of 'policing culture', assessing the sustainability of the term, particularly within Australian Police studies. Arguing that there has been a growth of articles supporting the 'stereotypical image and description' of policing culture as sexist, racist, secret, anti-intellectual, brutal, corrupt and biased, he argued that this version is becoming extremely 'unitary and deterministic' (Prenzler, 1997; 47). Typically, the literature surrounding 'policing culture' is very descriptive by nature, and few studies have questioned whether this cultural model is applicable in its existing form (Cochran and Bromley, 2003). Whilst studies carried out by the likes of Jermier *et al.* (1991) and Paoline *et al.* (2000) have confirmed the existence of a culture, most have not applied this on the wider scale and has thus only confirmed its existence within a small, isolated segment of the occupation (Cochran and Bromley, 2003). Loyens (2009: 482) denotes three significant limitations of policing culture research: (1) there is a significant lack of research on policing culture in non-English speaking parts of the globe; (2) the approach to such research is extremely one-sided, contrary in nature and loyal to stereotypical anecdotes which ultimately have and will continue to create obstacles for any reform; (3) there remains to be a significant amount of naivety in terms of the belief in any form of 'universal, cohesive and monolithic' character of occupational culture, particularly within the

policing sector. Loyens (2009: 483) recognises that the occupational culture of the police is multifaceted in its existence depends entirely on 'rank, organizational context, as well as individual officer characteristics' and as such more research is needed to appreciate this diversity fully.

As this sub-section has sought to examine, there is evidence of a policing occupational culture as highlighted in the existing literature by many scholars. Although this is not without its critiques, this will usefully provide a suitable framework for both comparisons and contrasts to be observed when exploring the working culture of LA lawyers. Similarities that can be drawn out of the policing literature here, which prove relevant to the exploration of the LA occupation include: (1) occupational culture emerging as a response to occupational pressures (see Cochran and Bromley, 2003); (2) occupational cultures emerging out of a period of transition in the wider cultural backdrop (see Loftus, 2009); (3) the value of ethnography as a tool to describe occupational cultures (see Skolnick, 1970; Loftus, 2009), as well as the notion that (4) varying levels of homogeneity result in the existence of internal sub-cultural variables within an overall arc of occupational culture (see Ingram, Paoline and Terrill, 2013). However, police cultures tend to be much more physical and are likewise more likely to be working class than LA lawyering cultures as explored. The similarities and differences highlighted above to inform the analysis in great depth in chapter eight when the working culture of the LA lawyer is fully constructed in detail.

The next subsection explores the cultural world of the prison officer as another useful framework for cross-comparison.

3.2.2. Prison Officer Culture

> For prison officers, the occupational culture - and the social interactions which inevitably result - is a significant component of the job itself. In the prison, how things are done can be as important as what is done, and occupational (that is informal) rules and norms underpin how officers relate to their inmates, to each other, to their superiors on the wing and to their managers
>
> (Crawley and Crawley, 2007: 135).

This quote highlights the importance of occupational culture within the field of prison officers. While much focus has been given to policing culture in the literature on law enforcement occupational cultures as examined above, Duffee (1974) was one of the initial scholars to locate the 'prison officer culture', alongside Kauffman's (1988) study in the American context. Kauffman (1988: 86) coined nine rules of the 'prison officer culture' utilising an interview technique with 40 different prison officers under challenging conditions. These were: 1) always go to the aid of an officer in distress, 2) don't lug drugs (smuggle), 3) don't rat, 4) never make a fellow officer look bad in front of inmates, 5) always support an officer in a dispute with an inmate, 6) always support officer sanctions against inmates, 7) don't be a white hat, 8) maintain officer solidarity, and 9) show positive concern for fellow officers (Kauffman, 1988: 86). From these, Kauffman (1988) illustrated a link between a strong culture and the struggles of prison work. "The willingness of officers to 'pull together' can be a prison's strength and the source of more positive cultures", which draws parallels with Waddington's work on policing culture as aforementioned (Crewe *et al.,* 2011: 168). In this respect, occupational mechanisms come to be used as coping mechanisms. Prison officers face a physically and psychologically demanding task, and work-stress pervades the officers on an everyday basis resulting in mental health issues, drug and alcohol tendencies and poor job performance (National Institute for Occupational Safety and Health, 1999; Crewe *et al.,* 2011; Steiner and Wooldredge, 2015).

Within this broader occupational culture, Priestley (1972: 228) proposes a prison officer hierarchy of five grades: custodial work, group work, rehabilitation and welfare to outside liaison; however, the literature highlights that all levels unite to work as one when in need. As Arnold *et al.* (2007: 484) recognise, a collective prison officer culture has been identified within the literature, otherwise known as a 'working personality', symbolising cultural traits of solidarity, pragmatism, suspicion, machismo, and hierarchy-mirroring that of policing culture as recognised above (*ibid*). As Burke and Davies (2011: 4-5) rightly note, however, it is unreasonable to suggest that all prison officers across the entire occupation display all of these features at any one time. Rather these exist as a 'tool-bag of skills' that the majority of officers carry with them, and utilise when the necessary situation arises, which also is deeply context-dependent. Officers must consequently 'balance' these tools as '…too much

or too little of some of the identified qualities could be detrimental and hinder effective performance' (Arnold *et al.,* 2007*:* 477).

Cultures that exist within the prison context vary significantly (Crewe *et al.,* 2011). Ultimately staff attitudes can have a significant effect on prisoner quality of life inside the prison environment, and 'traditional models' of prison officer culture typically have an adverse impact on the prisoner population. They tend to incorporate 'anti-management' and 'anti-prisoner' tendencies, and a 'traditional-resistant' approach, coinciding with the traditional model of cynicism, disrespect, and preoccupation with control (ibid: 111). Diversely, it has been noted than some traditional cultures are much clearer and boundaried, and therefore have a much more positive effect on the prisoners (*ibid*). As Sparks *et al.* (1996) maintained, occupational cultures, particularly within the context of the prison, are far from static. In this respect, it may be difficult to generalise a single cultural entity, which can be openly applied to the profession as a whole. Yet, common structural determinants do exist; the way in which staff training transmits specific cultural attributes has arguably led to high levels of suspicion and cynicism towards prisoners (Arnold, 2008; Crawley, 2004 in Crewe *et al.,* 2011: 112).

Despite this, it is clear that since Colvin (1977) maintained that prison officers have never been described as 'glamorous' or 'clever', the role remains entangled within a web of negative associations, similar to policing culture. As such, little research has since been done on the prison officer occupation in general, and particularly their occupational culture due to the nature of the work and the ability for researchers to have access to prisons.

While there is less literature surrounding the prison officer culture, some correlations and contradictions can also be found here. Similarities include: (1) solidarity (see Kauffman, 1988), (2) source of core strength (see Kauffman, 1988) (3) a relief from the demanding nature of the work (physical, emotional, mental); (4) the presence of a form of 'working personality' (see Arnold *et al*, 2007), and (5) positive and negative attitudes towards clientele (see Crewe *et al,* 2011). Like policing culture, prison officer culture likewise tends to be much more physical and predominately working class. Legal cultures, therefore, follow different trajectories to police and prison officer

cultures as to be explored; however, similar themes identified and derived from these literatures assist with analyses later in this thesis.

3.2.3 Wider Legal Culture

Research into wider legal cultures is limited, and occupational culture has rarely been applied in this context. Legal culture can be seen as a 'communicative culture', in contrast with police culture and prison officer culture, which can be defined as 'physical cultures' (Cownie, 2004: 165). The hyper-masculinised elements of police and prison officer cultures often require physical strength to be flaunted and exerted; however, in contrast, lawyers are required to exercise their mental power. Friedman (1969) initially coined the term 'legal culture', recognising structural, substantive and cultural elements of the legal system: "it is the way in which structural, cultural and substantive elements interact with each other, under the influence of external or situational factors, pressing in from the larger society" (Friedman, 1969: 34; Chan, 2014: 220).

"Lawyers' cultural mode of being and behaving is shaped in multiple ways by their training in law and their association with other legal professionals" (Lebaron and Zumeta, 2003: 468). Lawyers conduct themselves in a particular manner due to the distinct norms and values of their culture. "The Lawyer employs powerful but contradictory rhetoric. He acknowledges that lawyers should not criticise other lawyers and should avoid mudslinging in general, yet he does both at length" (Sarat and Felstiner, 1988-89: 1682). The most striking image of lawyers within popular culture, however, happens to take a very negative stance, mirroring some of the findings from police and prison officer cultures. A poll conducted by the *National Law Journal* asked the public what 'most closely represented their view of the most negative aspect of Lawyers' and 32% disapproved lawyers because "they were too interested in money" (Post, 1987: 380). This notion will be examined in this study, as lawyers have often attracted names such as 'fat cats' (Smith and Cape, 2017), implying that the lawyers are merely in the role for monetary purposes. Motivations for wanting to work within the area of LA are explored in chapter six.

Schiltz (1999: 971) further describes 'legal culture' as 'unhappy, unhealthy, and unethical'. As Friedman (1975: 204) asserts, "One can speak of legal culture on many levels of abstraction", which again implies that there are varying levels and forms of 'legal culture' as similarly outlined within the context of the police and prison officers. Chambliss' (2009: 3) concept of insider/ outsider legal culture; the 'insiders', being the lawyers themselves, as well as the 'outsiders', being the 'organisational culture' on a larger scale within the workplace, has been widely recognised as an influential model. This insider-outside notion is based on Friedman's (1969: 34) original work, with the internal features of the culture referring to the values, attitudes, and habits of the lawyers themselves, and the external features relating mainly to the attitudes society upholds about the lawyers (Chan, 2014: 220).

Cownie (2004) sought to explain legal culture through her research on the lived experience of legal academics within a faculty, rather than lawyers in practice. The research encompassed the attitudes and the perceptions of legal academics, the extent to which law permeated their lives, how they 'embody themselves, as well as their social background and the construction of their professional identity (Cownie, 2004). Cownie's (2004: 14) study consisted of 54 semi-structured interviews with legal academics working in university law schools across England, completed over 18 months. The research aimed to examine both the 'external' and 'internal' influences on legal academics. Cownie (2004) defined the external influences as the department, the institution, and society. From this, she found the legal culture to have very positive elements such as healthy levels of solidarity and knowledge sharing (*ibid*).

Chan (2014) argues that legal cultures must adapt to accommodate more suitable levels of work-life balance, as well as higher levels of well-being to combat the high-levels of stress associated with the work. In light of this, however, Chan (2014) further notes that studies have shown that in general, lawyers tend to have high levels of job satisfaction. These selective studies on legal cultures outlined above, examine elements that may apply to the LA lawyering context. These include the insider/ outsider distinction, as well as its capability to draw on internal and external factors. As outlined by Cownie (2004) features such as solidarity and knowledge sharing may also be applicable. However, there remain to be significant gaps in the literature as the concept of occupational culture has rarely been applied in this context. Additional

literatures on the lawyering profession and relevant micro theories are explored below to situate this study further.

3.3 Micro: an insight into the world of the legal aid lawyer

The individual LA lawyer faces a variety of conflicts in their own right. Balancing their appreciation of the role with their professional identity, as well as the financial burdens and demands on their practice makes the role very challenging. These conflicts can likewise present themselves differently for each lawyer, as there remain differences in motivations, tasks, challenges and barriers to their work. This makes it even more important to offer an individualised micro-analysis. Existing literature on relevant micro-theories (Hochschild, 1983; Goffman, 1956), LA lawyering, and wider legal scholarship to assist with this is explored below.

Hochschild's (1983) concept of 'emotional labour' is used within this thesis. With a focus on identity, meaning, affect, and subjective understandings of work, this is very relevant to this thesis. Hochschild examined how those who are customer-facing in the service sector manage their own emotions in response to the clientele they serve. This stimulated the work of Lamont (2000) and Hodson (2001), who used this as a basis to offer explorations on the complexity of meanings, identities and values around work (Strangleman, 2015). Meaning, identity, and values all feature in the analyses. These all come to inform the working culture of the LA lawyer later on.

Being competent in one's work in the altruistic context often requires those within the field to adopt a 'credible front', as identified by Goffman (1967: 75) and as explored within the context of Roderick's (2006) work earlier on. A credible front "…refers to that element of an individual's ceremonial behaviour typically conveyed through deportment, dress, and bearing, which serves to express to those in his presence that he is a person of certain desirable or undesirable qualities". Lively (in Harper and Lawson, 2003: 355) notes that paralegals, in line with Goffman's 'credible' front maintain an ability to separate the 'front' and 'back' regions of social interaction within law firms. Goffman refers to the 'front region' being the performance space visible by all, and the 'back region', a space relative to the performance space, where

performers can deal with hidden components of their lives, which often contradict their actions in the front region (1959: 23-24). 'Personal fronts' as identified here, may include appearance, manner and emotion management- all of which feed into the analysis in subsequent chapters (Hochschild, 1979; 1983). Interactionist theories here thus prove useful in understanding how LA lawyers behave in a 'do-gooding' profession within which emotion plays a very significant role. While they have been introduced here, the work of Hochschild (1983) and Goffman (1956) feature strongly in chapter seven.

3.3.1 Legal scholarship

Legal culture has played a dominant role in law enforcement literature (Sommerlad, 2001; Katz, 1982; Skolnick, 1966; Travers, 1997; Toynbee Hall and Middlesex University, 2015). Unlike other groups working within the criminal justice system, such as the police, prison officers and other security personnel (as well as criminals) - there has been a tendency to neglect the study of the LA lawyer. They play just as a significant role in the eventual outcome of a case as the police and wider crown prosecution service however. As such, there is a small body of literature that details the occupation of the LA lawyer in the UK, despite a long-standing interest in the world of professions within the sociological framework. This research will ultimately remedy this to give LA lawyer a 'voice'. This is unlikely to be straightforward as what little literature that exists suggests that LA lawyers have multiple identities: self-serving, professional experts and champions of access to justice (Goriely, 1996) and that this conflict of identity ultimately plays a critical role when addressing the occupation.

Garfunkel and Sacks (1961) offer the first two contributions with their work on the nature of lawyers work on the local scale. Travers (1997) later researched a small law firm in a high-crime district situated in Northern England, who took on many LA cases within the local criminal court. The firm had a particular reputation of being 'radical', defending their clients' rights even if this led to a confrontation with the police or other members of the criminal justice system. Arguably this could have implications for lawyers and their subculture. Utilising his contacts from law school prior to entering the field of Sociology, Travers (1997) employed an ethnomethodological approach to

legal work, whereby he spent four months immersed as a nonparticipant observer. Detailed descriptions of both the solicitors' practices and day-to-day behaviours constituted his research, exploring the regular practical dilemmas and ethical conflicts that regularly arose within the field. From this, he sought to offer a sociological perspective on the field of legal work (Lynch, 1999).

Prior to this, however, Katz's (1982) work on 'poor people's lawyers' has been very influential. It offers an insight into the world of the lawyers representing the poor in the United States. Analysing data from the personnel files of 55 lawyers working in the Legal Aid Bureau (LAB) from the years of 1950 to 1973, Katz carried out interviews with some of the LAB staff, as well as six interviewees from the legal service's payroll (Katz, 1982: 52). Providing descriptions of working attitudes, contextual resources on particularly vigorous social movements and dominant political sympathies for the poor - as well as offering a more extensive insight into the world of unequal justice - Katz (1982) delivers a robust analysis of the profession on both the individual and organisational levels. As well as this, a reflection on the historical sequence of broader social and legal changes is offered (*ibid*). This reinforces the usefulness of the threefold framework of analysis adopted in this thesis.

It is important to note that Katz's work is centred entirely on one particular case study, focusing on the social organisation of the attorneys based in the City of Chicago, limiting its broader applicability and appeal. Theoretically, Katz's (1982) work offers a particularly robust insight into social change and the social organisations that are confronted with it regularly. His research encompassed the first-ever case study of 'legal assistance lawyers' across a span of 100 years in Chicago, which he argues, is the hub of poverty lawyering. His work is significant in several social science arenas, i.e. the settlement movement, North American sociology and the pioneering of juvenile justice, to name a few. Katz's research aimed to look into the field on both the organisational and personal levels in line with the constant fight for equal justice for the poor. The extent to which 'poor people's lawyers' therefore become passive or entrepreneurial in this fight plays a significant role. While the Chicago context is very different in terms of welfare to England with far more dominance of charities and private providers which results in differing needs and opportunities, Katz's work remains influential here.

Katz's (1982) work is of relevance on the macro level, particularly concerning the fight for unequal justice. Pertinent features on the micro-level, particularly with regard to entry into the field as well as the day-to-day workings of the profession also emerge. He found that those within the profession were separated by diversity in personal background; however, a large majority came to the role out of 'common perception of marginal market position' in which prior occupational experience was deemed irrelevant. Moral motives were not necessarily their original inspiration for the role; a large part, however, acquired altruistic tendencies upon entering the environment (*ibid*). Another uniting factor of poverty lawyers he identified was that most entrants were educated at local law schools, as opposed to the larger, more prestigious national law schools (*ibid*). This study addresses the demographics of the lawyer pool to assess the variations of class, age, gender, and race. It likewise explores social mobility, as well as education and training in chapter five to see if any comparisons can be drawn in the UK context.

Katz maintains that poverty lawyers are routinely called to a 'limited professional role' and have therefore been forced to limit both the significance, as well as the development of their occupational careers to their 'local social environment'. As such, 'legal assistance lawyers' maintain that their work is 'personally confining, of limited significance or routine' (Katz, 1982: 17). He attributes this to heavy caseloads, or the fact the occupation is largely altruistic, and therefore involves a vast amount of self-sacrifice. Lawyers are seen to be typically controlled by 'straight models of professionalism and traditional aspirations for high income and prestige' (*ibid*). This also impacts on the lawyer-client relationship, particularly within the field of poverty lawyering, as well as broader relations within the criminal justice system as to be expanded upon later. As Katz (1982: 18) denotes: "civil lawyers for the poor repeatedly experience discontinuity within cases, and continuity in pressures to limit the significance of cases to the people immediately involved, which ultimately differs for lawyers who are placed within the realms of poverty (Katz, 1982; Skolnick, 1966). Poverty lawyers arguably lack any form of robust or elaborate social network (Katz, 1982: 21). Some of these issues highlighted in Katz's work remain relevant. Addressing the various networking, support and social groups that exist today for LA lawyers is of interest here. Asking whether LA lawyers uphold a stable social network

either inside their workplace or via more extensive networks which impact, provide and support them is of great interest to this study.

Katz (1982: 19) further maintains that unlike lawyers who deal with wealthy clients, poverty lawyers, despite their competence and job performance are saturated in an environment which repeatedly treats their work as 'routine and insignificant'. Their commitments are often far from long-lasting (*ibid*). Importantly, legal assistance lawyers often uphold very short-term relations with their clientele as they tend to handle 'dirty work', as opposed to 'clean law practices' (Katz, 1982: 29). Dirty work refers to work that is not appealing, whether that be a result of the client, difficulty of the case, or the nature of the crime. It has been noted that poverty (or LA) lawyers face particular problems as the services they offer are typically either publicly-funded or free in some cases. As such, various coping mechanisms are created to deal with this (*ibid*; Sommerlad, 2011). It is argued that embarrassment is unavoidably a common feature of LA practice as a result of both 'typical client lies', as well as the lack of pre-trial investigations leading to a significant reliance on facts asserted mainly on what the client reveals (Katz, 1982: 40). Having this much reliance on the client can be particularly frustrating, and therefore many lawyers are said to distance themselves from this with the use of 'incredulous outrage and humorous ridicule' including the use of mocking activities and sarcasm, which resonates with the literature on the policing occupation as examined earlier on (*ibid:* 118). Humour not only allows the lawyer to establish a distance from some of the day-to-day embarrassments of the role; however, by transporting themselves into 'naturalistic comedies and classical satirical novel', this also reduces the confrontation of demeaning expectations (Katz, 1982: 119). However, by doing so, the lawyers can, therefore 'celebrate' their efforts as an "absurd, yet therefore heroic attempt to achieve significant results within makeshift means against apparently hopeless odds" (*ibid*: 120). As Katz (1982: 52) maintains, one should view "legal aid as a project of professional honor".

Katz (1982: 197) notes, however, that there are issues with the evidence used within his work with regards to its representativeness, reactivity, reliability, and replicability. He affirms that while he carried out 18 months of fieldwork between 1972 and 1973, his report only depicts events within the context of Chicago during the early seventies. While he originally typed up 2000 pages of field notes, only a fraction of these are

adequately represented in the final report, and the specification and inclusion process for doing so is not specified (*ibid*). Similarly to this research, his work provides a vital snapshot of the working world of the LA lawyer and thus is very valuable in informing this exploration.

It is also useful to look beyond Katz' (1982) framework to more recent studies surrounding the field of LA lawyering. There have been a handful of scholars who have delved into the ideologies and true meaning behind 'cause lawyering' (Abel, 1988; McConville *et al.,* 1994; Travers, 1997; Scheingold and Bloom, 1998; Tremblay; 1992; Aristodemou, 2009; Newman, 2013). Of particular importance here is the term 'cause', and the extent to which this acts as a primary motivator or signifier within the field as to be revisited (Aristodemou, 2009). Wismer (1928) sought to examine LA organisations as 'lobbyists for the poor', which offers an interesting perspective of the occupation as English lawyers can be traced as doing the same in the 1920s (in Bradley, 2019). The term 'lobbyist' in this respect is detached from all forms of illegality or impropriety (*ibid*: 172). Wismer (1928) argues that inducing a change in the law is a 'definite duty' of legal aid organisations, as undoubtedly these types of organisations attract the troubles and problems that the poor face on the day-to-day basis. As such, "the legal aid organization should be the logical champion of the poor in the field of legislation" (Wismer, 1928: 174).

Scheingold and Bloom's (1998: 212) work aimed (1) to construct a framework to classify the interests served by 'cause lawyers', (2) to explain why lawyers are distributed across these interests, and (3) to undercover the idealised conditions that are ultimately conducive to 'cause lawyering' on behalf of the clientele- the most impoverished and marginalised from everyday life. Calling for a 'partisanship', they argued that cause lawyers must serve both the clients, as well as the government in this respect calling for mutual neutrality, yet also a sense of professionalism which Simon (1978) otherwise labels 'the ideology of advocacy' (in Scheingold and Bloom, 1998: 212). Arguably the role inevitably entails broader issues of social conflicts and other inequalities, which often characterises the role on the wider scale (*ibid*). The cause lawyering occupation has been involved with "environmental, feminist, consumer and labour movements'. They have also campaigned against poverty, the death penalty, racism, as well as generally advocating to protect the rights of these

marginalised groups on a general scale (Scheingold and Bloom, 1998: 210). Scheingold and Bloom's (1998) paper sought to reflect further on the 'reconfiguration of meaning and substance of access to justice', which ultimately contributes to the broader 'erosion of social citizenship' (*ibid*: 179).

Selznick (1961) argues that values become the focal point of academic interrogation, which is relatable to many of the other problems that the social sciences ultimately seek to address. Whilst the implementation of the legal system in 1949 in England, and Wales arguably evoked a 'golden age' of altruism and the promise of justice for all, Schiengold and Bloom (1998: 189) utilising the work of Selznick (1961) ultimately argue that this model of the law placed within its social context, continues to be "undermined by the discourse of marketization, contractualisation, and individualisation". Further employing exclusionary practices towards the poor's poverty from the process on the governmental, democratic and legal levels and ultimately from the 'imagined community of civil society'. For cause or LA lawyers to succeed in light of austerity, they must follow strict bureaucratic procedures imposed by the government which could undermine clients' rights. This resonates with the broader welfare context as it is not straightforward to get any form of state benefit. Building on this, questions will be asked surrounding the levels of inadequacy that some lawyers may feel within the LA field, particularly with regards to status frustration and inability to 'do-good' as fully unpicked later in chapters six and seven. A sense of both confusion and isolation, however, is central to the role of the LA lawyer. Tremblay (1992: 947) sought to examine the professional responsibilities of 'progressive lawyers' in light of the occupations 'inherently political character'. The inherent vulnerability and absence of economic constraints make it an extremely different role to those representing clients at the opposite end of society (*ibid*). As such, questions have been raised as what constitutes an 'appropriate ethical stance' for these professionals who are ultimately advocates of those who otherwise lack social status (Tremblay, 1992). One of the most potent theoretical and significant schools of thought, which sought to craft a basis for the type of progressive practice in question is the 'rebellious approach' (*ibid*: 948). Ultimately, this builds upon the notion that cause lawyers are obligated to empower their clients and thus have to engage with some sense of mobilisation and fundamentally, a process of 'de-professionalisation' to achieve this. Calling for more zealous attention to the needs of these clients (*ibid*).

Tremblay (1992: 949) argues that on the other hand, 'public lawyers' can be described as 'oppressors, domineering, unreflective, poor lawyers, as well as unfeeling bureaucrats'. While it is noticeable that some of the literature surrounding the occupation places the blame on the lawyers for creating this reputation themselves, Tremblay (1992: 950) seeks to suggest there are broader structural, institutional, political and ethical issues that remain crucially influential on the field. To this end, cause lawyers often deviate from moral and political neutrality (Aristodemou, 2009: 331). Sarat and Scheingold argue that 'cause lawyers', are situated on the perimeters of the wider lawyer occupation and are 'forever on the brink between the legal and the political', as well as 'the personal and the public' (in Aristodemou, 2009: 331). It could be argued that the LA lawyers are required to maintain a 'balancing act' of adhering to the needs of the government, as well as addressing the needs of the clients appropriately. Questions will be asked as to what extent this problematic situation is worsened by the low social status of the clientele. Building on this, it will of great interest to further examine LA lawyering within the general hierarchy of the wider 'lawyer profession', asking the extent to which they have a particular positioning within the field in contrast to commercial lawyers or those who are seen to be the 'elites' of the profession.

For these LA lawyers, however, it has been argued that they are not there for financial gain; however, 'their poverty is proof of their integrity' as in the English context LA comes from the taxpayer (Obama, 2007: 135). Tata (2007: 489) employed the concept of 'ethical indeterminacy' to portray how defence lawyers seek to resolve the conflicting interests of the commerce and LA clients within the context of criminal defence work. He argues that a lawyer's primary duty is to serve the client; however, this has been placed in the limelight because of a growth in LA spending (*ibid*). To what extent is this growth led by the lawyers (suppliers) themselves 'inducing unnecessary demand for their services', or is it a suitable response to an ever-increasing demand placed in the hands of the occupation? (Tata, 2007: 489).

Utilising the concept of 'ethical indeterminacy' to explain this: "suggests that changes in lawyer practices are mediated and negotiated by a range of competing normative justifications about the character of 'good' defence work" involving both variables of

'quality' and 'need' (Tata, 2007: 496). Tata (2007) draws upon five different perspectives which seek to define 'quality' within criminal legal practice work: (1) traditional trait perspective; (2) bureaucratic-efficiency model; (3) adversarialism; (4) radical lawyering, and (5) client-centred work. The traditional trait perspective focuses on legal knowledge and stresses the need for technical expertise and the reliance on case 'facts', employing a very formalistic approach to problem-solving (*ibid*). The second emphasises efficiency and mass casework, utilising a 'conveyor belt' model to ensure that standardised practices are employed across the board (*ibid*). The third perspective offers suspicion of and broader protection from the state, while the fourth places the law in the position of tackling social change on the community level (*ibid*). The final perspective adopts a selective approach to suit the individual needs of each client. As such, this places the lawyer-client relationship in a different position, offering the clients more autonomy within the handling of their cases. These defining categories will be explored in the context of this research as perspectives (4) and (5) become progressively more challenging to implement in the post-cuts backdrop. In the context of the lawyer-client relationship, the 'poor' utilise LA lawyers for legal assistance, or more often than not personal troubles which usually are 'within or at the edge of litigation' (Katz, 1982: 21). For some their problems may seem unbearable; however due to time restraints, and monetary restrains, gaining legal representation may not be straightforward (Katz, 1982; Standing, 2011; Toynbee Hall and Middlesex University, 2015). As Stein *et al.* (2001:1) argue: "legal aid must be championed as an offspring of the welfare state, as an instrument for social equality that allows individuals to 'protect their badge of citizenship".

Newman's (2013) ethnographic study sought to address the lawyer-client relationship within the LA context. In some cases, it has been argued that lawyers are shown to hold low opinions of their clients and thus treat them as undeserving of 'good treatment' (Newman, 2013; McConville *et al.,* 1994). Newman (2013) maintains that as observed in his research "…all talked a healthy-lawyer client relationship but walked one that was strained" (*ibid*, 165). This is one of the largest ethnographic studies for over two decades. Whilst, on the one hand, Newman (2013) argues that lawyers usually state that they have positive relationships with their clients, in practice, this can be the very opposite. He builds on this notion, by arguing that his research is "damning for this branch of the legal profession", yet his main intention is to highlight

the problems and to allow lawyers to learn from the mistakes he makes evident within his study. He offers further insight into the causes of these problems such as financial cuts, increased time pressures, lack of ethical training, to name a few (*ibid*). The clientele arguably has a significant influence on the role of an LA lawyer, and thus help shape the occupation. Diversely, some studies within the literature have recognised that LA lawyers tend to offer high standards of representation (see Travers, 1997).

It has been suggested in the literature that salaried public defence lawyers are more cost-effective than private practitioners (Goriely, 2003). In her case study of a public defence solicitor's office based in Edinburgh, Goriely (2003) produced a three-year evaluation to conclude that public defenders undoubtedly resolve their cases at a much earlier stage than private practitioners. Not only were their clientele more likely to plead guilty; however, they were more likely to do this within the preliminary stages. This had significant potential to protect LA costs, resulting in increased efficiency, but meant that a focus on getting clients off the hook was not always maintained (*ibid*: 84). To this end, Goriely (2003) maintains that they, therefore, have a much higher conviction rate, and despite early pleas, this does not always constitute a shorter sentence time. While on the one hand, clients utilised the term 'business-like' to describe the public defence lawyers, they further maintained that there was a general lack of emotional support from the lawyers themselves (*ibid*). It has been noted that because of the short-term nature of the client-legal aid lawyer relationship, it is difficult to create any emotional bonds or relationship in this context (Sarat and Felstiner, 1988-1989). While LA clientele do not form the main basis for this research, the work of LA lawyers cannot be fully understood in isolation from their clients.

Challengingly, it is apparent that the discourse surrounding typical LA clientele tends to paint the victims and defendants as 'irreconcilable' and as such, "… there has been a totemic quest to support victims of crime concomitant with an obvious lack of effort to protect the rights of those suspected or accused of crimes" (Cape, 2004: 5-7; Newman, 2013: 167). One reason for this is the impact of LA reductions (Newman, 2013). Johnson (1980-81) has constructed the 'hypothetical alter-ego lawyer', by which is based solely on pleasing the public service ideal, working entirely for interest of their client (Newman, 2013). It is argued that as a result of the cuts that not only

will advocacy and preparation reduce, but so will attendance as well as levels of client care (ibid). From this, a different product is arguably produced (Fenn *et al.,* 2007: 17). Here, the concept of ethical indeterminacy comes in to play (see Goriely *et al.,* 2001; Tata and Stephen, 2006). This is devised by the notion that lawyers will become invested in commercial interests, thus acting in a rational and economically prudent manner to 'cut corners' purely for financial reasons resulting in less than satisfactory client service (Tata and Stephen, 2006; Newman, 2013). The extent to which LA lawyers 'cut corners' will be later explored.

Sommerlad (2001) examined the impact of LA reform on private LA practitioners (drawing on Katz 1982). She sought to examine a specific group of solicitors within the UK in light of recent changes in the delivery of legal services (Sommerlad, 2001: 335). As an umbrella term, it has been argued that 'New Public Management' incorporates a high output, yet encourages low morale within the context of public legal services (ibid). Sommerlad (2001) argues that this has undoubtedly affected the 'political' lawyers' aim of empowering their clients, as well as combatting issues of social justice (*ibid*). Likewise, Newman and Welsh's (2019) work on the 'alienated LA lawyer' explores how lawyers' behaviour can be viewed and understood in the current context. Grounded in Marxism, they explore how alienation permeates criminal defence work within the neoliberal era. They identify a lost sense of purpose, feelings of powerlessness and being unvalued which have emerged from broader structural changes to the profession. Most notably, they argue that funding cuts and demands for efficiency have adversely affected the quality of service that the clients receive in the context of criminal defence (*ibid*). The extent to which this affects both civil and criminal remits is explored.

Following on from this, Toynbee Hall and Middlesex University (2015: 7) produced a report entitled *Sleepless nights: accessing justice without legal aid* to examine the impact of the cuts to LA on lived experiences utilising surveys, interviews, as well as service evaluation data. It was argued that the cuts to LA themselves have had both a direct and indirect impact on the clientele (*ibid*). While some of the clients found themselves no longer eligible post cuts, despite having had LA representation beforehand, the mental health of others had been increasingly affected producing high levels of anxiety, a sense of being powerless, sleepless nights, as well as being unable

to continue with their lives (*ibid*). "Participants emphasise that a free legal advice services advisor is not just a lawyer but also a friend and a counsellor" (Toynbee and Middlesex University, 2015: 7), by which the LA representative becomes the principal counsellor for broader life worries, adopting almost a holistic approach (*ibid*). The holistic nature of LA work forms the primary basis for chapter seven, as questions are asked about the extent to which the humanistic element of LA work has been restricted.

In the context of 'do-gooding', the heroic nature of LA work is also explored. Robson (2006) sought to shed light on the portrayal of lawyers on the television in the English context, utilising the United States as a basis for examination. While his work is not LA specific, it offers an interesting site for examination for this thesis. Robson (2006: 333) provides a typology of TV law programmes covering law procedurals, dramas, comedies and reality shows centred on the law. Concluding with a paradox at the heart of lawyer programmes, he argues that the ethos of the material has mostly been reflective as opposed to refractive: "the protagonists have been anti-establishment while the underlying trope has been the attainment of justice through the vehicle of the heroic lawyer" (ibid). The first media appearance that sought to portray lawyers came about in 1950 entitled *Let Justice Be Done,* which was based on the juvenile justice system (Robson, 2006: 341). Since there have been 40 other 'lawyer-centred series' between 1956 and 2005 (*ibid*), it is vital to address the interaction between lawyering and the media, as Robson (2006: 348) argues that one can learn and contribute to issues on: "…globalization, legal education, legal consciousness, and the legal profession". The mediated world will, for the most part, be very influential in this research to maintain and keep up-to-date with the ever-changing landscape of the LA lawyer. Arguably, a large part of campaigning is now done online, whether that is through social media, blogging or news sites. The extent to which the lawyers in this research campaign will be explored.

3.4. Summary

The final part of this chapter briefly clarifies how the rest of the thesis will engage with the literature featured in this review. As was noted at the start of this chapter, the

nature of this review has explored broader literatures to best situate this exploration into the occupational world of the LA lawyer. In its first half, this review introduced broad areas of scholarship which resonate with macro-discussions of LA lawyering. Literatures in the remit of the sociology of work and professions, precariousness, white-collar work, and altruism were explored. Meso- literatures examined looked at occupational culture, and more explicitly existing literatures of other occupational cultures within the wider justice remit for purposes of comparison. The final section of this review explored micro-theories, including interactionist theories and emotional labour, as well as existing literature on the legal profession to situate this study.

There is an evident need for a new empirical investigation into the occupational world of the LA lawyer that can do three things: (1) Offer a reliable and detailed insight into the working world of the LA lawyer across the civil and criminal specialisms, (2) provide an understanding of the broader economic, social-political and cultural changes that have energised the profession and the extent to which the lawyers within the field resist or succumb to the effects of this, as well as (3) determine whether or not LA lawyers uphold a form of occupational mechanism that may be useful in helping to understand and explain their world of work in more specific terms, but also existing as a form of coping mechanism to the precarious backdrop in which they are situated. This thesis aims to do just this by presenting an exploration of LA lawyering that directly speaks to existing literatures and the gaps identified within this chapter.

The literature considered above points to several theoretical propositions to support the ethnographic enquiry employed in this thesis. Each of the themes identified above will accordingly be raised again in later chapters, where the thesis reflects on the continuities across the occupational terrain of the LA lawyer. The literature reviewed here has provided tools to explore the aims and objectives this thesis seeks to answer and has likewise identified significant gaps in the literature. As discussed, the sociology of work on its own does not offer a comprehensive, enough framework for exploration. The discipline does not necessarily consider institutions vital to the functioning of our justice system, but it likewise misses some of the issues in debates around the contemporary nature of work as the field is calling for a revival. As Katz (1982: 29) notes, poverty lawyers have always had a ‘limited professional role’ as they tend to handle ‘dirty work’ as opposed to ‘clean law practices’ like their private

counterparts. Increasing limits to the significance, as well as ability of the LA lawyer calls for a unique analysis of a 'profession within a profession'. Thus, the threefold analysis complements and fills in the gaps to build a theoretical framework that suits the working world in question. In doing so, this speaks to the broader nature of contemporary work and the ability for state institutions, professional groups and individual professions to 'do-good'. The next chapter begins introducing this new research by outlining the research methodology deployed within this thesis.

Chapter Four: Methodology

Entering the profession: exploring the precarious world of the legal aid lawyer

This chapter sets out the epistemological and methodological approach of this thesis. Qualitative research is an inherently unpredictable and complex process of interpretive practices (Denzin and Lincoln, 2011). "Truth emerges and is made visible from engagement with multiple realities in changing contexts" (*ibid*: 48). Within a qualitative interpretivist paradigm, meanings are attributed to experiences. As such, subjectivism is key, and a flexible and open methodology is needed to negotiate the nuances and meanings of a given social world. Considering conceptual, practical and reflexive matters, this chapter locates the chosen 'liquid' ethnographic methodology and its application to this study, as it is deemed most ontologically and epistemologically appropriate (see Ferrell, 2013). This particular type of methodology is typically fluid in its nature and can be attuned to broader macro changes.

The first section considers the philosophical assumptions that inform the chosen methodology. It then considers ethnography on a more general level, delving into the literature surrounding the application, growth, and drawbacks of utilising an ethnographic approach within the sociological context. Beyond this, this detailed investigation employs both ethnographic and semi-structured interview methods for their capacity to yield rich and nuanced data. This section, therefore, also considers semi-structured interviews and their application and relevance to this thesis.

The second section of this chapter offers a reflexive insight into the practical issues underlying this research process, presenting a transparent and realistic overview of the ethnographic inquiry. Following on from this, a research 'confessional' is given (see Van Maanen, 1988), paving the way for a genuine insight into the world of the researcher. An overview of ethical considerations is provided. This is of great importance when utilising an ethnographic methodology, as it is ultimately taking knowledge directly 'through the eyes' of others and giving a 'voice' to those being represented under the watchful eye (Hobbs, 1993).

4.1. 'Liquid' Methodology: accommodating and understanding the multifaceted complexities of the legal aid world

Interpretivism enables exploration and understanding of a given phenomenon (Bryman, 2012). G.H. Mead's (1938) outline of pragmatic inquiry encapsulates this. Importantly, he argues that (1) reality 'is actively created as we act in and toward the world', and (2) we must base our understandings of why people act in a certain way on what the actor actually does. In this sense, interpretivism places emphasis on the importance of *understanding*. A qualitative methodology is, therefore, more suited from an interpretivist standpoint as it paves the way for the exploration of understanding how people interpret things. This is in contrast to a quantitative methodology which typically focuses on predicted correlations, test established hypotheses and objective research under the realm of positivism (Guba and Lincoln, 1994). The latter is not appropriate for this field of inquiry; a positivistic paradigm would not encapsulate the complexities, nuances and meanings of the social dialogues and interactions of the working world of the LA lawyer (LeCompte and Schensul, 1999).

Ethnography, which lends itself to an interpretivist paradigm, is an empirical methodology linked to the examination of culture and the wider understanding of the social world. It has undoubtedly enriched sociological and criminological research:

> To tell the story of a life may be one of the cores of culture, those fine webs of meaning that help organise our ways of life. These stories of personal narratives- connect the inner world to the outer world, speak to the subjective and the objective and establish the boundaries of identities
>
> (Plummer in Atkinson et al., 2001: 395).

To establish the extent to which the ethnographic method draws on a long and venerable tradition, it is essential to examine existing methodological literature. Coles (1997: 20) states that the adjective 'documentary' appeared in the early 19th century. Descriptions of evidence with words offered as confirmation of a situation came into the picture not only to embody reality but to inevitably deconstruct and interpret it. Social process, nuance, detail, setting, and meaning have since laid the basis for

ethnography, which have sought to move beyond the background, stepping into the foreground of the criminological field (Young, 2011).

The origins of ethnographic methods lie in the work of the school of Anthropology. By the late 16th century, students in this field were no longer interested in a 'chronology or an interpretation of events', but rather they focused on 'sorting people out' in terms of appearance, cultures, habits, and customs (Coles, 1997: 22). 'Physical anthropologists' were joined by social and cultural anthropologists who focused on how different groups and cultures behaved within the context of the social world in the late 19th century (*ibid*). Shortly after, the Chicago School[6] appeared around the 1930s and ethnographic studies conducted within this domain placed further emphasis on the importance of qualitative methods (Noaks and Wincup, 2004). This school made significant contributions after the Second World War to sociological theory via the development of 'social disorganisation theory' and their 'ecological model' of patterns of crime within the context of the city (Downes and Rock, 2003; Van Maanen, 1988; Noaks and Wincup, 2004: 6). Individuals and groups were no longer seen as merely 'objects', but rather the emotions, values, and interests of these animate communities were beginning to be deemed as relevant to the field (Jupp, 1989: 130). Blackman (2010: 195-196) argues: "Contemporary accounts of ethnography as a research method usually cite the Chicago School of Sociology under Robert Park and Ernest Burgess as the starting point for urban participant observation, the use of life history and the gathering of personal documents as valid sources of ethnographic data collection". Beyond this Paul Willis (1977: 3-4), who has a vested interest in ethnographic method, wrote that such techniques "…have a sensitivity to meanings and values as well as an ability to represent and interpret symbolic articulations, practices, and forms of cultural production".

Ethnography has, therefore, become an extremely popular method within the spheres of crime and deviance, as well as Criminal Justice. Examples of ethnographies include: Holdaway's (1983) *Inside the British Police Force,* Punch's (1979) *Policing the Inner*

[6] The Chicago School utilised naturalistic methods to study gangs in their 'peculiar habitat' within the city. (Park, 1927)

City, and Punch's (1985) *Police Corruption- Conduct Unbecoming,* as well as the work of Reiner (1989; 2000), Loftus (2009) and Newman (2013), to name a few.

Ethnography is typified by its unstructured means of collecting data; it concerns the prolonged study of groups in natural settings of different cultures and their everyday practices, and therefore it fits the purpose of examining a specific group or community - in this case, LA lawyers (Emerson *et al.,* 1995; Brewer, 2000). It ultimately involves entering the field as an outsider and shadowing individuals as they go about their day-to-day business. While it is a methodology and an approach to research, it is also a method and a means of collecting data (Brewer, 2000: 143). As a method and a written product of research, ethnography plays a role in generating knowledge and theory and further allows the research/researched to be placed in a position to assess the application of policy (*ibid*). For the most part, the researcher or ethnographer enters the setting of the study and develops relationships, makes observations and often participates in the routines and behaviours within that location.

Weber first coined the term 'verstehen', which was then later developed by other theorists (in Ferrell and Hamm, 1998). This immersive term refers to the 'deep understanding' both sympathetically and emotionally. Moreover, verstehen is 'a process of subjective interpretation' whereby the ethnographer shares the situated meanings, the animations of the culture, as well as the experience of those under observation. While some other methods in social sciences seek objectivity - thus keeping emotions out of the social research – ethnographic observation seeks informed subjectivity and emotional accuracy to try and fully comprehend what the subjects are feeling within the boundaries of their given culture (*ibid*). As C Wright Mills (1940) accurately suggests: you only know when you have immersed yourself deep enough into the culture of study when you adapt to the 'vocabularies of motive'. These verbalised motives can further allow us to make sense of the world, particularly within the context of the LA lawyer. By immersing oneself into the LA environment, any distinct phrases or verbal expressions that are symbolic of their cultural practice will be better understood. This further illustrates the importance of using ethnographic methods, as it also encapsulates the textures and experiences of a given culture. Given the thesis' interest in the way in which work and culture interact, ethnography is deemed most appropriate.

As Jupp (1989: 58) notes: ethnography adopts progressive focusing via a 'discovery-based approach', allowing room for the 'development, refinement and reformulation of research ideas' in accordance with what is found within the fieldwork. The flexibility and 'openness' of this progressive focusing is particularly useful when studying the precarious world of the LA lawyer. The occupation is evidently in a state of significant change due to the cuts to LA funding (as examined earlier). Due to its precarious nature, adapting in line with broader socio-cultural changes to the profession is vital. This flexibility, however, requires a constant interchange between theory and data; however, the fluidity of the observational approach extends to the broader picture of data collection and the research method as a whole (*ibid*: 59). While some scholars have argued that it is possible to outline data collection, analysis, and interpretation as single entities, in reality, an ethnographic approach has no strict procedure, unlike quantitative methods. Terms such as 'liquid methodology' or 'progressive ethnography' have otherwise been used to emphasise the malleable nature of such methods, which prove fitting for this study (Ferrell, 2013).

Matza (1969) further refers to the term 'naturalism' in the context of ethnography. This refers to the 'invocation true to subject… without either romanticism or the generation of pathology' (in Young, 2011: 109). In other words, this type of observation is concerned with lifestyle, the symbolic, the aesthetic and the causal in its natural surroundings. Studying the LA lawyer in their 'natural setting' with minimal amounts of disturbance to their everyday routines permits direct observation and immersion into their working culture. This allows for a fuller comprehension of everyday descriptions, explanations, behaviours, and emotions employed by the members themselves as the researcher 'steps into the shoes' of the actor(s) in question (Jupp, 1989: 58). Academics have drawn attention to the notion that some of the work that lawyers do could eventually be de-humanised in the form of technological advances. However, as Boon (2015: 3) argues: "If lawyers offer anything that machines do not, it is the sensitive handling of important issues in human affairs." Ethnography is the primary method by which this humanised element can be captured.

Despite its popularity (see Rock, 1998; Adler and Adler, 1987; Hobbs, 1993; Atkinson and Hammersley, 1995; 2007), ethnography has been labelled a 'soft science' and as

such has been critiqued since its implementation (Atkinson and Hammersley, 2007). Part of this could be attributed to its lack of a standard well-defined meaning: "…ethnography plays a complex and shifting role in the dynamic tapestry that the social sciences have become in the twenty-first century" (Atkinson and Hammersley, 2007: 2). The term has been re-contextualised over the years and has affiliations with multiple methodological approaches and theoretical concepts. These include Symbolic Interactionism, Marxism, Phenomenology, Structuralism, and Feminism (*ibid*). Although, its relevance remains potent and its uncertain definition by no means detracts from its value.

One of the major critiques of the practicability of ethnography is its lengthy nature involving field notes, consequent analysis, interpretation validation and sequential analysis (Fielding in Gilbert, 2008). However, field notes can be made in the form of mental, jotted, or full field notes giving the researcher some flexibility (Bryman, 2012). Being as close to, or perhaps inside the (inter)actions within the foreground of the occupational sphere can undoubtedly give a much better insight in place of a 'safely distanced survey research or statistical analysis' (Ferrell and Hamm, 1998: 28). A qualitative, descriptive and explanatory style of research, as opposed to a strategic, quantitative approach ultimately 'gives voice' as it seeks to see a particular community through the eyes of those who are situated inside its cultural boundaries (Atkinson and Hammersley, 2007).

To deploy this emotional accuracy, sometimes it may be difficult to place oneself as a researcher on the appropriate 'side'. Whilst fieldworkers often represent themselves as 'marginal natives' (Friedlich, 1970) or 'professional strangers' (Agar, 1980) in order to minimise their consequential presence (Emerson *et al*, 1995), participant observation requires instinct, readiness as well as the ability to face the unknown (in Van Maanen, 1988). The process of initial negotiation into the field of enquiry, as well as 'getting on' within the fieldwork often evokes feelings of personal inadequacy. Having to overcome uncomfortable situations due to the cultural differences between the researcher and the researched may make this challenging. However, there is also the need to make difficult ethical and emotional choices to be examined in the research reflection (Green in Hobbs and May 1993: 93). Famously, the Gouldner-Becker debate adhering to the issue of value-neutrality within the context of social research

provides an insight into values and ‘sides' within research. As Gouldner (1968) and Becker (1967) identified, while it is relatively difficult to achieve entirely value-free research, through the lens of a phenomenologist, this vitally makes us more aware of our own morals and assumptions (Ferrell and Hamm, 1998).

Ethnography further concerns a specific set of conceptual tools, more specifically referring to the narrative, the subjects’ story which the ethnographer contributes to. It likewise concerns a form of meta-narrative, which is the ‘interpretive structure' or the discourse which the ethnographer construes to makes sense of their own story (Young, 2011: 134). This is often shaped by an ‘exterior history' as well as a ‘personal interior history' of the narrator (*ibid*). The meta-narrative is often more important as it drives the story. A meta-narrative can sometimes be problematic as this impacts how a given culture is viewed and can lead to ‘othering' (Young, 2011: 135). Geertz (1973: 452) encapsulates this further: "the culture of a people is an ensemble of texts, themselves ensembles, which the anthropologist strains to read over the shoulders of those to whom they properly belong". Section 4.5 fully situates the ethnographer by outlining a meta-narrative of the researcher in an attempt to avoid this research being tainted.

4.2 Semi-structured interviews

The naturalistic nature of ethnographic methods paves the way for analysis beyond existing preconceptions, instead offering a detailed insight into the nature of a given world. As Kozinets (2010: 59) states: “Ethnography is grounded in context; it is infused with, and imbues, local knowledges’ of the particular and specific…it is thus an inherently assimilative practice". Therefore, for the most part, ethnography is often combined with other methods to complement its practice and to fortify its reliability further. These methods may include interviews, data analysis, documentation or surveys, to name a few (Hobbs, 2006). For this thesis, the observation was combined with the use of semi-structured interviews to document an even more profound sense of the participant's perception of their role, as well as changes to LA over time. This is also essential to assess contemporary developments against subjective perceptions of changes in working practice and occupational culture in the post-2012 cuts context.

Ethnography refers to "a cocktail of methodologies that share the assumption that personal engagement with the subject is the key to understanding a particular culture… observation is the most common component, but interviews (and others) … have their place in the ethnographer's repertoire" (Hobbs, 2006: 101). Semi-structured interviews are used as part of this ethnographic study to gain a richer picture of the world of the LA lawyer. The use of interviews within the sociological context is key. These can be structured, unstructured or most relevant to this study, semi-structured in their nature (Jupp, 1989). Structured interviews have a quantitative connotation due to the ability of the data taken from these to be enumerated and measured accordingly, which makes them less suitable for this study.

While it has been said that one-to-one interviews may sometimes involve 'dangerously intimate encounters', and therefore certain scholars place emphasis on group study - when used in conjunction with ethnography, the value of storytelling, individual discussions, and dialogues in the context of semi-structured interviews are extremely valuable (Slim and Thompson in Perks and Thomson, 1998). Becker and Geer (1957: 29-32) acknowledge that often interview participants are not willing to share or talk about certain issues in such a structured context, such as an interview setting. Likewise, an interview setting can often distort the actual reality, as description is often shaped in line with fact and pre-written interview schedules (*ibid*). Observation, therefore, fills in the gaps that interviews otherwise might not obtain. Ethnography ultimately provides a basis on which the researcher and participant can become familiar with each other and therefore, ideally develop a sense of trust. While this may alter the researcher-interviewee dynamics, on balance, this is thought to better the interview process overall (Fine, 1996).

4.3 Ethnography in context: situating ethnographic methodology in the world of the legal aid lawyer

> Research methods have been devised to cope with the problems of social research- social surveys, observation, interviewing, social experiments… only one gives us insight into the richness of social life. (Flood, 2005:33).

Hillyard (2002:647) notes that: "lawyers are Johnny-come-lately's to social inquiry…most are neophytes in research". For several years, lawyers were largely omitted from the arena of social research. McConville *et al. 's* (1994) *Standing Accused* and Travers (1997) *The Reality of Law* both offered ground-breaking ethnographic studies of criminal LA lawyers. They created a basis for change, as previous studies had primarily focused on courtroom observations (Carlen, 1976; Flood, 1994). McConville *et al.* and Travers maintain their standing as key works within the field. The two ultimately raise two strong opposing ideological positions, which will be discussed further in the next section (McConville *et al.,* 1994; Travers; 1997b and Newman, 2012). Newman (2013) likewise sought to examine the lawyer-client relationship within the LA context ethnographically. This ethnographic study was the largest of its kind in over two decades and therefore is very influential to this thesis both methodologically and empirically.

Ethnographic studies outside of the LA framework also hold significance here. Rogers (2012) employed ethnographic methods to offer an insight into how the Bar[7] presents itself to prospective members. Concentrating specifically on open days for law students run by one of the Inns of Court, an individual set of chambers, as well as other promotional events, Rogers (2012) sought to explore the Bar's professional identity within this context through the ethnographic lens (*ibid*: 212). Earlier ethnographic

[7] "The Bar of England and Wales is a unique legal profession of specialist advocates and advisers. Barristers are independent and objective and their highly competitive training, together with their specialist knowledge and experience in and out of court, can make a substantial difference to the outcome of a case" (The Bar Council, 2019).

studies in both the UK and US contexts have been done on the interactions and speech of lawyers (Griffiths, 1986), on the courtroom (Atkinson and Drew, 1979, or on the 'poor man's lawyer' as outlined in the previous chapter (Katz, 1982). However, Flood (2013) sought to offer an in-depth analysis into the world of the corporate lawyer, after a period of prolonged immersion in a corporate law firm. In his work *'What do lawyers do?'* which built on his original study in 1987, Flood pays attention to both the interactions between lawyers and clients, as well as the interactions between lawyers and other lawyers. He opts for a 'data-driven analysis', as opposed to 'theory-driven analysis' which lent itself to his chosen method of ethnography (*ibid*).

Vitally as these studies have shown: "Ethnographic observation can thus provide us with a yardstick against which to measure the completeness of data gathered in other ways, a model which can serve to let us know what orders of information escape us when we use other methods" (Becker and Geer, 1957: 28). It is on this basis that I outline my core methodology below.

4.4 Core methodology

This study differs somewhat from other ethnographic studies within the context of the wider field of justice due to the ever-changing LA backdrop (see Holdaway, 1983; Loftus, 2009; Newman 2013). As Newman (2013:25) argues, previously two contrasting standpoints on the topic of LA clientele are taken from firmly held ideological positions, which are separated by their methodological differences. While these studies focused on clients as well as practitioners, their relevance remains influential. McConville *et al.* (1994) utilise a structuralist approach, whereby the reality exists independently from the observer and therefore looks at the objective broader picture including structural influences, such as the government, the LA agency, as well as inbuilt power relations (Newman, 2013: 27). In contrast, Travers (1997) adopts an interpretivist stance, employing a more subjective comprehension of how the actors themselves conceive a particular situation (Newman, 2013). This study largely employs an interpretivist approach, drawing on structuralist components to provide a well-rounded position on the occupation in question. If either is employed single-handedly, then there is a risk of omitting vital areas of concern from the research in question (*ibid*). Therefore, to consider both the formalities and

informalities of the profession as a whole, this research follows in the footsteps of Henry (1983: 30) who otherwise labels this approach as 'general pluralism'. This is supported by the process of carrying out the ethnographic observation at more than one location, such as law firms, courtrooms, and law centres which is essential, as it paves the way for multiple perspectives and insights into the profession in question. The courtroom remains a very important area of study.

On the one hand, the courtroom is a space whereby the differences between the roles of solicitors and barristers can be fully observed. Likewise, courtrooms are very accessible, as researchers are also able to sit in the public gallery. The courtroom only offers a glimpse of what lawyers do, and as a result, observation in other locations that are pivotal to the work remains key. Depending on the type of case and court, the work in courtrooms is not necessarily representative of the bulk of the work that solicitors do for instance, so combining this with observations in the solicitor's firms can highlight the different variations in their work. Carrying out observations in dual locations accommodates the diversity of the profession outlined in chapter two. An overview of my research is provided below.

4.4.1 Overview of research

My data collection consisted of a period of a year of intensive ethnographic observation from August 2016 to August 2017, which yielded significant field notes. The research was carried out at several locations within the South East of England. These included multiple courtrooms, a high street solicitors' firm (Silverman and Co), and a law centre with a range of participants as to be mapped out below. I entered the field on 2-3 consecutive days per week consistently throughout the year. The lawyers involved in this research had varying LA caseloads as LA lawyers are not a 'coherent' occupational group, as outlined in chapters one and two[8]. One particular firm was utilised as the main base as full access was granted for the entire research period (Silverman and Co), so I was able to come and go as I pleased. Silverman and Co's funding model is sourced by fixed and conditional fee arrangements, LA as well as private funding, so there was a cross subsidy of LA work from other profitable activity.

[8] A categorisation of interview participants has been provided in the next section.

Likewise, the barristers involved in this research were situated in chambers which carried out a mix of privately and publicly funded work. The law centre used within this research carried out work entirely funded by LA aid or pro bono services (without charge). This will allow for the analysis to be contextualised later on in the subsequent chapters.

I visited Silverman and Co 2 consistent days every week. This community-based firm was situated in the outskirts of the city in a fairly urban area; however, the majority working there travelled in from the city centre, as well as from other outer and more local districts. The clientele tended to be from the local community as a result of the positioning of the law firm within the centre of the community. Alongside this, observations were carried out in two magistrates' courts, one county court and three crown courts[9] in 5 different locations within the city, as well as in outer towns. Whilst the majority of my observations were consistently carried out in the firm (Silverman and Co), I sporadically visited the various courtrooms as and when I was able to. I spent 1 day a month in the county court with the duty housing solicitor, and a total of 35 days spread across the two magistrates' courts and the crown courts. The county court, one of the crown courts and one of the magistrate's courts were all based on the outskirts of the city. The additional two crown courts, and the magistrates' court were based in other local smaller towns. Whilst I used the law centre predominately to gain interviewees, I also carried out some additional small observations there. In total, I spent 5 days observing at the law centre due to access restrictions. The law centre was likewise community-based in the outskirts of the city. This comparative element of carrying out observation in multiple courtrooms, as well as within the solicitors' firm and law centre helped me to determine the extent to which LA occupational cultures and patterns are related to organisational structure, physical environments, and working practices. It also provided varying degrees of precariousness to observe as the various locations have differing levels of LA work.

[9] Magistrates Courts typically deal with summary offences, and cases are heard by either 3 magistrates or a district judge. There is no jury present and only a maximum of 6 months in prison can be granted. Crown Courts deal with the more serious crimes known as indictable offences and a jury is present (Gov, 2019)

Across the period of intensive ethnographic observation, rich, first-hand evidence and an insight into their changing occupational world was gathered: "by engaging in the same social processes, confronting the same organizational, technological, and administrative structures, and being implicated in the same relations of power and control, ethnographic field researchers have acquired a type of data that is simply unattainable using other modes of enquiry" (Smith in Atkinson *et al,* 2001: 229). Bourdieu has emphasised the importance of capturing the salient members of a field, otherwise a researcher risks: "mutilating the object you have set out to construct" (Bourdieu and Wacquant, 1992: 243 in Boon and Flood 1999: 603). As such, I used my observational periods to gauge further an idea of those who would be useful for my semi-structured interviews. This immersive process allowed me to seek more of an 'insider view', before delving further into my research. Vitally, this first-hand immersion was both timely and multifaceted, as it also enhanced the interview sample as to be critically explored in the next section. 95% of participants approached during this period agreed to take part in an interview. The small handful that did not also passed me on to a colleague to assist further with the research process if they physically could not/ chose not to be involved themselves.

The ethnographic observation was complemented by 30 semi-structured interviews with LA lawyers. There was significant overlap with those observed and those interviewed in this research, paving way for a more in-depth insight overall. This was done purposely in order to cross-check findings and to gain a deeper insight into whether LA lawyers 'talk the talk' but not 'walk the walk', a term coined by Newman (2013). This notion will be explored in further depth throughout the thesis, particularly in chapter seven as interview data is compared to the data from the observations. While 30 is a modest sample in comparison to quantitative studies, it is not uncommon in qualitative work to have more of a selective sample as it is built upon a different premise. Twenty of these were carried out in person, and ten were carried out via Skype. These lasted between 30 minutes and 1.5 hours, depending on the participant and the amount of time they were able to spare. I began carrying out these interviews after three months of being immersed in the field, as I was able to build up a good contact base in those initial three months. Interviews were carried out in the locations listed in the previous paragraph, as well as cafes, restaurants, and libraries. All the interviews were carried out on a one-to-one basis and were recorded using specific

recording equipment installed on my laptop. I also made written notes throughout the interview to ensure all information was noted down. I only interviewed each participant once due to their time constraints. Following on from each interview, I then transcribed the data. This not only plugged gaps in my observation, but also allowed me to facilitate a deeper understanding of how LA lawyers interact with colleagues and clients, and how they have conducted business over their careers if appropriate. Interview questions emphasised subjective experience over researcher-led structure, and this was designed to elicit authentic data directly from those experiencing the field[10].

While my focus was on the perspective of lawyers, the study's data was triangulated against relevant documentation. I was granted access to the online case bundle system at Silverman and Co, where I was able to access all client case notes and associated documentation. This access was granted and permitted by the senior partner at the firm. While I did not use the material for direct analysis, it enabled me to see how the firm worked in more intricate detail and provided context for any meetings that I attended. This saved valuable time on both my part, as well on the part of the lawyers I was observing, as time was not wasted setting the scene before each meeting.

4.4.2 Sampling: a breakdown of participants

I had set out to research LA lawyers practising just within the criminal remit due to my interests in criminal justice; however, my sample was gathered by means of opportunity across both the civil and criminal remits. This was for two reasons: cuts to LA funding have affected both civil and criminal law, and likewise, due to the shrinking nature of criminal LA, it became very difficult to recruit enough participants just within that sphere. I recruited my participants via email, word-of-mouth or Twitter[11], an online social media platform. Recruiting research participants can be very time-consuming, and often emailing people directly can be very imposing. In a similar vein, gaining entry to the legal field for research purposes can also be difficult, and accessing those who work in a secure environment (such as criminal barristers)

[10] See A3 in the appendix
[11] See A4 in the appendix

can be trickier than other research settings. Having 'insider knowledge' of key contacts to identify initial respondents helped immensely. I initially made contact with a criminal barrister who soon became my gatekeeper. He responded to my call for research participants via Twitter and became my first interviewee. This connection was not an easy one to make, however. Following my initial Tweet, it took around four to five months to get any response at all. Twitter was an incredibly valuable source to attract participants, however. Not only did my call for research respondents reach out far and wide across the broader legal community, evidenced by the locations of those who responded; however, it also gave the lawyers the choice to engage or not. Alongside this, I made use of snowball sampling in line with the work of Newman (2013), to gather further participants due to the restricted nature of the LA community. I approached each participant I interviewed for additional participants. I used each respondent as a gateway to the next, as lawyers have a very tight-knit community and uphold some homogenous social traits, which makes the process much more comfortable. This opened up many more doors for me. Like many ethnographic studies on exclusive subgroups, my sample was non-random and not necessarily defined by social characteristics. However, demographics such as gender and race feature strongly in both my interviews and will be pivotal to my analysis and findings as to be discussed later on. The interviewees tended to be largely from the outskirts of the city, as well as other local smaller towns in the South East of England.

Table 1: A categorisation of the interview participants[12]

Name	**Age**	**Gender**	**Ethnicity**	**Specialism**	**Role**	**Length of time in the role**	**Acronym**
Karen	60s	F	White	N/A	Director[13]	>[14]	
Mary	30s	F	White	Civil liberties + human rights	Solicitor	>	CLS
Louisa	30s	F	White	Civil liberties + human rights	Solicitor	<[15]	CLS

[12] Pseudonyms are used to protect all lawyers and workplaces involved in this research
[13] Director of a membership body that represents legal aid practitioners
[14] > This demonstrates that the lawyer has practiced in the pre and post-2012 cuts context.
[15] < This demonstrates that the lawyer has only worked in the post-2012 cuts context [2012- onwards]

Becky	20s	F	White	Civil liberties + human rights	Solicitor	<	CLS
Maddie	30s	F	White	Crime	Solicitor	<	CS
Paul	30s	M	White	Crime	Barrister	>	CB
Sophie	30s	F	White	Crime	Solicitor	<	CS
Andy	30s	M	White	Crime	Barrister	>	CB
Grace	20s	F	White	Crime	Solicitor	<	CS
Nicholas	50s	M	White	Crime	Solicitor (self-employed)	>	CS
James	40s	M	White	Crime	Solicitor (self-employed)	<	CS
Robert	30s	M	White	Crime	Barrister	<	CB
Alistair	40s	M	White	Crime	Barrister	>	CB
Robert	30s	M	White	Crime	Solicitor	<	CS
Phil	40s	M	White	Crime	Barrister	>	CB
Eleanor	30s	F	White	Family	Solicitor/ Partner	>	FS
Ben	20s	M	White	Housing	Solicitor (law centre)	<	HS
Marcus	30s	M	Asian (Chinese)	Housing	Solicitor	>	HS
Jay	30s	F	Asian (Indian)	Housing	Solicitor	>	HS
Rachel	30s	F	White	Housing	Solicitor/ Senior Partner	>	HS
John	60s	M	White	Housing	Solicitor	>	HS
Jane	50s	F	White	Housing	Solicitor	<	HS
Tom	30s	M	White	Housing	Solicitor	<	HS
Maria	50s	F	White	Housing	Solicitor	>	HS
Jack	30s	M	White	Housing	Solicitor	<	HS
Nina	40s	F	Asian (Indian)	Housing	Solicitor	<	HS
Anna	30s	F	White	Immigration	Solicitor	<	IS
Ash	40s	M	Asian (Indian)	Immigration	Solicitor (law centre)	>	IS
Rhiannon	20s	F	White	Welfare	Solicitor (law centre)	<	WS
Alice	30s	F	White	Welfare	Solicitor (law centre)	<	WS

Summary of participant sample demographics:

- 16 of the 30 participants were female
- 14 of the 30 participants were male
- 24 of the 30 participants were solicitors

- 5 of the 30 participants were barristers
- 14 of the 30 participants had practised in the pre and post-2012 cuts context
- 26 of the 30 participants were white
- 28 of the 30 participants identified as middle class
- 4 of the 30 participants practised in a law centre

As evidenced in the table above, 18/30 participants were practising within the remit of civil law, and 11/30 participants were practising within the remit of criminal law. As Geldart (1995) notes: "The difference between civil law and criminal law turns on the difference between two different objects which law seeks to pursue - redress or punishment". While civil law seeks to achieve a remedy, criminal law seeks to punish for an offence. Flagging up the distinction between the two is vital as this comes to underpin later analyses. Offering an insight into both civil and criminal remits paves the way for a more detailed examination of the profession overall, and likewise may impact the ways an LA lawyer experiences the occupation. Bringing civil and criminal lawyers together in one exploration of working practices is likewise a novel development, which will take forward the study of LA lawyering by allowing commonalities to be drawn across this diverse field, which is a strength of this thesis.

Despite the possible flaws and limitations of the heterogeneity of such sampling strategy, for example criminal and civil justice are generally regarded as very different areas of legal practice and likewise, the solicitor and barrister experiences are generally considered divergent; the choice to span both civil and criminal remits and solicitor and barristers, enhanced the overall analysis of the data collected and findings of the thesis. A fuller discussion of the sampling rationale can be found in chapter eight.

For further contextualisation, the findings will include quotations from the participants alongside an abbreviated version of their role, i.e. CS for criminal solicitor/ HS for housing solicitor as illustrated in the table above.

4.4.3 Researching with the 'powerful'

Studying 'up' refers to researching those with cultural, economic and political capital in society (Kivell *et al,* 2017). Studying up can be a very daunting process, and

problems can arise that may not occur when studying 'down'. Studying up seeks to "…create an ethnographic record that takes full account of a wider social circuit" (Gusterson, 1996, 1997; Nader, 1972 in Souleles, 2018: 51). For example, issues surrounding access, physical barriers, resistance, power imbalances, contested reactions, and uncomfortable encounters can all occur regularly. Moreover, the world of the LA lawyer is often one that is both hidden and concealed. This is for two reasons: on the one hand, there is only a small amount of scholarship surrounding the work of LA lawyers. With an increase of scholarship in the late 1980s/ early 1990s, only a handful of research has been done since and nearly two decades later, a lot has changed in LA and criminal procedure in the intervening period. Secondly, LA lawyers are far more concealed than their private counterparts. Those working with the field of public law often get lost in the shadows of those working for large corporations, private clients or companies. When we hear of the traditional image of the lawyer, it is very rarely those working with the field of poverty or LA lawyering as justified in chapter five.

The process of conducting fieldwork in a professional, yet precarious context poses other overlooked challenges that are distinct from those involved in 'studying down'. An example of this is the process of both acquiring and negotiating access to such professional and legal setting to be explored further in section 4.5.

4.4.4 Research Design: the particulars

The research was designed to focus on the LA community specifically, the lawyers within it, and the manner in which reductions in funding and services have had on it. The research questions informing this exploration are:

(1) What consequences have the reductions in funding and services had on the 'lived professional experiences' of legal aid lawyers?

- What is the relationship between precarity and legal aid lawyers' professional identities?

(2) What do the developments in the legal aid profession say about the nature of contemporary work and the capacity for state institutions, professional groups and individual professions to 'do good'?

- How do the cuts to legal aid funding affect the structural (in) security of white-collar professionals (lawyers) who chose to work in a more altruistically-minded as opposed to acquisitive sphere?

(3) What are the cultural and occupational dynamics of legal aid lawyering in the post-2012 cuts' context?

- Do LA lawyers uphold a form of occupational culture?

The subsequent empirical chapters are formulated and structured on the basis of addressing these research questions.

4.4.5 Coding and analysis

Human interaction is hugely complex. Therefore, the process of both transcription and analysis involves a constant process of data reduction and characterisation (Savin-Baden and Major, 2013). Data analysis commenced over two stages in a deductive manner. Using NVivo, I developed an initial thematic coding system which became the preliminary analysis of my ethnographic data, and then I utilised these nodes to analyse each interview thematically, correlating the themes derived from the data and field notes (Basit, 2003: 145). I began with a process of open coding to locate general themes. A priori coding system was then used to develop this, drawing more specifically on my research questions. The emergent codes were used to analyse my interview data (Saldana, 2016). Codes were used to ensure the data could be put in a manageable form for analysis (Rivas, 2012). These shaped the basis of my results chapters. Multiple coding systems were used as qualitative data analysis is quite often an iterative process and therefore it is beneficial to have multiple attempts at assembling codes (Dey, 1998: 111; Silverman, 2011). A limitation of this is that as categories transform and change, some of the data can be omitted and meanings can be altered. I overcame this by going back through and checking the data after formulating the final coding system.

Whilst this section has shed light on the practicalities of the research - therefore guiding the reader in their understanding - it is important also to situate the researcher. This is an integral part of ethnography. Thus, the next section seeks to do just that.

4.5 A confessional statement through the reflective lens: limitations, hindsight and retrospection

> "Reflexivity is the process of monitoring and reflecting on all aspects of the research project from the formulation of research ideas through to the publication of findings… and their utilization" (Sapsford and Jupp, 1996:344)

As inspired by Van Maanen (1988), this section outlines a 'confessional statement' of methodology. Asserting my positionality within this study as an ethnographer is undoubtedly a crucial aspect of elucidating and analysing my fieldwork in a manner in which my own 'membership' is fully outlined to the reader. Inherently, ethnographic methods are indisputably entwined with the researcher's biography (Okely and Callaway, 1992). Altheide and Johnson (1994: 489) note that anyone undertaking any form of ethnographic research should "…substantiate their interpretations and findings with a reflexive account of themselves and the process of their research".

4.5.1 Let the fieldwork commence

The prospect of interviewing lawyers had always appealed to me. For my undergraduate dissertation, I had carried out a small-scale ethnography across a period of 4 weeks within a local criminal law firm to look at their occupational culture specifically. For my Master's dissertation, I had focused on the occupational culture of public defence lawyers in New York. In this respect, the thought of entering the field again did not feel quite as daunting. I had interacted with this professional group before and had previous involvement with courts, solicitors, barristers as well as other members of the wider criminal justice system in this sense. I had witnessed the 'gap' in the research first-hand, which motivated me to continue to research and further contribute to the somewhat undeveloped field. Similarly to my previous studies, my doctoral research was designed to elicit the current state of the LA profession on the

wider scale utilising the methodological approach as outlined above. With all this in place, I had designed my research questions in line with my chosen methods.

The criminal firm I had used within my undergraduate dissertation was no longer taking on LA work, so I was unable to use any existing contacts. LA lawyers are not in abundance, so this put me at a slight disadvantage at first. The process of negotiating access entirely from scratch began again. This further justified my decision to reach out to both criminal and civil fields.

I began by sending copious amounts of emails to various firms across the country in April/ May 2016. After 3-4 weeks with no responses, I started to panic. My previous experiences of gathering research participants had been relatively smooth sailing; I was not prepared for the amount of time it would take to negotiate access to the field this time. Indeed, the discomfort of having to re-send emails multiple times to the same individuals over and over soon became quite awkward. I had planned my research timetable quite specifically, and therefore I had not anticipated this initial delay. As Danet *et al.* (1980) note: 'lawyers are among the most difficult of professionals to get close to" (in Flood, 2013: 27). Studying up challenges taken for granted understandings of the research relationship, and forces researchers to address the interrelated issues of access, attitudes, and ethics (Nader, 1969). In this practical sense, getting access to the field was indeed daunting and challenging for me. It not only made me particularly anxious about carrying out the project; however, feelings of reticence soon emerged, which I very quickly had to overcome.

I was then introduced to Rachel, a senior housing solicitor and partner of a law firm, Silverman and Co[16] (described in detail in chapters 7 and 8). After being interviewed briefly by Rachel, she agreed that I could go into her firm regularly to begin my observations. An advantage of this was that this particular firm had multiple sites, so this enabled some diversity in my initial research stages as I was able to travel between the various locations. Additionally, Rachel acted as a significant gatekeeper. She quickly introduced me to several colleagues, ranging from paralegals to senior

[16] For the purposes of this thesis, all participants as well as place names have been given pseudonyms to protect the identities of those involved.

manager, which not only further enabled me to strengthen my ties with a broad range of individuals. This would also later come in very handy when recruiting for my interviews. She made everyone aware of my presence, which then made it easier for me to walk around, speak to, and observe different individuals without having to feel too uncomfortable. However, I was unable to totally omit the fact that the process of prolonged research could be somewhat invasive or disruptive to the everyday professional lives of these individuals and this proved to be the case in a couple of situations (Griffin *et al.*, 2011). At first, I was apprehensive that I would not get a 'true' insight into their world as they were all aware of my researcher presence. However, over time, this assisted my research process as I was able to access far more lawyers than I would have been able to as a covert researcher.

Alongside this, as advised by Rachel, I became a member of a network utilised by LA lawyers in both their working and social lives, which seeks to campaign for a sustainable legal system, promote interest for new entrants, as well as to provide an online and offline network for likeminded people beginning their careers in the LA sector. This was a very active network with divisions operating across the UK, and monthly meetings being held in various locations. This produced another dilemma. While, on the one hand, it acted as an extremely useful gateway to more LA lawyers, this made me even more actively aware that my position as a social researcher had to be adequately maintained throughout. In this sense, while I could be involved with a little activism, ultimately, I had to ensure that my boundaries did not cross over with that of a campaigner. I was involved with a couple of events early on, which gave me the chance to 'give something back'. These events included being part of a panel discussion, leading a talk and inviting guest speakers from a local charity to speak at an evening social. At these events, I was able to present and share some of my research plans/ preliminary findings as I went along, to those directly experiencing it. This was key as ultimately, the process of negotiating access never stops. This process needs to be 'carefully managed' throughout, and often '…recruitment may rely on a study being perceived favourably by potential participants' (Griffin *et al.*, 2011: 405; Crang and Cook, 2007; Hobbs and May 1993; Lofland and Lofland, 1995). In this sense, this membership particularly aided my fieldwork, not only was I able to gain many research participants from this; however, being able also to give extra 'voice' to my research proved to be extremely valuable.

I likewise made a conscious decision to stay politically 'neutral' throughout in relation to debates surrounding neoliberalism and the deeper political dynamics at play here. My rationale here was to not skew the data, or attempt to match or meet a predetermined outcome that aligns with a particular agenda - in this case a political or moral point of view. LA is inevitably aligned with political agenda from both sides of the fence, as different reactions to the cuts have been put forward. Situating myself in a neutral position, I was able to mitigate any possible personal bias and allow the data to emerge naturally. Whilst this was quite difficult in practice, especially when being faced first-hand with some of the devastating impacts of the cuts on individuals lives, it was important to maintain a neutral stance, because as Sommerlad (2001: 336) argues, LA lawyers themselves have been described as inherently 'political' because:

> … they are distinguishable from their more conventional colleagues in their view of client work as transformative in itself, as well as their basic commitment to using the law in a combative and often innovative way both in order to serve the underprivileged client in the most effective way possible, and also to promote social change.

As such, there remains a link between the role of LA in civil and social citizenship and the character and motivation of LA lawyers in their practice. They are often imbued in a 'public sector ideology' (ibid: 337). Some lawyers involved within this research had a particular motivation to act as a catalyst for change and reform, seeking to empower their clients. Maintaining moral neutrality on my part therefore remained even more vital in order not to contaminate or taint any perspectives provided by the LA lawyers involved in this research.

4.5.2 Being part of the furniture

Having spent 2-3 days every week at Silverman and Co for over two months, I got to the point where the receptionists all knew me by my first name. I was now able to let myself into the office as I had been granted an access code. This element of trust enabled me to come and go as I pleased. I spent multiple days taking notes, attending

meetings, following various lawyers around and reading through case bundles[17]. Taking field-notes was a continuous process. In most places, I was able to take most of these overtly; however, in others, such as one of the Crown Courts, taking notes was very difficult. In this sense, I had to take mental field notes/ jot down field-notes in a covert manner to fit the needs of that given environment. These field notes included bullet points, full quotations, phrases, as well as diagrams and drawings of some of the key spaces I was situated within. I was also granted access to an online hosting system in the law firm, where I could access all of the case files. I spent a significant amount of time wandering about and chatting to various people as I soon began to realise that the informal conversations and interactions often had far more resonance than some of the field notes I was making.

I also had to overcome physical barriers for which I was not always prepared. Issues such as managing time, the variety of locations involved and navigating unplanned/spontaneous meetings meant that I had to be very flexible in my approach to fieldwork. Participants who agreed to be interviewed often faced unforeseen challenges which quickly deflected their attention elsewhere. Being called to another courtroom, or an unexpected conference call with the prison meant I was unavoidably let down regularly. This was sometimes a very disheartening process but a valuable insight into the chaotic environment I was researching.

Being in the right place at the right time was vital, as often, if a lawyer was on their way down to the meeting rooms and I happened to be in the stairwell they would then ask if I wanted to join. Employing a liquid methodology in this sense then proved to be extremely fitting due to the flexible and adaptable nature of the method. Ultimately, I learned to be very grateful for any opportunity given to me, even if it was the opportunity to attend the 10th New Client Meeting of the day. After a while, this became quite fatiguing. I soon realised, however, that attending similar meetings repeatedly was particularly valuable for building trust and relationships, and increased the validity of my research identity. This was not so valuable with regards to the

[17] A ‘case bundle' or a ‘court bundle' is prepared in advance of hearing in court. This contains all of the relevant documents and evidence needed in one place and is presented to tribunal/ the Judge (Legal Secretary Journal, 2018)

knowledge-building however. Fundamentally, to witness first-hand the lengthy process of the lawyers going through the same paperwork hour after hour to meet the requirements of the LA Agency was quite eye-opening in itself. Towards the end of the ethnography, I felt like I knew this process inside out. I soon learned that even if it took multiple, short and sporadic meetups to get the information I needed, I had to commit myself. I took advantage of coffee breaks, and even just walking to and from different rooms. I used every single opportunity I could to elicit information from my participants.

The emotional impact of the work soon hit me. I entered the field intending to gain a detailed insight into the world of the LA lawyer. I was not prepared for the discomfort of hearing first-hand, the sheer trauma that some of the clients were going through. On one occasion, I was sat in on a new client meeting with a solicitor, Nina, whom I had not previously met. The client had been asked to leave her refuge accommodation as she had no right to remain in the UK[18]. Beyond this, she had experienced abuse and suffering throughout her entire life. After sharing her very emotional story, the lawyer soon realised that her situation was very much out of her hands: "while I can try my best to help you, unfortunately, I am not an immigration solicitor, I am a housing solicitor" (Nina, HS). The client's desperation very quickly turned into extreme emotional anger, and she threatened to take her own life right in front of us. Whilst Nina attempted to calm her down, Rachel (partner + HS) was called, and I was asked to leave the meeting room. To say this was an eye-opening experience would be an understatement. Not only did I get a bit of a culture shock due to the sheer cultural distance between my own standing and the clients, however, I very quickly had to learn how to manage my own emotions. As I began to realise, these kinds of events were not uncommon. In this sense, what started as a simple process of ethnographic observation soon became a very vital life lesson. While I often only saw snapshots into cases, this in itself was very reminiscent of LA work as it soon became apparent that litigation in this sense was mostly temporal.

[18] The NRPF network explains how legal advisors are limited in how many No Recourse to Public Fund clients they can take in, as they can't claim on their behalf and end up footing the bill for their stay (NRPF, 2019).

As Newman (2013) states, the more time you spend in the field, the more you are ‘accepted’ as a researcher, and the more access you are likely to be given. I then began to visit various courtrooms in different locations to shadow both the LA solicitors and barristers I had met through the LA network. I felt reasonably comfortable in my researcher position due to the extremely beneficial experience I had been having at Silverman and Co. It soon became evident that attempting to carry out ethnographic observations within courtrooms required a lot more identity management. I was always mindful of my position as a researcher as I had to keep continuously reaffirming my presence to make sure I wasn’t lost in the depths of the everyday running of the court. Shuffling from courtroom to courtroom, frantically trying to keep track of the solicitor or barrister I was shadowing, meant that I was continually running into new faces in the field. The court is a very different kind of space compared to the law firm. For example, within the law firm, I tended to see the same people repeatedly. However, as the court is part of the state and used sporadically by several different actors, I saw different people every time I went. The continuous process of having to justify my position brought about a severe onset of imposter syndrome. While I had always been aware of my insider/outsider status as to be further explained below, I soon began to feel much more of an ‘outsider' as I did not necessarily ‘fit' naturally into the makeup of the court - quite literally. Even down to where I was allowed to sit, depended entirely on who was present in that courtroom at that particular time. While the majority of people ‘accepted' somewhat my position as an ‘imposter', others made it quite clear that I did not fit in. Managing my relationships with the broader environment soon became vital. At this stage, I was often too busy making sure what I was not outstaying my welcome, as opposed to fully immersing myself into the chosen culture of study. I knew this had to change.

Of particular use, was my experience of being able to witness the Duty Solicitor Scheme in the county court. I had been invited to shadow a housing solicitor I had met via Twitter. Upon arrival, I had to negotiate my way through a very packed waiting room. Locating the solicitor in a tiny meeting room right in the corner of that waiting room, he very quickly explained to me that he only sees/meets these clients as they come into the meeting room on the day. He has no previous information on them, which makes the whole process very difficult. With only 5-10 minutes allocated per person, the interactions were a whirlwind of multi-tasking, attempting to build up

some level of rapport, while being able to get all of the necessary information required to build the legal argument. On one of the days I observed, Marcus saw 15 clients.

What struck me was how the clients often looked at me for advice. While I was able to make those in the legal profession aware of my position as a researcher, quite often, even though the clients would be advised on my position at the beginning of every interaction, I was continuously mistaken for a solicitor. Atkinson and Hammersley (2007) argue that communities tend to assign an identity to researchers, and in my case because I always wore smart clothing, this confused clients. On the few occasions where the solicitor had to pop out of the meeting room to grab something, I often had to endure legal questions being fired at me. This felt quite intimidating. I found that this often occurred when the client was in a state of desperation and I frequently had to force myself, therefore, to maintain a distance from these clients. Likewise, the broader temporal nature of the whole exchange, however, made it very difficult for the client to have an 'outsider' present, as they have to quickly adapt to there being three people in the room as opposed to just the normal one to one lawyer-client exchange. On some occasions, particularly within the criminal cases, I could tell that my presence made the client feel quite uncomfortable. In one particular meeting room in a local criminal court, I was often sat directly next to the client, opposite the solicitor. In the particularly sensitive cases, this often made the environment very uncomfortable as the client would be quite embarrassed to have another person sitting in, listening in to every explicit detail of their case. Clients were always given the option as to whether or not they wanted me in the room, however, and likewise I was able to leave at any point if things got too tough. Information sheets[19] were always stuck on the wall of the given meeting room prior to the client entering, and the client gave verbal consent to my presence at the beginning of every meeting.

In some cases, it was difficult to tell if a client had just agreed for my presence because they thought it might harm their chances of representation. In two meetings, I was asked to leave the meeting room as the clients became very distressed and requested me to leave. Whilst this was slightly uncomfortable at first, I was very understanding of their requests.

[19] See A2 for information sheet

One of the regular solicitors I shadowed, Ben, often joked about my presence once a client had left the room: "thank god that's over, bloody hell, you made him a nervous wreck Emma! (laughs) naa he probably loved it, serves him bloody right anyway the dirty bastard!"[20](continues to laugh). A relationship of mutual respect seemed to grow quite quickly between me and the majority of solicitors and barristers I shadowed and interviewed. I was keen to get across that I intended to almost 'live the life of an LA lawyer'. I wanted to imbue a sense of the effort and sacrifice involved in their chosen line of work. The lawyers, however, often capitalised upon my presence as a researcher. For example, as evidenced in the comment by Ben above, in some cases my presence took the pressure off slightly, as I was almost used as an 'easy distraction' in meetings when things got slightly awkward or difficult. While I would generally try and stay as quiet as possible, some of the Solicitors, in particular, Ben, always brought me into the conversation with general chit chat in an attempt to reduce any awkwardness. While this initially made me very nervous as this was somewhat unprofessional considering how clients perceived me, this soon became a familiar practice. I kept my input to a minimum during these exchanges and tried to avoid any awkward chat by quickly changing the subject.

After being in the field for three months, I felt like I had built up enough contacts to begin the interviewing process. I originally wanted to interview 50 lawyers; however, I soon realised that flexibility was pivotal on both my behalf, as well as theirs, and I just had to take any opportunity I could get to speak to the lawyers. Gaining and obtaining my contacts was a different matter. Whilst at first, several lawyers agreed to be interviewed, tracking them down and finding a suitable time to do this proved to be a challenging task in itself. While I had initially aimed to do all of the interviews face to face, I soon realised that some would have to be done via Skype or else they would not happen. Beyond this, while I wanted to plan accordingly every interview exchange, ultimately the interviews very much became a spontaneous activity as and when an opportunity arose. I soon 'learned on the job' to chase people within the courts to catch them at lunchtimes/ after work and this built my confidence up significantly. Ultimately attempting to 'tell the story' amidst all of the everyday excitement of the

[20] Brief case details: this client was caught with Indecent and Prohibited Images of Children (CPS)

legal system became a very onerous task. I spent hours running between locations, travelling around and Skyping with lawyers at all hours of the day to try and meet the requirements of my research.

Encapsulating not only the verbal but also the physical, visual and audial elements of the LA arena was ultimately thrilling; however, ethnography is understandably a challenging methodology (Atkinson and Hammersley, 2007). Knowing when to finish was ultimately the critical question. In line with the ever-changing backdrop of LA, as well as the time constraints of the PhD, I felt under pressure to get ‘enough' data. Beyond this, I then had to face the lengthy process of the transcription of both the interviews and the field notes. While I had every intention of going home each day and writing up the field notes from that day, ultimately this did not always happen. As the research process went on, I desisted with trying to do this. I opted to write down small summaries of each day in the form of loose spider diagrams, which I was then able to revisit and write up all my notes in full later. At the same time, I felt somewhat responsible for keeping up-to-date with everything, as the lawyers involved in this research were so supportive and engaged with it. Fundamentally, however, the ethnographic approach has offered a ‘reflective snapshot', and the themes derived in this thesis ultimately could not have been established if this whole process had not occurred. This was all part and parcel of the ethnographic process.

4.5.3 Managing my own identity: situating oneself in light of the above

Despite not being a lawyer or having any form of legal qualifications myself, this process meant that I got a glimpse into the world of the LA lawyer. This privileged viewpoint fundamentally would otherwise not be achieved if other research methods were deployed. Understanding the reality of the profession within the context of the lawyers’ social space, however undoubtedly involved a process of identity management. I had to be aware of my positionality constantly.

It was very hard not to build friendly relationships with the lawyers I was interacting with on a regular weekly basis. I had to be careful not to mix the professional with the personal. I was always wary of my position as a ‘researcher’. Identity management is still an issue for the ethnographer (Atkinson and Hammersley, 1995: 83), and I did not

want to overstep my involvement with the lawyers. I was often invited out for lunch with these individuals, or to social events. After a while, however, I began to attend more social events as my confidence built up and regularly joined a couple of the lawyers at a local pub. After a few drinks, these participants began to tell more intricate and emotionally driven stories that permeated their lives as LA lawyers. The closeness achieved during these moments was often not replicated in the cold light of day, and so this proved to be very valuable. These 'friendships' resulted in very fruitful interviews at a later date, as the participants felt very comfortable talking to me.

I had a good relationship with the majority of solicitors, and particularly the 'gate-keepers'. Beyond this, however, not everyone accepted me within the courtroom setting. Self-monitoring ultimately became a continuous process. Other barristers would often shout at me across the courtroom while waiting for the next case: "who are you then?", "what are you doing here?" or "why are you still here?!" Whilst this was very uncomfortable at first, I soon learned how to manage these situations. Having a gatekeeper was fundamental for reasons beyond just getting access. Once in the field, I encountered problems from people who did not trust my presence as a researcher. 'Researching up' into a professional setting can be a very daunting experience. I encountered resistance from some lawyers who argued that my research was 'a waste of their time' while others completely refused to engage with me as they could not see themselves as subjects of research. The process felt very uncomfortable at times, as many of those I encountered in the field were extremely guarded and unapproachable. I overcame this by speaking to my gatekeeper who advised me about whom to contact/avoid. This advice proved invaluable to my research process.

Quite often, depending on which solicitor or barrister I was with, any awkwardness often turned into a light-hearted 'banterous' exchange:

> **Opposing solicitor:** "So do ya wanna be a criminal solicitor then love?"
> **James** (solicitor I was shadowing): "naa, she is not like us thickos, she is a PhD, she's guna be a doctor you know! Leave her alone."
> **Opposing solicitor:** "Ah, check you out, what you doing here then with us weirdos, haven't you got anything better to do?!"

This made the ethnographic process a whole lot easier. It was weird to comprehend this ‘inversion’ of power in a sense. While I was there looking up at professionals and valuing all of those individuals within it, bizarrely, my status as a ‘PhD researcher’ was often deemed to be above that of the lawyer as regularly highlighted by the lawyers themselves. I attributed this to the rarity of having someone ‘researching' their community or the fact that very few practising lawyers uphold a PhD themselves. As Ben (HS) stated, to some extent, I was highly respected as those within the field were excited to have someone shedding light on what they do day-in-day-out. While this gave me a confidence boost, it was somewhat intimidating as ultimately my cultural lexicon and social habitus are somewhat different from that of a legal professional. Likewise, I wondered whether my age or gender influenced their reaction to my presence, given how I was ‘passing’ in the field. While being a young female in the context of the solicitors’ firm did not have much of an impact as a number of the solicitors and paralegals I was interacting with were female. In the context of the courtroom however, I often found myself amongst predominantly male barristers which in some cases had a positive effect, and in others a negative effect. Gender bias in this sense could be either explicit or subtle. In some cases, I found this uncomfortable and could not participate in the ‘banter’ between the male barristers. Being referred to as ‘love’ or ‘darling’ become rather wearing, and I didn’t appreciate the condescending tone of some of the barristers I engaged with.

My fieldwork was carried out on the basis of both informed consent, as well as my own overt stance. Additionally, the way in which my participants were represented was a primary matter of concern, and thus I made a considerable effort to maintain a neutral stance throughout. I was mindful of both my own moral bias and judgement at all times. This was of particular importance due to my ‘membership’ within the LA community, having made ties previously during previous research periods. Beyond this, I also had connections with the various networks and associations used by LA lawyers in their working and social lives as aforementioned. This made it even more vital for me to maintain ‘critical distance' in order not to overstep my boundaries as a researcher. I was cautiously and actively aware of this throughout the duration of my fieldwork and continued to be throughout my analysis to ensure that I was able to engage critically with my original data.

In spite of this, as an 'outsider outsider' to the field (Reiner, 2000 in Rowe, 2007), having had no legal training myself, both my varying and opposing occupational and cultural capital (as defined by Bourdieu and Passeron, 1990) meant that I was ultimately unlikely to cross the boundaries of becoming a true 'insider' within the community in question. Having an outsider status made my role somewhat easier.

4.6 Ethics: delving deeper into the research design

Due to the nature of this research involving professionals (particularly those concerned with client confidentiality), I was aware that ethical issues would inevitably arise and thus wanted to ensure I was carrying out 'responsible research' (Atkinson and Hammersley, 2007: 273-5). Therefore, this project directly complied with the Data Protection Act 1998[21] to ensure that the research was conducted to the highest ethical standards, eliminating any possibilities of harm arising. I practised my research overtly and operated on the basis of informed consent. I obtained signatures on detailed consent forms[22] outlining the research protocol. Participants and their clients were protected from identification (one of the few harms risked in this study) through anonymisation via the use of pseudonyms for all participants and locations involved in this research. All data from both the observation and the interviews was stored in secure conditions on a password-protected disk drive. Interviews were immediately transcribed, anonymised, and then the recordings were destroyed after they had been held only for the time necessary to document the results. Questions did not waver from the focus of the project, and no excessive information was asked for at any point during the research process

I adopted an overt stance at all times to safeguard against questions of deceit and dishonesty, and thus all research participants were fully aware of my position as a

[21] My research occurred prior to the implementation of GDPR – the most important change in data privacy regulation in 20 years - which came into force in 2018 (EUGDPR, 2019). Given the changes made under this new regulation, the ethical procedures would be more stringent if this research was to be carried out a year later.
[22] See A1

researcher. Information sheets and consent forms[23] were provided to every participant right from the outset, and unless informed consent was given in the context of the interviews, then the individuals were not to be involved in this project. Importantly, any individual involved within the study were able to (and still can) opt-out at any point, and all associated information was/ will be discarded of following their withdrawal. No participants withdrew throughout the research process.

All research was carried out in the habitual environment of the LA lawyers, the law firms, or via technological means, ensuring that levels of distress and embarrassment were kept to a minimum. Furthermore, while some individuals may have felt uncomfortable discussing their personal social and emotional attributes within the context of the interviews because of their status, the semi-structured and flexible nature of the questions enabled the ability to alter focus if this occurred. Whilst there was the possibility of the boundary between the personal and the professional being overstepped, safeguarding was ensured at all times. I exercised sensitivity and was overly cautious and aware of any possible discomfort or apprehension arising. I maintained an entirely professional role at all times, and thus if any individual felt slightly uncomfortable at any point then the focus was immediately changed, and the research participant had the option to leave at any point they felt necessary.

I maintained confidentiality at all times, complying with the Data Protection Act. Pseudonyms were used, and no personal information was detectable at any point during data collection, analysis or throughout the dissemination of the results. I changed all identifiable information; however, the meaning of the narratives has not been altered to offer a realistic analysis. I discarded any irrelevant information immediately, with the relevant information only being held for the time necessary to complete analysis. The above applies to both the information gathered during the observation periods, as well as the semi-structured interviews. A pressing concern for ethnographers is how participants' narratives and behaviours are represented (Hobbs and May 1993). A personal strategy taken was the intention to highlight both the positive and negative aspects of their world without judgement.

[23] Copies of these can be found in the appendix

I was aware that power and/or dependency imbalances could have occurred between the lawyers and myself at any time, due to the sheer differences in capital between the nature of the traditionally exclusive sub-group of lawyers, and the social standing of students. This diversity was addressed suitably, ensuring that I engaged reflexively, taking extra caution to maintain an appropriate relationship with the research subjects involved in this project. This meant not stepping over any 'invisible lines', employing a consistent sympathetic and considerate manner at all times. Particular care was taken during the observational periods, where I sought to build up a rapport with the research subjects before the interviewing process began, making the process more comfortable for all involved. Consequently, any imbalances were equalised before the in-depth interviewing questioning took place.

The nature of ethnography does not always allow formal consent to be gathered from those who might only feature in observation for short moments. The senior partner, throughout the various law offices and court spaces posted information sheet posters. I was also particularly mindful of client confidentiality, ensuring that clients were made aware of what was going on at all times. If anyone felt uncomfortable with my presence at any point, I either left the room and/or came back later on that given day. My contact details, as well as the University of Kent's details were accessible via the information posters. No problems arose from the research, however.

4.7 Summary: limitations and reflections

Ethnographic study produces particular results, rich in detail and authenticity, yet limited to a narrow group of participants. The personality of the researcher carrying out the ethnography also links somewhat to the outcomes of the study. If this research were to be carried out again with a group of similar socio and cultural characteristics, then some similarities may occur. As expressed above, a research reflection can make the identity of the researcher explicit, which can avoid any shortcomings. However, this kind of immersive ethnography, while offering a great insight may also to some extent be imbued with the LA lawyers' way of seeing the world. Attempting to avoid any high-handedness meant that I had to be extra cautious in identifying faults and the more undesirable aspects of the role that the lawyers themselves might not reveal.

This research was carried out as part of a structured doctoral programme, and as such there were limits to the amount of time available for fieldwork. A year was dedicated to this research (2016-2017), and during this time, only a certain amount of ethnography could be done. Due to the sheer nature of the task of documenting the world of the LA lawyer in a threefold manner, I was likewise aware of the fact that I had taken on a lot considering the multi-faceted nature of the work. Divisions across specialisms, workplaces and position all add further dimensions to the task. While this research has offered a surface-level insight, to adequately accommodate the breadth and depth of the LA world undoubtedly requires further research.

However, the aim was to give a genuinely rich and authentic snapshot into the world of the LA lawyer, and understand how they go about their day-to-day working lives in the post-cuts context, and that is precisely what this inquiry has done.

Chapter Five

Becoming a legal aid lawyer

This chapter lays a conceptual basis which sets the foundations for the rest of this thesis to develop and contributes to the macro-picture. This chapter is foregrounded with existing secondary literature, data and statistics, punctuated intermittently with descriptive ethnographic accounts and individuals' experiences as obtained from the interview data. This is done purposely - to provide context for - and to situate subsequent analysis to tell an over-arching story. This chapter describes the characteristics of the LA workforce. To this end, education and training, gender, age, race and social class all come to construct the rhetoric of the LA lawyer. Drawing out patterns and themes can affect how a profession is experienced, which fits well with the intentions of the discipline of the sociology of work and professions.

This chapter likewise outlines how LA lawyers are perceived in the wider popular framework. As evidenced here, the LA profession faces fragmentation twofold: (1) increased fragmentation and marketisation of wider justice services (external), as well as (2) occupational marginalisation[24] (internal). The former relating to the impact of the cuts to LA, and the latter the marginalised position of the LA lawyer to their private counterparts, as to be explored. This extent to which this marginalisation has been further exacerbated in the context of the post-2012 cuts is examined. This chapter initiates discussion in response to research question one: What consequences have the reductions in funding and services had on the 'lived professional experiences' of legal aid lawyers?

5.1 Route into the profession

This section highlights the various educational and training routes into the profession and the features that come to underpin it. It is worthwhile to begin this chapter by

[24] Occupational marginalisation refers to the sub-ordinate positioning of the LA profession, as it sits on the peripheries of the wider legal profession, as well as wider society.

looking at entry into the occupation, as traditionally, significant inequalities have existed within the legal profession as explored below.

The relationship between social class and education is undoubtedly interlinked. The State of Nation Report in November 2016 found that 'privately educated people still dominate the legal profession' due to high priced professional fees (State of Nation, 2016; YLAL, 2018). Likewise, the Sutton Trust[25] found that "of the leading 100 QCs in 2015, who were educated in the UK, nearly 71% attended fee-paying schools" (Sutton Trust, 2017; YLAL, 2018). While those in higher positions are overwhelmingly privately educated, this extends somewhat to those in lower positions. The Bar Standards Board found that 33% of 17,015 barristers in their sample pool attended a fee-paying school, while 53% of their respondents refused to declare their schooling history (Bar Standards Board, 2018). In this thesis, out of the thirty respondents involved in this research, ten had attended a private or fee-paying school. Three out of the four barristers involved in this research were part of the ten who were privately schooled. The private school sector educates 7% of the wider population (Weale, 2016). While this is not surprising, recognising that twenty of the participants did not have this start is of great interest here in light of the historical tradition that law has traditionally been dominated by the privileged (Law Society, 2017). Katz (182) distinguishes between 'poverty lawyers' who tend to attend local state law schools, vs commercial lawyers who attend more prestigious schools in the US context. There remains a gap in the research on the correlation between private schooling and LA lawyering more specifically.

The Solicitors Regulation Authority gathered data on the diversity of law firms in 2017. Their survey includes information from nearly 180,000 people from over 9,000 law firms (Solicitors Regulation Authority, 2017). It was noted in the results from this survey that 22% of all lawyers in the sample pool attended fee-paying schools, in comparison with the 7% in the general population, highlighting a significant gap between lawyers and the general population (*ibid*). It was also found that three-quarters of solicitors in firms practising within the criminal and litigation fields were state-educated, in comparison with corporate law, where only half of the solicitors' in

[25] The Sutton Trust is an All-Party Parliamentary Group on social mobility and access into leading professions

the pool were from state schools. As illustrated in the figure 2 below, Sutton Trust data from 1989 showed that almost 76% of their sample attended a private school, and 89% of barristers were Oxbridge educated (Sutton Trust, 1989).

	Profession	School		Profession	University	
		Independent	State		Oxbridge	Other/None
	[UK Population]	7%	93%	*[UK Population]*	<1%	>99%
Today	Law (Judiciary)	74%	26%	Law (Barristers)	78%	22%
	Law (Barristers)	71%	29%	Law (Judiciary)	74%	26%
	Military	71%	29%	Law (Solicitors)	55%	45%
	Medicine	61%	39%	Journalism	54%	46%
	Journalism	51%	49%	Civil Service	51%	49%
	Law (Solicitors)	51%	49%	Politics (Cabinet)	47%	53%
	Politics (Cabinet)	50%	50%	Medicine	40%	60%
	Civil Service	48%	52%	Business	31%	69%
	Business	34%	66%	Military	14%	86%
All Time	Film (Oscars)	67%	33%	Nobel Prizes	63%	37%
	Nobel Prizes	63%	37%	Film (Oscars)		
	Film (BAFTAs)	42%	58%	Film (BAFTAs)	(Majority of sample did not attend)	
	Pop Music (BRITs)	19%	81%	Pop Music (BRITs)		

Figure 2: UK educated top professionals by school/ university attended. (Source: Sutton Trust, 2016).

Regardless of whether or not the candidate has been privately schooled, for any solicitor looking to practice both within and outside the remit of LA, locating a training contract post-education can be difficult as confirmed by Rachel (partner and HS), Grace (CS) and Ben (HS). Maria (HS) further summarises this below:

> I mean it was so *so* hard to get a training contract[26], there's so much competition regardless of what school you went to, and with being slightly older as well it just makes it harder, so I just ended up getting a training contract with a local firm who happened to be legally aided, so that's how I ended up here (her emphasis).

Likewise, for a prospective barrister, attaining a pupillage[27] can be an extremely competitive process as outlined by Alistair (CB):

[26] A training contract is a compulsory period of practical training in a law firm for a solicitor
[27] **Pupillage:** Final, vocational stage for those who are becoming barristers.

> Sometimes you hear this kind of 'false sense' of security, whereby during your education, you get told that you are good enough to go ahead and train as a Barrister, and you get accepted onto the BPTC[28]. But in reality, once you leave the safe walls of education, you realise you aren't even really experienced enough to be a paralegal, let alone a Barrister. The pupillage chase is not fun, and it's not easy. It can be a very gruelling process, and it is definitely not for the faint-hearted.

Not only that but often, individuals spend significant amounts getting a legal education to face the prospect of a low salaried job as a result. Marcus (HS) put this into perspective:

> Why put money into helping students train, when there's either nowhere for them potentially to go, and there's only a minimal amount of training contracts to go around, which isn't enough to sustain the LPC[29] providers. Or alternatively, putting money into something, which you are never going to earn enough to get back.

Young Legal Aid Lawyers (2018) produced a report on Social Mobility in a Time of Austerity. They identified that debt combined with low salaries is often a barrier to the profession as the high tuition fees for Bachelor of Laws (LLB[30]), Graduate Diploma in Law (GDL), Legal Practice Courses (LPC) and Bar Professional Training Courses (BPTC) are on average £10,000 per year. Consistently, individuals then get paid meagre salaries once they secure a training contract. Over 53% of their solicitor respondents claimed that they were earning less than £25,000 5 years PQE (post qualified) (YLAL, 2018). Both the SRA's[31] decision to scrap the mandatory minimum salary for trainees in the LA sector, as well as the cuts to LA, has meant financial difficulties are rife. Nicholas (CS) confirmed this as he stated that he was on £25,000 and he was in his mid-60s, having been in the profession for over 40 years. He had

[28] **BPTC**: Bar Professional Training Course: for those who want to qualify as a barrister
[29] **LPC**: Legal Practice Course: for those who want to qualify as a Solicitor
[30] **LLB:** Undergraduate Qualifying Law Degree
GDL: Law Conversion Course for those who studied a non-law degree
[31] The Solicitors regulation authority regulates Solicitors and Law Firms in England and Wales, setting qualification standards, as well as training and other requirements.

previously worked for an LA firm which had since shut down, as result he had become self-employed and had since been struggling with the low salary. He indicated that he had lost his family, car and house and that the financial and psychological impact of this had made him suffer tremendously. He suggested that if he had gone down the route of becoming a barrister, which he had the option to do, he would not have been placed in the position that he was currently in as solicitors are more likely to face financial insecurity. James (CS) expresses a similar notion in his response, ‘‘I think we are better qualified than barristers because we do two years of training, rather than one…. but they are paid so much more!’ As evidenced in figure 3, to become a solicitor it takes roughly six years, whereas to become a barrister in typically takes five years; however the latter is seen as a more prestigious role by those both inside and outside of the profession (Prospects, 2019).

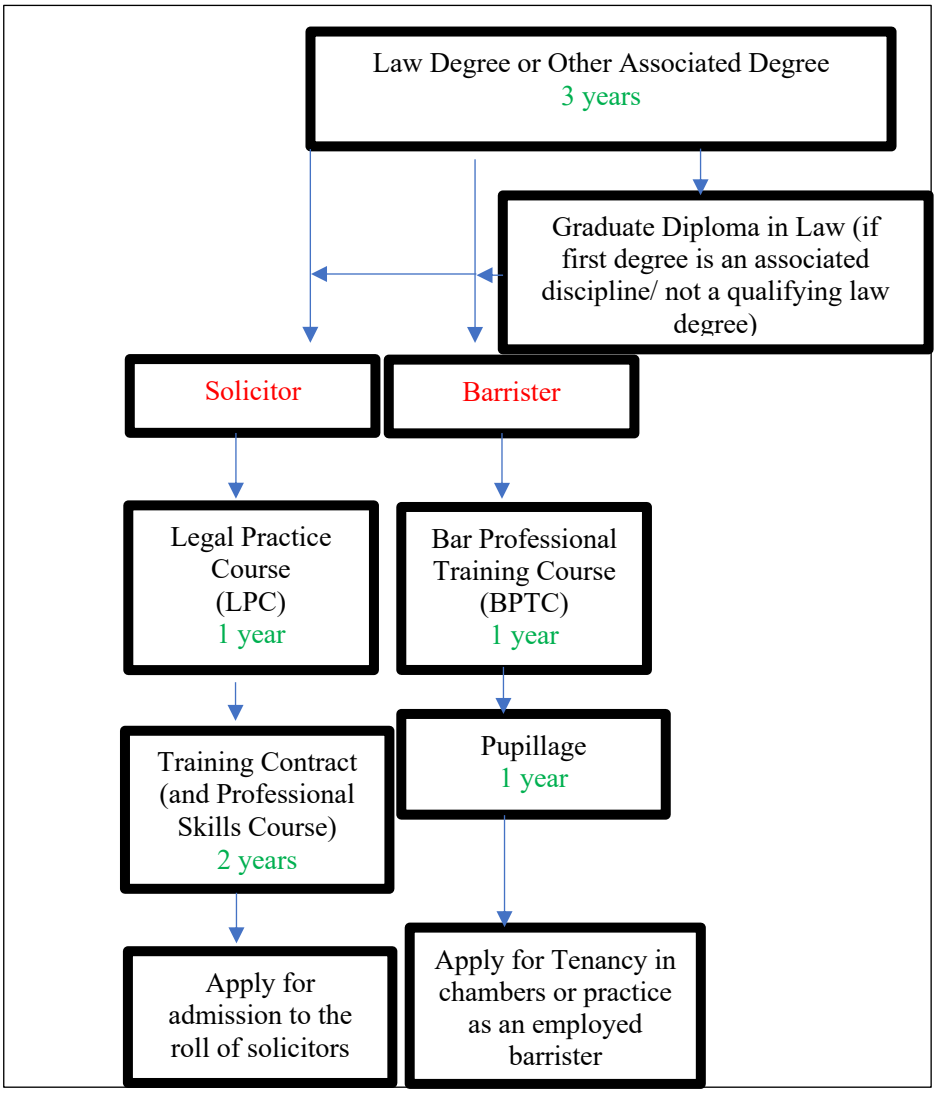


Figure 3: Required education and training routes into the profession. (Source: self-elaboration)

Despite there being differences between solicitors and barristers concerning pay, it was commonly noted that legal education, particularly at degree level, was often lacking modules which focus on LA, as confirmed by Robert (CB) as well as Andy (CB). Over half of my interview participants cited that there was an absence of LA in legal education more generally:

> Legal Aid work is not really highlighted in education and training. Legal education is very much set in its traditional ways…I only really knew what I was doing because of my work experience. (Marcus, HS)

> Legal Aid seemed to be looked down upon in the LPC, even the elective on housing law was cancelled, so the only option to even study LA was within the criminal module which is very restrictive. (Jack, HS)

Jane (HS) also stated that her legal training was somewhat outdated:

> The LPC is so 'old fashioned', two-thirds of the course were taken up by stuff I had absolutely no interest in whatsoever. I know it is meant to be a general course, but they should make it equal and open to all prospective lawyers, regardless if you want to practice as a legal aid lawyer or a commercial lawyer. Then the training contract you are really thrown into the deep end.

These training inadequacies play a significant role in the extent to which those in the profession feel equipped to carry out the day-to-day tasks. Several other research participants further stated that LA work was not encouraged within their education; instead, commercial work was always at the forefront of the agenda. Rachel (partner and HS) referred to this:

> During my law degree, I was always constantly encouraged to go into the commercial/ private sector. There didn't seem to be any other interesting ways of 'doing law'.

Robert (CS) stated that his training contract equipped him well as it was very much 'hands-on' straight away. Tom (HS) said that the training contract is very much dependent on the firm, and therefore everyone will have different experiences. Differences in commercial firms vs. LA firms or law centres also affect how a training contract is experienced. For example, often law centres are unable to provide training contracts due to lack of funding. Likewise, some firms which specialise in predominately LA may also lack resources. Lack of resources, alongside the decreasing nature of LA funding can make the experience quite diverse:

> Some solicitors at the same level… their experience is so much better because they trained elsewhere… *but* the nature of the work is so diverse so there are always things that are going to come up that you've never covered before. Add in wider changes in legal aid as well; it's just impossible to keep up sometimes (his emphasis).

As Tom (HS) outlines, however, education and training is only part of the learning curve. The shift from being newly qualified to become a more experienced LA lawyer requires further development once actually in the role: "It's like a driving test (training contract), it gives you a basic grounding, but it's not like you are perfectly able to drive… it's just you're in a position where you're safe enough to get in by yourself" (Tom, HS). As outlined by Tom, every day is different and therefore you 'never stop learning', as lawyers are faced with constant challenges due to the sheer diversity of cases and clients.

The training for LA lawyers is likewise often inadequate at the LPC stage, and the majority of the learning is done 'on the job'. As Marcus (HS) notes:

> There is a considerable gap between studying and practising law. Legal Education needs to catch up and adapt to what's happening around us now. We are all diverse, the work is diverse, and our motivations are diverse. Change needs to happen in education.

Highlighting issues of (in) adequate training and preparation for working with clients demonstrated that the participants were alert to potential failings beyond their control

early on in their careers. This inadequacy further indicates how their personal investment may not be matched by professional or institutional provision, a gap which continues to widen. "The 'liberal' focus of law degrees leads to limited opportunities to educate for the realities of professional life" (Boon, 2005: 254). The professional socialisation here creates somewhat unrealistic expectations, and as Sherr (1995) notes: those entering the legal field need to be educated to understand its true operation better, as expectations can have significant impact on how the occupation is experienced (see Boon, 2005). The distance between education and training and realities of practising law, however, is not limited to just the LA remit, but across the wider realm of the legal profession (Boon, 2002). It can be argued that LA education and training is not 'comprehensive'; however, a form of working culture has the potential to fill in the gaps that LA education and training otherwise do not fill through the encouragement of knowledge sharing and informal learning and socialisation practices. Exploring the working culture of the LA lawyer offers an interesting analysis later on in chapter eight.

5.2 Demographics

> I think race, gender and class are the three factors which, you know, play a big role in determining whether you can become a barrister, and very importantly whether you can continue as a barrister (Alistair CB).

Further insight into how the LA profession is shaped and constructed can be gleaned from addressing factors such as gender, social class and race. The pool of research participants used within this research is skewed towards white (26/30 participants) and middle class (28/30 participants), however there was almost an equal split of females and males (16-15). As illustrated in the Table 1 in the previous chapter, all-female participants involved in this research were practising as solicitors[32], whereas the male participants in the sample pool were a combination of barristers and solicitors. This will be discussed further below.

[32] With the exception of Karen, who is the director of a membership body that represents legal aid practitioners.

As the Law Society's[33] annual report highlighted: "As women solicitors practising in England and Wales outnumber men for the first time in history, people working in law across the world have spoken about the challenges the profession faces in achieving gender equality" (Law Society, 2018). While this shift is not yet reflected at more senior levels[34], which overwhelmingly tend to remain primarily inhabited by white, middle-class males, this is a massive step for the justice system (*ibid*). Importantly, the legal profession has been typically skewed to the white upper-middle-class male, and therefore it is important to draw on factors such as race and social class here. Cited in the recent annual statistics report by the Law Society (2018), 'White/ Europeans make up 75% of practising certificate holders'. The demographics of the sample pool in this research is interweaved with existing data below to understand further how the profession is constructed, building a basis for later analysis.

5.2.1 Gender

Important demographic changes have occurred within the profession, with the significant growth of women within legal practice after being barred from the field right up until the mid-twentieth century (in the US context) (Sanchagrin, 2014: 2). In the UK context, the Sex Disqualification (Removal) Act 1919 was passed, which allowed women to enter the legal profession for the first time (Gosling, 2017). Ivy Williams became the first female called to the Bar on 10th May 1922, followed shortly by Helena Normanton, the first practising female barrister (*ibid*). In the same year, Carrie Morrison was the first solicitor in England and Wales to be admitted (*ibid*). The lawyering profession, in general, has always been known for its incredibly stringent recruitment practices and lack of demographic diversity despite the onset of late modernity bringing about a broader consciousness over equality (Loftus, 2009; Kadushin, 1962).

For most of its history, the legal world has been very much a male-dominated space. This is now in some sense seen to be 'atypical', particularly in respect to LA solicitors

[33] The Law Society is an independent body who represent and support solicitors globally (Law Society, 2019)
[34] Only 29% of female practising solicitors are in senior, partner positions (Law Society, 2018).

as evidenced within the sample in this research (Menkel-Meadow, 1987). Within the LA world, there has been a significant influx in the number of females within the solicitor pool on the entry-level. Women now make up 48% of the solicitor pool (The Law Society, 2017). For example, 12 out of 15 female solicitors in this research hold 'entry-level jobs', meaning that only 3 of the female participants in this research hold senior positions, such as firm partners or deputy heads of departments. This is likewise in congruence with their experience/ length of service. Women still face barriers with regards to progression and reaching the 'higher positions':

> I think it would be extremely difficult for one of the girls to become a partner… positions of power here tend to be dominated by males, unfortunately… I suppose it's a bit of a boy's club attitude. (Maddie, CS)

All barristers that responded to the call for participants were male. This finding can also be attributed to the fact the Bar remains to be male-dominated (see figure 4). However, the number of female entrants to the Bar is on the increase, as illustrated in figure 4 below (taken from the Bar Standards Board- the regulatory body for barristers):

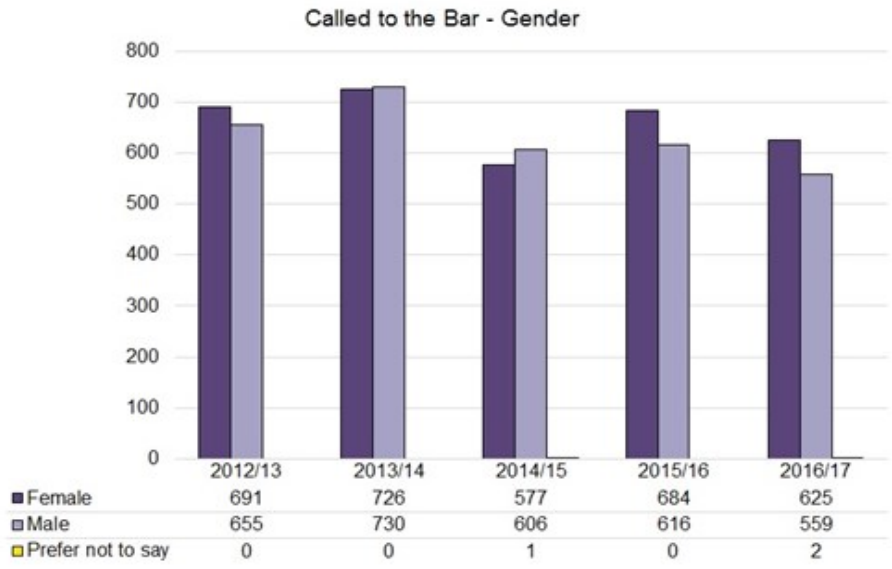
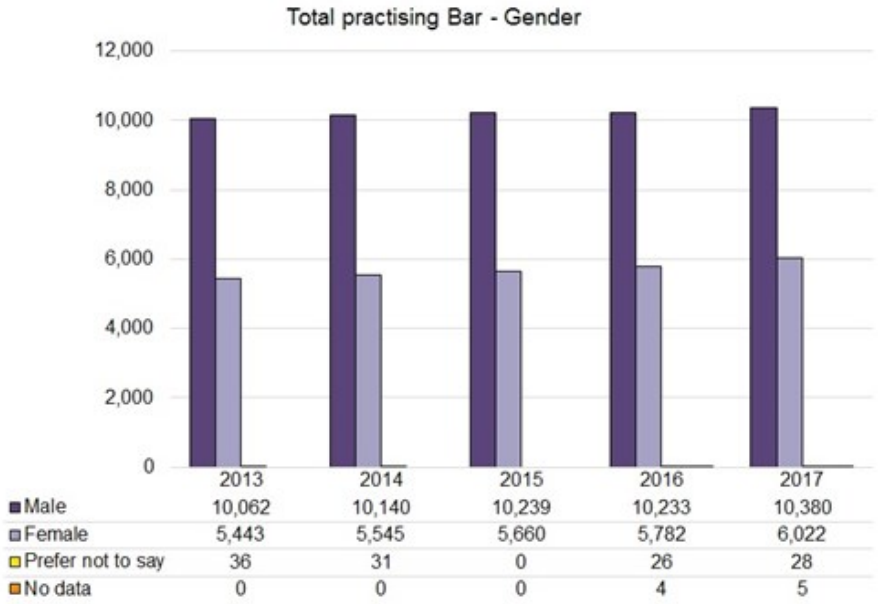


Figure 4: Number of individuals called to the Bar by legal year. (Source: Bar Standards Board, 2018a).

The number of women 'called to the Bar', or in other words, formally recognised to have passed their 'vocational stage of training' and therefore called to the Bar by their Inn of Court is almost on par with the men, or if not more as evidenced by 625 women

compared to 559 men in 2016-2017 (Bar Standards Board, 2018). The number of women who are practising at the Bar remains to be much less as illustrated in the figures below:



	2013	2014	2015	2016	2017
Male	10,062	10,140	10,239	10,233	10,380
Female	5,443	5,545	5,660	5,782	6,022
Prefer not to say	36	31	0	26	28
No data	0	0	0	4	5

Figure 5: Total number practising at the bar (by gender). (Source: Bar Standards Board, 2018b)

There are far more applicants for tenancy in chambers[35] than there are places, and those who do not practice as a barrister tend to venture out to other work whether that be as a solicitor or within other business fields. On average, the number of females practising as a barrister tends to be roughly 50% less than the males (see figure 5). Several reasons have been attributed to this. As outlined in a report carried out by the Bar Standards Board in July 2016, they found that the general culture of chambers is not conducive to having children (Bar Standards Board, 2016). Around 80% of barristers operating out of chambers are self-employed as opposed to salaried which can also be difficult for family life (*ibid*). All five of the barristers interviewed in this research were self-employed and based in well-established Inns of Court, which fits with the findings of the Bar Standards Board.

The Bar Standards Board also highlighted the issue of power within the occupation, as the gap between policy and practice remained quite vast, particularly concerning maternity rights. For example, it was cited that women felt intimidated to evoke

[35] Chambers refers to the rooms or workspaces used by barristers.

maternity rights due to stringent policies and chamber practices, which have typically been very phallocentric in their nature[36] (*ibid*). A significant issue, identified by Alistair (CB), was the inability or unwillingness of the Bar to take action to improve such issues:

> I realised early on that there is a narrative that the Inns of Court puts forward and the Bar Council and other providers put forward about encouraging people from diverse backgrounds to access the Bar, but you realise it's just actually a load of rubbish. They're not actually doing anything. There was a group of women a few years ago who tried to get one of the Inns to rent at a lower rate or give them some space. I don't know if you know how the Inns of Court operate, but basically, they own all the property. The women asked the Inns to give them some space so they could set up a nursery and, you know, what you have to do is make a basic report from the Bar Council about diversity to see that there is discrimination against women, because even women who manage to get pupillage and get taken on, then inevitably statistically at some point will have children, and then they lose out. And one way to address this is childcare. I thought it was a really positive thing getting the Inns of Court involved with allocating space for a nursery, but they said no, and now the women went ahead but built it outside the Inns of Court with a private provider. I thought it was so disappointing because that's where they can make a difference. Having a nursery in the Inns would make things so much easier. It would be right on the doorstep, and would just give more flexibility around our working hours. It's not the fluffy talks they give, but it's those kinds of real-life practical things that can really make a difference. They could have really shown their desire to change things there. (Alistair, CB)

As Alistair notes above, there remain significant developments to be made within the chambers to ensure those who have families can manage childcare arrangements. Even when presented with the opportunity to make a change, the Inns of Court, in this case, did not take this on board. Attrition rates for women continue to be much higher than

[36] Phallocentric practices include: 'career pigeon-holing', attrition, sexism, unconscious bias, gender-based stereotypes i.e. it is often assumed that women entering the profession are 'naturally' suited to family, and they then become pushed into it (Chambers Student, 2015)

for men due to institutional failures to accommodate family commitments and caring roles. It remains a very traditional world in many senses; the male lawyers indicated that they were not expected to engage with family or ask for paternity leave, as confirmed by Alistair, Robert and Phil (CB). Due to the instability of areas of law such as crime, women are also more likely to specialise in areas such as family law (Bar Standards Board, 2016).

However, family law, for both solicitors and barristers alike, has been particularly affected by LA cuts[37], which has led to much more instability within the workplace. As Eleanor (partner and FS) outlines:

> I think that working at a high street firm on the ground level, makes it notoriously difficult to be a woman and take time out to have children, and then come back at the level you left it because there's just no one there to pick up the work whilst you're gone. I think LASPO has had a massive effect, I mean, because I'm a partner[38] here I am quite lucky in so far as I'm fairly autonomous… but for females in Junior positions, it has had a profound effect. They have no control over anything. It's really hard to go part-time, let alone to take maternity leave.

Women are also less likely to practice criminal law as a result of its demanding nature. As Phil (CB) notes:

> Crime is the most brutal for families, hence why it is a majority male profession. The macho sitting hours, and the phallocentric fundamentals that underpin it undoubtedly have a very significant impact. I wish I could say it's

[37] Family legal aid was cut by 10% in 2012, then in 2013, the implementation of LASPO meant that all private law family cases were removed from the scope of legal aid. Whilst parents may be still entitled to legal aid in care cases, legal aid is not provided for disputes between ex-partners over access (unless proof of domestic violence can be given, meaning that in 2017- a third of family court hearings saw both parties appearing without representation (Guardian, 2019)

[38] Partners are lawyers, but also joint owners and operators of the law firm. Partners can either have 'equity' or 'non-equity' status. The former has ownership stake in the firm and share's the firm's profits, whereas the latter a fixed salary and have limited voting rights in law firm matters (Kane, 2019)

> changed over time, but unfortunately, the Bar is very much set in its historic ways.

Differences existed between criminal solicitors and barristers, as confirmed by the female criminal solicitor respondents. In one particular firm, which specialises in criminal defence work, over half of their solicitors were female. One of the managing partners is also female. As noted by Phil above, due to the 'macho sitting hours' within the Bar, it makes it difficult to balance childcare and practice. For example, the unpredictability of court sitting hours can be seen as a significant disincentive, and sometimes barristers have to be in court until 7/8 pm in the evening. Barristers are required to work very long and unsociable hours, which does not lend itself to flexible working practices to fit around family life for both women and men alike. Phil (CB) confirmed that often he finds himself working 12-14 hour days which means he works well into the late evening. Likewise, Phil stressed that his working hours were not flexible due to needing to be in court at all hours.

The flexibility of time is more conducive to the solicitor remit, as outlined by Mary (CLS):

> My workplace is more accessible to women, particularly women who have childcare responsibilities because they're more flexible about your working hours. There's far less emphasis on presenteeism you know this idea that someone needs to be at their desk between 8 and 6 all day every day. This doesn't really exist in my place of work, so it's excellent for women who have children.

Anna (IS) likewise spoke about the gendered features of her working environment and the more 'female-friendly' features of her workplace:

> …and I think there's less focus perhaps on targets and competitiveness in this sector and place of work, and I think targets and competitiveness and the sort of one-up-man-ship, I think those are very masculine characteristics traditionally; however, there are definitely women in the legal profession who definitely exhibit, you know, that tendency to get one up on her colleagues.

> Legal aid I think is probably broadly speaking a bit more female-friendly, whereas private practice is much more masculine as there is a lot of emphasis on being there all the time and it's all about competitiveness.

Anna's account likewise resonated with other areas of LA work. When speaking about the divide between LA funded work and privately funded work, Anna expressed that funding played a significant role in the nature of the work. In some places, LA work is funded through grants as opposed to being based on business being passed down, which takes away the pressure of having to compete with colleagues, unlike some areas of commercial law. Likewise, the immigration lawyers involved in this research also had a stream of commissioned work from charities and social services, which made it a lot easier as the competitiveness of trying to secure business was lowered. These external forms of funding pave the way for more flexible working practices overall, and as such, can be more conducive to family life as there is not always a need to 'compete' for funding. This likewise reduces the need for a competitive working culture as explored later.

The feminisation of solicitors vs barristers has differed significantly, however. For example, in the latter more elements of patriarchy persist (Silius, 2003). While positive changes can be identified with regards to gender inequalities in the solicitor profession, arguably the Bar remains typically defined by its patriarchal nature as outlined in the section above. While this research only offers a snapshot of the LA profession, this section has highlighted gender differences which will be fed into the analysis later on. Alongside the adverse effects of the cuts to LA funding, the field still faces broader challenges surrounding gender equality, particularly within the remit of practising as a barrister.

5.2.2 Social Class

> I think class is one thing that permeates everything at the Bar. Even chambers that have 95% white male tenants will have 5% that are not. But when you look closely at the CV's, you see that one thing that unites 100% of the tenants is class (Alistair, CB).

Historically, the legal profession has tended to be dominated by those from the middle-upper classes. Likewise, as indicated earlier, bar training costs on average £15-£19,000 so that also accounts for some of its prohibitive nature (Social Mobility Report, YLAL, 2018). There has been very little development in terms of widening the diversity of social class, because of high course fees, low entry salaries and the cost of accessing the bar in the first place. Alistair (CB) notes:

> Amongst people who tend to practice at the English Bar, yeah, there is a lot less diversity, a lot more male-heavy, a lot more white, and a lot more private school… actually diversity at the bar is terrible. It's just awful. 90% of judges are male, privately educated Oxbridge. I mean that's just *insane*. (His emphasis)

Phil and Andy (CB) agreed with the above sentiment. In contrast, however, Robert (CB) notes:

> Class doesn't really play any kind of role in my set of chambers. In terms of the profession, what I understand is that it would be very difficult to sort of get a job by the old boy's network now. But now you are up against a pool of very talented applicants, and I am not sure how much it's going to help you what your social class is. But I would count it a lot less… if you were applying for a top commercial set, then maybe it's not inconceivable to be considered as more important, but I still think its inevitably much less important than it used to be. If anything, it might count against you if you were posh and you applied to a set of chambers if it was legal aid work.

Roberts's response above, however, was seen as atypical in comparison to the responses from the other participants in this sample. There is a divide in the role that social class plays between those who practice as a solicitor and those who practice as a barrister. Marcus (HS) recognises that barriers remain within the solicitor profession, as outlined below:

> You kind of have to be from a wealthy background. It was tough before with student loans, it's tougher now with £9,000 a year, the LPC costs, and the competitiveness for training contracts and even getting a training contract nowadays is such a tough thing to do. You either have to be supported by someone wealthy, as they have even removed the minimum salaries as well for trainees, or you have to be extremely lucky and find someone who is going to sponsor you well enough so you can actually survive.

Karen (Director), as well as Rachel (HS and partner), maintain that class issues remain. However, others, such as James (CS) and Ben (HS), noticed a shift away from traditional class dynamics:

> I mean it's such an elitist profession and like I still don't quite believe that I've got a training contract. I'm not part of the elite; I am so far from it. I went to a normal state school, I had poor attendance at school, and there were times in my life where I've been, you know, street homeless.

I recognised and appreciated Ben's openness and honesty in describing his background, which crucially, deviates from and challenges the dominant narrative in his eyes. This insight has demonstrated that the lawyering profession may somewhat be moving away from being such an 'elitist' profession. However, there remain differing opinions on the role that social class plays with regards to both entering and practising in the LA profession as both solicitors and barristers. Whilst some of the sample recognise significant discrepancies in inequalities, others attribute the difficulty of getting access to the profession to having the right skills to do so: "ultimately if I'm not good enough, and if I just don't have the right skill set, then I wouldn't be let in to be a barrister. That's what it all comes down to really" (James, CS). 28/30 participants within this research identified as being middle class.

5.2.3 Ethnicity

> They tend to use people like me as a poster charm. I'm not English you see; my family came here as refugees…and I really don't like to be used like that.
>
> (Alistair, CB)

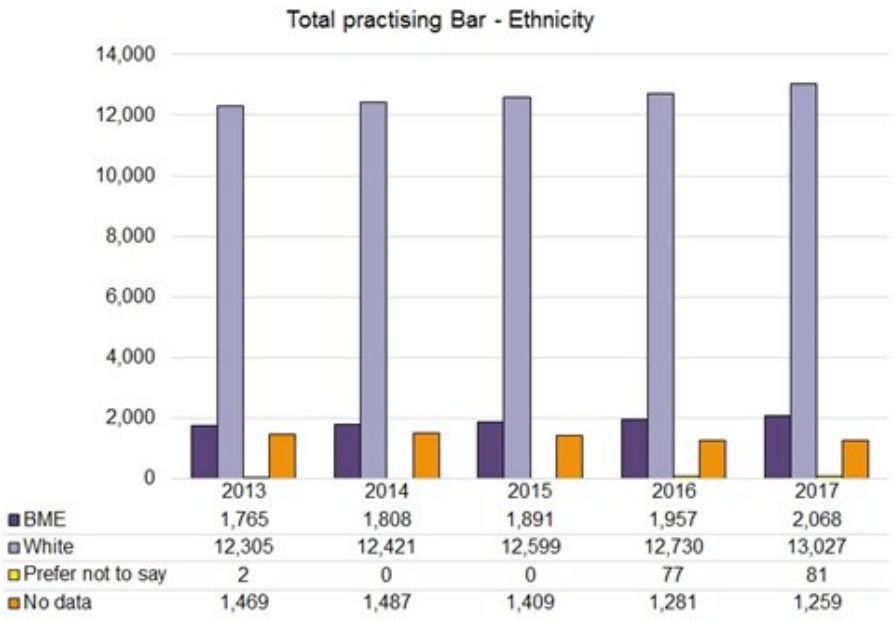


Figure 6: Total number practising at the Bar- annual population round-up (ethnicity). (Source: Bar Standards Board, 2018b)

Stemming from discussions above on gender and social class, diversity continues to be a significant challenge facing the legal industry, and always has been. The data taken from the Bar Standards Board (2016) in figure 6 above, highlights that the majority of individuals practising at the Bar remain predominately white. While we have seen an increase in diversity within solicitors' firms, there is still significant work left to be done. Even up to 1995, solicitors from a minority background only accounted for 2% of the profession (Solicitors Regulation Authority, 2017). The Solicitors Regulation Authority further highlighted that by 2016, 71% of their workforce was white/white British (SRA, 2016), recognising some widening in diversity. As evidenced in the figures above, BME practitioner numbers are steady. Only four out of the thirty participants in this research identified as being from BME backgrounds: "Yes, they are hiring more and more people like me, but there still remains to be a lot of work to be done with regards to widening the diversity in relation to those from BME backgrounds" (Marcus, HS).

5.2.4 Age

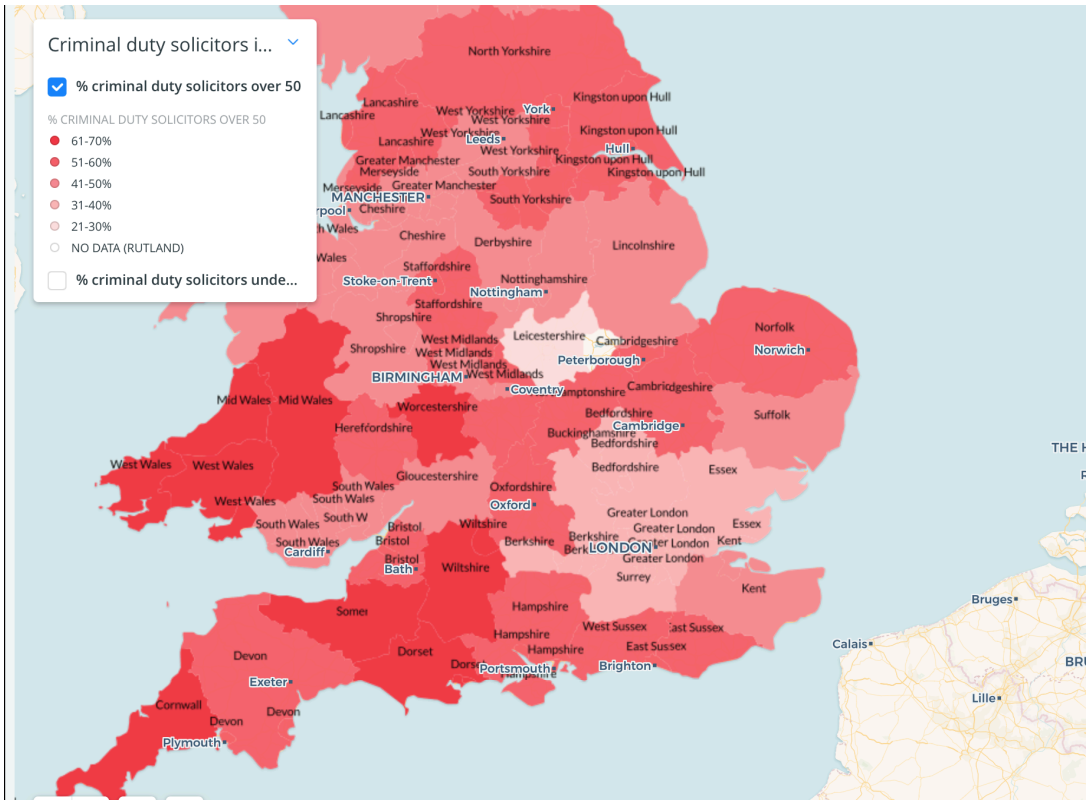


Figure 7: A map showing the ageing profile of criminal duty solicitors across England and Wales. (Source: The Law Society, 2019)

Figure 7, above, shows Law Society data about the ageing profile of criminal duty solicitors. As an increasingly ageing profession, in some areas of England and Wales, criminal duty solicitors are becoming fewer and fewer. In areas such as Dorset, Somerset, Wiltshire, West and Mid Wales, more than 60% of criminal duty solicitors are aged 50 and above (Law Society, 2018). Likewise, in Norfolk and Suffolk, there are no criminal solicitors under the age of 35 that are currently practising (*ibid*). As Nicholas (CS) notes, "this is just a result of the lack of increases in fees, drastic cuts to LA, and people being pushed to the edge. It is now so so *so* hard to have a viable career as a criminal duty solicitor. If we're not careful, there's going to be no one left practising in this field". However, ¾ of the respondents in this research are under 40. Of the eleven participants practising in the criminal field in this sample pool, four of these are aged 40 and above, which fits in with the trends outlined above.

As evidenced throughout section 5.2, barriers to the LA profession remain in the context of demographics. While the solicitor profession has seen a significant rise in the number of females practising, the barrister profession remains to face patriarchal

tendencies as confirmed by the sample in this research. The extent to which social class continues to inhibit practice remains a queried concept, yet significant discrepancies remain with regards to ethnicity and practising at the Bar.

5.3. The popular image of the LA lawyer: perception vs reality

As will become apparent in this chapter and throughout this study, the workings of LA lawyers continue to come under disparaging attention by the media, the general public, as well as other members of the wider non-LA lawyering population. Lawyers do not always get good press because of the social role that they perform (Boon, 2015). Traditionally, the wider lawyering profession has been viewed as having high-social standing; however this has not been the case for the LA lawyer. The combined outcome of cuts to LA funding, low salaries and increased amount of administrative work is worsening the social standing of the LA lawyer even more, as they become even more 'othered' in their already margnialised position.

Popular images of the lawyer often present themselves in two forms, capturing the barrister/solicitor distinction. On the one hand, images of barristers and judiciary within the English Criminal Justice System often depict middle-upper class, white males in wigs and robes in courtrooms, with posh accents, exchanging in conversations from perplexing textbooks on their desks (Post 1987; Friedman, 1989; Galanter, 1997). On the other hand, images of lawyers characterise individuals in smart suits, carrying brief cases and working in large and elaborate offices within the city. Examples of this can be seen in TV shows such as *Suits*, *Law and Order*, *LA Law*, *The Practice*, *Boyd QC*, *Trust and Boston Legal* (Robson, 2017). Television lawyers have nearly always been criminal law practitioners, with very few practising in civil areas (*ibid*). As Miller (1994) recognised, this cultural production is very much "…the composite of the 'ideas, attitudes, values, and opinions' about law held by people in society", and therefore often the public tend to categorise lawyers into one of these popular adversarial frameworks (Friedman, 1989). What is clear is that the perception versus the reality of the LA lawyering world is vastly dissimilar.

In contrast with this popular portrayal, LA lawyers cannot be grouped into a singular, homogenised profession. Typically, barristers have always been perceived to be the

more ‘elite’ branch of the profession, whereas solicitors have often been associated with business (see Abel, 1988). On the one hand, participants in this research recognised that this all-embracing public image of the lawyer still exists. Tom (HS) expressed the notion that all lawyers, regardless of occupational or social status, are “placed under one bracket” with little differentiation recognised between lifestyle and earning capacities. He also referred to the “constructed public image”, which features the gowned lawyer situated in the courtroom setting. Tom argues that this image has become ‘normalised’ as a result of popular culture such as television programmes, series and films, through the likes of programmes such as *Judge Judy*[39], and *Judge John Deed*[40].

Louisa (CLS) notes: “I think in the public’s eye, you are just a lawyer, as unless you go through the system yourself, the image often constructed is largely abstract and is often very far from reality”, she continued: “very few of us actually devote any time to thinking about the justice system”. Louisa stated that her role is never portrayed in the media because of her more unusual specialism. Developing this further, she argues that the typical image has been constructed almost entirely around the role of the criminal barrister, and too often individuals “almost forget” that there are other specialisms beyond criminal justice. She further states, that this ‘obsession’ with adversarial barristers, has certainly been constructed from the media as crime is the ‘most visible’ and is generally deemed the ‘public face of the law’. More often than not, contemplations on the public image of law end at adversarialism. Phil (CB), likewise states that: “crime is the public face of law” and other legal specialisms’ never really come to mind when thinking about the “typical image of the lawyer”. Thus, the popular image mainly features the courtroom as the place of work as people do not often understand the diversities of the legal workplace, as reiterated above by Tom. From the perspective of the media, courtrooms are far more interesting than office spaces. For example, most people would know what an office looks like, but not many would have necessarily experienced a courtroom which gives it an air of mystique (Robson, 2017). Sophie, a criminal solicitor, considered this a ‘misconception’ in the

[39] Judge Judy is an American reality show about a female judge who tackles real-life small claims (IMDb, 2018)
[40] Judge John Deed is a British television drama about a radical High Court Judge who seeks ‘real justice’ in the cases before him (IMDb, 2018)

perception of what it means to be an LA lawyer to the general public, noting how many clients think that all lawyers do the same work day in day out, despite their position as either a 'public' or 'private' legal practitioner, or as a solicitor or a barrister.

Typically, lawyers are often seen as 'money-grabbing' or 'fat cats'; Sophie and Robert both used these terms within their responses. Headlines in tabloid newspapers such as the *Daily Mail* regularly wield such terms: '**Legal aid pay-outs to fat cat lawyers will be slashed by a third, says Justice Secretary'** (Daily Mail, 10th April 2013) or '**£500,000 lawyer tops legal aid fat cat league'** (Daily Mail, 21st June 2007). Louisa (CLS), spoke about the media headlines:

> The worst stereotype from the media is that we are all just 'lawyers' and that lawyers are after money, so it does not matter if you are a legal aid lawyer or not; if we're all just lawyers, then we're immediately seen to be paid a lot of money, and that's a perception that's very difficult to challenge unfortunately.

Apparent here is that there seems to be a general lack of understanding from the public about how money flows through the legal system. Lawyering is very dynamic, in the sense that professionals across the various specialisms including crime, family and civil matters, uphold varying levels of LA caseloads, and work in a variety of different workplaces, from solicitors' offices to courtrooms, to housing centres and charity organisations. Tremblay (1991-1992) argued that 'poverty lawyers' traditionally mass-produce work from the bustling, large law offices, albeit in the US context. It is therefore difficult to determine a single configuration of working, as Andy (CB), outlines: 'you do not know where you are going to be from one day to the next these days. You could be sent halfway up the country within the space of a few hours. Every day is distinctive, and every lawyer is distinctive'. There are growing distinctions between firm size, geographical areas, knowledgebase, types of clients and funding sources within the wider profession (Francis, 2005). Conceptualising a range of situations[41], and recognising that all LA lawyers cannot be placed under one heading, therefore, becomes vital if we are to understand fully their working life, professional

[41] See chapter four for an in-depth conceptual outline of individual participants, including occupation, specialism, gender and age.

identities, organisational behaviours, as well as the very functioning of the LA world. Even those who specialise within the same area may have diverse backgrounds, contrasting employment types, varying LA caseloads, different clientele and fluctuating levels of successes and failures; to this end *no two* LA lawyers are the same despite popular perception. What unites the profession, however, is a sense of purpose that is currently restricted by both external and internal fragmentation that engulfs the LA world as evidenced in this chapter.

5.4 Summary

Chapter five mapped out the characteristics of the LA workforce. This chapter has offered an insight into access and entry into the legal profession, demographics, as well as the popular image of the LA lawyer to contribute to the macro picture. While a more in-depth exploration of gender was given in the sections above, there was proportionately less exploration on class, ethnicity and age due to sampling. As became clear, demographic barriers remain within the wider profession. LA lawyers face marginalisation within their education and training, as well popular perception. Highlighting issues of (in) adequate training and preparation for working with clients, demonstrated that the participants were alert to potential failings beyond their control early on in their careers. This indicates how LA lawyers' personal investment may not be matched by professional or institutional provision. Understanding how this deficiency is addressed feeds into the examination in chapters seven and eight. The extent to which the reductions in funding and services has further exacerbated these existing inequalities and further places the LA lawyer in an even more precarious position feeds into the subsequent analyses. As will become apparent, LA lawyers always have and will continue to face barriers to their work.

The next chapter addresses LA lawyering as a 'profession within a profession', separating it from the wider lawyering remit. Undoubtedly, the marginalised role of the LA lawyer needs to be studied in its own right if a real insight into their occupation is to be offered.

Chapter Six

A profession within a profession

The limited professional role of the legal aid lawyer

> At the end of the day, we're just there to help the clients, and therefore in spite of the lack of our own personal monetary benefit, and in some cases, not even being able to afford putting food on our own tables, we still do whatever we can to make sure we get a good outcome for *them*. (Ben, HS)

Typically, LA lawyers are subject to a 'limited professional role' in the sense that their capabilities, significance, and career development are restricted in comparison to their private counterparts (see Katz, 1982). Consequently, LA lawyering requires its own unique analysis acknowledging its position as a 'profession within a profession'.

Importantly, this chapter determines the particulars amid the journeys of individuals choosing to practice within the remit of LA. This proves crucial in respect of recent LA changes, outlined previously in chapter one. These current fluctuations have forced those within the profession to retreat from zealous advocacy, leaving the resultant role somewhat 'neutered' (Smith, 2013; Newman, 2016). Therefore, it is vital for future debates to question why those within the profession nevertheless choose to become and practice as LA lawyers, by reason of the fundamental role performed by these actors in upholding access to justice.

Addressing research question one, this chapter specifically looks at the consequences of reductions in funding and services on the LA lawyer's lived professional experience, in addition to exploring the relationship between their precarity and professional identity. This builds on the basis laid out in chapter five.

6.1 Why do individuals work in Legal Aid?

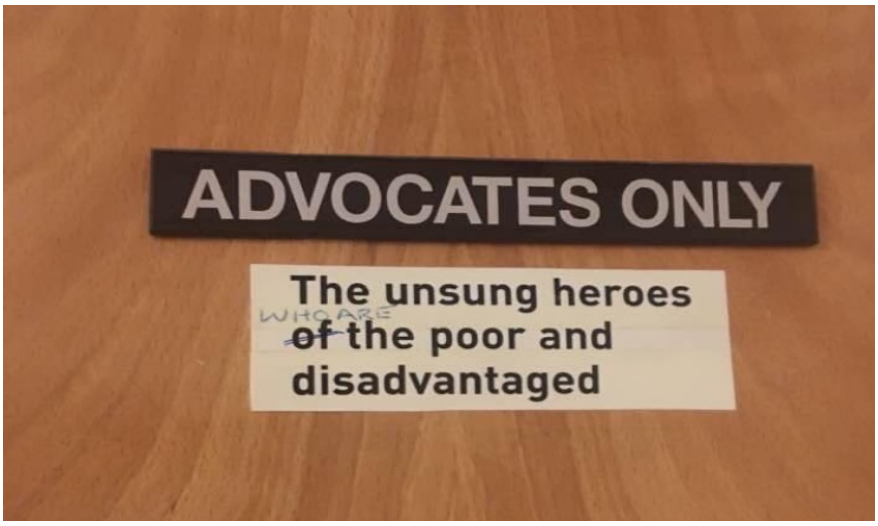


Figure 8: (Image taken from a courtroom)

> Basically, the headline is, I hardly do any Legal Aid Work anymore… because of how hard - stroke impossible - it is to make a living out of legal aid. (Robert, CB)

As a result of the growing impact of economic austerity on LA lawyers, building a career in LA work is becoming increasingly difficult. The above section suggests a persistent bias - particularly within the barrister remit – of lawyers tending to be predominantly male, middle-class, and white. The image above contradicts this, as the increased demoralisation of the LA lawyering profession through cuts to funding and restrictions to legal practice results in a domain demonstrably deserted by an advantaged middle-class. Making a living from an occupation offering little financial reward thus requires other incentives for attracting people to the profession as to be explored. This contrasts with Bacquet *et al's* (2009) work, which concluded that entrants into LA work largely came from backgrounds which meant that they did not have to worry about money.

This chapter therefore explores the reasoning of individuals to become and/or remain working within the LA remit. MacDonald's survey, the first chronological study in an English context looking at lawyer motivations, situated satisfaction in helping people

below income and prospects in its resultant list of desires (1982). Sherr and Webb (1989) found that those entering the legal field tended to place their own individual objectives over altruism, likewise mirrored in Boon's (2005) findings suggesting the resultant financial prospect of a law degree overrode any other public service aspiration. This chapter investigates the motivations of the legal professionals contained within this research. The reasons explored here are: (a) working in LA by default because their area of expertise/specialism is largely funded by LA means; (b) individual aspirations, i.e. financial/educational; and (c) altruistic or 'do-gooding' motivations. Since the late 1970s, studies have demonstrated that defence lawyers have not always functioned as zealous advocates, instead displaying greater apathy towards their clients (see Baldwin and McConville, 1977; Sommerlad, 2001). In contrast to popular perception, this research located altruistic motivations emerging from half its participants (15/30). The extent to which motivation conforms to the realities of practice forms a basis for later analysis, as in subsequent chapters, the ethnographic data is further disentangled.

In consideration of the macro environment, the second half of this chapter explores the changing professional identity of the LA lawyer. It examines the hurdles created by the post-2012 cuts, and in particular, its impact on the LA agency, alongside considering capped career progression and career trajectories impaired by austerity measures. All of this contributes to addressing research question one, assessing how reductions in funding and services affect the 'lived professional experience' of the LA lawyer.

6.1.1 Default: working in an LA specialism

Some individuals enter the profession by default, as opposed to making a conscious choice to work specifically within the LA field. Certain areas of lawyering are predominantly funded by LA, and those who end up working as LA lawyers do so as a consequence of the way in which their practised specialism is funded. For example, invariably, working within the LA remit is par for the course for those within the criminal and housing sectors, as a large bulk of the work within these specialisms arrives via LA means. This was outlined by several interviewees:

> I went into housing law because I was interested in housing law… the legal aid, if anything, is a massive barrier of my work. (Jane, HS)

Ben (HS) described his eventual employment as "purely opportunistic", taking the first presented secure training contract which happened to be in LA. Rachel (partner and HS) outlined a desire to "get into those subject areas" (housing) inadvertently funded by LA. Grace (CS) confirmed her existence in the field resulted from the way the work was funded. Fifteen of the participants indicated no specific desire to be an LA lawyer, arriving there through the financing model of their specialism. For the remaining 15, their motivations are explored below.

6.1.2 Individual aspirations i.e. financial/-educational

From the remaining participants, none cited individual aspirations in the form of financial or educational rewards as primary motivators for working within the LA remit. Typically, in the context of choosing to enter a profession, financial incentives serve as a primary rationale, with certain professions invariably commanding higher salaries, for example, accountants, private lawyers, and medical professionals, etc However, as Paul (CB) in his mid-30s recognises, monetary gain was only ever a motivating factor for those who had been in the LA profession for some time: "…maybe there's an older generation who would get massive briefs[42] in back in the hay day", before adding, "you know, one old guy said to me, 'when I came to the bar, I didn't know anyone who didn't have a house in France', but that is *completely* different to my generation as the pay just doesn't allow that anymore". Building on the basis outlined in chapter five, Rhiannon (WS) addressed media misconceptions related to monetary gain:

> I think there's a misunderstanding that legal aid is like spending actual public money, and we're all just pocketing it, people don't realise how little funding we get. We're so careful with every penny, yet clients still assume that I'm a big fat cat living in a mansion with futons and the lot… solicitors from the

[42] A 'case brief' is a summary of legal opinion. Lawyers can earn more money taking on the responsibility of writing additional briefs for more serious or complex cases.

> other side in private practice can also be quite disdainful about it as well, so there's judgement from both ways really.

Comparing the starting salaries of a commercial versus LA lawyer - at £40,000 and £14,000 respectively (approximate figures) (Robins in the Justice Gap, 2018) - places this into perspective. In spite of the above quoted headline outliers, the average starting salary for an LA lawyer very much conflicts with the common perception of the 'fat cat lawyer'. As ascertained in previous chapters, while privilege offers a cushion that might otherwise push people out of the industry, once inside the profession monetary gain is limited. Ben (HS) highlights that correspondingly, some of his friends pity him:

> I have had some horrible, patronising conversations with maybe kind of more right-wing friends, who are just kind of making tons of money working for big businesses, and you know, they just make comments about 'oh yeah, why don't you just go and make some real money'… and like 'oh don't worry I'll go and get the bill, Ben'…

Nicholas (CS), emphasised that when he started, the rates of pay for LA work were more or less the same as they are now. Having been in the profession since 1996, Nicholas described how in "those days", £15 an hour overtime for going to the police station appeared quite a lot of money. Yet in 2017, billing an average £80 for an entire case seems rather incomprehensible when only taking 6-8 hours, on average. As he further reasons, "private criminal lawyers tend to charge for an hour, what I'm capped at charging for a *bloody* day!" (his emphasis). As Taylor-Gooby (2016: 712) recognises, governments are "increasingly committed to a neo-liberal and consolidation agenda". By doing so, they exacerbate social divisions within society. Consequently, the welfare state is "under unprecedented attack" from spending cuts on those services for "women, children, low-paid people and claimers of working age", resulting in the fragmentation of services and an increase in private provision (Taylor-Gooby, 2013:1). The reforms to LASPO were founded on giving tax-payers "better value for money" by discouraging unnecessary and adversarial litigation, essentially because the LA budget was perceived as "being wasted", with too much spent on particular sub-groups in society (Bowcott, 2017).

Not merely exclusive to solicitors, this sense of economic fragmentation ensuing from financial struggles extended to barristers, most notably within the criminal sector. The resultant extreme financial impact directed two of the criminal barristers in this research, Alistair and Paul, to begin supplementing their income by significantly increasing their private case numbers. As Alistair put it: *"*the significance is, you can't really survive on just legal aid rates". This proves difficult for the likes of those practicing within the remits of specialisms generally reliant on LA cases, such as crime, family, and housing. Despite of his specialism in crime, branching out into other areas, such as property law, was considered an "uninteresting safety net" if the lack of income became too overbearing.

Likewise, concern over lack of income was commonplace within other legal specialisms. Ash spoke of the struggles of being an immigration solicitor within a law centre:

> The situation in 2007, was that we had to report to the legal aid agency on a monthly basis with the work we had done so that we got paid regularly. Now it's changed so that we have to wait until we have completed the case, which can take months… even years. It's like building a project, and then all the builders working on the site are saying it will last for a whole year. You are present, and at work on a daily basis, so they have to wait for the whole building to be resurrected before receiving any payslips?! How do they expect us to eat and live whilst doing the given task, it just doesn't make any sense!

As a result, lawyers established ways of coping with this prospective financial burden. Some, such as Maria and Jane (HS), tried *"*not to think too far ahead", taking each day sequentially in order to proceed with their day-to-day workings rather than dwell on the wider impact of economic cuts. This was despite the constant reminders from the government, the media, the general public, and even non-legal aid lawyers about the looming impact of LA cuts reported in the legal press: **'Dark days for legal aid'** (New Law Journal, 2013), **''The future of legal aid is depressing'** (Law gazette, 2015), and **'The slow death of legal aid'** (Marilyn Stowe Blog. 2016). Focusing on more immediate basis seemed a preferred option. As Maria put it: "If you thought too far

ahead, then the financial burden will just become too overwhelming. You just get your head down and take each day as it comes".

This sentiment was evident throughout my ethnographic fieldwork, particularly on the days I was based in court observing the duty housing solicitors, Marcus and Jay. They both explained that it was almost impossible to think ahead when on duty owing to their inability to predict how many clients they might see on one particular day – if any - or how successful these cases may be. This sense of unpredictability permeated their daily duties. This reaffirms Standing's (2011) work arguing that those experiencing modern labour insecurity, including the lack of long-term contracts or employment protections, are placed in the position of the precariat. The unpredictability of LA work echoes Standing's definition, the result of a powerlessness to plan or predict their work, both on a day-to-day basis and within a long-term career. This was demonstrated by this description extracted from field-notes taken in 2017:

> I turn up at court on a sunny Tuesday morning. Marcus has bought me a coffee and a croissant, and I find him sitting in the meeting room in the corner waiting for me. Upon entering the waiting area, which the small meeting rooms surround, I realise there is no one sitting waiting to be seen. Marcus very quickly pops his head out of the office and alerts me that as there is no case list, no judges have come in and so no cases are going ahead that particular day. He is very apologetic and quickly tells me that he gets no warning in advance if this is the case, so quite often just has to physically come in to see whether his services are required. Whilst he said this doesn't happen very often, as normally he is overloaded with cases, when it does it is extremely frustrating as it is a waste of valuable working hours. In spite of this, he states that when you accept the role as a duty solicitor, you have to be prepared to sit around and wait with the prospect of not seeing a single client, and therefore not getting paid. Instead, we proceed to have a quick chat with the solicitor next door about fluctuating nature of the work, and we leave the court to head back to his office.
>
> (24/03/2017)

Others like Rachel (partner and HS) indicated that the majority of her time is spent waiting for clients to turn up to the solicitor's office, also meaning that some days she

faces the prospect of reduced pay resulting from no shows. For example, to be granted pay according to LA funding, solicitors practising in this field must apply to the Legal Aid Agency (hereafter LA agency). In order to do so, the client needs to turn up so as to present the necessary paperwork for filing a case on LA grounds. The LA agency only pays for the amount of time they believe a particular piece of work requires, and so consequently, every single second is valuable. As Rachel notes:

> If your time is wasted because you have spent the last 20 minutes waiting for a client, it all counts. Whilst you can spend this time doing paperwork for other cases, sometimes this is counterproductive as you never get to finish anything. Most of the rates of pay are set in stone for a complete task, regardless of how much time is taken to complete it. Therefore, you just cannot afford to wait around, otherwise, you'll essentially be working even more unpaid hours.

During my time spent in this particular solicitors' office, I regularly encountered solicitors running up and down the stairs frustrated at their client's lack of appearance. Quite often, these clients were struggling to juggle problems such as unavailability of childcare, immediate housing issues, long term unemployment, and debilitating health issues. Their chaotic schedules impacted their chances of getting to client meetings on time, if at all. Solicitors often warned me that although that particular day they had five or six client meetings scheduled for me to observe, in probability at least half would prove no-shows. Despite being a hindrance, clients either not arriving or arriving very late was considered inherent to the job:

> Rachel had emailed me to say that I was welcome to observe a meeting with a client she had arranged for today. I replied, saying I was very grateful and asked her what time we should meet downstairs. She replies by saying 'erm...11ish? They will be late, it's a given'.
>
> I meet Rachel at 11 am downstairs in meeting room one for the new client meeting. The client doesn't arrive until 12.10 pm, by which Rachel has already got another client waiting. She had anticipated, however, that this would be the case and catered accordingly and had passed over one of the clients to her paralegal.

(Fieldnotes 06/06/2016)

Just as Rachel managed to work around the complexities of meeting and organising unreliable clients, overcoming this lack of security nevertheless meant that the client always needed to come first. Johnson (1980-81) coined the term "hypothetical alter-ego lawyer" whereby in the interests of their clients, the lawyer exclusively works to please the "public service ideal" entirely (*ibid*). Employing a public service ethos, Sophie (CS) suggested that "if you go into the types of law that don't make money, but for other reasons, such as the clients, then you just need to be prepared that you're never going to earn anything', adding that 'it's not about you, it's about the clients'. This sense of adopting an 'alter-ego' in line with Johnson's (1980-1) model became further evident when expressed by Ben (HS), as within the passage below:

> At the end of the day, we're just there to help the clients, and therefore in spite of the lack of our own personal monetary benefit, we still do whatever we can to make sure we get a good legal outcome for them.

The do-gooding element motivated over half the respondents in this research to work within the remit of LA, as will be further elaborated below.

6.1.3 Altruistic motivations: representing the underdog

> … it's the opportunity to use professional skills to make a definite difference to someone's life and to help them to bring a case where there's so much inequality, you know, between my clients and the British Government, the Home Office on the other side so there's quite lot of job satisfaction in helping somebody to address and overcome that inequality. The legal aid cuts are just something we have to fight together. (Ben, HS)

Boon (2005: 253) examined the implied meaning of public service in legal work, arguing that altruistic tendencies should be better understood as forms of "intrinsic satisfaction", as opposed to a more "outward facing conception of public service". Yet, fighting structural level injustice whilst attempting to gain justice for their clients was identified a regular occurrence by these individuals. This reflects the

"partisanship" identified by Scheingold and Bloom (1998), requiring the lawyer to serve both the client and the government, a process coined "the ideology of advocacy" by Simon (1978). Referring to the LA cuts as a "fight" for their clients against the government, Home Office, or LA agency was frequent throughout the discourse. Rachel (partner and HS) admitted that "you literally have to fight for every little thing you do" within the housing sector. Despite her willingness to 'help' those most at need, she said that "it is definitely not an easy ride". Marcus (HS), similarly likened the LA 'workplace' to a school playground:

> It's almost like you are at school… you are constantly going against people who have power and they have the power over you and push you around, and it's completely unfair because no one can do anything about it…they've got the *entire* state, you know, up against them, whether it's the Home Office trying to evict them, multimillion-pound local authority with a minuscule legal aid department trying to evict them, or a benefit system, you know, agency who are making decision they don't understand and they have absolutely no idea how to challenge.

Marcus recognises the client as an underdog against those in positions of power, with the LA lawyer bridging the two sides. In spite of their principal function as legal professionals by primarily seeking to regulate legal matters, the very presence of the LA lawyer is often professionally compromised through assuming the wider battles of social justice. Yet as Newman and Welsh (2019) argue, lawyers - particularly within the criminal defence remit - are becoming progressively powerless, swamped by the increased bureaucratic and managerialist processes consuming their valuable time. The ability for those within the LA field to retaliate is increasingly difficult as those within it feel continuously inadequate. Likewise, overly politically driven practice is difficult (*ibid*). For instance, besides referring to herself as a "fire-fighter", Jay (HS) describes being the "*only* one standing between the person and actual disaster" (her emphasis). In line with this sentiment, as Sarat and Scheingold recognise, 'cause lawyers' or 'legal aid lawyers' are often positioned at the furthest margins of the lawyer occupation, persistently situated on the periphery of the personal and the political, in addition to the personal and the public (1998: 331). Nevertheless, having been practising as an LA lawyer for several years, many respondents still found

pleasure in attempting to cleave to their role's altruistic tendencies, as will be fully explored in chapter seven. Alongside the previously outlined concerns surrounding the lack of financial incentive, this enjoyment came to represent one of the biggest appeals of LA lawyering notwithstanding the more restricted nature of practice. This subsection outlines how and why LA lawyers still find gratification in 'serving the community' in consideration of the current macro conditions (Jay, HS).

This notion of 'representing the underdog' is entertained by many LA lawyers. Robinson and Bell's (1978) findings reflect an important cultural distinction between England and the US in approaching equality and social justice. In England, there existed a strong belief in a "just society", whilst in the US greater emphasis was placed upon monetary success (*ibid*: 141). Likewise, Lipset and Turner found that the English value system emphasises "ascription", compared to a US value system underlining "achievement" (Lipset, 1963: 517). Turner (1960) observed that in the American system, everyone is taught that no matter your origins if you work hard then you will attain success. By contrast, the English system teaches everyone to "reconcile themselves to their lot in life" (*ibid*). As Marcus (HS) outlines, ascription is "part and parcel" of being an LA lawyer. While some LA lawyers perform their role merely in accordance with the nature of winning or losing cases, other LA lawyers introduce wherever possible a notion of pursuing justice "through matters of decency". This links to Rutherford's (1993) work on "humanising" legal practice, a method often preventing the process of justice becoming both apathetic and repressed. This is particularly evident within the context of Criminal Justice. According to Phil (HS), "it is very old fashioned to say you should be dispassionate in this role". Whilst never expected in earlier times, he added that delivering personality beyond the "typical barrister role" by utilising emotion and a human connection proves vital not only for the client's sake but also assists in winning a case.

However, Phil argues that criminal barristers are becoming "demoralised", resulting from the impact of austerity measures and the ensuing intensified pressure. Yet, he asserts that "nonetheless goodwill must be maintained as there is an even stronger notion of need now than ever before", with the profession forced to depart from humanised justice. However, this is often demanding in practice. Below, in an extract

taken from my field-notes, I observed an interaction between Marcus (HS) and his client regarding an eviction, during his duty solicitor shift at a county court (2017):

(Based in a small meeting room at the side of a large waiting room)

Marcus (M) to client: "Right, you have two ways to stop this".

(Marcus is particularly frantic because of time restraints, and additionally, is faced with very nervous client whose life is almost in his hands.)

M: (Going through the figures) "...Costs are prohibitive – won't be worth court doing this as you've got three children".

M: "But the good news is they are not going to evict you…" (Grins)

Client: (With a smile) "Who said that?"

M: "Your housing association solicitor - but you will be liable for costs…" (He continues to say: "I understand/I know you cleared it", trying to give some sense of empathy throughout)

M: "I accept your situation but I'm not sure the judge will".

(M frantically looks through the law book in front of him whilst chatting away)

Client: "This is just a waste of courts time".

M: "Well, I don't disagree with you on that… landlords are a bit trigger happy… the main thing is that your home is safe but you do need to make sure you keep on track…"

Client: "I've learnt".

M: "Can I take a look? (grabbing the papers from the client) I find it much easier to read things - thank you very much".

M: (continuing) "…the thing is we need a legal argument, not a moral judgement here… that doesn't really wash with the judge I'm afraid".

(Explaining to her what is going to happen in court mid-sentence, M says, "just trust me" and grins. He then uses his phone to check something in the client meeting).

Client: "I really need some water".

M: "Just out there is a fountain".

M: "All you need to do is just sit next to me and listen, that's it".

Client: "I hope you don't let me lose my home, you know!"

M: (Grinning back at her) "…right, I think I've got it… It probably won't work but we can try!"

(Client grins nervously and leaves to wait to be called in the waiting room)

There are a number of things revealed by this extract. First and foremost, Marcus states that "we need a *legal argument*, not a *moral judgement"*. Likewise, his compassionate approach shows his desire for pursuing the humanistic motivations outlined in his interview. However, his lack of confidence ending the exchange proves the difficulty of its practical implementation. Marcus expresses that his argument "probably won't work but we can try". This notion of "trying" and attempting to adhere to an ideal featured regularly within this research. This mirrors the contrasting positions of the lawyer presented by Katz (1982), who on the one hand speaks of their work as a "project of professional honour", but on the other, questions the "limited professional role". It seems here that the disparities between the two are becoming vaster as the professional role of the LA lawyer undoubtedly suffers greater restrictions. This underpins the analysis of chapters seven and eight.

Nevertheless, the needs of the clients remain consistent. LA lawyering often involves dealing with clients facing wider social injustices, such as lack of housing, lack of employment, lack of access to healthcare, and lack of access to wider services, including childcare and well-being amenities. In line with this principle, respondents summarised their work as "all-encompassing" (Jay, HS). Harold (HS) likened some of his cases to a soap opera:

> Some cases I really bloody enjoy, it's just like watching an episode of EastEnders or something. You don't know what problem or ailment they are going to talk about next! They come at me like buses and sometimes I can help and sometimes I can't!

The excerpt above suggests that to some extent, Harold relishes the tourism into other people's lives, likening it to watching a television programme. Despite being restricted as to his ability to resolve all of the issues highlighted, it makes for a more entertaining role. This highlights further that in some cases, relishing in such cases could be for the benefit or entertainment of the lawyer, as opposed to the desire to want to assist with the clients complex and wide-ranging needs. This undermines the ability of the lawyer in this case to want to always work in an altruistic manner, as sometimes whilst it may be assumed that the work is being carried out to 'do-good', in another sense - as illustrated in this case - concern into a client's wider 'ailments' may be more driven

by self-interest. Maria (HS) reasons however, "we often understand the very awful situations that people are in, and we do of course have empathy… but the law is what it is… and therefore, there's only so much we can do. *We only have so much agency*" [her emphasis]. For those comparatively new to the profession, such as Grace (CS), Ben (HS), and James (CS), sometimes it is easier to merely focus on the fundamental legal matter at hand in spite of their desire to be altruistic or to "do-good". Increased amounts of regulation from the LA agency means that, bureaucratically, the assessment of need is much harsher, the resultant outcome of LA funding cuts attempting to marshal against weak cases. The purported aim is to avoid overburdening the legal system, however, these changes encourage more acquisitive than altruistic modes of work, which in turn contribute to increased precarity levels. In other words, rather than offering a client-centred practice, the work becomes case-centred and focused on finding cases eligible for LA funding, regardless of how deserving or desperate the client. In light of the LA cuts, some argue that it almost becomes impossible to be altruistic in any way or form. As Nicholas (CS) states:

> Attempting to put a bandage on a system that has crumbled… is frustrating to the extreme… these are humans we are dealing with, not inanimate objects! The Legal Aid Agency *forces* us to treat these beings as robots almost, it's just unacceptable! (His emphasis)

Standing (2011) maintains that this "unfamiliar zone of security" means that some professionals feel further insecurity in their roles, with those entering the LA profession to "do-good" now facing insecurities surrounding the ways in which they should practice. For example, Nicholas (CS) draws a link between the "fractured nature of the legal aid system" and the "increased amount of regulation from the state", resulting in a loss of access to rights for some of the most in need. Even those clients who can access services often experience sub-standard practice from LA lawyers facing increasingly stringent time constraints. Regardless of the moral nature of a case, bureaucracy impedes on the social need:

> The legal aid lawyer really has very little control and agency when it comes to it. In some sense, we are the *little guys* who are often taken for granted, placed

> into very precarious positions, and forced to confront some extremely morally difficult situations on an everyday basis. (Nicholas, CS, his emphasis)

Alistair (CB) notes, "whilst the public good is being played down because of the cuts, we are all helpful people, so we just give in". Likewise, Karen, the director of a membership body representing legal aid practitioners, refers to the role as a "giving occupation". She goes on to state that "in her world, success isn't determined through monetary gain, or corporate schmoozing, rather it is through the social good that we come to have a *real* existence" (her emphasis). James further argues that since "they don't really have to answer to anyone" it makes for a much more enjoyable role. However, James commands a better position than others as a self-employed solicitor. Therefore, he has more autonomy in the cases he chooses to accept. He spoke as to the "flexible nature" of the role, allowing him to conduct his work without having to please anyone in higher positions. "Making the world a better place", he states, "only takes one person at a time you know… being self-employed you can really see the difference that *you* make on a personal level" (his emphasis). In this sense, James maintains his sense of wanting to "do-good" because he has slightly more room to do so without anyone looming over him. Further research into the disparities between self-employed and non-self-employed LA lawyers would prove useful here.

In spite of increasing hurdles, those practising within LA still remain in the field. As Obama (2007: 135) notes: "…often their poverty (the lawyers), is proof of their integrity". In rhetoric and practice, the vast majority of LA lawyers are capable of acquiring much better-paid, higher status work but instead opt to work within a more altruistic profession. For example, Alice (HS) recognised whilst she had the skillsets to work in a "higher paid job", she had chosen to remain at that advice centre because she felt she was "contributing to society". Furthermore, Eleanor (partner and FS) outlined that in spite of being offered a position at a private family law practice, her work within legal aid ultimately provided a much more "honest" perspective in life, nobly dealing day in day out with those battling the realities of "real-life". Rhiannon (solicitor at a law centre) concurred, claiming her nature entailed an affinity with the role: "I'd always known I wanted to go into legal aid, I just suit it, I suppose I'm one of those bleeding-heart people!" Insight may be gained from questioning the structural

(in) security of the LA lawyer actively opting to work in a more altruistic - as opposed to acquisitive - sphere. The potential benefits of being an LA lawyer can supposedly 'prevail' over this sense of structural insecurity, with a number of interviewees stating an enduring motivation to stay in the role and a professed comfort with doing so, such as in the case of Eleanor (partner and FS), Rhiannon (WS), Maria (HS), and Sophie (CS). LA lawyering was valued because respondents found it personally rewarding - in other words, LA lawyers often enjoyed personal benefits from working for the common good. As Ben (HS) remarked: "life's not all about money you know, we can really make a difference here". For some, clinging to this ideal seems inseparable from working in the LA field in spite of the inability of some to continue to work according to such a humanistic manner.

Tata (2007) attributes this model of working as the "client-centred approach", whereby the duties and perspectives of the lawyer adapt accordingly to the individual needs of each client. In spite of some scholars suggesting certain LA lawyers maintain very low opinions of their clients and therefore treat them as "undeserving of good treatment" (Newman, 2013; McConville *et al,* 1994), in my sample, this appeared only an occasional circumstance. Tom (HS) said: "at the end of the day, your work is all about the client. It is very much client-centred, and this is something that cannot be overlooked. Your client is relying on you to help them". Unlike Newman's (2013) argument that to portray a good image many lawyers merely claim to uphold positive relationships with their clients, throughout observation, many cases within my research contained an identifiable rapport between the lawyer and their client, as strongly evidenced in the extract below:

Excerpt: field notes - Solicitors office.

[On the phone to a client]

Rachel (R) (partner + HS): "How was your birthday meal [client's name]? Did you get that dress you wanted?"

(Client responds)

R: "Well I can't wait to see it. How's your mother doing?"

(Client responds)

R: "That's good to hear, right, take care and I will see you next Thursday - make sure you eat properly this week!"

(Client responds)

R: "No worries, I'm only looking out for you… remember those documents next week too! Bye for now!"

Quite often, during periods of my observation, the lawyers went above and beyond their role as a legal advisor in upholding pastoral care within their client relationships. It was perceptible during my research that solicitors frequently began their client meetings with general chit chat, prior to delving into legal matters. This contradicts the increasing restrictions on LA practice, as despite an intensified administration creating further time constraints on those practising in the field, they still took time to interact with their client in a personable manner. This was illustrated in one of the field notes taken during a day at the solicitor's office:

> …I enter the meeting room with both James (CS) and the client. Before we have even sat down, James is joking around with the client about the recent football scores. The night before the team that James supports had beaten the team that the client supports, so James took this opportunity to build up a rapport before addressing the matters of that meeting. (27/10/2016)

As Rutherford (1993) recognised in his work on the criminal justice system based around 28 interviews with practitioners, in the institutional practice there is an attempt to "humanise the system from within". Otherwise termed "professional survival", Rutherford speaks of the way in which individuals within the criminal justice system come to maintain positions of influence, whilst maintaining some level of integrity (*ibid*). We can draw comparisons within this research, as evidenced by Phil (CB):

> The role of being a barrister is a very personal one. The rapports you build, the standards you maintain, the ethics and values you uphold, and the integrity you preserve remains vital. Yes, we are in a profession, whereby a lot of rules and regulations are enforced, but at the end of the day if we don't actively try to personalise the role, then you aren't really doing your job properly. Also, it wouldn't be nearly as enjoyable.

In spite of this, this internal 'personalised' nature of the role is often contradicted by a de-personalised external perception (building on chapter five), causing significant implications for the professional identity of the LA lawyer:

> We're seen as representing people who don't deserve to be represented… we're seen as taking cases entirely for the money… but in reality, this is just not the case. We emotionally invest ourselves day in day out. (Maddie, CS)

Working with the 'undeserving' brings to light unwarranted attention from certain quarters. Both Alistair (CB) and Marcus (HS) were openly concerned about the increased level of stigmatisation of both lawyers themselves and their eligible target groups - the clients. As Ben (HS) reasons:

> You've got to love the clients… because nobody else does. They're kind of… you know... I just have some horrible conversations with maybe kind of more right-wing friends who are kind of just making tons of money working for big, big kinds of businesses and stuff… and they just make comments like, 'Oh yeah, why are you doing all that work for poor people and stuff? Like why don't you just go and make some real money?' …and you know, it's like the clients get a bad deal but they still deserve to be represented!

As Cape (2004) recognises, discourse surrounding 'typical' LA clientele tends to portray victims and defendants as somewhat 'irreconcilable'. In 2012, an article written by the Justice Gap quoted a very well-known criminal lawyer openly stating that "it's a myth that clients get the same level of service on legal aid rates as when they pay privately - that disappeared about 10 years ago", proceeding to argue that "we can't supply a platinum level of service with base metal rates of pay!" (John Storer in the Justice Gap, 2012). Yet, in some cases, this research uncovered the opposite, as observed during the fieldwork. Many of the lawyers interviewed tried to offer a good service even if not always able to. Marcus (HS) encompasses this well:

> It really doesn't matter who the client is, what their background is, what their legal issue is, or where their funding is coming from. At the end of the day, as a lawyer, I will treat everyone the same regardless of any of that, and I know that across the board this is the case too.

> I always enjoy meeting the clients that I have because you… I learn so much from them, I feel very privileged to represent them and *I am always challenged*

> *by them*, and you know, yes, they've been through terrible experiences but I enjoy seeing them grow, and gaining courage in themselves to speak out. And you know, that is always a massive privilege. (His emphasis)

Sophie (CS) suggested: "It's that sense of helping the neediest and vulnerable in society that makes me feel incredibly grateful". This sense of power inversion, almost placing the client in the more powerful position in the relationship, proves highly significant. It is argued that the short-term nature of the work renders it difficult to maintain the lawyer-client relationship (Sarat and Felstiner, 1988-1989). James (CS) recognises that by making his client meetings "predominantly client-led" - facilitating the conversation but allowing them to digress into what they feel is necessary - makes the overall process a lot easier. Whilst this increases the level of rapport between the lawyer and client, this ultimately has implications regarding the time-consuming nature of this approach. To some extent, although the LA agency restricts the time for LA lawyers to practice, some of their own working practices - such as client-led meetings - similarly restrict their time further. The extent to which this can be sustained is questionable:

> I mean I just think *legal aid is getting harder and harder and harder*… the legal aid agency is *battering us* to the point where we have to say actually, we *can't sustain this.*
> (Maria, HS, her emphasis)

A number of the interviewees cited the LA agency as the biggest obstacle to their work, and would regularly and openly express their displeasure to clients in meetings (Anna (IS), Eleanor (FS), Alice (WS), Louisa (CLS), Marcus (HS), and Grace (CS)). The LA agency inhibits those within the LA remit practising for the purpose "doing-good" by increasing the bureaucratic nature of the legal market. How and why the LA agency is considered to be the biggest barrier is addressed below.

6.2 Fighting the toughest battle: the LA Agency

The 2013 austerity measures imposed by LASPO are described as "more punishing than any other domestic delivery department" (Lord Falconer, 2018 - former Lord

Chancellor and Justice Secretary). By 2020, it is anticipated that public expenditure by the Ministry of Justice on legal aid would be cut by 40%,[43], with the system still working on the same basis and expecting the same standards as before the implementation of the cuts (*ibid*).

In conversation with Jane (HS), she stated that: "I always say, it's like you have two opponents on every case, the *actual opponent,* and then you have the LA agency who are trying to *squeeze* all the funding out… and it's got so much worse since I've been doing it… much *much* worse! (emphasis hers)" Likewise, as Nicholas (CS) noted, "I now have to tell all my clients that it is no longer the other side that is your biggest opponent, but it is the Legal Aid Agency". He further added:

> The CCMS[44] just causes problems after problems, from system failures such as not being able to log on, to the building up of backlogs of cases as a result, and therefore leaving people in extremely dangerous situations… the CCMS can only deal with one amendment at a time which means that anything urgent becomes extremely difficult.

As Karen - director of a membership body representing legal aid practitioners - recognises:

> Even once you have submitted your claim to the LA agency, they are now turning down cases for the silliest of reasons, looking for any grounds to deny funding such as going through piles and piles of extremely outdated bank statements, and asking for numerous follow up statements, before assessing whether or not the client's income is above the threshold for legal aid eligibility, even though they quite evidently don't come anywhere near to the line.

[43] Public expenditure by the Ministry of Justice has fallen from £10 billion to £6 billion, with a further £600 million to be cut (Lord Falconer in the Guardian, 2018).
[44] The Client and Cost Management System (CCMS) is an online system for civil and family legal aid providers covering the entire process of submitting legal aid applications to paying bills. In 2016, the use of CCMS became mandatory (Gov.uk, 2019).

John (HS) elaborates further:

> It's a rigid system with no way it can be sorted out… bureaucracy, lack of access to courts, urgency, no capacity to make local links - for instance, you can't just ring up now, it is all online. The whole process should be written bottom-up, not top-down.

This has meant that a lot of the day-to-day work of an LA lawyer is "subject to huge delays as a result", and consequently, "even if there is a legal argument to make, it becomes all about the funding and the means at the end of the day" (Rachel, partner and HS). LA work has become unnecessarily onerous on LA lawyers who now must navigate a difficult system alongside unhelpful clients produced within a precarious environment. As Rachel notes, the process of acquiring LA funding is equally as arduous for the solicitor as the client. This is evident in the extract outlined below, taken from my field notes during a new client meeting at Silverman and Co, with Rachel (HS) and Tony (a paralegal), spending the majority of the meeting attempting to get through to the jobcentre, as per the LA application:

> (Based in a small meeting room situated near the reception desk)
>
> **Rachel (R)**: "Okay, so Tony is going to just ask you a few questions, but just so you know in advance, this could take a while!"
>
> (Client nods in agreement, and looks particularly anxious, staring down into his lap)
>
> **Tony (T)**: "Okay… so, I am going to ask a few intrusive questions as part of the legal aid application, you can choose not to answer but this may hinder your overall application".
>
> [T proceeds to ask questions regarding the client's ethnicity, background, financial situation, and domestic situation for about ten minutes.]
>
> **T**: "Okay… so, I am going to need to see evidence. I need the letter of notice of the house in question from the housing association, all of your bank statements dating at least ten years back, as well as your documents on income support and benefits".
>
> (Client scrambles through a pile of papers on his lap. He keeps dropping pages as he is frantically trying to get all his evidence together.)
>
> **R**: (In a reassuring manner) "Take your time [client's name], it's okay".
>
> (The room is silent for at least five minutes whilst the client continues to sort out his papers.)

T: "Right, whilst you are doing that, let's call the jobcentre now together to find out what type of allowance you are receiving, and whether or not you are still in receipt of income support… let me just get their phone number".

(T gets through to an automated system on the phone which takes a while to connect. It then plays music for over 15 minutes whilst waiting to connect to someone at the Job Centre.)

T: (Looks and smiles at the client) "...I promise we will get there eventually!" (They both laugh)

(T continues to fill in the Legal Help forms whilst they wait for someone to pick up the phone. He begins to go through the details of the case.)

T: "Okay, so can you go through exactly what has happened…"

(The client speaks about his legal issue in great depth, including his own personal issues which have aggravated the situation. He suffers from chronic depression and lost his father the previous year, whom he lived with in the house in question. He has nowhere else to go if he loses his house and therefore will be homeless.)

(17th August 2016)

For both lawyer and client, the emotional impact of dealing with and undergoing the lengthy process of obtaining LA funding is often even more overwhelming than the requirement for intrusive questioning. As Rachel emphasised: "it's turned into such a 'horrible situation', whereby you often have to tell clients that there is literally nothing else you can do within the realms of the law if funding isn't granted, even though they might be on the edge of disaster". Marcus (HS) recognises that "funding cuts are the biggest problem, because it means that either the client has to go out and look for, you know, free advice to help them or do it themselves, or legal aid lawyers have more pressure trying to do it themselves pro bono in order to defend the possession proceedings if legal aid isn't granted".

Often the process can be just as demoralising for the solicitor, subject to increasing administrative duties, filling in and submitting forms, and doing their best to procure funding. Louisa (CLS) encompasses this within her response below:

> The biggest negative is working with the legal aid agency because we spend so much of our time trying to get funding, or justifying why we need to have funding, or arguing at the end of a case why we should be paid. You know,

I'm sure you're familiar with this but if you… a lot of the work that we do… we… especially where I work now, we try and… basically, we just work as much as the client *needs* it and so that means that a lot of our cases go over the fixed fee level.

Therefore, the LA agency puts undue pressure on the LA lawyer, which has exacerbated in the context of the post-2012 cuts. Conversations in corridors or during lunch and courtroom breaks often revolved around the LA cuts and its impact from the LA Agency. In an exchange between Rachel (partner and HS) and Nina (HS) at their office, Rachel said that she is "fed up of hearing about the cuts". Nina replied, "So am I, I know we have to watch our backs, but it's depressing hearing it day in day out!" Every day I was present in the office, the cuts were mentioned. Likewise, conversations around possible access to LA arose on a fairly regular basis:

(Sat in the office)

Tom (T): "Some clients actually ask, 'how do I make myself eligible for legal aid?' and we just have to laugh it off because, in reality, it's not even a ridiculous thing to ask!" (Tom and Rachel laugh.)

Rachel (R): "Yeah, it's just ridiculous… I mean, I try and see if people are eligible before they physically come into the office, but some just have too many sources of information. The threshold is just so low, so many things are out of scope as a result of LASPO or people now 'earn too much', which often seems ridiculous".

(Tom pulls out a case bundle to show me.)

T: "Okay, so, so far we've signed a form for advice and the initial consultation, but if we want to actually put a case forward, we need to apply for a public funding certificate… and for that, we need to show that there is more than a 45% chance of it being successful… and at the moment, we don't have a very high chance as they've already had two eviction orders. It's quite hard to put all the pieces of the puzzle other…"

R: "Yes, you need to constantly act on your feet within client meetings as they sometimes don't have the same level of autonomy/comprehension as others may have, so it can be more difficult. If the client has any language barriers,

disabilities, misunderstandings, or a poor level of numeracy or literacy then it makes our job extremely difficult… *legal aid is so tricky these days!*"

T: "Yes, and then on top of all that you have to keep on top of everything to make sure clients are getting up-to-date advice both within the realms of the firm, as well as within the wider legal aid backdrop."

(Rachel sighs)

R: "It's just so much to take on board! …And even then, you often get clients asking you 'why am I answering all of these stupid questions if you can't offer me any help anyway?'"

(Fieldnotes, 20th January 2017)

James (CS) placed particular emphasis on reduced job satisfaction and the extreme stress and consequences of dealing with the demands of the LA agency. "A guy committed suicide due to increasing working hours… he worked every day until 10 pm and it all just got too much for him in the end". As Rachel (partner and deputy head of housing) notes: "we now have to fight for literally every bit of work we do!" Likewise, Becky (CLS) states: "the LA agency has put so much pressure on us. They're just trying to inhibit and restrict in any way they can, which goes against all the principles of what they're trying to do initially with legal aid". John (HS) concurs: "the current legal aid bureaucracy has simply restricted our ability to offer holistic service like we did in the past because of the restrictions in funding… there have been significant changes in terms of what work you can actually do nowadays". In this sense, balancing the scales of both altruism and reward proves difficult when faced with these external pressures. Ash (IS) states that as a result of the LA cuts, clients can only receive as good a service as the system will allow as they simply cannot afford it otherwise: "It's no longer necessarily about helping humanity through a quality service, but more about churning out cases as quickly as possible to ensure efficiency is maintained… and that's bureaucracy for ya!" This mirrors the findings of Newman (2013), likening the profession to a 'sausage factory', fashioning as many cases as possible in similarity to a production line.

> If I never had to speak to the Legal Aid Agency again, I'd be a very happy man… it is so hideously bureaucratic, and they drive me absolute insane! They have ruined the profession (Nicholas, HS).

The restrictions over the ability to practice in an altruistic manner are fully considered in chapter seven.

6.3 Post-2012 cuts hurdles

Tom (HS) stated that: "…multi-tasking here is crucial. We've always got that added dimension of constantly having to battle with the legal aid agency, which adds to all the other things we have going on with the client". LA lawyers serve both the client and the government, but the decline in LA allocations now appends to this dynamic the complexity of the LA agency. In England and Wales, there have been a number of administrative and legal failings by the LA agency, meaning an urgent need for review is required (see New Law Journal, 2017). Due to cuts and insufficient resources, Rachel (partner and HS) argued that those working in the housing sector now experience far more face-to-face contact with their own clients, due to their current responsibility for the abundance of bureaucratic tasks previously performed by paralegals[45]. Whilst Rachel still retains a couple of paralegals and legal assistants in her firm, her administrative duties have now increased significantly. This often distracts from other primary responsibilities such as providing legal expertise. As Rachel vented: "…I spend so much time doing stupid little tasks like photocopying, sending letters, and arranging appointments that it restricts my time doing the legal duties that I should be doing". Zaloznaya and Nielsen (2011) term this 'task marginality', whereby those within the field spend more time doing menial tasks than using their advanced levels of professional and legal skills to help those most in need. Resultantly, Eleanor (partner + FS) holds a deep sense of animosity towards the LA agency, leaving her feeling demoralised:

> We have to handle an awful lot which we are just not paid for. Just to set the scene… I have a few clients at the moment who have mental health issues whose first language isn't English, whose husband is being abusive, and you know my time has been slashed because objectively the legal aid agency take

[45] A paralegal is an assistant often working alongside lawyers. They are trained to perform legal tasks and can assist in legal matters, apart from 'reserved matters' (NALP, 2019).

> the view that I've taken too long but what they really fail to understand is that the nature of the client is that you have to do a proper, all-rounded job. The reality is we're not paid at all to do this, you're simply paid to do the quickest job possible and legal aid clients… because they struggle, they get themselves into extremely sticky situations, which makes it much more complicated in a legal sense. It's not like we just ignore that… it's like they just have *absolutely no idea* of what's happening on the ground. How can we help anyone when we are so restricted in what we actually can and can't do within our practice? I feel more and more restricted and insignificant by the day. (Her emphasis)

Several respondents in this research echoed Eleanor's frustration with the way that LA work is funded. Eleanor also indicated how if a case required an expert, such as a translator or a psychiatrist, it had become almost impossible to access due to the changes in this process: "…the fixed fees[46] around experts have massively inhibited our ability to instruct experts in legal aid claims". Even when a professional is employed in a case, more often or not they hold no experience in the field as the funding will not stretch to cover the more proficient. Yet, in spite of being aware of her precarious position, Eleanor still makes considerable effort to address her client's needs: "I do legal aid because I've always done voluntary work and I've always had a social conscience and will always continue to do so, but quite frankly the Legal Aid Agency is absolutely battering us". She further states, however: "what's going to happen ultimately, is that all the decent solicitors are going to have to walk away and you're going to have a whacking great big firm that specialises with paralegals who don't have any on-the-ground experience, and make mistakes left, right and centre". Here, Eleanor outlines a dangerous predicament; having less qualified staff is not only a "disingenuous way" to treat the public (who are unlikely to be aware of the difference in knowledge and expertise between paralegals and lawyers) but may result in further "oversights and catastrophic blunders" if more junior staff are provided with work beyond their capabilities.

[46] A fixed fee arrangement works in opposition to a standard hourly rate. It is therefore previously set, and not dictated by time spent on a given case. This allows more certainty regarding legal costs and therefore allows clients to budget better. They tend to be used for more procedural cases were little face-to-face time is needed (Francis Wilks and Jones, 2019).

Discussing the exploitative nature of the 'fixed fee' regulation, Louisa (CLS) highlighted how the changes implemented by the LA agency come at a sacrifice to clients:

> …now made us spend most of our time trying to justify the need for funding and because we normally just work as much as the client needs, it means a lot of our cases go over the fixed fee level. It is an extremely tiring process. Especially in some of the cases I do, you often need to have expert evidence, you need interpreters, you need so many different bits of extra funding that you need to apply for and that's extremely waring, you know? It also takes up the time I used to be able to spend with my clients. It makes me extremely frustrated!

Respondents' abilities to keep clients "out of trouble" is becoming harder and more restricted as a result of such changes, but they nonetheless often persist in their endeavours. John (HS) asserted that: "The current legal aid bureaucracy and lack of ability have really restricted us… in the past, you've always been able to be holistic and now you struggle". He further argued that there is now an increased need for efficiency in his work in order to not waste time. Louisa (CLS) agreed with this:

> What used to be the ideal for legal clients is providing a more holistic service for them so that you can address multiple issues at once rather than parcelling people off or just saying 'I can't deal with that', because we can't deal with everything but we try and discuss clients and any problems to see if there's something else that somebody else in the organisation can help with and that's really *really* useful. But things have changed a lot now. I was resistant to it initially, but it was always very time consuming and it's becoming much more difficult to do that now. (Her emphasis)

Marcus (HS) also applied this perspective to the housing sector. He stated that he had far more funding when he first started, but now the cuts mean that "either the client has to go out and look for free advice to sort out their benefits issues or do it themselves, which is far from straightforward". A greater reliance on pro bono work

- legal services provided on a free basis to individuals, charities and collective groups - has become so high that the system is overwhelmed as a result of the cuts, and more and more people are being turned away for legal advice (The Law Society, 2019c). Traditionally it was held that the free advice and representation provided by lawyers were only used as a means of obtaining access to justice for those unable to access LA funding (Bar Council, 2018c). Pro bono is by no means a "substitute for a properly funded system of legal aid" (*ibid*). Despite little incentive other than social gratification, "…legal aid lawyers now have more pressure trying to do it themselves pro bono in order to defend possession proceedings" (*ibid*). Jane (HS) stated however that "pro bono work is really just a sort of sticking plaster on a massive wound because all you really get is a one-off appointment and to give advice on a massive issue and that's it… it's just not good enough". Whilst pro bono is often used in cases where funding is otherwise unobtainable, this is work performed voluntarily and therefore is not something that can be done persistently by those practising in the field, as Marcus (HS) indicated:

> Our system is at the breaking point you know. Firstly, the fact that as housing solicitor we know the underlying causes and what's led our clients to this point, and where traditionally we were able to deal with that holistically, and stop them (the clients) relapsing and leading to more costs… we just can't do that anymore and if we do it pro bono that inevitably leads to a loss to the law centre which makes our organisation less viable, which could potentially lead to the law centre closing, and, you know, not everyone being helped in the future. Unfortunately, it's a catch 22 because either you just don't help them, in which case you've failed your mission, or you do help them and you close down and fail your mission because there won't be anyone to help and it just doesn't look like this is going to improve in the future in any way, unfortunately.

As Marcus demonstrates, constant reminders and anxieties surrounding the impact of cuts to LA permeate the current system. This creates an environment in which the occurrence and effect of the cuts to LA appear in some form every day, persistently haunting those inside the profession. Within this dynamic, it is likewise worth acknowledging that the LA lawyers in this sample typically and frequently discuss the

impact of the cuts with each other, and this exposure provides an ability to deal with it. This notion of relying on each other and sharing disdain towards the LA agency with colleagues speaks to a form of working culture, to be fully outlined in chapter eight. As James (CS) explained:

> …for me, being entirely open with each other about the cuts to legal aid makes it a lot easier. You know, we all joke around our futures in this career and you have to take it all quite light-heartedly if you are going to stick around. No one really knows what's going to happen so there's no point worrying too much. The media blow everything out of proportion.

Whilst the media serves as an echo chamber for many concerns surrounding the future of LA, those already anxious about further cuts see these worries amplified or expanded through news articles, often fuelling speculation further. As Maddie (CS) alluded, "it is of utmost importance that we try and maintain our compassion for the clients and try and continue to do so without letting the wider influence of the media get in our way". Or, as Andy (CB) put it, "we're the ones in the field. We are facing the consequences every single day. The worst thing we can do is speculate about what's ahead".

6.4 Reconceptualising the 'professional' legal aid lawyer

> We cannot survive without the legal aid profession. It's simple, society relies on our profession, it is a pillar of the welfare state, and always will be.
>
> (Rachel - partner and HS)

Within an LA context, the traditional understandings of professionalism are disintegrating as the profession is undermined by the "global neoliberal turn in the late 20th and early 21st centuries", altering how LA lawyers now have to practice (Francis *et al,* 2017). As Harvey (2006: 50) argues: "…Neoliberalism facilities a form of wealth redistribution called capital accumulation by dispossession, in which wealth and power is funnelled upward, away from the poor". Reducing public spending comprises one of the latest manifestations of neoliberalism, undermining the professional nature of LA work by weakening working values and morale. Yet, the LA profession remains

a vital pillar of the welfare state, attempting to uphold equal access to justice. Using the concept of 'New professionalism' (Egetenmeyer *et al,* 2018) which calls for a threefold analysis of how the LA profession spans across the societal level, the organisational level, and alongside the individual level, this section attempts to reconceptualise the 'professional' LA lawyer in light of the backdrop illustrated above.

6.4.1. The profession as an entity

Tensions have grown as the 'profession within a profession' has bifurcated as a result of the de-humanised nature of the profession, to the extent that now the job is seen less as 'serving the community', and more effectively as information workers in lucrative positions. Negotiating the radical impact of LASPO and the associated erosion of LA funding has not only produced structural reform but moreover, rising state intervention has fundamentally altered the very meaning of the LA profession. Currently, the profession is becoming increasingly detached from its original concept as it denies the rights of workers within it to serve justice and help people (Newman and Welsh, 2019). As Marcus (HS) reasons: "The profession is now dominated by more standardised practices". This goes against the grain as LA is typically perceived as a highly individualised profession.

As Whittington and Boore (1988) comment, invariably, professions are viewed as vocations as opposed to jobs, and therefore uphold principles and values in line with their outlined professional standards. Karen (director of a legal aid practitioners' group) confirms this: "To be a lawyer, requires you to enter the world as your vocation, as opposed to your occupation. Your heart must be in it, it should be what you are inclined to do, as opposed to what you are forced to do." Increasingly, as the profession restricts the ability of those to do this it is further undermined, and the potential for access to justice is ever more reduced. As Newman (2013) argues however, "…it can be seen that the fabled public service ideal forms a central part of professional ideology- whatever the practical reality". Sommerlad (1996) identified a distinction between 'ideology' and 'actuality', and the gap between the two is becoming more and more distant as LA lawyers now have less ability to enact the public service ideal, which has typically been an integral feature of their professional ideology (see

Freidson, 2001). Typically, the LA profession upholds specific professional values which correlate with the privilege and status of being an LA lawyer. If these values are not upheld, then this can have an adverse effect on the clients. A devotion to serving in the public interest, and fore fronting client-centred practice are two key attributes which have traditionally defined the 'profession within a profession'. The more these are restricted, the less professionalism is maintained. As Maister argues however, "professionalism is predominantly an attitude, not a set of competencies. A real profession is a technician who cares" (in McCallym, 2009: 1). As identified within this research, a large majority of the participants maintain committed to upholding an 'idealised' profession in an attempt to be resilient to wider macro-changes, though the extent to which this can be sustained in the long-term is uncertain.

6.4.2 Professionalisation

However, professional ideals and practices may vary as a result of different workplaces, with varying processes of professionalisation. Larson (1977) "… conceives professionalisation as a process of collective advancement towards market control and status gain". Pivotal to this is the presentation to the state of a "façade of homogeneity" in the form of a standardised knowledge base and control of competition across the wider profession (Francis, 2005). The profession itself was best placed to do so when "…supported by an effective professional association", well-organised and far-reaching on the national scale (*ibid*: 174). Francis (2005: 175) further argues that "…the increasing variety of workplace arenas within which discreet ethical choices confront lawyers means that fragmentation within the legal profession is exacerbated". In this sense, whilst professional control may still be exercised this occurs on a contingent and individualised basis, fluctuating between the varying workplace arenas (*ibid*). In this sense, negotiating the professional nature of LA work becomes highly individualised and idiosyncratic.

However, in this context, a by-product of neo-liberalist professionalisation practices is a progression towards professional decline. Whilst LA lawyers have always been viewed in a typically sub-ordinate light, as identified in chapter five, a growing antipathy towards the adversarial role of lawyers increases as LA lawyers fail to be champions of justice in light of their reduced scope to do so (see Cape, 2004).

Kronman (1993) and Simon (1998) identify this crisis in professional work contributing to the key failings of legal professionalism. Simon attributes this to the lack of "ethical discretion in professional decision-making" resulting in an "ambivalent role morality". Moreover, as outlined in the previous chapter, the rhetoric of LA professionalism creates unrealistic expectations as gaps between motivations, education, training, and realities of practice are vast (Boon, 2005).

More research is required on the professionalisation of the system and the implications of this for the future of the 'profession within a profession'.

6.4.3 The lawyer as a professional

> It is generally assumed that professions serve the public interest.
>
> (Boon, 2015: 234)

Carr-Saunders (1933) outlined the professional as being an individual who "brings asymmetrical knowledge to the service of his client, and thereby exercises power over the client. Therein lie the duties and obligations of a professional to his client" (*ibid*: 499). The sociology of professions typically upheld the view that the responsibilities of these professional groups were integral to the conservation of the "conscience collective"[47], in the sense that they are vital for aiding the functioning of society (Durkheim, 1950: 10). Critiques of professionalism, by the likes of Merton (1957), argue the increasing reliance of professions on bureaucracy and managerialism has weakened the functioning of professions (C Wright Mills, 1956). This is as a result of the shift away from reliance on knowledge and skill. In the context of the LA lawyer, it is argued that as a result of reliance on bureaucracy and managerialism implemented by the LA agency and other regulatory boards, its professional status has been weakened by the stringent nature of the work confining LA practice.

Wall and Johnstone (1997) suggest that: "…many areas of legal practice that were once the domain of the traditional lawyer have been reduced to standardised procedures" (in Francis, 2015: 185). In the context of LA, the increased managerialism

[47] The conscience collective is a society 'functioning with a union of ideals and values' (Durkheim, 1950: 10).

resulting from New Public Management raises "…difficult tensions about the relationship between professional autonomy and the individual moral responsibility" (Francis, 2015: 185; Sommerlad, 2001). Whilst an exclusive feature of a profession is its erection of barriers to entry, i.e. educational requirements, qualifications, or training, these function as necessary components required for practice, underpinning the "social cohesion of professions" within society (Boon *et al,* 2005: 474). Yet, the construction of additional barriers, such as the impact of LASPO, ultimately place pressures on the professional practice of LA lawyers, creating rising tensions between practice and moral obligations. The lawyer's power is further constrained as the LA agency now determines "what is knowledge", and therefore, their working practices are both dictated and constrained by strict processes. For example, Jane (HS), spoke of how she now feels she is just "churning out" cases as quickly as possible, without fully utilising the extent of her skill set:

> The pressure on us being efficient and keeping up with the rules and regulations has become so overpowering, that I often wonder why I am still sat here. I came to the job to use my skills, I suppose to give something back, in a kind of philanthropic way, but now it seems I am just feeding into a bureaucratic cycle which gives me no time to actually individually and compassionately deal with those who need it, the most vulnerable people in society.

In light of the precarious nature of LA resulting from LA cuts, one could argue that the professional nature of the work is becoming subject to the type of degradation traditionally associated with blue-collar work (Beck, 2000; Standing, 2011). This is evident in the combination of low salaries, low social status, disregard for their professional skillsets, and poor working conditions - including long and unpaid working hours, as highlighted by James (CS), and Ash (IS). The relationship between precarity and social class here is important, as 28 out of the 30 interview participants in this research identified as middle class. Typically, 'precariousness' has been seen as having much more of an impact on the working classes. However, the LA profession which situates itself within the 'solidly middle class' wider lawyering profession, has become increasingly contingent and reliant on short-term working patterns and unpaid work. Likewise, the 'automation of knowledge work' has meant

that highly skilled workers are less sought after, resulting in a category of workers known as the 'middle precariat' (Quart, 2018). This category refers to the 'downwardly mobile middle class' who now face very different working conditions as a result of precarious terrains (ibid). Changes to the LA regime encourage – or in some cases, force - the enactment of acquisitive as opposed to altruistic modes of work, with the privatisation of public services and the removal of state welfare systems potentially contributing to this precariousness. This has particular implications for the demoralisation and professional diminishment of their practices in addition to the LA lawyer's individual professional identity, which in-turn may drive people out of the field entirely. Lawyers are having to "sell their individual skill set to the market", resulting in a loss of professional independence and an inability to perform the work in the way that mirrors the motivations for wanting to work within the field. This results in a significant gap between the aspirations and realities of practice, forming the basis of analysis in the next chapter.

6.5 Capped progression?

The LA lawyer's limited professional capacity has been further exacerbated as a result of the limited opportunity to progress within the field (see Katz, 1982), with its participants continuing to face capped progression. As highlighted by Alistair (CB), once a person has obtained the status of being an LA lawyer, it is often hard to quickly progress from being 'junior counsel' to a barrister who has obtained rank from Queen's Counsel (CIC, 2019). This is the case unless you are willing to perform significant risks, such as secondment, self-employment, or switching your practice area away from LA work. Assuming that specialisms are transferable can be problematic in the first place, as the work of the LA lawyer becomes increasingly generic and de-skilled.

Likewise, Alistair states that generally, LA work and progression do not go hand in hand. For instance, James (CS) moved from working within a criminal firm to practising as a self-employed solicitor advocate, however he noted that it took a substantial few years to be in a position to be able to branch out on his own. "Taking the leap was extremely stressful, you have to believe in yourself and trust yourself. It's a bit of a balancing act really.'" James had only just branched out as a self-

employed solicitor when he became involved in my research, but he said straight away that he already felt more confident and excited about his practice. Delivering a service on his terms and being able to control his own work-life balance were both significant positives for him. Additionally, he felt like he had "moved up in the legal world", gaining more autonomy and control over his own actions despite still dealing with LA cases. Similarly, Robert (CB) took secondment to another field not funded by LA, after feeling an inability to survive on the rates of pay for the work he was doing:

> Like a lot of other barristers, I felt like I was getting in a lot of debt because of the career I'd chosen… then a six month secondment came along, and I felt like that got me out of the black hole I was in… I can't stress how important secondment can be for junior barristers, honestly, it's the biggest bit of advice I'd give! (Robert, CB)

Practicing LA often leaves little time for focusing on career progression on managerial/partner routes unless you work at the same firm for a significant period of time, as indicated by Jay (HS). For instance, Rachel (partner and HS) and Mary (partner and FS) both hold positions as partners within their respective housing and civil liberties departments. Both are in their late thirties and have been in their firms for more than 10 years. Understanding what it means to 'progress' within their world is important in order to keep the profession alive. As Robert (CB) recognises:

> There isn't a progression in terms of formal hierarchy, I can't get promoted but there is progressing in terms of the types of cases, i.e. gone from being mostly in magistrates to mostly doing warrants to fully trials in a county court… now full trials in front of judges… then in a year or so I'll be a lot more in the high court…but taking it easy as I don't want to get swamped. I suppose you could distinguish progress as the moment you get tenancy.

Here we can recognise that while Robert desires to progress and is aware of the stages of career progression within his specialism, he is also cautious to take his role slowly to ensure that he doesn't become too overwhelmed. This tactic is not unique; likewise, Mary (CLS) spoke of taking her role each day as it comes:

> …going into legal aid work now is career suicide… but I just don't want to compromise and move over to the corporate side. I'm just taking things slowly and seeing how things go on a day-to-day basis… as opposed to looking at long-term progression

She continued to state that due to external constraints such as the funding protocol implemented by the LA agency, combined with system deficiencies, alongside the professional uncertainties resulting from the LASPO, often there exists very little time to think about your own progress. Instead "you are always thinking about getting the client into a more comfortable position, rather than thinking of yourself". Moreover, "this can really have an impact on your motivation to want to progress", she argued. Tom (HS) builds on the notion that due to cuts in funding, there are now fewer support staff helping with admin duties, and therefore more and more time is taken up performing menial tasks such as paperwork, leaving little time for self-development. Rather, it now takes considerable persistence to remain in a profession becoming increasingly 'self-serving', as evidenced throughout the fieldwork. Understanding what encourages this perseverance is of great interest, feeding into the analyses in chapters seven and eight.

Recognising that likewise, Mary did not want to move to the corporate side proves highly interesting here. Even with the lack of room for career progression within LA work, a number of participants openly cited that they would not want to move "over to the other side" (Alice (WS), Louisa (CLS), Robert (CB), and Tom (HS)). This was due to several reasons such as a lack of professional respect, disillusion, and scrutiny of the "other side", building on the public/private divide within the wider remit of lawyering discussed in chapter five. One of the more significant reasons for this, recalling an earlier discussion in this chapter, is the notion of questioning the actual meaning of success in the context of doing LA work. Here, success is not necessarily measured in monetary sense, but rather by helping those most need of assistance, as confirmed by Maria (HS) and Jane (HS): "At the end of the day, if you choose to work in legal aid, then your career progression is just about helping as many clients as you can in the best way possible!"

It is important to note however that the wider lawyering profession is known as a 'flat profession', and both solicitors and barristers suffer intrinsically from limited opportunities for progression. Therefore, whilst LA lawyers now face even more scrutiny and pressures, their ability to progress within the field is already inhibited by the existing problems with progression that the wider lawyering remit faces (Pringle, 2014).

6.5.1 Career trajectories

Consistent with other research, a number of participants in this study were disillusioned with their careers in LA (Harris, 2002; Boon, 2005). This sense of disenchantment crosses over various specialisms and manifested in unusual ways.

> It is important to encourage legal aid work as a journey rather than a destination (James, CS).

Lack of career progression can and may influence those thinking of entering the legal profession to reconsider. Combined with the high levels of stress, lack of support, and the juggling of mountains of legal aid cases, this affects retention levels within the profession, as cited in research conducted by Young Legal Aid Lawyers (2018). However, in light of this, keeping the profession alive proves to be a challenge.

> It's all very, very emotionally draining… the clients, the LA agency. I would only encourage a young person to do this if like nothing else would do and that is what they wanted to devote their life to (Sophie, CS).

In this research, those practising within LA did not deny that undertaking the work was an extremely demanding experience, both physically and emotionally. As John (HS) notes:

> I wouldn't encourage anyone to enter the profession now… there is no personal support, no money, and loads of stress. It's all become too overwhelmingly hard to manage.

Eleanor (partner + FS) openly stated that she would not encourage anyone to enter the profession, as "you don't get any thanks" from those you seek to serve. Ben (HS) would not encourage those to enter the field of legal aid due to the sheer cost of obtaining the necessary qualifications and the inability to recoup the debt due to low salaries, building on section 5.1. of the previous chapter. However, as James (CS) argues:

> Do work in legal aid, but just modify your expectations… ultimately you can get a lot of job satisfaction so it can be a somewhat nice way of earning a living. You can go into court and have a bit of banter and all that… it can be quite social.

He further emphasised the need for "active legal aid ambassadors", returning to places where they studied and talking to prospective students and explaining the realities, as ultimately it was down to the new recruits to "keep the profession alive". This notion of "passing down" and "sharing insight" within the LA profession forms the basis of chapter eight wherein the working culture of the LA lawyer is explored.

James went on to state that the passion was to "share not curb the experience" and to use the "united drive to recruit future generations without clouding the real experience". In spite of this, it is evident that the numbers still entering the profession remain high - almost too high - creating alternative ramifications, as referenced by John (HS):

> Unfortunately, the numbers of lawyers have altered drastically since the 1970s that I wouldn't be surprised if there's ten times as many now… but the status of being a lawyer has reduced dramatically….

Whilst there were mixed reactions from the research participants as to whether or not they might encourage LA work, the likes of Anna (IS), Ben (HS), Grace (CS), Marcus, and Jay (HS), to name a few, fundamentally confirmed their career trajectories to be very much tied to working within LA. As Jane (HS) notes:

> I hope so, I *really* do hope I stay in LA… the only thing that would stop me would be funding cuts coming in and making it absolutely impossible…. but we're trying to get some different sources of funding, so we are not entirely reliant on legal aid. Nothing else would make me want to leave this job; the emotional satisfaction is too great (her emphasis).

Those within the field find ways of coping with the wider macro threats, to be explored in the next two chapters. LA lawyers cleave to their profession still because they enjoy the work in spite of wider challenges and cuts.

6.6 Summary: a conceptual round-up

> We're trying *so* hard to stay afloat, but it really feels like the ship is sinking. I keep trying to keep the water out but sooner or later it will be too late. You just don't know what the future is going to hold. (James, CS).

This chapter has sought to form a conceptual basis for the subsequent chapters to develop. Having 'set the scene' for the reader, the following chapters seek to move beyond the structural components of the 'profession within a profession' to delve into the conceptual features of the role. This will draw on holistic work, occupational culture, as well as the micro, lived realities of the individuals inside the walls of the occupation. As evidenced in this chapter, the LA cuts have had a significant effect on the LA lawyer, creating barriers and hurdles and altering professional identities. As the profession becomes increasingly hollowed out, the 'new' LA lawyer currently faces a more demarcated, restricted, and difficult working environment. The LA agency was identified as the biggest barrier to their work, with the research participants frustrated at the amount of extra work it caused, taking them further away from practising more individualised and humanised justice. As Karen (the Director of a Legal Aid Practitioners' Group) states: "You now have to literally tick every box, cross every 'T' and dot every 'I' and that's just no fun".

To this end, the consequences that reductions in funding and services dictate on the 'lived professional experiences' of LA lawyers' results in the LA lawyer being placed

in a position of the precariat, or precarious worker. LA lawyers now face work overshadowed by restricted time, practice, and monetary reward. The biggest reward motivating over half of the participants in this research to enter the field in the first place – working for the social good - has likewise been adversely affected by increased bureaucracy on behalf of the LA agency, removing any time previously available for practising in an altruistic manner. The above has significant ramifications on the micro day-to-day practice of the LA lawyer, to be explored below.

Chapter Seven

One-stop-shop

'It's not just about being someone's lawyer.'

Since the late 19th Century, legal aid work has "…been a marginalized practice within the legal profession" (Zaloznaya and Nielsen, 2011: 919) due to insufficient resources, restricted practice and low rates of pay in comparison to their private counterparts. Not only do lawyers working in this field feel marginalised with regards to their status, ideologically, but they also struggle due to the gap between their aspirations and realities of their practice (*ibid*). This results in unstable lawyer-client relationships and occupational burnout to be explored. This chapter argues, that in line with the work of Zaloznaya and Nielsen (2011), the reason why the LA lawyers' remain committed to working in an effective and idealised manner, demonstrating altruism, resilience and determination, is because their deep engagement with their clients and broader social justice orientations allows them to 'make do' in a 'profession within a profession' whereby they are otherwise marginalised professionally.

Binder *et al.* (2004) encourage lawyers to focus on the 'holistic entity' of the case as opposed to just the legal problem. Focusing on the notion of LA lawyering as a 'one-stop-shop', the chapter explores the idea that the LA lawyers act as a source of multiple services whereby clients can have their legal (and selected other) needs to be met in just 'one-stop'. This analysis aims to understand the consequences that reductions in funding and services will have on the 'lived experiences' of LA lawyers and how this influences their ability to continue to offer a 'one-stop-shop' (including their views of its effects on their client group, the poor).

This chapter interrogates the everyday 'lived experiences' of the LA lawyers through a forensic examination of their day-to-day working lives, invoking the ethnographic and interview data to address the extent to which the wider social, economic and political conditions shape their everyday experiences. Similarities and differences between the findings from the interview and ethnographic data are also examined to see if lawyers 'talk the talk but not walk the walk' (Newman, 2013). In other words, claims made in the interviews will be drawn comparatively with the working practices

observed. Participants can often present an idealised picture; however, this may not transfer to their practice. A fuller discussion of this is provided on page 185.

The argument presented is that LA lawyering is more demarcated in the context of the post-2012 cuts as established in previous chapters. LASPO has significantly restricted access to justice by reducing the LA budget by almost one third (Ministry of Justice, 2019). Lawyers have had to adapt to a new way of working in an increasingly resource-stretched environment or make difficult decisions about cases, as Nicholas (CS) stated: "We are turning people away every single day, and these are normally those most at need". This is at odds with the 'ideology of advocacy' (Simon, 1978), which maintains that the LA lawyer must serve clients and the government in a just and equal manner. The ideologically-driven marketisation of justice, coupled with the reforms mentioned above to LA undermines the modern lawyer's ability to execute their responsibilities effectively. Despite the ongoing threats to their occupation, these professionals work tirelessly to cling on to a 'client-centred' approach at all times, as Sophie (CS) indicated: "although we are the underdogs[48], we will *always* continue to stand up for those we aspire to serve- our clients because that's why most of us are in the job" (her emphasis).

As this chapter will argue, the 'new' LA lawyer[49] straddles the chasm between legal and political domains more so now than ever before, which results in their expectations not always being turned into reality. As Dehaghani and Newman (2019: 13) note: "the ideal of the healthy lawyer-client relationship… has been tarnished and faces serious practical impediments". In the context of criminal LA, this is a result of barriers to procedure, increased formal regulation, disincentivisation of lower fees, as well as the marketisation of legal services. As identified by the likes of Sommerlad (2008), Alge (2013), and Welsh (2017), ideal lawyering principles become compromised for 'practical business concerns' (Newman, 2019: 15). As task characteristics become harder, workloads increase resulting in emotional exhaustion and burnout – combined with unmet career expectations – those within the field become increasingly dissatisfied (Houkes *et al.,* 2003). Increasing emotional burden and burnout, in turn,

[48] See section 5.1.4
[49] The 'new' LA lawyer refers to people who are already in LA who are finding their identities are changing as a result of the developments outlined in this thesis i.e. LASPO.

leads to disaffection which can make it difficult to derive any form of intrinsic satisfaction from their work (Boon, 2005). Boon (2001) likewise argues that the neoliberal agenda has dismantled LA practice by substantially reducing the LA budget, resulting in derogation of the work and the erosion of its 'symbolic social capital'. This has placed a greater reliance on pro bono work, as will be explored further later on in this chapter.

Through the exploration of the holistic nature of LA work, this chapter addresses explicitly research question two, asking what the developments in the LA profession say about the nature of contemporary work and the capacity for state institutions, professional groups and individual professions to 'do good'. In doing so, it likewise explores how the cuts to LA funding affect the structural in/security of white-collar professionals (lawyers) who chose to work in a more altruistically-minded as opposed to acquisitive sphere.

7.1 The holistic nature of legal aid work

> You've got to be able to deal with difficult clients. We do get some *extremely* vulnerable people who usually have severe mental health problems, for instance. You can get some very difficult and very highly vulnerable clients I think, and that can be a huge shock to people (legal aid lawyers) that aren't expecting it. You need to have more of a people skill set than a lawyer skill set. It's not about just being someone's lawyer. Sometimes you are their only hope. (Rhiannon, WS: her emphasis)

Rhiannon's emphasis on the need to have more of a 'people skillset' than a 'lawyer skillset' illustrates how some aspects of LA work require extended interpersonal efforts. Similar comments were made by some other research participants, who likewise described their work as being 'holistic' in nature, such as Grace (CS), Jane (HS) and Marcus (HS). Those within the field are required to utilise their skills set to focus not just on the immediate legal needs of the client, but also the bigger picture. James (CS) alluded to this, indicating that as the criminal justice system tends to be the last stop for the client, often their need for assistance is at its greatest and most complex. Advice may be sought around housing eviction, deportation or loss of

parental authority amongst other things. While these problems may be considered by some to override the 'traditional lawyering role', LA lawyers tend to assist with these other difficulties as a matter of course. Respondents in the research referred to this tendency as 'do-gooding', although Robin Steinberg originally coined the more formal term 'holistic lawyering' in the US context in 2006. Steinberg highlights how the importance of "working compassionately with indigent clients means seeing first-hand that the problem and challenges they face stretch farther than the confines of the criminal cases before them" (2006: 626).

Physical elements of this holistic imperative were rendered evident in Silverman and Co's office space, as the excerpt below illustrates:

> This particular firm is distinguishable from the others. While it looks like a typical solicitor's firm from the outside, with a small plaque stating the firm's name and slogan, you almost miss it because it blends in with the other buildings in that street. As I squeeze past a group of people congregated at the bus stop situated directly outside, I manage to locate the public entrance. Inside the door features a large waiting room, with colourful pictures, a toy box, and a bookshelf. The interior is painted in bright orange, and there are comfortable chairs scattered around, where clients are waiting to be seen. Kids are playing on the mat on the floor, and clients are chatting amongst themselves congregated at one side of the waiting area. On the other side of the room is a board, which hosts a variety of different posters ranging from counselling services, homeless shelters, NHS posters, as well as other helplines including talk to frank and crisis hotline. (Field notes: October 5th 2016).

Several observations can be drawn from the extract above surrounding the situational design of the law firm. For example, in line with notions of 'holistic lawyering' (a trend since the 1960s), particular care had been taken with the décor of the waiting room and how it was 'read' by potential clients and/or members of the public. For example, the physical space was far from being a clinical, corporate space with its brash bright coloured walls, scattered toys, comfortable chairs and lively images on the wall almost reminiscent of somebody's front living room. The importance of structuring the waiting area in such a way has two core functions: to increase client

satisfaction, and more importantly to accommodate the holistic imperative. The solicitor's firm in this example was situated next to a bus stop, making it easily accessible for those who rely on the use of public transport.
Furthermore, the expectation that clients may turn up with their children was evident by the number of available toys, and the dedicated play mat in the centre of the room. If clients are bringing their children with them, it also highlights the possibility that they are unable to pay for childcare, or may also be unemployed. Acknowledging this, the firm itself has specifically designed their waiting room in a way that reduces the stigma and shame of those facing these broader social issues.

Something else notable is the absence of a television in the room encouraging those waiting to interact and engage with each other, in turn, creating a much more relaxed and social environment. This is somewhat unique in comparison to other waiting areas observed in this research, such as the courts, which typically feed into the image of being very neutral, bare and austere. This could be attributed to the fact that the firm, in this case, is on the side of the client advocating on their behalf, whereas the court is not. Within, Silverman and Co, it also seemed apparent that the posters on the notice board were placed intentionally and carefully constructed with the idea that the types of individuals visiting the firm may need further support with other welfare-related issues. Physical elements of the holistic imperative here were constructed with the direct purpose of prioritising the clients' needs over everything else. This was likewise evident in the law centre, as their raison d'être typically centres on the idea of tackling wider socio-structural as well as individual legal issues. Thus, similar elements were observed, such as posters and helplines for other welfare-related matters. The law centre likewise had a cupboard which contained donated items for clients in great need. These items included nappies, trainers, tinned foods, as well as toiletries.

The ethos of these spaces are reminiscent of and informs, the ethos of the type of lawyer who works there. Marcus (HS) explained that while traditionally, the lawyer has focused very much on the 'case at hand', arguably, as opposed to "defending a *case*, the proper LA lawyer is very much about defending the *client*" (his emphasis). Holistic advocacy is a principal mechanism through which those in the field can make a difference in the long-term while those practising in the LA field face marginality within the wider legal profession, offering holistic legal assistance can add a further

layer of significance to their work (Katz, 1982). This may prove invaluable to offset issues related to the perceived lower status afforded to vocations such as LA lawyering.

Ben (HS) draws an interesting analogy between lawyering and football teams: "… while commercial law firms are likened to say Chelsea as a football team, in general legal aid lawyers are equivalent to say Scunthorpe United!" In line with this notion, Rachel (HS and partner), argues that while commercial lawyers may be described as 'extremely wealthy', 'fat cat, and 'privileged', LA lawyers, on the other hand, are often described as 'committed', 'modest' and 'charitable'. The different discourses inevitably highlight the distinct ends of the lawyering profession, each of which offer very different measurements of satisfactory outcome. Jane (HS) similarly placed public vs private lawyers into 'two different camps' being situated at different ends of the spectrum within the wider remit of practising law. This variation in status, however, has wider implications as Robert (CS), argues: "…people generally think you are a legal aid lawyer because you just were not good enough to be a commercial one." Maintaining a positive identity in light of the perceptions laid out above is a difficult task and one which permeates the working lives of those within it every day. The benevolent nature of the reward that comes with LA work, however, may act as a priceless form of remuneration, as recognised in Jay's (HS) response: "…working for the social good is the one thing that we have over those working within the private sectors. It might not be a lot in the grand scheme of things, but it's the one thing we can get respect for!"

Sophie (CS) also recognised how unpicking clients' complicated lives could often bring much more job satisfaction, which becomes an essential facet as workloads increase. As demonstrated in chapter five, a concern for the public good was identified as one of the biggest motivators for working in the LA sector: "We all eat and breathe the same ethos… we're all here to help people, and because of that, it translates not only into our work but into our wider relationships" (HS). This holistic imperative, therefore, upholds two purposes: on the one hand, it meets the needs of the socially progressive orientation of the LA lawyers, and it ultimately acts as a form of reward, allowing those in the field to feel significant in an otherwise marginalised environment.

Krieger (2004-5) argues that it is impossible to separate personal and professional satisfaction. Changes to the legal profession, however, has meant that personal satisfaction levels have been adversely affected as LA practice is far more restricted due to monetary and time constraints. It has previously been argued that a "…combination of skill enhancement and service in the advancement of the public good has allowed some lawyers the opportunity to do well by doing good" (Wilkins, 2004; Granfield, 2007: 115). Granfield (2007) further argues that at the same time, LA lawyers are very restricted in their ability to challenge the root causes of the vast majority of legal problems of the poor, such as inequality. There remain to be 'organisational differences' which place… "Unique pressures on lawyers in different practice areas, leading to distinct types of lawyering ideologies that shape legal practice" (*ibid*: 120). It is therefore clear that both personal and professional satisfaction levels are internalised to each profession. While this may vary between solicitors and barristers; likewise, this may differ between solicitors' firms, barristers' chambers and law centres.

Personal satisfaction which comes with this form of holistically-natured work can be seen as enticing for some, especially to those who may be happy to be one of the lower earners in the profession in contrast to their corporate counterparts. It also gives those practising within it the chance to make impactful "bottom-up changes", as stated by Alice (WS). For instance, as Grace (CS) put is: "we like to go above and beyond for our clients because we act in their best interest. It is just about achieving the best outcome for the client". Some of the LA lawyers involved in this research had a great ability to take on multiple roles all at once, such as Andy (CB): "You do everything from a counsellor, doctor, psychiatrist, social worker, and a lawyer. You're everything, and you obviously don't get nearly enough thanks for all that, but it's just kinda what you sign up for!" As Andy notes, choosing to be an LA professional means facing clients with additional social issues, which in turn means developing knowledge, skills and understanding beyond the legal field. He attributes this further to the decline of the welfare state in their ability to serve the clients as well as they should be. Despite this, exposure to and engagement in such a diversity of arenas brings with it a wealth of benefits for both lawyers and their clients. Exploring the

social work side specifically, Sophie (CS), described how it is essential to be open to the range of issues which might be relevant to a client:

> You're kind of a social worker at the same time…, that is an important aspect of the job, and *I do like that*. You've got a lot of homelessness issues, or you know human rights issues and it kind of cuts across the board, and you are looking at *all* of those aspects of clients, and you are kind of dealing with some of the wider issues in our society today. (Her emphasis)

LA lawyers' unique relationships with their clients can have reciprocal positive outcomes, as Nicholas (CS) showed: "if you believe in them, and help motivate them to make changes to their wider lives. This is even more effective than just winning a case, and the job satisfaction goes through the roof." Similarly, Marcus (HS) alluded to this before a client meeting one day in my fieldwork: "the fact we can help people and change people's lives you know, to make sure they have a roof over their head or have at least like the correct income to, you know, kind of like get the basic necessities like food and stuff. That's just so rewarding in itself." The following extract taken from ethnographic field notes demonstrates how Marcus works holistically 'in action':

> (Sat in the meeting room with Marcus (HS) and his client as he carries out his Duty work. 17/8/2016)
>
> **Marcus (M**): So why are you in arrears? You seem to have enough money (looking through the client's bank statements)
>
> **(Client shrugs his shoulders)**
>
> **M**: ooooo I see... loans! Loans are very scary aren't they, not very nice at all!
>
> **(The client looks down into his lap)**
>
> **M**: Right, well, we can try and sort that… do you have any other problems, anxiety or anything?
>
> **(Client nods)**
>
> **M**: Do you think that you maybe just didn't open the letters when you should have done then?
>
> **(Client nods)**
>
> **M**: Ok, well if you are suffering from anxiety or depression do go and see a doctor, alright? Your health is very important to make that a priority! Do you want me to find out the number of your local doctors' surgery?
>
> **(M proceeds to find the details for him**)

M: Don't worry, we're in this together, you'll get through this. Shall I get ring them now? You can go outside in the waiting area and speak to them?

C: Yes, please, that would be a great help.
(Marcus proceeds to ring up the doctor's surgery)

A discussion with Marcus after the exchange however, highlighted how this 'do-gooding' notion is deemed to be an incredibly 'romanticised view' of the work of the LA lawyer: "the fact that *we'll win your case, we'll clear your rent arrears, we'll stop your eviction,* and they're just going to go off like some sort of romcom[50] and live happy lives and drink in Starbucks, but truthfully they just *won't survive* if you leave them to their own devices" (his emphasis). His reference to a rom-com here evokes the idea that LA lawyering (in the eyes of others) solely has happy and positive outcomes. While Marcus' exchange in the excerpt above demonstrates that holistic work does sometimes happen, his doubts raised in the conversation immediately afterwards makes one question how often this is done in practice.

Likewise, the excerpt above could be read in a patronising manner as the language used by Marcus here is almost childlike, with phrases used such as 'loans are very scary' and 'do you think that you maybe just didn't open letters when you should of done then'. In addition, Marcus' offer to ring the doctor's surgery could likewise be viewed as a way of finding a solution but also deferring the problem on to someone else. In some cases, working 'holistically' or putting on a holistic front may often just be a quick and easy solution to offer a 'quick fix'. Evidence of this is further given in an exchange between Marcus and another duty solicitor below:

M: Thanks god she's out of my hands now! (he explains that the previous client had just broken down in front of him)
(Other duty solicitor laughs and puts his hand on his head)

Duty solicitor: Tell me about it! It's not our job be dealing with stuff like that is it. Makes our lives so much harder!
(M nods)

[50] A Romcom is a romantic comedy which tends to evoke humourous and lighthearted plots and typically have a positive ending

M: I know right. I'm not a bloody doctor am I! I don't know what they expect sometimes (laughs).

DS: I know right!

Pleasence *et al* (2004) identified that people often experience multiple legal problems at once as a result of certain characteristics, thereby making them more vulnerable. These may include having a disability, a low income or being unemployed (ibid). As such, it has been argued that providing 'timely assistance' with such matters, may reduce the likelihood of more problems arising (ibid). This often proves difficult, particularly within the LA remit as it becomes very difficult to deal with the 'problem clusters' as identified by Pleasence *et al* (2004), when LA lawyers are already on a budget from one specific legal problem, let alone multiple. Additionally, dealing with wider 'moral' issues likewise raises questions over the professional ethics – and boundaries – of the lawyers in this field. Boon (2004: 250) argues that lawyers face 'twin pillars' of legal ethics whereby on the one hand the 'principle of neutrality' means that: "…they take clients, irrespective of the moral worth of their cause", likewise the 'principle of partisanship' necessitates them to act "…to the best of their ability or, in some formulations, zealously" (*ibid*). Boon (2004) therefore argues that 'cause lawyers'[51] are placed in a 'morally ambiguous position' whereby they deviate somewhat from traditional notions of justice, but likewise sometimes seek personal commitment with clients. As Boon (2001) reasons, 'transgressiveness' distinguishes 'cause lawyering' or LA lawyering from the wider lawyering remit, as it relates to the degree in which the lawyer is willing to 'take sides' with "…client's representative of unpopular causes" (Scheingold and Bloom, 1998: 212).

The work of the lawyers in this research similarly "…demands adaptation to the circumstances of representation, including degrees of commitment to the purposes of clients…some of which may involve challenging conventional professional expectations" (*ibid*: 267). However, Dehaghani and Newman (2019: 11) argue that: "The ideal lawyer will forge good relations, providing a figure that can be trusted to

[51] "Cause lawyering denotes the practice of law by those committed to furthering through the upholding of a particular cause by legal means, the aims of the good society" (Sarat and Scheingold, 2001:1)

listen to and support those suspected and accused of crimes". In this sense, Marcus (HS) argues that it was always necessary to put the client first and he always seeks to maintain this ideal, as that is 'what the job requires you to do'. This requirement, however, often blurs the lines between neutrality and partisanship, and this becomes a central feature of their role. As Boon (2004: 266) further notes: "The ideal type cause lawyer selects clients but is guided by the moral imperative of the cause rather than their interests". Concerns have been raised over the ability to continue offering holistic services in light of LASPO, and helping the clients out with such matters may not be entirely in the LA lawyers' hands any more. Reflecting on rapid changes within the LA field, Marcus (HS) explained that it is now more sensible to go ahead with a case on the basis "…that you might not be able to get quite as attached emotionally and physically as you did before to the client if they are in a position of great need- you have to be even more detached nowadays".

Marcus's comment, however, is somewhat paradoxical. When a solicitor is on 'duty' in court, each appointment is no longer than roughly 15 minutes. This leaves little time for the lawyer to get 'attached'; however, the length of the meeting matters less than the hurdles to be cleared because of changes to LA. The amount of paperwork required for any LA application has increased due to bureaucratic processes as outlined in chapter six. As a result, lawyers now spend most of their time carrying out administrative tasks as opposed to interacting with the client. The LA agency has made accessing LA far more onerous through their online portal, as they are now much stricter in the way that they assess applications as outlined earlier. According to Karen (director), the LA agency has just made everything 'far more complex'; the amount of information required to open a matter is 'ridiculous', and the system itself often "…keeps cases pending for weeks and weeks." This proved to be problematic for a number of respondents in this research including Marcus (HS) and Jay (HS), Paul (CB), as well as John (HS) who argued that efficiency now completely overrides quality in their services which fundamentally challenges the idea of being able to provide a holistic service. Most dangerous perhaps is, as Paul (CB) outlined, the broader sense of 'social demotivation' across the board. Those within the field are beginning to question their fundamental purpose; a theme which has been very evident throughout this study.

7.2 Coping mechanisms

A number of the research participants continued to adapt their working practice to reconcile their original motivations of wanting to 'do-good' however, despite external pressures. In line with Katz's (1982) work on 'self-tranquilising attitudes', individuals such as Marcus, Rachel, as well as Tom (all HS) now focus on the 'smaller picture', such as just even being a 'voice' for their clients as opposed to aiming to bring about wider socio-economic justice. This mirrors the findings of Zaloznaya and Nielsen (2011). Jane (HS) said: "... it's now just about being *that voice* for those who are entitled to justice. We may not be able to make any drastic changes to the wider justice imbalances in society, but *we can try* to achieve victories for those individuals that need us the most" (her emphasis). Ash (IS) also stated that: "… it's not about changing the world; it's just about making a difference step by step." While Marcus (HS) suggested: "… it's just about knowing you singularly made that life-changing difference to that person's life". Adapting to the post-2012 cuts environment has meant adopting new or different strategies in order to ensure lawyers' continued investment in a manner which echoes sentiments of 'ideological marginality' (Zaloznaya and Nielsen, 2011).

This concept of ideological marginality argues that LA lawyers face 'two conflicting ideological bases' within their practice. On the one hand, their commitment to social justice requires a level of emotionality and compassion, and on the other hand, the professional constraints of practice inhibit their ability to maintain this (*ibid*). Comment from Marcus (HS) reflected this notion: "It is so hard to maintain an acceptable level of commitment with your clients. This presents us with particular difficulties". While Katz (1982) acknowledges that this is a well-established issue, he states that those practising in the LA field (in the US context) may struggle to maintain this dual commitment. Sophie (CS) indicated this, stating that "… it is sometimes very easy to get caught up with clients that sometimes you forget what you are actually primarily there to do, which can ultimately have an impact on your job performance." As she explains, while inevitably working for the social good is an integral part of the role, it is about finding the appropriate balance between being 'a lawyer' and being 'a holistic provider', which as evidenced is becoming much more difficult in this resource-stretched environment.

7.2.1 Emotional labour

More than this, increasing pressures can likewise exacerbate the emotional toll of the work on the lawyers. This can be problematic, as LA work is typically both sensitive and emotional in its own right. Working in the LA sector requires an emotional component which goes beyond typical feelings caused by working practices, due to the nature of the cases and the clients. It, therefore, necessitates a form of 'emotional labour'. Hochschild (1983: 7) defines emotional labour as: "the management of feeling to create a publicly observable facial and bodily display". The LA lawyer is not only required to have face-to-face contact with their client; however, the LA lawyer is required to have a form of emotional state which he/she has some control over (*ibid*). Emotional labour is further defined as the ability to: "induce or suppress feeling in order to sustain the outward countenance that produces the proper state of mind in others" (Hochschild. 1983: 7). The cases that LA lawyers deal with span – and invoke – a range of emotional issues that cannot be displayed in front of clients. Drawing on this, Sophie (CS) spoke about the private struggles she faces with dealing with challenging cases:

> …at first, I used to just go home and absolutely sob my heart out about cases I had dealt with that day, but you can't live like that. After a while, you begin to learn how to manage these a bit better- but it's still so *so* hard! (Her emphasis)

Hochschild (1983) identifies two approaches: 'surface acting' and 'deep acting'. The former being the ability to deceive others about what one is feeling in order to respond in the 'right manner', with the latter being the ability to encourage or self-induce particular feelings to produce the 'desired emotion' for the sake of the audience (Hochschild, 1983; Stanislavski, 1965). Individuals such as Maddie (CS) often found it difficult to balance their emotions because "we often have to work with our heads, and not our hearts because sadly we cannot always give the answer that our clients are looking for." She went on to state that this has been made far worse by the cuts to LA, as "…even though sometimes we know that there will be very little chance of getting LA funding, we still have to maintain a positive manner for the sake of the clients".

This is made even more difficult within the context of LA work, as the clients tend to be in positions of absolute desperation as further confirmed by Maddie.

Goffman's dramaturgical framework (1959) employs the image of a theatrical performance to offer an insight into face-to-face interactions. Goffman uses the terms 'frontstage' and 'backstage' to capture all elements of interaction in a social situation. For example, 'frontstage' refers to the use of impression management to present to the audience in the best possible manner, while 'backstage' refers to a place which is only inhabited by the performer (*ibid*). Maddie admits that she particularly struggles to hide her emotions from her clients sometimes, and therefore has to work hard to maintain an 'appropriate and professional front' when facing sensitive cases within the remit of criminal law. She further stresses that examples of these may be cases of abuse, sexual assaults and those involving young children, to name a few. As Goffman further argues that one can 'take off' and 'put on' character, and this seems very fitting for someone in Maddie's position. Whilst in front of her clients, she acts in a manner that is guided and constrained by her position as a professional; however, she quickly 'takes off' this character once she is out of that given situation as she further outlines: 'sometimes I have to just take a minute and have a little cry in the toilet'. Grace (CS) likewise argued that she sometimes used to 'lay awake at night thinking about these kinds of cases if she had come across them on that given day'. It is therefore vital that those working in the field have a form of emotional outlet, a theme which feeds into the discussion in chapter eight.

Offering more of a holistic service can likewise be very emotionally debilitating for LA practitioners. Respondents expressed concern over not being able to help their clients holistically because sometimes it is impossible to draw the line at the professional context. In this context, the emotional burden becomes too much to manage. As Rhiannon (WS) put it:

> Sometimes there is nothing you can do for the client, they've used up every chance, and you know, the next step for the client is probably going to be a life on the street, and that's the worst situation because we get people who, you know, … there's just nothing we can do to physically help them, and they're going round and round in the system, and there's nothing more, and that is

> *absolutely* heart-breaking because they are just trapped in a cycle. The emotional toll is so hard to manage.

Rhiannon stressed that there is very little formal emotional support within her firm, so managing the emotionality of her work can be even more difficult and isolating. As highlighted in the next chapter, however, a form of working culture can be a particularly useful as a tool to 'vent' or to further 'release' any emotions to others in the field that '…you trust and can confide in' (CS). As the findings show, resilience is critical in this field. Having some form of 'camaraderie' with colleagues can be the emotional outlet that is needed. Robert (CS) placed particular emphasis on this within the criminal sector, as he states: "…otherwise defence lawyers get absolutely no emotional release whatsoever and frankly, that is just not ok!" The impact of not having any emotional support or outlet can take its toll in the form of occupational burnout. Burnout refers to:

> …a persistent, negative, work-related state of mind in 'normal' individuals which is primarily characterised by exhaustion, which is accompanied by distress, a sense of reduced effectiveness, decreased motivation, and the development of dysfunctional attitudes and behaviours at work. (Schaufeli and Enzmann, 1998: 19).

Brotheridge and Grandey (2002) explored the impact of two types of emotional labour as predictors of burnout. For example, they looked at 'job-focused emotional labour', as well as 'employee-focused emotional labour'. The former relating to work demands and the latter relating to the regulation of feelings (*ibid*: 17). In line with the work of Hochschild (1983) as identified above, one of the most significant contributors to burnout for LA lawyers is the role of 'surface acting' as it ultimately leads to emotional exhaustion. Rachel (HS and partner) stated that for her, having that 'constant feeling of guilt' of always having to try and put on a brave face was a constant strain. Likewise, as Grace (CS) reasoned, having to respond in an 'emotionally suppressed' manner to her clients, particularly in the case of very sensitive cases as mentioned earlier, this can lead to very high levels of occupational stress. She further stated that this emotional toll places an 'immense weight of pressure' on the LA lawyer

themselves as they are having to always 'act' in a manner that deviates from their natural 'human' emotional response.

Maslach and Jackson (1986) identify three states features of burnout, including emotional exhaustion, depersonalization and diminished personal accomplishment. Ultimately burnout is a crucial concept to raise, as this can ultimately affect how employees carry out their work. Exhaustion combined with low workplace support can collectively lead to occupational burnout, to the point that this can have long-term ramifications on the individuals working within that given environment. This is evidenced in a response from Ash (IS): "Some days, I want to absolutely give up. I get *so* exhausted that I just can't cope you know, then I don't perform in the way that I should, and it is just a vicious circle!" (his emphasis). This coincides with Maslach and Jackson's (1986) three stages of burnout as aforementioned.

Evidence of burnout can be seen in this research, not only because of the emotional demands, but some of this can also be attributed to increasing workloads and restrictions on time. For example, James (CS), argued that because of the increased bureaucracy and the increased level of admin required, often "…you really struggle to feel that you have accomplished anything. There's just no time". As further evidenced in the extract taken from my field notes below, due to the frantic nature of LA work, it is not surprising that this can take its toll on those working in the field. Time is so restricted that this can impede on the work of the LA lawyer, particularly within the Duty Solicitor Scheme which has an 80% success rate as further stressed by Marcus (HS).

Duty Solicitor's come in two forms: police station duty solicitors, or court-duty solicitors. They are provided by the LA agency in England and Wales. Their role is to provide services to clients free of charge who do not have access to a Solicitor (on top of other work). This scheme allows someone who has already been charged with an offence to consult and be represented by a solicitor for their first appearance only (Law Society, 2019b). As a result, it is difficult to know how many clients a duty solicitor will get on any given day. For example, while Marcus typically had 7-8 clients in his working day, some days he would have none and others he would have nearer 15. The uncertainty of the role makes it extremely difficult for the LA lawyers to plan out their

days and likewise means that their time is never really under control. More than this, facing up to 15 clients in one day restricts the ability to work 'holistically' in action as this leaves no additional room to discuss any problems outside of the one specific legal problem that the client has been brought to the court for. Therefore, whilst Marcus seemed keen to portray himself as working 'holistically', his reality made it very difficult due to time and resource restrictions - a theme which has featured prominently throughout this chapter.

More than this, behind every client seen through the Duty Solicitor Scheme, is a different human tale. Marcus further alludes to this as being 'an element of thrill' as you do not know who is going to turn up next, which he found quite exciting. At the same time, Marcus argued that time is one of the biggest negatives of being an LA lawyer. While the disorganisation of time and spontaneity are both pivotal to LA work as evidenced in earlier chapters; this can lead to a lack of secure work-based identity and professional diminishment due to the lack of instrumentality within the day-to-day running of the role. However, Grace (CS) enjoyed having 'no shadow of the future' hanging over her in this sense. She enjoyed the temporal, short-term nature of her work saying it 'keeps her on her toes'. Arguably, lawyers have never had a linear time structure as their work has always been very much short-term in its nature, and this is true of lawyers more generally.

7.3 The legal aid client

Despite this thesis' focus on the LA lawyer, their working credos cannot be adequately understood in isolation from those at the receiving end of their services:

> I enjoy meeting the clients that I have because I learn so much from them, I feel very privileged to represent them, and they always challenge me. I just enjoy being able to help them, and you know, to gain courage in themselves and to give them a voice. That's my main objective, to help people who haven't had the same benefits that I've had in terms of education and training to give them the opportunity to put forward their case when they might not be able to do it themselves. (Louisa, CLS)

Jane (HS) stressed the importance of 'client-centred practice'; placing the client and their needs at the forefront is 'both rewarding and challenging', and 'it creates a closer community between not only ourselves and the clients, but also with colleagues as we seek to address an array of wider social issues'. It brings together those in the field, resonating with a form of working culture which will be explored in the next chapter. Jane further emphasised that she "…feels privileged to represent the clients I do". In the context of the lawyer-client relationship, Jane is the 'powerful' partaker. In this sense, feeling privileged to represent her clients makes Jane feel important and worthwhile. Social justice prevails over monetary return here, as evidenced in Jane's response. This links back to chapter six which discussed why individuals were drawn to the LA occupation in the first place.

James (CS) further states that by retaining the holistic imperative, more 'individualised justice practices' are present. More considerable attention to individual needs gives the opportunity for the LA lawyer to provide 'dignified justice', an example of which can be seen in a story recalled by James (CS) below:

> The client (Fred) walks into the meeting room looking extremely distressed, behaving very erratically. He has been charged for being caught in possession of class A drugs. As James (solicitor) asks him to sit down, he asks Fred where he has been and why he is subsequently late for court. Concerned Fred wasn't going to turn up at all, James began questioning him further on his whereabouts and current home address. It was at that moment James realised that Fred did not have a permanent home address. His heroin addiction had become out of hand, he had just lost his mother due to long-term illness, and Fred was going from shop doorway to doorway, just trying to seek shelter and survive the night. James's next client was waiting outside, but that didn't deter James from continuing to help, advise and comfort Fred. James spent an hour with Fred that day when he should have only seen him for 5 minutes. It was at this point that James prioritised the client's need over caseloads.
>
> A few years later, James is walking down the high street, and he bumps into Fred. Fred has just been released from prison and is starting work at his father's auto mechanic business. Fred runs up to James and hugs him, says 'thank you

> so much, you changed my life' and walks on to go about his day to day activities. (Extract from field notes, December 2016).

James prioritised the individual client here over caseloads, despite having an endless list of clients waiting to see him that day. The outcome of this was extremely positive for his client. Nicholas' (CS) states, however, that: "…often we are overvalued by our clients". Most lawyers in this study shared the view that their clients relied far too heavily on the lawyers for all kinds of problems. Over-reliance can cause difficulties in keeping the relationship professional: "it can sometimes be difficult to manage the client relationship because sometimes they get a bit too needy because you can be their only hope' (Rhiannon, WS). Links can be drawn back here to emotional labour. Maintaining an outwardly professional front, despite emotional pressures proves to be even more vital in these situations. As Swift *et al.* (2013) argue, often lawyers are not equipped to deal with the complex needs of clients, and the ability to emphasise with clients becomes lost as increased efficiency overrides the ideal lawyer-client relationship (Dehaghani and Newman, 2019).

Rhiannon also highlighted the need to be aware of their own safety, and states that: "you have to be really good at managing your clients because sometimes they're vulnerable, and sometimes you get quite aggressive clients". It is often forgotten that LA lawyers are usually left in a room with just themselves and the client, and this can have significant implications. Rachel (partner and HS) explains:

> It's very different from dealing with, you know, business clients. You don't have to go to a meeting with business clients, and you know, be worried that you're going to have to press the emergency help button at some point…. I mean I've never had to use it, but ultimately in our building, there are emergency buttons in each interview room. I mean there have been situations where I have felt extremely uncomfortable, but that's one the skills you need to have to be able to know and detect when things are going to escalate and being able to remove yourself from the situation before it goes too far.

Being able to pre-empt behaviours mirrors the work of Brotheridge and Grandey (2002) who argue that the 'regulation of feelings' is implicit of being in an

emotionally-charged role. LA lawyers fundamentally face significantly different hurdles and challenges when dealing with their clients, in comparison to their private counterparts. “Lawyers must often be more than lawyers” (Natt and Gantt, 2004-5: 365). In this sense, they can often face issues which push the boundaries of being ‘legal’ as defined by traditional standards. However, “it is these relationships that primarily inform lawyers’ use of discretion” (Oakley and Vaughan, 2019: 111). This is even more apt when the client is vulnerable themselves and upholds an inability to resolve their issues themselves because of illiteracies. This can result in deceit as the LA lawyer often has to rely on their client to provide them with a lot of information to build a case, as further stressed by Marcus (HS). The reliance on the client for information is even more important when the LA lawyer and the client have no previous history. Client illiteracies can likewise further exacerbate client crises:

> It’s sad because a lot of the clients that come to me can barely write their own name, let alone attempt to solve their own crises. Half the reason some of these clients come to us is because they are unable to resolve other problems on their own. (Maddie, CS)

LA clients face unique vulnerabilities. As Maddie further alludes, LA clients are often demonised regularly. She further explained that the more LA funding is being withdrawn, the more it turns into a narrative that people using LA are ‘antisocial’ or a ‘burden’ to society, as opposed to them being deeply troubled as a result of wider structural failings in society. Maddie said that even from her own family, she often hears discourse such as “ew, you are working with them?!” when her clients are mentioned. The way in which LA is viewed poses two sides to the coin. On the one hand, it is sometimes seen as being a way of helping these vulnerable people to get back into society, but on the other there is often a concern that those being assisted via LA should not be accepted back into society as evidenced by Rachel (HS). As Boon (2015: 3) maintains: “Professions perform a vital role in society. They are often inducted into a moral system that seems to stand at odds with standards of everyday life”. Ensuring that these individuals, therefore, make the ‘right’ decisions on ‘problems with a moral dimension’ requires specific practical measures to be taken, which are informed by ethics (Boon, 2015: 3).

Lawyers uphold one of the most controversial moral systems in the sense that "it requires them to defend murderers, abusers and terrorists with the same vigour as they would defend an innocent child" in their social role (Boon, 2015: 4). To this end, LA lawyers uphold a very unique and special relationship with their clients in the sense that they are almost expected to dedicate and devote themselves to the client despite how morally undeserving they happen to be (Green, 2016). An element of this is professional detachment, as lawyers are prohibited from 'judging' their clients in, but rather serving them as part of their professional duties. A vital role of a profession is to make decisions that may go against what others think is right (Boon, 2015). Yakren (2008) argues, therefore, that: "Prevailing norms of legal practice teach lawyers to detach their independent moral judgements from their professional performance- to advocate zealously for their clients while remaining morally unaccountable agents of those clients' causes." Maintaing independent moral judgements can lead to both personal and professional dissatisfaction, particularly the former as they are forced to submerge their personal feelings on a day-to-day basis linking back to the role of emotional labour.

> No social role encourages such ambitious moral aspirations as the lawyer's, and no social role so consistently disappoints the aspirations it encourages."
>
> William H. Simon (1998)

Assessing the correct level of client support that is required is sometimes tricky. Lawyers practising within the LA remit have to curb their ideological commitments in order to 'professionally' manage their client-lawyer relationships (Katz, 1982). This management of relationships is now more critical than ever before. Not only due to time constraints and the need for efficiency due to increased bureaucracy as a result of LASPO and subsequent cuts; however also for the sake of their own needs. To this end, the 'new' LA lawyer is very much in a vulnerable position as not only has the relationship between the lawyer and client been tarnished but so has the relationship between the lawyer and the state. The LA lawyers' ability to 'do-good' is becoming increasingly limited.

> Taking seriously the situational and relational vulnerabilities of those not conventionally considered vulnerable helps us think more carefully and

effectively about these profound social changes" (Oakley and Vaughan, 2019: 110)

7.4 Summary: is 'do-gooding' still feasible?

Given that LA lawyering has previously provided impetus and means to address broader social issues, there are limits as to what is achievable in light of the cuts to LA. The consequences that the reductions in funding have had on the lived experience of those working in the profession have been highly detrimental as it begins to take its toll both emotionally and physically. While those in this sample pool are facing significant hurdles with being able to practice holistically, surprisingly within their aspirations, they still attempt to cling on to the holistic imperative very tightly. While the physical cuts to LA continue to batter the system, vitally, the humanistic motivations remain just as compelling as they were before despite the more detached lawyer-client relationship. A wider gap has been created between the LA lawyers aspirations and practice, as while on the one hand, they still typically uphold a desire to 'do-good' as evidenced throughout. At the same time the LA profession is being squeezed from external pressures restricting their day-to-day practice, and further capabilities to address the wider social need despite the status and need of the clients remaining the same.

Nonetheless, Marcus (HS) stresses the absolute need for a holistic approach to be maintained in light of the above:

> …saving that home is key because if you don't do it, that family and that person is potentially street homeless, or they're sofa surfing, or at best in the private sector and the amount of money they will spend on, you know moving and accommodation will really affect their life chances and you can just see how their lives will go completely downhill. You'll then struggle at work, your kids' education will be affected, and it's like sliding doors, you know where you have this moment, this moment where your life can change and that often is the possession proceedings, you know, and you lose absolutely everything and that's why it's so important to fight hard for it, and why the lack of legal aid provision in the area can be so *so* devastating. (His emphasis)

Jay, (HS) a colleague of Marcus reasoned, that it can even be down to a simple thing like knowing when to put in certain applications beforehand, and unless you have the chance to be advised by a duty solicitor then you will not know what to do. For example: "if you don't make an application for support or your housing cost by the time you reach your first hearing, even if the court has the discretion to save you, it will just be an outright possession order…. and that's just the attitude the Judges tend to take." Without legal advice, those most in need are often extremely unaware of the legal consequences that could occur if legal proceedings are not done correctly. Marcus' response sums this up nicely: "You're the only person standing between these people and disaster. You could ignore it and just go to the pub, but it's *always* on your conscience. You at least want the satisfaction that you did everything you could, and had the chance to save that client." This notion encapsulates the tremendous character that some LA lawyers possess. While sharing these narratives highlights the complexities of working within such a precarious world, vitally by doing so, it also gives voice to those who seek to maintain a strong sense of altruism within an otherwise economising profession.

While it is of the utmost importance to show the encouraging and heartening side to LA lawyering as has been done in the previous sections, vitally, addressing the undesirable or adverse features of the day-to-day working lives of these individuals proves to be just as important. In line with the work of Newman (2013), what is suggested here is that to some extent, there were competing narratives between the interview and ethnographic data. This demonstrates further the ever-widening gap between the aspirations and reality of practice amongst LA lawyers. For example, Marcus stresses the absolute need for a holistic approach above, but this was not implemented in every client meeting I observed. In some cases I witnessed him very swiftly rushing through the legal matters to move onto the next, without taking any time to make sure the client was ok. This tended to be on the busier days during court duty service where he had 8+ clients. This evidences that the more time is restricted because of limited LA allocation, this can have an adverse effect on how practice occurs in reality.

On one particular occasion, I observed James making a phone call to a client who was in prison. Due to technical difficulties, the line kept cutting out, and rather than persisting to keep ringing back James gave up after the second attempt because he did not have the time. Rachel also cancelled a couple of client meetings while I was at Silverman and Co because she had other clients that she thought would be more likely to be granted LA funding. David (HS) likewise maintained a very blunt manner in his meetings with clients and said outright if he thought the client had no chance. In most cases, he was not even willing to attempt to get funding for these individuals as he knew how onerous the task would be. Clients were turned down at least once a day. Perhaps the ability to refuse cases is only feasible within the housing sector however, as 80% of housing matters are LA funded and therefore the demand for it is excessively high.

This section has likewise highlighted that those working in the 'profession within a profession' have had to sacrifice some of the broader 'holistic' elements of their roles, which has unsurprisingly attracted a lot of pessimism not only amongst those working inside the profession, but also to the clients as their access to justice becomes more and more restricted as stressed by Marcus (HS). Undoubtedly, due to limitations on services, the professional marginality of the LA lawyer has been accentuated to the extent that the lawyers are becoming increasingly detached from their clients. 'Just getting by' in the profession, as stressed by Nicholas (CS) now becomes the fundamental focus in the day-to-day working lives of those practising within the remit of LA.

Despite this, LA lawyering's existence is still noticeably underpinned by their valiant and fearless actions with supporting their clients. There, therefore, remains a strong desire to act in an effective and idealistic manner. In many instances, the LA lawyers' concerns with making their work entirely 'client-centred', and their subsequent enthusiasm for 'do-gooding' is very evident in the examples laid out above and their dedication to their roles. Their compelling narratives, from stopping people committing suicide to acting as a resource for the unemployed or homeless, several of these individuals embody and maintain the quest to want to "uplift society" in some way or form despite the inherent complexities of LA funding.

As a society, we often overlook these humanistic obligations as being valid vocational components. The unflattering portrayal of LA lawyers in the media often fails to recognise the benevolence of those working in the field and may even cause them to doubt their worth. For example, many LA lawyers often downplay the importance their work, as Rhiannon (WS) illustrated in her comment: "… I mean I suppose I am just one of those bleeding-heart people… it just comes naturally to me. I do not really ever think about it; it's just part and parcel you know…" Energised by *real* encounters with scenarios in which professionalism, empathy, and compassion for clients are regularly displayed, undoubtedly LA lawyers remain to be a pillar for society despite the challenges they currently face.

Chapter Eight

Moving beyond the concept of 'Occupational Culture' to a 'Shared Orientation.'

> There's definitely an ethos of people helping each other out in this field; there's a real thing of… if you're in a position to help someone sort of further down the ladder from you, who may be trying to get established themselves, then you'll naturally just help them... and I always just say, '*don't thank me, just do the same to someone else when you're in that position*' and that's just how this occupation works. (Robert, CB)

This chapter sheds light on the working culture of the LA lawyer, an area which has been previously omitted from the academic gaze. As identified in chapter three, this thesis has already identified deficiencies in the literature on occupational culture (hereafter OC): the fixation in the literature on other criminal justice agents, such as police and prison officers; its lack of conceptual clarity and the limited range of studies in the legal setting. This chapter, therefore, contributes to this body of literature through the identification of an LA working culture, offering a meso-level analysis. This engages well with the thesis' interest in how culture and work interact, as guided by research question three: how do the dynamics of culture and LA work interact within the post-2012 cuts setting?

Coinciding with the work of Strangleman and Warren (2008: 294-295), there is "…the continued need to carry out ethnographic studies in the workplace in-general, in order to better understanding emerging, stable as well as declining work cultures". A working culture as a mechanism suggests unity in practice as a way of functioning. This becomes even more important when the 'profession within a profession' in question is being pulled apart because of the political and economic backdrop in which it is placed. In line with the research conducted by the likes of Kemp (2010), Newman (2013), Sommerlad (2001) and Stephen *et al.* (2008), it is suggested here that the cuts to LA have challenged the occupational identity of lawyers as confirmed in chapters six and seven. Francis (2005:189) states that lawyers face "distinctive ethical pressures" that shape their patterns of work across particular arenas. Such experiences

feed into the fragmented nature of the 'profession within a profession', compounded by cuts, further "…undermining the sense of one profession and further highlighting the increasing dissonance between the professional associations and the wider profession" (*ibid*). As lawyers are forced to move away from the public service ideal, this leaves them with an 'undermined sense of purpose' (Newman and Welsh, 2019:37). Lawyers in the field experience or respond to these changes differently in both positive and negative ways. Challenges may conversely be good for reaffirming and strengthening the working identities of the LA lawyer, something which has been adversely affected because of their restricted professional practice as outlined in chapter six. Crucially, as Robert (CB) argues: "our occupational identities ultimately just become firmer when they are challenged". Sommerlad (1995: 160) likewise argues, an attack on the legitimacy of LA lawyering often makes the lawyer more entrenched in their professional ideology. An insight into how culture and work interact in the precarious LA context, therefore, benefits the wider academy, but also the legal community as it pays attention to the more intricate runnings of the occupation.

Robert's indication of a collaborative working model in the opening excerpt of this chapter shows that he considers a form of working culture exists, a stance held by the majority of respondents in this research. Lebaron and Zumeta (2003: 468) argue that: "Lawyers culture mode of being and behaving is shaped in multiple ways by their training in law and their association with other legal professionals". Though, it has become "…increasingly difficult to conceive of shared ethical values (however illusory) or impose a uniform detailed code of professional conduct" due to the fragmentation of the legal profession in England and Wales (Francis, 2005:189). The viability of having a set of uniform 'core values' which unites the 'profession within a profession' is improbable, but there remains to be 'a collective dimension' linking these multiple areas of work.

Emergent from the data is a working culture, coined a 'shared orientation' (hereafter SO). As evidenced in this chapter, when an individual becomes an LA lawyer they have to be prepared to carve out their own approach rather than seeking a template way of operating due to the individualised nature of the work, and the deficient levels of education and training. As ascertained in chapter five, often LA is not given much

attention within either remit and therefore LA lawyers have to 'find their feet' themselves very early on. A shared orientation brings a sense of cohesion to a profession which is otherwise fragmented both internally and externally. Internal fragmentation encapsulates the varying specialisms, varying caseloads, different job titles and different workspaces that form the LA profession. External fragmentation refers to the increased fragmentation and marketisation of wider justice services, as well as occupational marginalisation[52]. The following features of a shared orientation can be identified: shared morals and values, cohesion and reciprocity, active socialisation processes, resilience and a united drive. It is essential to state that while the shared orientation is passed down from generation to generation, engagement with it remains a choice as opposed to an obligation for the LA lawyers within it, as explored below.

This chapter justifies the emergence of a SO, what it looks like and how it functions. In doing so, the first section demonstrates the limitations of 'occupational culture' as a framework of analysis by drawing on some additional literature, as well as building on the literature outlined in chapter three. The second section explains the concept and features of a SO, emphasising the extent to which it offers unity as a way of functioning. The final section addresses the impact of the physical working environment on informing and sustaining a SO. In doing so, this chapter contributes to both meso-level and micro-level analyses, as it draws on the wider profession, as well as the day-to-day (inter)actions of those within it.

8.1 Updating occupational culture as a framework of analysis

> Occupational culture tends to signify singular occupational groupings, job titles, static occupational boundaries, standardised working spaces, and has been criticised for its lack of theoretical development. (Chan, 1996: 41)

[52] Occupational marginalisation refers to the sub-ordinate positioning of the LA profession. As ascertained in chapter five, the LA profession tends to sit on the peripheries of the wider legal profession as a result of the way in which it is perceived by wider society, as well as the rest of the legal profession.

This section uses existing literatures on occupational cultures to help construct and facilitate the argument for the idea of a SO. The concept of OC tends to offer a deterministic and blanket model of understanding, as established in chapter three. It has been noted that therefore the 'deep-seated' nature of occupational culture can become an obstacle to change in its own right (Burke and Davies, 2011:4). In the context of the police, there is a tendency to 'over-simplify' the concept of culture (Cockcroft, 2012: 11). Over-simplifying in the sense that work on police culture has previously been critiqued for the lack of appreciation for cultural differences, as well as being insusceptible to change (Silvestri, 2017). While some developments have been made in the area of policing culture (see Chan, 1997; Loftus, 2010; McCarthy, 2012, Silvestri *et al.,* 2013), there remains "… a sustained, oversimplified, and unflinching attachment to the idea of police culture as monolithic, static, and negative" (Silvestri, 2017: 297).

It is essential to also look beyond the remit of policing OC. Heidensohn (1992:75) states that: "…all occupations develop some kind of lasting culture". Occupational practice has also been observed within the context of health workers. Holman and Borgstrom (2016) argue that: cultural, social and environmental influences are useful when looking at behaviour in the medical workplace. Likewise, a form of 'inter-professional collaboration' is a necessary component of social work (Gocan, Laplante and Woodend, 2014). Within the context of business management, the importance of having a form of collaborative working culture is likewise key (Cooper *et al.,* 2017). While there might be some similarities with the traditions, norms and values that are upheld within each occupational culture, it is not always helpful to engage comparatively due to the individualised nature of work (Beck, 2000). As Bensman and Lilienfeld (1975:187) justify, occupational groups "… produce unique and peculiar combinations of attitudes appropriate to the craft as well as to the societal and social position, ideological and material interests, and commitment to the society at large".

The small amount of research concerned with documenting legal culture serves as an essential reminder of the ongoing significance of 'culture' as an enduring theme (Friedman, 1975; Sarat and Felstiner, 1988-89; Schiltz, 1999; Lebaron and Zumeta, 2003; Cownie, 2004; Chambliss, 2010 and Chan, 2014). In line with the work of Schein (1985) and Deering (2011), elements of occupational culture apply to the LA

world, such as the idea that an occupation has written rules, values and accepted behaviours. The notion that a form of working culture is transmitted to new members is also pertinent, as evidenced in the opening excerpt of this chapter from Robert (see VanMaanan and Barley, 1984). As Strangleman and Warren (2008: 42) argue: "culture is not simply a variable that can be altered to achieve a specified outcome." OC, as a framework of analysis, does not sufficiently explore diverse occupations as it emphasises sameness. While occupationally different kinds of LA lawyers might be associated with the wider LA profession, the nature of the work that LA lawyers do means that they need a working model that cuts across their different occupational groupings. For example, collaboration between a barrister and a paralegal crosses different occupational boundaries than collaboration between a solicitor and a paralegal, as each role has its own identity and its own way of operating. Exchanges within the LA world can, therefore, occur on multiple levels. These can be in the form of solicitor-solicitor, barrister-barrister, solicitor-barrister, para-legal-solicitor-barrister exchanges, or likewise interaction with other salient members in the field (as evidenced in figure 9):

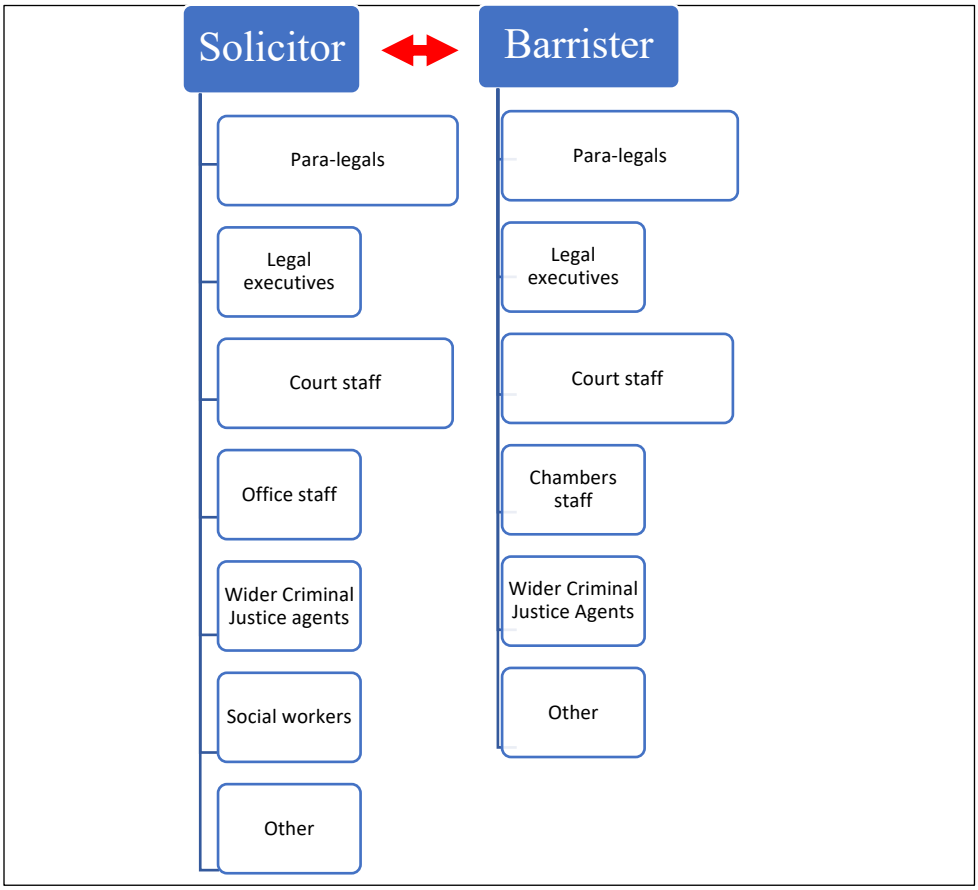


Figure 9: Interactive bodies constituting the legal aid world. (Source: self-elaboration)

Likewise, different legal specialisms mean different working environments. Those working within the same specialisms can have different job titles, which can result in their day-to-day work being remarkably different. For example, a legal executive may have similar working practices to a solicitor as they are employed to do very similar things, but their training routes into the profession are entirely different (The Law Society, 2019d). Heterogeneous working spaces also impact how LA work is experienced. For example, a housing solicitor who works in a high-street firm such as Rachel at Silverman and Co, versus a housing solicitor who works for a law centre, will experience vastly different working practices. Likewise, they may think and interact in a completely different manner. Rachel works amongst a range of other legal specialisms, whereas a law centre operates in a different, more charitable sphere seeking to address broader socio-structural issues.

Solicitors tend to be employed by a firm or organisation; Barristers tend to be self-employed and affiliated with a set of chambers which can likewise uphold varying cultural attributes. Likewise, having a 'working base' makes a massive difference in comparison to self-employed professionals, as it encourages a form of collective orientation. For example, Paul and Andy, both barristers specialising in criminal law, refer to the role as 'individualised' because of the nature of their self-employment. Consistent with this, both respondents expressed the prospect of being able to 'do whatever they like', 'whenever they liked', as they were not necessarily tied to a traditional employment relationship, unlike some of the solicitor respondents within this sample. As Peter (CB) reasons: "just because we're self-employed, it doesn't mean that we don't share concerns and practices you know. It is even more vital that we do so in *our* positions" (his emphasis). Self-Employed professionals still face the same challenges as a result of the cuts and equally require support from their peers.

What is missing is a model that explores and permeates these fluid occupational boundaries between the different firms, job descriptions, ranks and workplaces, and the SO which has emerged from this research contributes to that gap.

8.1.1 Justification for the identification of an LA culture

> Lawyering is both an *individual*, as well as a *group commitment*. It requires a collective mindset, which allows you to function well and efficiently, but it's also very much focused on individual practice. It's the only way you can pull through and succeed at the same time. (James, CS: his emphasis)

Professions reflect certain behavioural dispositions that imitate a distinctive culture, as evidenced by the founding fathers of sociology (see Durkheim and Bourdieu). The literature on occupational culture cannot fully reflect the LA world, so it needs amending in light of what this research has found to be more representative. The need for an accurate representation of the LA working culture is twofold: (1) for the benefit of the academy, to address the gap in the literature and (2) for the benefit of the practitioners in the field, as it was in their interest to identify a suitable form of working culture. Two-thirds (20) of the LA lawyers in the sample identified a form of 'working culture', which the vast majority suggested is fluid, adaptable and unique in its nature; however, they found it difficult to define specifically. Ash (IS) reflected on this:

> Yes, I would identify a working culture, but I wouldn't say it's a *standard* working culture like you would get in say a police station. I can't necessarily describe it in clear terms, but it's definitely there, and it's definitely unique. (His emphasis)

As James notes above, LA lawyering is unique, but there remains to be a collective which brings everyone within the LA world together. Grace (CS) says that it is impossible to categorise LA lawyers into a single group because each person deals with their cases and has a unique experience of the complexity and diversity of the role. Alistair (CB) contrasts this, noting that "historically, lawyers have been all shoved together under one branding, and the variations within the profession have been ignored", which he considered being problematic. Grace argues that you cannot homogenise the profession, and Alistair likewise states that labelling the occupation as homogenous has always been problematic in the sense that it ignores the diversity of the 'profession within a profession'. The participants in this research were calling out for a fitting, appropriate and all-encompassing conceptualisation of their world.

Marcus, (HS) stated that "it would be nice to finally have someone that understands our working world, especially in its current context". Respondents told a consistent story, of the desire to be 'recognised' or 'given voice' in a way in which encapsulates the very nature of the profession. Alice, (WS) captures this nicely in her response below:

> We have a commitment to making sure we treat each client individually in line with his or her needs, so why should we be thrown all together under one heading. We deserve some spotlight too… the types of cases that are now eligible for legal aid funding are so niche and so it's very rare that the average person in society will need us…so a large sector of society as it is don't really appreciate *anything* we do. It would be nice if someone could offer an accurate and realistic insight into our working world for once. (Her emphasis).

In line with Alice's response, Nicholas (CS) emphasises understanding the unique and nuanced nature of the LA world:

> We're not like any other occupation really, plus I don't want to be grouped alongside other occupations. We are on the margins most of the time, and so there's no way we can just be all shoved together under one heading with *all* lawyers. We are basically a separate profession and explanations of our profession need to reflect that. We need someone to take into account the *unique nuances* of our roles. (His emphasis).

Louisa, (HS) likewise identifies a need for a collaborative working culture:

> I think we definitely have some form of a culture, yes, absolutely. We're very collaborative in what we do and that's really great… because we're all essentially trying to achieve the same thing… you know we can't always deal with everything, but we try and discuss clients with each other, and then there's always someone else who can help or can find a way to deal with the situation, so that's really useful.

Nicholas (CS) likewise states that:

> There is a degree of group work, but we all have different motivations and reasons for doing this type of work. Ultimately this is going to show in our day-to-day practice. We are all on our own journey, but sometimes we come together to help us get through the ups and downs.

Louisa and Nicholas recognise the ups and downs of the LA journey that all in the profession will face at some point. They stress that being there for each other is essential because they know at some point they will need the others to be there for them. Likewise 'being in it together' makes it easier to get-by in the profession, as they are all facing the same challenges as a result of the funding cuts.

Surprisingly, while non-LA lawyers have been given attention within the broader remit of organisational studies, there remains to be almost nothing on the working culture of the LA lawyer. What follows is, therefore, an exploration of the working culture of LA lawyers in the form of a SO model. The themes derived from the participants' responses presented above will be further explored, including commitment, being on the margins, ups and downs as well as coping mechanisms.

8.2 What does a shared orientation look like, and how does it function?

Marcus (HS) spoke of a form of 'orientation' that is shared amongst all the different bodies practising within the remit of LA. He described this as "the lay of the LA land". An orientation, in this sense is an informal mechanism that both affects and explains how an occupation functions, existing beyond the walls of formal education and training. Marcus states that this orientation is 'learnt on the job' as those who have been in the field pass it down. However, some LA lawyers cling to the mechanism more than others depending on their position, working environment and stress levels. In this vein, a SO is a working model that emphasises diversity rather than conformity. It offers a cultural model which is individualistic in the sense that those within it may or may not have the same grip on it, moving away from the 'blanket model' of an OC. Likewise, it is heterogeneous in its nature to encapsulate the diversity of LA work. As Nick (CS) states: "I might do my job one way, but the person sitting next to me in the

office might do it a different way, and that's absolutely fine". Different cases undertaken vary in terms of legal requirements, and likewise the associated holistic elements of the role can challenge each LA lawyer differently (building on findings from chapter seven).

Jay (HS), stated that "the LA role is very much fluid in its nature", and when thinking about the role of a working culture, "…multiple cultures may exist within the workplace, dependent on different firms, charity organisations, law centres, courtrooms and different geographical locations" which echoes the work of Schein (1985). Different management styles, client groups, as well as different cultural assumptions can further drive how a form of working culture is manifested in different working environments (*ibid*). A SO encapsulates the unique and multi-faceted working environment of the LA occupational terrain. It accommodates fluid occupational boundaries, varying occupational groupings, multiple job titles, as well as different working spaces (see figure 10). Occupational boundaries refer to: "… the process of setting and negotiating boundaries which differentiate between fields of knowledge and expertise" (Kuna and Nadiv, 2018: 849).

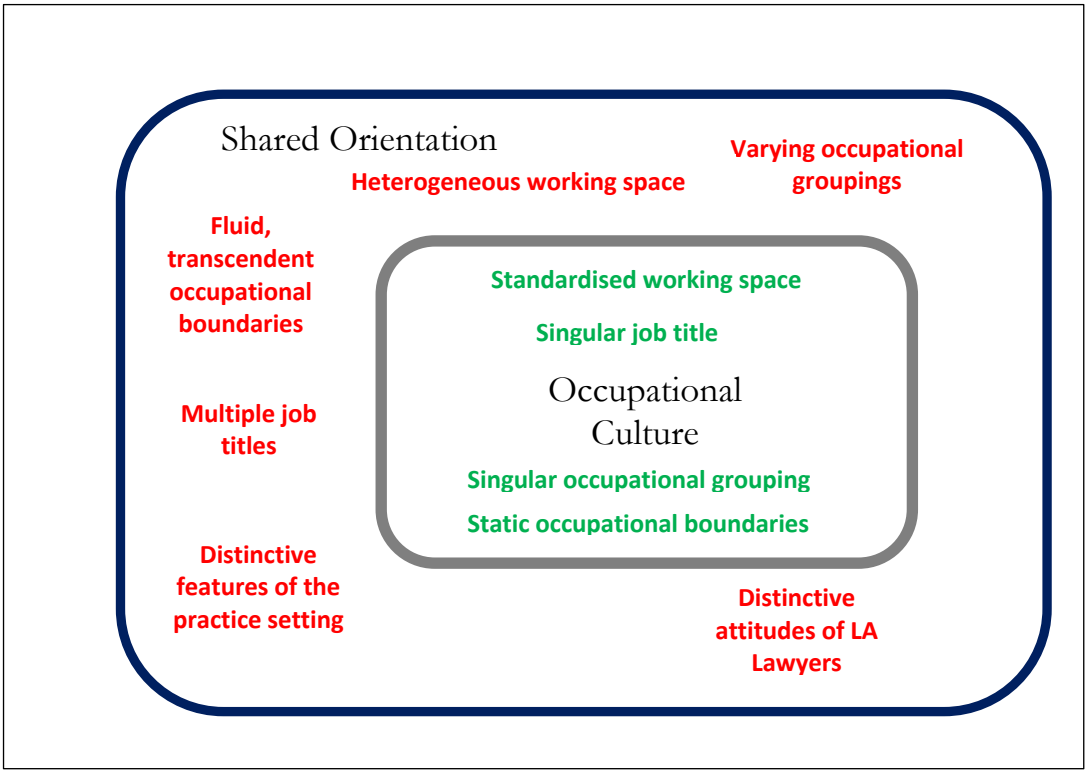


Figure 10: diagram outlining the features of a Shared Orientation. (Source: self-elaboration)

A SO as a framework of analysis is a cultural model which is sustained by both teamwork and individualism, which transcends each occupation in its adaptable form. Jay (HS) recognises: "...sometimes I refer to it as being *alone in a crowd* you know. It's a very weird and unusual situation. We all have similar tendencies, but we are all on our own paths". As the complex array of organisational and performance spaces generate a large amount of cultural heterogeneity in LA lawyering, this can lead to apparent cultural distinctions. For example, my fieldwork indicated how solicitors were distinct from barristers in important ways, such as entry into the profession, the nature of their work, client interactions and working environments. There were also divisions in their working identities, as they practised across a range of different specialism across the civil and criminal remits. A criminal solicitor such as James negotiates a different working space (the courtroom), to Ash – an immigration solicitor – who is situated in a law centre. This, therefore, makes it difficult to apply a singular OC as a strict framework of analysis.

LA lawyers encounter a very unique, yet multifaceted working environment in the sense that they often sit on the peripheries of the legal profession, yet uphold a dual responsibility to act on behalf of both their clients as well as the state. LA lawyers in the 2010s likewise face an increasingly complex web of controlling bodies and regulations- The Ministry of Justice, The Legal Aid Agency and The Law Society have all taken on new regulatory powers that influence everyday practice. SO can be best understood as a collaborative working identity that features particular norms and values that are mutually upheld within the LA community like a form of OC. However, it moves beyond that to suit the different levels of engagement which each worker has with the profession. For some LA lawyers, working alongside other LA lawyers can be tense, troublesome and unnecessary. Equally, for some LA lawyers the experience of working alongside, and interacting with others can be both productive, helpful and necessary. 'Cultural dissonance' allows for these variations in working relationships. Derrington and Kendall (2007: 125) refer to cultural dissonance as "…a sense of discord or disharmony, experienced by individuals where cultural differences are unexpected, unexplained and therefore difficult to negotiate."

As illustrated in figure 10 above, likewise distinctive features of the practice setting, such as the physical environment, funding model/s, client base, client relationships, holistic work, as well as the various ethical models adopted all contribute to generating the SO in each working location. All these themes have been discussed in depth in previous chapters, and feed into the construction of the cultural model emergent in this chapter. Alongside this, distinctive attitudes of LA lawyers, for example their perception of being a separate profession as a 'profession within a profession', wider professional marginality, being disrespected (in the media), the desire to uphold a holistic orientation, as well as adopting an alternative ethical paradigm in contrast in to their private counterparts, may all contribute to the existence of the distinctive SO model. As such, unique variations of the SO may exist depending on the distinctive features of each individual practice setting. For example, Silverman and Co are seen to uphold a different form of SO as they have a mixed funding model, to the law centre who carry out all LA or pro bono work, to the barrister's chambers which likewise facilitates LA and non-LA work from self-employed individuals. All locations are unique in the way in which they practice, and the way in which each LA lawyer operates from these bases may differ. The SO model accommodates these variations well.

The diagram below encapsulates these overall differences between OC and SO, exploring these across the individual, structural and contextual levels (see diagram below).

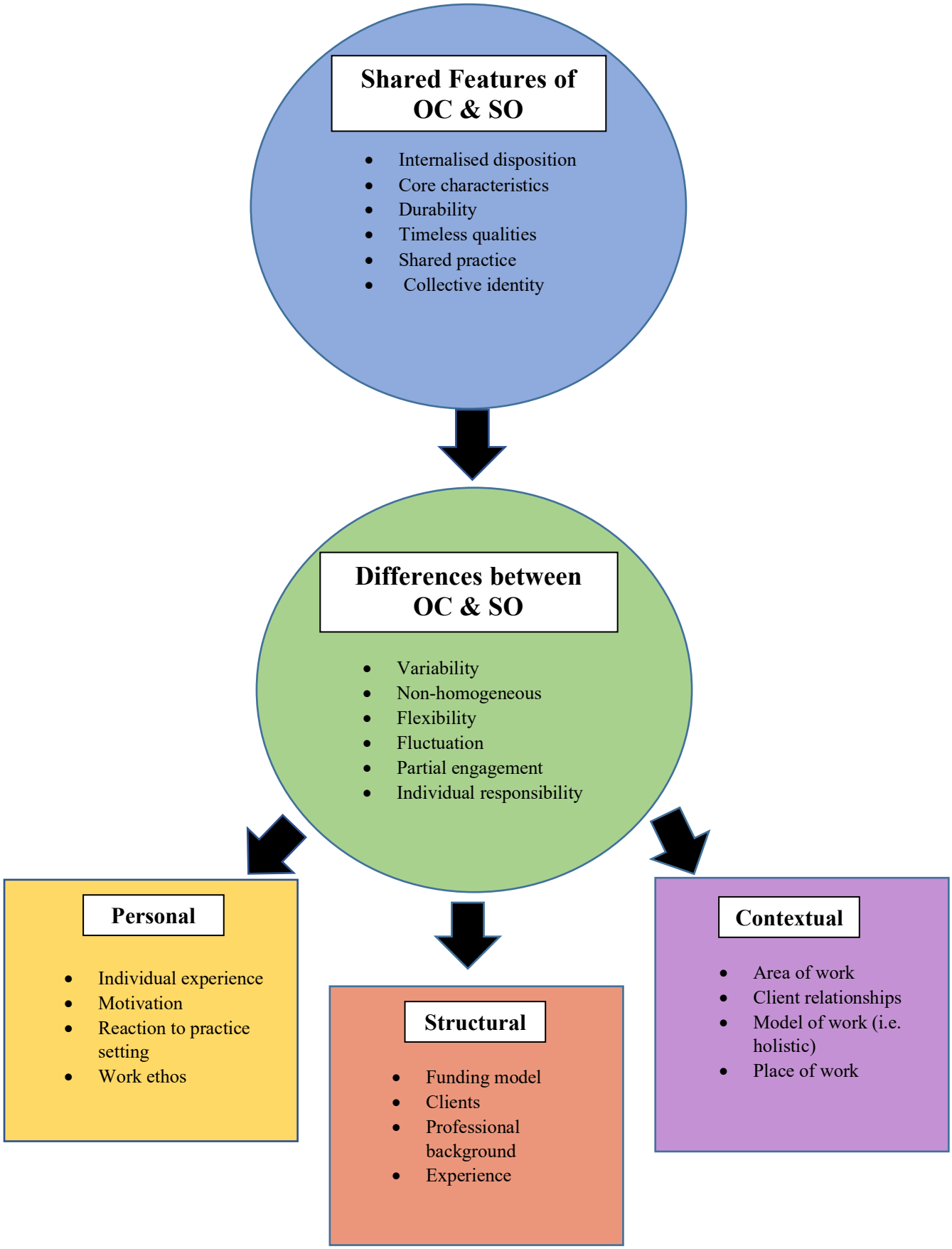


Figure 11: Similarities and Differences between Occupational Culture and Shared Orientation. (Source: self-elaboration)

The diagram above explores the differences and similarities between OC and SO for purposes of clarification. Both OC and SO are shared internalised dispositions in the sense that they occur once the individual is within a given field, and not during the formal stages of education and training. Both models have core characteristics which become timeless qualities as they are handed down through generations from the more experienced professionals to the less experienced. Likewise, both are durable against macro changes to the field and allow stronger identities to be formed in the face of diversity as to be outlined in subsequent sections. However, SO is far more variable and non-homogeneous. It allows for fluctuations and partial engagement, and it is down to each individual to choose to identify as being part of the SO, as opposed to a blanket model which has been historically and rigidly constructed that negotiates and restricts working behaviours. Evidence of this is given below.

8.2.2 What is the function of a SO?

A SO has four essential functions, which include its ability to: (1) offer unity as a way of functioning in a multi-faceted and fragmented occupation; (2) fortify support systems and collegial relationships in the face of diversity; (3) transcend occupational boundaries as well as negotiating personal and professional overlap; and (4) offer a way of 'finding your feet' beyond the remit of formal education and training. In a broader sense, SO can be seen as a meso-level coping mechanism which emerged or developed as a response to macro-level threats which comes to inform the everyday micro-level practice of the LA lawyer. The core characteristics which form a SO in the LA context are explored in detail below.

8.3 Core characteristics of the shared orientation

The following themes have been derived from the data to construct a SO: collaboration and cohesion; negotiating organisational change; resilience; fighting for justice; a concern for the public good; socialisation processes; and socialising outside of the workplace. These features are variable. While some might be of more importance than others to certain actors within the field, others may only uphold one or two of these

shared features. This fluidity and varying levels of engagement with the SO are influenced by new management practices, increased diversification of the LA workforce, austerity measures in light of LASPO (2012) and subsequent cuts to LA provision, as well as the modern individualisation of work.

> While we should all have a strong working culture or form of working collaboration, it is not at the forefront of everyone's minds. While my working culture is extremely important to my firm and me, it might not be important to the firm down the road. Likewise, their working culture might be very different to ours, and *I like that*. (Tom, HS; his emphasis)

These core characteristics are explored below in further detail.

8.3.1 Collaboration and cohesion: 'The glue that holds the occupation together':

Louisa (CLS) states that "we're very collaborative in what we do, and that's really great", she goes on to emphasise that "we're all essentially trying to achieve the same thing in our own individual ways". Louisa's explanation of her idea of a 'working culture' places emphasis on a collective effort; a sense of coming together to achieve, or to be successful in 'dealing with a situation' emerged here. A sense of being inter-connected makes the desire to 'belong' linked to a form of collaboration. The need for lawyers to do this 'in their own individual ways' emphasises the preference for a flexible model. When becoming an LA lawyer, it is clear that each individual has to be prepared to carve out their own approach to the role rather than seeking out a template way of operating as ascertained previously.

Andy (CB) agrees with this point about the collaboration:

> Particularly within the set teams, like the criminal team, if someone has a question of needs a bit of advice you would just ask somebody in the team. We're all self-employed and it doesn't actually make any difference to any of us what work we do, that's one of the main benefits of being in chambers. We always have a whole load of other people to bounce ideas off and quite often you'll disagree with them but it doesn't matter and you sometimes even want

people to disagree with you to get a bit of a challenge, and to build up your own skillsets.

Participants regularly cited that 'knowledge sharing' among peers was significant to the success of their everyday practice. This can be contrasted with private lawyers, where competition for promotion, status and clients impedes people from sharing knowledge. As Nicholas (CS) stated, the LA industry is particularly 'knowledge heavy' due to the holistic tendencies of the work, which calls for legal knowledge, as well as socio-capital knowledge. The day-to-day workings are very much 'knowledge reliant', particularly within the courtrooms and solicitors' offices. These spaces were characterised by large piles of very thick books stacked on the benches and in the offices; more often than not the rooms were surrounded by overflowing bookcases. Arguably the learning process continues as a tenancy or a training contract is secured. Tom (HS) compared this to driving: a "while you are safe enough to get on by yourself", thanks to a 'basic grounding', you are not 'perfectly able to drive'. The encouragement of knowledge sharing was particularly evident within Silverman and Co as the ethnographic field notes below highlight:

(Based in the shared office)

Colleague comes to the door

Rachel: Hi (name)

Colleague: can I ask you a question about eligibility… part 7 homelessness eligibility please…

R: Sure, have you looked through that book (points to book), that's probably a good start- but you can ask me a question about it…you know you always can (smiles)

(He proceeds to tell her about a case…Rachel states that they need to be able to show that he falls within one of the classes of eligible people)

R says: what <u>we</u> need to do is… (explains the legal situation)

Colleague says that the Home Office are still making a decision within 3 months

R: <u>we</u> need to look at the situation now- otherwise it is unlawful.

C: How would you advise I go about this though….

R: Right, well where is he now…

C: he's on a sofa….

R: Well temporary accommodation is better than nothing isn't it. At least he's not on the streets.

(They continue to discuss the legal matters)

C: Can I borrow this book (as he walks out of the room)

R: Sure… I think he'll be fine though…well he should be, we'll make sure of it.

(March 7th 2017: Extract from field notes,)

The discourse used within this exchange is of great interest here. Rachel consistently used the term 'we' to indicate that it was a collective effort. This demonstrates a further reliance on teamwork as despite it being her colleagues' case, Rachel very quickly takes it on as a mutual responsibility without even being asked to do so. Consistent with the actions of Rachel and her colleague above, I often observed respondents sharing books and resources, particularly within the offices in Silverman and Co. It was very common for individuals to pop in and out throughout the day to ask for advice, or to ask for a particular resource they needed to assist them with something. These actions were seen to be sincere and often involved light-hearted exchanges both during and afterwards. Respondents were particularly keen to make their colleagues feel comfortable, and at ease with the particular case they were working on, by ensuring that they helped or assisted in any way that they could. This sense of reciprocity was seen as a pivotal mechanism to maintain the running of SO. The LA lawyers in the field chose to act reciprocally as opposed to being obligated to. As mentioned in chapter four, however, the extent to which the lawyers performed to my presence needs to be questioned. While I got a mostly positive insight into their world, this may have not always been the case behind the scenes once I had gone.

Louis (CLS), Grace (CS), and Maria (HS) indicated that when working in a 'knowledge-driven profession,' it is highly beneficial to consult other colleagues to fill in the knowledge gaps and thus improve efficiency. As James (CS) outlines:

> Sometimes you just can't help watching other solicitors in court so you can learn from them. Because when you qualify, no one really shows you how things are done and as a trainee you can't practice either. You only get one

> advocacy assessment on your LPC[53], one interviewing assessment on the LPC and the next thing you know you're on your feet representing people. You know, there's nobody to practice so if you're in the CPS for example, they have Social prosecutors and they have Associate Prosecutors[54] and they're not legally qualified, so they obviously get a bit of practice on their feet but we don't, so we literally get thrown in the deep end.

James stressed the need for helping each other out within the field because otherwise you "literally have no clue". He further said that on his first day he got 'thrown in' and he did not have a clue what he was doing: "I think I just said 'I concur' and literally sat back down, and that was literally it" (laughs). Being able to rely on others to help when needed proved pivotal to the role of the LA lawyer due to sub-standard legal education and training. Ultimately, a lot of what is learnt 'on the job' aids development as further emphasised by James. In the same sense, James further iterated that even if he didn't know the other lawyers in the courtroom, there was a natural inclination to help each other out as it's the only way that "you can really find your feet" particularly for the 'newbies'.

There is likewise an embedded sense of camaraderie that can be detected from the start (by novices) and is sustained throughout, James argues. This appears to be an ethos that is entered into by LA lawyers, indicating a level of connectivity. While the lawyers were situated within the courtroom very much on an individualised basis with differing job titles, affiliations and roles; many still had the desire to knowledge share. The absence of obligation here makes this consensus work. As evidenced here, the LA professionals in this sample do not want to let others down (lawyers and clients alike), as they strive to represent the underdog as a collective (building on chapter seven). Being on the 'same side' means that they are invested in the role and work. Emerging from this investment is knowledge sharing and helping with work even if it is not their own, because it is their own volition to do so.

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[53] Legal Practice Course: see chapter four for more details.

[54] 'The CPS employs lawyers who are called Crown Prosecutors or Crown Advocates. They also employ associate prosecutors who are not lawyers, but who are trained to present simple cases in the magistrate's court.' (Victim Support, 2018)

Andy (CB) recognises, "… for me, it's all about coming together and sharing our knowledge. I've never been a solicitor but if I can help out then I will". This internalised disposition featured broadly across the LA community and was not specific solely to either solicitors or barristers, or civil or criminal circles.

Sophie (CS) likewise revealed that she feels 'fortunate' within her crime department because they all end up covering and working on each other's cases because:

> …sometimes I can't go to court or police stations so there's much more of a sharing the knowledge and because the law is changing so much in crime the whole time, we're all constantly have to keep up-to-date with the law so we constantly share emails, as we have like monthly kind of breakfast meetings where we go through updates and stuff like that.

Given the fact that the LA lawyer faces an ever-changing knowledge terrain which is very difficult to keep up with, it makes strategic sense to rotate the task of keeping up-to-date to find ways to manage this alongside heavy caseloads. The demands of this have been exacerbated by the increasing levels of paperwork and administration that the LA lawyers are required to complete. Louisa (CLS) emphasises the ability to help each other out when you get stuck on or have difficulty in dealing with a particular case:

> … you know we can't always deal with everything, but we try and discuss clients with each other, and then there's always someone else who can help or can find a way to deal with the situation, so that's really useful.

Knowledge sharing and being obligated to support each other not only allows for those in the profession to keep up with the demands, but it can help with your career progression as confirmed by Mary (CLS). This is important as typically career progression for LA lawyers is often very difficult (as outlined in chapter six):

> Our team is so great and they have been fairly good at progressing people… I'm 30, and I'm a senior associate, so you know, I think they do, they recognise when we are doing well and when we know our stuff.

The constant involvement and interaction with one another keeps the LA lawyers aware of the amount of work being done but also allows scope for intellectual progression in the form of junior staff learning from more experienced staff or complex cases. The SO in this sense gives hope that people did not 'throw in the towel' when faced with difficult times, and furnishes those who are in charge of progressing junior staff with greater insight into the nature and the extent of work that they have done. A SO moves beyond collaboration to have much broader and prolonged ramifications in this sense. Even though Mary placed little emphasis on getting formal recognition from the wider firm in terms of an increase in pay, she felt that receiving recognition from her team was particularly important as this was key in maintaining her job security:

> It's very important to stay in with your team members; they are the guys that can really help you out and help you to reach your goals. We all support each other; we're like a family. It's very important that this is maintained if you want to do well. (Mary, CLS)

Recognising here that the more informal processes of receiving praise and recognition at team level offers further justification for the need for collaboration in the workplace. In this respect, Mary was not concerned about a raise in pay; rather she was more concerned about how her colleagues viewed her, emphasising teamwork. This could also be lent to the fact that some of these colleagues may be appraising her or deciding whether or not to promote her, however. Likewise, constraints on this collaborative spirit were observed in some cases. Despite the lack of career progression available within the wider remit of LA work, it remains competitive in the sense that there are now shortages of work/ pay. While many individuals referred to the importance of camaraderie, in practice this was not always upheld. For example a couple of participants in this research presented a glowing, idealised picture and my observations sometimes contradicted with that. For example, observed during an interaction between James (CS) and another CS in the courtroom, they were discussing a fellow CS who had just left the room. James stated: "I can't believe he got hired to do this job, he can barely spell his own name." The other CS replies: "I know, I hate being anywhere near him; he's an embarrassment!" Likewise, as observed within

Silverman and Co in an exchange between Rachel (HS) and a colleague, Rachel stated: "Oh god. Guess who I'm having to deal with (rolls eyes) … that waste of space solicitor from (firm name). My three-year-old son could do a better job than her!" These two scenarios highlight that in some cases, camaraderie can be presented as a front, but in reality grievances may still exist between colleagues. These attitudes can place constraints on collaborative spirit.

However, the desire to want to impress others within the workplace can obviously have a positive effect on the effort and motivation behind the workings of the LA lawyer, resulting in a more prosperous and collaborative working ethos: "It's our way of working, it's our way of appreciating each other's work, it doesn't take much to keep this going, but it is so incredibly valuable to us!" (Mary), furthering the sense of a natural desire to want to help each other out. Shared practice is therefore vital as it offers a unifying code; however, it also brings colleagues closer together which can be particularly important during challenging times. Marcus (HS) states that: "as a legal aid lawyer, we are often forgotten about by the rest of society. Therefore being 'liked' by our own colleagues, and being part of a 'collective' makes us feel wanted, makes us feel like we actually belong to something and that our work is actually being appreciated!". Jay (HS) emphasised the role of this camaraderie as a tool to facilitate the ability of those inside the profession to stick together in the face of adversity. Robert below (CS):

> You just have to be resilient. And when you have kind of extreme cases, I mean I suppose the term 'extreme case' is quite an ambiguous term particularly in this context but you have certain coping mechanisms to deal with the information… there's certain cases that do just stick in your head so some things just feel like I'm not going to forget that and you do think there's a lack of... I mean police officers who deal with indecent images or rape or something along those lines, I think they do get sort of a degree of counselling or assistance. Defence lawyers just a case of, well, living it, go and deal with it. You may have seen some horrendous extreme images or dealt with – I don't know – horrific stranger rape but, you know, just go off and get on with it. But a good working culture, and a consistent level of social interaction, and just

> being able to have a laugh helps a lot. There's just a great sense of camaraderie within the profession because everyone's kind of doing the same job.

Virtually every lawyer I spoke to, as well as those observed during the ethnography, cited and/or displayed a sense of camaraderie as a key feature of the working culture for various reasons such as socialisation, moral support, motivation or morale raising. Ben (HS) highlights a 'degree of camaraderie' within his role as a solicitor, as everyone within his firm is fighting for the same cause. James (CS) spoke about the sense of collaboration 'bringing people together', particularly when someone gets a positive outcome from a case: "that sort of brings you together… you're all in it together really… because that's the way we are seen anyway". It is definitely a collective, and most people are quite down to earth'. Importantly as Becky (CLS) reasons:

> The work we do is collaborative as you probably know (and can see), but its' probably quite different from so many other industries because there is quite a network of LA firms, and you all kind of share knowledge between each other because you know, you're all fighting for one cause... You just want everyone to do well. But at the same time, our typical day-to-days are very varied and often very diverse to each other's. We are all very different people you see, and *we enjoy that sense of being different to each other*. It makes things much more exciting. (Her emphasis)

The ability to be able to duck in and out as needed, but having the camaraderie to rely on at times when needed offers a safety blanket. As Marcus (HS) reasons, in recent years he feels the profession has come together more because of the LA cuts. In this sense, SO remains active in the face of diversity, fortifying support systems and collegial relationships and further offering a central core to an otherwise hollowed-out profession.

8.3.2 A way of functioning: the ability to negotiate organisational change

SO is not only a tool for shaping behaviour more generally and bringing those together within the occupation but upholding a form of SO can be a way of negotiating

regulatory or professional change. The impact of LASPO and subsequent cuts to LA was a significant motivator for the existence of the SO within this research. Participants were increasingly keen to maintain this sense of connection in order to negotiate the impact of the cuts to LA together. Regular coffee morning chats were initiated at Silverman and Co to offer a platform to vent. Likewise, the wider LA lawyering network set up online networks in response to the changes to the LA terrain. "Who else is going to support us during this horrendous time? We've got to support each other, or else we'll all be in trouble!" (Marcus, HS). Others echoed the same response:

> There's just so much pressure, you know, we all work weekends and evenings, and we all have to try and stay abreast of all the attacks to our fees so *we* can prepare ourselves for what's ahead…. And it's mainly the lawyers to a large extent that keep the whole system limping on and so it's me and my colleagues that keep cobbling it all back together as we go. It takes a team effort. (Paul, CB)

> It's a dog-eat-dog world out there now. We can't let this happen. We've got to cling on to the collective, or else lawyering will never be the same. We're incredibly lucky to have such a close-knit team here, and that is something we will continue to treasure. (Sophie, CS)

Alistair (CB) recognises: "historically, lawyers have always had some sense of cohesion. In times of need and in the face of adversity, legal professionals have always rallied together. Justice is what we inspire to give, and so that's what we've always fought for". Typically, occupational cultures have been used as an internalised disposition against an external threat from the 'outside'. Williams (2016: 48) identifies a form of working culture that "offers a patterned set of understandings" that can assist with wider pressures of conflict and hostility. SO in this sense is a form of a collective coping mechanism as Paul reasons above, maintaining that collective is vital if they are to avoid stagnation. He further states that when he feels really frustrated with the wider changes to the LA field which are out of his control, he knows that others will be there in the same boat: "We may not be able to stop what's happening to LA on the macro level, but we can do our best to cling on to each other to try and keep the

profession alive". Evident here is that having a strong 'internalised disposition' can play a significant role in allowing those to come to terms with the macro backdrop.

As demonstrated in previous chapters, the LA lawyer role has been subject to a hollowing out process as the work becomes more restricted and bureaucratised. As a result of this hollowing out process, as those inside attempt to cling on and try to maintain their 'ideal occupation' in its practical and idealised form, a SO helps to enable that. While the LA profession might be weakening on the outside; little evidence can be seen of lawyers attempting to fight back within the media. However, in an attempt to maintain a coherent, coordinated and effective occupation, on the inside, the LA lawyers are attempting to get by as a collective entity. Bennett's (2002: 12) work resonates with this notion:

> "The legal profession sometimes behaves as if it is waiting for a knight in shining armour to rescue it from the forces of the marketplace…. But the practice of law is not a fairy-tale, and there is no knight in shining armour coming to the rescue. There are only we, its members. If the legal profession is going to save itself, we are the people who must do it. We are the wounded king, and our profession is the wounded kingdom."

A SO offers the mechanism to strengthen the 'we' behind the fight for justice. It not only offers unity as a way of functioning in a multi-faceted and fragmented occupation but also fortifies support systems and collegial relationships in the face of diversity.

8.3.3 Fighting back: group resilience

James (CS) recognised a more 'negative mentality' associated with what he identifies as a 'working culture' within his old firm because, in the wider fight for justice, the LA lawyer is nearly always on the losing side:

> … you do have a bit more of a negative mentality because you always represent the underdog. You never really expect to win. The magistrates are always taking… always taking the side of the police. Always. It doesn't matter how good your argument is, for the adjournment of whatever you never tend to win

> it, do you know what I mean., so I think you always realise that everybody's on the losing side, do you know what I mean.

James highlights that while predestined fatalism almost goes hand in hand with representing the underdog, he still goes in anyway and continues to go back to his work. He never expects to win which could have an adverse effect on the personal investment of the role, however. Despite the pressures or the perception of a stacked deck, there remain some aspects of positivity which is essential in a role that is becoming increasingly alienated (Newman and Welsh, 2019). Emphasising solidarity and collaboration here, James pinpoints the notion of 'taking sides'. Stressing the importance of sticking together, while facing the 'enemy' recognises the need for a sense of collective resistance. Always fighting for the 'underdog' as he stressed, can often have negative implications for the legal professional in the driving seat, but "…knowing that there are others in the same boat makes it a lot more bearable". While everybody in that collective may be 'on the losing side' as stated by James, being in it together undoubtedly empowers those who may otherwise be demonised or looked down upon within the context of other criminal justice agencies. "Yes, we do get looked *down upon*, but if we get looked down upon together, then we can fight back and stand our ground". James states that in some sense this is a shared identification with the clients, as the wider justice system, as well as broader society, tends to look down upon them. He further argues that "achieving justice, takes a team effort". It is in this sense, that grouping together can help the LA lawyers to achieve their motivations for "fighting for the social good", or "doing something for society". The importance of having a SO strengthens the profession from within.

> But that sort of brings you together. And if we get a nice result or whatever it's always, you know, that sort of thing… you're all in it… you know, because that's the way they see you. Often the magistrates see you as like the enemy of justice, you know what I mean, because you're there sticking up for these people that are blatantly guilty, otherwise they probably wouldn't be there'. Yeah it is definitely a collective. Even… and the thing as well, most of them…. Most people there are quite down to earth, most legal aid solicitors. You get a few 'poshers' but most are on your side you know, when other people might not be…

The key argument here is that most LA lawyers tend to support each other "when other people might not" (James, CS). As noted in previous chapters, LA lawyers come under disparaging attention from the wider lawyering remit, the media, broader popular discourse as well as the LA agency. Coping with this immense pressure is eased by having a community that understands the positionality, the work, as well as the stress associated with being an LA lawyer, can keep some people in the profession who might have succumbed to these external pressures. As Grace (CS) reasons (despite only being in the profession a couple of years): "Honestly, I would not be surviving in this profession if it wasn't for my colleagues. There's only so much you can take without throwing the towel in, and they really do keep me here."

Similarly, Sophie (CS) states that having the ability to group to lessen the force of wider threats to LA work offers the ability to be "more resilient and tough-skinned to those who attempt to damn the profession every single day". She further states that she would not have either the confidence of the emotional capacity to fight back if others were not motivating her to do so. The SO offers unity the LA profession, offering a support network to those who need it as "a group of LA lawyers can have far more impact than a single LA lawyer on their own" (Marcus, HS).

8.3.4 A concern for the public good: a united drive

Three-quarters of the LA lawyers interviewed stated that a form of collaboration was encouraged by senior staff across the board of firms, law centres, as well as chambers, particularly in relation to the wider social aims and goals. As Marcus (HS) recognises, it ultimately creates a 'shared basis' whereby the firm can stick together and further support each other in such a high-powered and self-regulated job. For Becky (CLS), she agreed that there is "some form of occupational collaboration" present within her firm, as the people are all somewhat similar, identifying in particular, the concept of a broader concern for the public good:

> Definitely politics comes in and that is number one, like everyone has the same or very similar politics. Everyone feels that I guess society is very unjust and

> they want to in some way try and make a positive contribution to that… kinda charitable in its nature right?

United in the drive to want to make a "definite difference to someone's life" as affirmed by Ben (HS), this charitable sense was shared by the majority of my participants. Having a united motivator in that sense brings the workforce together, despite the individualised day-to-day practices and diverse range of cases across the various specialisms. This notion was further captured by Rachel (partner and HS), who spoke about a 'united drive' across the range of legal specialisms, which all happen to be legally aided. The fact that LA lawyering is a valued profession by those within it, as voiced by the majority of respondents, means that this sense of 'social reward' and working for the good creates a strong alliance.

The ability to handle clients was also shared across the board of my respondents. For example, when asked what skillsets they would identify as the most important for those wanting to enter the world of LA should have, Maddie (CS), Anna (IS), Sophie (CS), Ben (HS), Jane (HS), as well as Tom (HS) all mentioned that the ability to deal with people is the most vital skillset to have. James (CS) argues that each solicitor (and barrister in some cases) uphold different methods for dealing with their clients. Each individual has carved out these methods as typically; there is no standardised template to follow within the context of humanised justice (see Rutherford, 1993). While James tends to adopt a more informal approach in both his mannerisms and language used within client meetings, as observed in my ethnographic observations, others take on a more formal approach. For example, James tended to use humour within his one-to-one meetings, cracking jokes frequently; however, Robert (CB), tended to be extremely formal in his manner, in an attempt to get through the paperwork as quickly as possible. The increasingly stringent rules and regulations implemented in obtaining LA, however, are encouraging more uniformed practice. Newman's (2013) likening of criminal defence work to a sausage factory and production line highlights this further. SO encourages and maintains the individual nature of the role as it allows those within the profession to remember why they entered the profession in the first place. In this sense, it reminds of the commitment to justice as while their ability to practice altruistically on an individual level is becoming increasingly difficult, as a group they can still stand for justice through lawyering

networks. Through these networks, the LA lawyers can continue to campaign for a sustainable legal system, promote interests for new entrants, as well as publish briefings, reports and responses to LA changes making more of an impact. Rachel (partner and HS) states that she particularly finds pleasure in introducing new colleagues to the network because it allows everyone to get involved with campaigning for change.

As made evident in chapter five, not everyone enters the LA profession with the primary concern to work for the public good, and not everyone enjoys campaigning for change as stressed by Ash (IS), and Nick (CS) however.

8.3.5 Socialisation processes

In essence, picturing the world of the LA lawyer in the form of a loose cultural web can further bring to light the "core set of assumptions, understandings and implicit rules that govern day-to-day behaviour in the workplace" (Deal and Kennedy, 2000: 501). This was true for Alistair (CB) who affirms the existence of implicit or 'unwritten' rules within the occupation.

> Those inside know how this occupation works… and those that are new will soon pick these up. These rules aren't going to be found anywhere on paper, but you can get an awful a lot just by watching, you've just got to open your eyes to it. There are different rules for different firms and chambers, so they can only be learnt once you immerse yourself within that specific working environment.

Several participants inexplicitly referred to these 'unwritten rules'. In the UK we do not have a written constitution therefore much of our law (i.e. common law) is 'common sense' rather than codified so stands to reason that the wider LA arena follows suit. "Unspoken strategies are essential if you want to progress. It's not about sticking to the book necessarily, its' about picking up on the nuances that are going to allow you further inside the walls of the profession" (James, CS). Being part of the 'pack' seemed to be an essential feature of being an LA lawyer, as James further highlighted: "if you are a newbie, you need to pick these rules up pretty quickly, don't

hang about. Look at those who have been in the profession a long time, and learn from them". The sense of passing down the SO is vital in the maintenance of its construction and formation, and for the maintenance of these 'unwritten rules'.

Rachel, a senior partner at her firm, was seen as the prime role model for new colleagues coming up into her department. During my observational periods at her firm, I noted that even the paralegals and legal secretaries would go to Rachel for confirmation that they were doing their jobs correctly. Even the solicitors who had been in their roles for quite a while still clarified their responses to cases with Rachel daily. An hour did not go by, where Rachel did not have a visit from a colleague to her desk. This seemed to be an instrumental part of her day-to-day workings and confirmed the importance of a SO. Rachel didn't have to spend 30% of her day aiding her colleagues, she opened her arms to them because she chose to do so, and this was evidenced in her response during the interview: "I choose to do my job the way I want to do it, and for me having that team bond is what keeps me going. That is why my door is always open". In essence, Rachel chooses to actively reinforce this concept of a SO in Silverman and Co, to both help maintain her rationality and job satisfaction. This sense of always having an open door was more outwardly evident amongst the female solicitors in this research; however, a number of the males in the sample pool stated they were inclined to help in any way they can. Likewise, Rachel's position as a senior partner may have allowed her to have more autonomy to practice in an idealised manner, in comparison to someone who is positioned in a more entry-level role.

The way in which a SO framework and gender interact is an interesting area of study. Heidensohn (1992:75) states that: "…all occupations develop some kind of lasting culture". She further argued that gender is pivotal to the formation of occupational culture. The number of women working in the LA sector in England and Wales continues to show an upward trend as outlined in chapter five. Likewise, 17 out of the 30 participants in this research sample were female; however this may not be indicative of the wider field as the sample was gathered by means of opportunity. Rosener (1990) has argued that women are more likely to utilise their socialisation experiences as women in the form of a 'transformational' leadership style to reach the 'top'. This involves transforming self-interest into a vested interest in the group goals.

Females also tend to focus on skills such as charisma, contact-building or interpersonal skills. This was again the case for Rachel. She openly identified as deploying a 'transformational' leadership style, and this was particularly evident in her day-to-day actions. Her ability as a partner, however, allowed her to focus on this, as in another sense as Mary (FS) argues: "sometimes the females in this firm get too caught up with helping out, and this can restrict progression". It is clear than gender still plays a role within the LA world, building on the arguments presented in chapter five.

As emphasised by James, employees can learn the unwritten rules of the profession through informal means of communication and interactions with those in the field. Sophie (CS) builds on this. For example, in her office, it is an unwritten rule that "if you've got work to do, then obviously you just stay at work late… but we all know that this shouldn't take over your life". Recognising that your assigned working hours do not necessarily reflect your daily working patterns is key, Sophie goes on to argue that "…for the first year or so you might stick to your given 9-6 or whatever it might be, but you soon realise that there's kind of like an unwritten rule of… if you have a case to finish, then you just stay on and finish it". Likewise, James (CS) echoed a similar notion:

> Once you are in the role, you know that sometimes you have to give that little bit extra. Certain behaviours and practices you just pick up as you go, like what are suitable working hours, and the whole thing with getting your cases finished. Cases can't always wait, so it's just a given that you stay and finish. That's just normal.

Rachel (partner and HS) confirmed the existence of a collaborative and supportive working culture within her firm: "our working culture is accessible to everyone really. It's just imbedded within our work. It's not forced by any means". To add a further layer to this however, she spoke of an 'insider culture' which she argued allowed her "to cope with the conflicts and confrontations of the role". As Rachel maintains:

> Our image is important. Our clients need to know that they can trust us. But what happens on the inside is our business. We choose to do what's best for us, to allow us to cope. Our clients don't need to know that we sometimes go

> crying/swearing to other people in the office. Our clients don't need to know that we sometimes just head down the pub to drown our sorrows (laughs). As long as we give a professional outlook, what happens on the inside is just necessary to get our clients the best outcome at the end of the day.

There are several themes which can be drawn out here. Firstly, the theme of responsibility is pertinent. The LA lawyers in this sense not only have a responsibility to maintain a professional outward front, but they have a responsibility to hide the more unprofessional elements of the role, such as the emotional burden. This links to the previous chapter, whereby LA lawyers are required to uphold a sense of performativity to ensure their accountability is maintained. Rachel added that "our department has our own little separate set of rules which help us more specifically with our specialism. If you know *you know*. Outside of our department, people probably aren't even aware that we have these specific ways we go about things" (her emphasis). Chambliss' (2010: 3) concept of legal culture with its insider/outsider nature is significant here. On the outside, whilst the wider firm shares similar characteristics and practices to meet the needs of the public's imperative such as joining in in the wider fight for justice; within Rachel's specialism or department, they also uphold a separate smaller orientation that differs from others departments with other specialisms such as crime. Rachel noted that she encourages her team to work holistically, whereas in the crime department they are told to take a narrower view on cases. This dual dimension is not only crucial to the functioning of the firm; however, to the firm's image which is observable to the community, emphasising transparency. This could be attributed to the intention or desired outcome or goal of the LA lawyers to warrant higher levels of trust from the clients. This notion is reiterated in Rachel's response below:

> The more professional our external image is, the more likely we are to get clients. Obviously, people are more likely to trust us if we come across as professional and efficient, even when they are in desperate need for representation.

Of course, such image varies from firm to firm, evidencing the need for a model which accommodates such cultural heterogeneity. As Ash (IS) put it,

> … and that's why we can't all ascribe to a *singular* working culture, because we might all be striving for a different image …we can't assume that just because we all work within legal aid, that we all have the exact same goals. We have different specialisms, and different internal goals within our firms, therefore this always needs to be taken into consideration, and far too often it's not. A private firm in the city will definitely uphold an entirely different image to what we do for instance.

8.3.6 Socialising: transcending the workplace

It is essential to recognise the benefits of having a form of SO outside of the walls of the workspace. A critical difference between a SO and an OC is that SO often transcends the workplace/ work identity and encapsulates personal and professional overlap. The participants in this research stressed the importance of socialising with other LA lawyers. Mary (CLS) highlighted the fact that they have a bar as part of their firm: "which is great, sometimes we can go down there, I mean we probably don't use it as often as we should with everyone being so busy, but it's a great addition to have in social terms". Furthermore, Andy (CB) highlighted the existence of social events:

> There's quite often sort of impromptu drinks and things like that between a few people in chambers. We have organised sort of social things every, you know, every now and then, whether its solicitor's drinks party or it's… I mean we have like five-a-side football matches against solicitor firms and things like that but the parties, we used to have a big summer party every year.

Robert (CB) also stated that his chambers have regular social events:

> Yeah, it's got better in recent months actually, yeah. There's usually some sort of monthly drinks thing and if you turn up on a Friday then they'll be people going to the pub. Turn up on any other days people still go for a drink. As far as organized things are concerned for barristers within chambers, I think there's a monthly drinks thing now. There are obviously annual big parties and

> a few other special events. We're often organizing drinks. But we probably wouldn't interact with other chambers necessarily.

As evidenced earlier in the chapter, the LA lawyers have a kind of working practice where they need to stay abreast of each other/ what cases they are on, but this can be difficult to fit in. A way of effectively managing this is to have regular social events to allow for more time for communication in an attempt to keep on top of everything. While this is effective in the sense of facilitating further discussion as more time is spent with colleagues, this can also encourage drinking. Robert affirms the existence of a 'drinking culture':

> I think certainly at the criminal bar there is quite a high drinking culture… and I think that's maybe to do with stress. It also helps us to bond I suppose.

Alcohol often plays a key part in high-pressured jobs. For example, Davey *et al.* (2001) found that alcohol played a significant role within the police force due to both workforce stress, as well as being part of the broader culture. Reference has been made to policing culture being conducive to drinking by the likes of Dietrich and Smith (1986), and Davey *et al.* (2001). In some sense, drinking is encouraged and almost expected in some situations, as further stressed by Robert: 'it's just what I do when I am not working… I don't know whether it's a good thing or not really'. James (CS) further argues that he sees drinking as a 'coping mechanism', which 'isn't ideal'. He further argues that "everyone does it… it's just part and parcel of society these days... we're definitely not the only ones. I guess, academia is the same, right?" James's aim here is twofold. On the one hand, by comparing his drinking practices to academics he is almost seeking approval, but on the other he is attempting to lessen the social distaste. After all he is in a role where his actions can 'make or break' a person's future, which he also recognised: "I do have to be careful though. I can't get too drunk because I have to represent someone and that can pretty much be a life or death situation for them, so I can't really turn up hammered (laughs)!"

Robert argues that drinking is a way of bringing the LA lawyers together in order to help cope with any day-to-day stresses in a culturally appropriate way. As Ash (IS) denotes however, he struggles to 'fit in' as he does not drink. Therefore, in some sense,

this practice can be exclusionary; however, Ash typically went along anyway as he stressed that social events had much value in terms of improving staff relations. He stressed that some days in the law centre he could be so bogged down with clients that he would barely get a chance to speak to any of his colleagues, so he enjoyed seeing them. Upholding a SO in this sense which helps to strengthen collegial relationships can also facilitate social events, which in turn can have a positive impact on the working environment. As Marcus (HS) reasons: "a working culture allows for socialisation to occur on both inside and outside of the walls of the profession, and one definitely enhances the other creating a more friendly environment overall."

Robert argues, however, that "…the last thing you want to do though is to run into a client when you are in the pub!' Arguably, while the pub gives the LA lawyers somewhere to 'vent' in confidence, it can also be an isolating space due to the risk of the possibility of seeing clients. As James states: "it is important that we don't see our clients while we are intoxicated... that wouldn't be very professional now would it… although to be fair I'm used to putting on a good 'face' so if it did happen; I reckon I could act sober (laughs)". Stressing the notion of trying to avoid seeing any clientele during periods of socialising, places further emphasis on this internal/external visibility of the working culture. Rachel states that quite often they nip to the pub in the same community as their firm, and this can mean that the likelihood of bumping into a client is heightened. Outwardly presenting the LA occupation to those who are not employed within it as a professional, proficient and adept system as confirmed by Robert (CB) while resorting to informal socialisation and 'coping' practices inside the role, allows the profession 'to run smoothly'. In turn, James' ability to use 'impression management' to act sober in order to maintain his professionalism is also crucial here. This was a common concern. Sophie (CS) raised the notion that having a bar downstairs in her firm was a 'perk about the firm', as not only is it subsidised for the employees; however, it means that they will never run into any of their clients.

Beyond the internal relationships, the existence of having a form of a working cultural model can also assist with external relationships with those outside of the LA lawyer pool in the wider justice system. As Sophie (CS) denotes:

> I mean, my working relationship with other parties the criminal justice system is so hit and miss. Like you can get prosecutors who… you know, everyone's doing their job no matter what side you're on, just be friendly and let them do their job, but with some, it's just the lack of friendliness. The court clerks tend to be lovely, but judges and benches can be really hit and miss, and some can make the experience so bruising. But the one thing that pulls us all through is the fact we are all very aware of how things should be run around here, and therefore there are certain… I suppose… more implicit rules that govern us all regardless of our occupational status… which I suppose is just human nature I suppose, but also just the way things are done round here as I said previously.

In essence, a position shared by several respondents was the notion of knowing 'how things should be done' in light of being aware of how the wider justice system runs. In a similar vein, Eleanor (FS and partner) spoke about how she has personally set up a system at her solicitors' firm, whereby a trainee police officer comes in as part of their training to do work experience with them:

> I think we are the only solicitors locally that do this, but we do it on a voluntary basis. I set it up as part of the (name of police department) training programme they have to do a placement at a local business so we have these trainee officers come in and what I try to do is give them my domestic violence caseload and say to them: 'look, there are the problems. This is how we interact with the police. We need to understand what you do best and you need to understand what we do best and then obviously we'll get a better outcome'.

She further emphasised that sometimes it can be quite tricky with the police, so they find it quite helpful to understand how things work 'our end', and similarly we get to know how it works from 'their end'. It is important to question whose needs are being prioritised here. In an ideal world, it would benefit all parties involved, including the clients, the lawyers, and the police. However, as Sophie (CS) denotes, the relationship with the police is not always a positive one, and has to be carefully managed:

> …it's literally 50/50 with the police. Like you can turn up, and get a really nice, decent person, who fully understands that you're doing your job and

> they're very reasonable… or you get people who just from the word go are aggressive and don't want to be friendly at all. You just have to be wary, and ready for either possibility to occur.

Similarities can be drawn here with variations in working practices amongst the LA lawyers as stressed earlier. Each LA lawyer approaches their job differently, and while some clients may face a 'jokey' solicitor, others may face a more serious solicitor. How this is received depends entirely on the client. Louisa (CLS) stressed that she enjoyed working with 'good officers' in court, she went on to state that "…not everyone's a good officer of course, but not everyone's a good lawyer so…" In conjunction, Becky (CLS) said: "well, we're probably fucking annoying, to be honest. Who are we to judge them? I mean that's not to say that I necessarily trust police officers, but they are all seemingly friendly, and I have pretty good relationships with them". Becky's phrasing of referring to herself and the wider LA profession as "fucking annoying" indicates that the LA lawyers are not always received in a positive light either. Alistair (CB) described his working relationship with the police as 'polite'; however he argued that they could be "really *really* intransigent'… and a lot of the time they are part of the problem more than the solution as they miss out vital information and uphold a very negative view of the clients". The latter contradicts with how LA lawyers typically viewed their clients within this sample pool.

While relationships with the wider justice system, particularly within the context of crime can prove to be difficult, a key feature of the working culture identified in this research which helps to appease problematic relationships, is the use of humour. This is demonstrated in the two extracts taken from two excerpts taken from field notes below.

(Context: Banter with court clerk)

A barrister walks in (B1)… 'am I in the right court?'
Clerk: 'This is court 4'
B1: 'yep wrong court'
Other barrister (B2): ha-ha loser, see ya! (said in a sarcastic tone)
B1: Yeah bye, nice to see ya!

(excerpt from ethnography)

Back in court
B1: can anyone smell coffee? (laughs)

B2: 'holding a plastic cup of coffee- 'it's water!' (winks at b1 knowing he's not allowed hot drinks in the court room)
B2: So how long do you think your speech will be?
B1: 43 mins
B2: You don't earn your money by doing a long speech you know! (laughs)
B2 continues: You practice your speech in the mirror don't you! I don't know how you always get it at 30 mins! You look in the mirror, get your timer on and practice!
B1: Yep, well of course… what else would I be doing at weekends!?
B2 laughs
B1: Anyway, enough of this… I was actually in the middle of a very important interview you know (as he turns round and winks at me -meaning mine and his)

The use of humour was often visible within interactions between various members of staff such as court clerks, barristers, and social workers- something which I was not expecting due to the strict nature of the courtroom. Humour, however, allowed a better rapport to be built amongst the various professionals, which in turn improved the overall mood resulting in increased efficiency. James echoes this: "if I am having an alright time in the court and I get on with the others, then I'm more likely to come out the other side with a successful result you know… that's just how things go'…. if people are on your side, and they like you then it definitely helps with things." Humour has likewise traditionally been used in police and prison officer working cultures as a form of communicative performance (Holdaway, 1983; McGregor, 2014). James (CS) notes, the informal side to the work makes the work more enjoyable overall:

> I think it's quite a nice way of earning a living really. You go to court, you have a bit of banter with the other lawyers that are there, and the court staff that are there so it is quite social in that respect, you see loads of different people, but you also see loads of the same people day in day out. You know, and you have a bit of banter with the prosecutors as well because obviously you're up against them quite a bit.

James makes use of humour daily, both with other staff as well as clients in one-to-one meetings. Fundamentally, it is his way of building relationships, and as observed it seemed to have a very positive effect on all sides. For example, from entering the court to leaving at the end of the day, it was noticeable that James had very good rapport with all parties present in the courtroom, which ultimately made his job a lot

easier. Not all respondents had good relationships with the court staff, however. As Robert (CB) states: “Some of my colleagues are so rude to the court staff, and I just cannot fathom that.” likewise, Grace (CS) reasons: “not all LA lawyers are friendly. Some of them hate it if they hear laughter in the courtroom. You have to be very careful”. Those practising in the remit of crime in this research more commonly employed humour. This could be attributed to the more extreme nature of their cases, as well as the stricter rules of the courtroom. It could be argued that deviating slightly from both softens the intensity of the role, and acts as a release. LA lawyers cannot all be placed under one heading here. Different LA lawyers engage socially at varying levels, and the SO seeks to encapsulate the variations in working approaches.

Having explained how the SO is both constructed and maintained by identifying individual traits within it, the next section will now build on this basis and explain how this cultural model comes to manifest itself within the physical dimensions of the working environments of the LA lawyer. While it is argued here that shared values, camaraderie, collegial relations and active socialisation processes are not entirely exclusive to LA lawyers or likewise exhaustive in their list; these features help to construct and explain the working culture of the LA world has emerged from the data. In light of the macro backdrop, these ideals and practices become more entrenched/pronounced when under threat. In this sense, a SO offers a unifying code/way of understanding in times of trouble. In spite being devalued by the MOJ, broader popular discourse, as well as the wider lawyering remit- the working culture of the LA lawyer remains stronger than ever. While the wider profession is being threatened on the macro level, and those seeking to work in a humanistic way are being restricted; the LA lawyers are dealing with it in their own way, and the SO offers an insight into what this looks like.

8.4 How does the shared orientation manifest within the physical working world of the legal aid lawyer?

The final section of this chapter will seek to address how the physical working environment can both facilitate and hinder how a SO is experienced and/or maintained within the LA world. In this sense, it will address the notion of why the element of

group work - the SO - functions as it does. This section draws more specifically on the physical space at Silverman and Co to illustrate this.

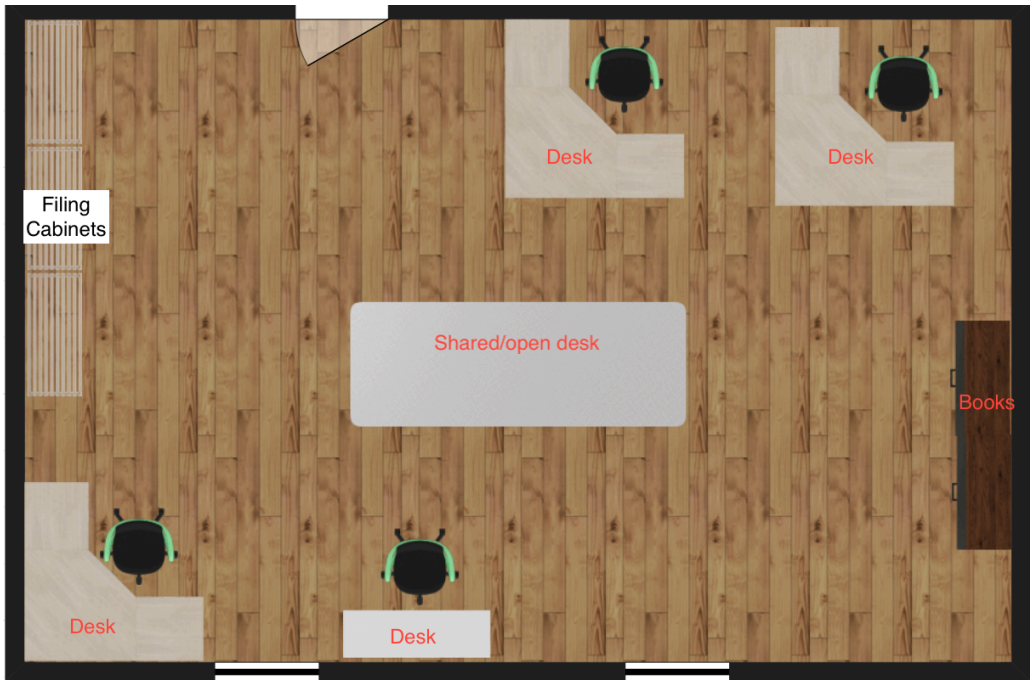

Figure 12: Layout of an office in Silverman and Co (Source: self-elaboration)

Attention must be given to the office environments of the solicitors' firm used within this research, Silverman and Co (see figure 12). In this firm, the 'operational core' of the practice was designed to be conducive to specific types of cultural practice, such as knowledge sharing and collaboration. For example, all the desks were situated in a large open space, situated around the edge of the room, and in the centre was an open table and chairs, which colleagues regularly used to have open discussions and to go through cases/documents with each other in a very open manner. An enormous shelf with case bundles and relevant books likewise was accessible to all. There were no noise restrictions, and the radio was often kept on to keep up the morale during the day. Colleagues were able to chat freely whenever they wanted to, and this assisted with knowledge sharing and collaboration. Emphasis was therefore placed on transparency, openness and communication within this physical office environment. Alongside this, outside of this working space there were multiple water dispensers in the hallways where colleagues often gathered to chat and refresh. Likewise, there was a small kitchen attached featuring sofas and free communal tea and coffee facilities for all, which were regularly used throughout the day.

A plethora of research places emphasis on office environments, most significantly to this research, the work of Hara (2009). The office environment can have a significant effect on office culture. While the office described above was open-plan, exercising transparency, as well as team-based and communicative tendencies, other offices were more enclosed with separate offices accommodating a maximum of 3 people per office space (such as the law centre). In response to being asked whether or not the layout of her office in the law centre was practical, Rhiannon (WS) responded:

> …it is not always ideal because it's quite cramped, and lawyers always have a lot of files… but its good at the same time because it means that **if I want to bounce an idea off someone I can just look up from my computer and get it answered right away** …

Unpicking this further, Rhiannon stressed the ability to be able to knowledge share due to the close proximity of her colleagues. While she preferred having a shared office as she went on to justify because it enabled more collaboration to occur at once as more individuals could join in the conversations when there was more room. Likewise, ultimately being able to bounce off ideas while sitting at her computer facilitates quicker exchanges of knowledge sharing. Traditionally, however, as Marcus (HS) recognises, lawyers tend to get assigned a client, and these clients are met in individual office spaces. However, with the onset of 'team-based structures', particularly within solicitors' firms, the physical designs often intentionally move away from this tradition. Now the client often progresses through the firm seeing multiple individuals in one visit, from receptionists to paralegals, to legal secretaries, to various lawyers, depending somewhat who is on duty. Therefore, in many respects, the office environment reflects this nature of progression in order to aid both the client and the more fluid nature of the work. In this sense, this type of environment fits the type of lawyering outlined in this thesis. That is not to say that all firms are like this; however, as only one solicitor's firm was used in this research.

However, the barristers within this research highlighted that because the majority of them are self-employed, often the chambers are empty as people mostly tend to work from home when they are not featuring in court. Robert (CB) says that "while one advantage of going into chambers, is that there are other people there, so socially it's

good, and more importantly with regards the work, if there's people there who do a similar type of work to you, then you can bounce ideas". Robert stated that he only really went into the chambers when he was preparing work, and that is when he got the most benefit out of knowledge sharing. However, he went on to stress that:

> Some barristers go in more than others though, but a lot of people do tend to work from home, and I'm one of those people. If I wanted to speak to someone about a case, I'm more likely to just pick up the phone or send an email around. I mean, if you are in chambers, you could put out a question to the robing room, and people will *always* help if they can. It's very collegiate. There's still a strong culture of people helping each other out, and you repay the favours done to you, not to the person who helped you, but to someone else down the line. Being in the robing room that really helps as you get people with all different levels of experience.

As stressed by Robert above, he is still able to collaborate when working from home via email. Some firms likewise now have instant messenger services, as evidenced by Tom (HS), which makes communication a lot easier as it is far more informal. He further states, however, it is most beneficial to be present as you can physically share knowledge and ask questions in the robing room. Traditionally, robing rooms have been designed for barristers to change into their robes, discuss cases, and hide from troublesome clients. This year, the Bar Standards Board suspended Mr Khan (an experienced barrister) for seven months following a tribunal for 'gossiping' in the robing room (Legal Futures, 2018). Gossiping about fellow colleagues can make the robing rooms much less desirable, also discouraging for a collective working culture.

Likewise, typically robing rooms have always been very gendered. In 2017, the all-male robing room was opened up to female barristers in Southwark Crown Court following a judicial intervention, which has aimed to open up pre-case discussions to all (Connelly, 2017). However, if it took a judicial intervention to open up this space for women, this highlights the persistent patriarchal nature of the barrister profession, in-keeping with chapter five.

Offices being empty is not just a feature of barristers' chambers, however. James (CS) echoes a similar notion:

> Where I am now, because of the way it's laid out, it's all different rooms. You can discuss cases and you do discuss cases but because everyone's… everyone's always out all the time… you're not in the office very often because you're always out. Literally I'm out every day and in the evenings, I catch up with my work. where I'm working at the moment, so you don't tend to see anybody. I might only get in the office one day a month... 'It's great! (laughs) … the problem with crime is *if you're in the office you're not earning money* so… (His emphasis)

Identifiably, it is very much dependent on the type of law that you are specialising in as to how conducive the office or working environment might be. For example, as James stated above, if you are practising as a criminal solicitor or barrister are you are not in court, then ultimately you are not earning money. Hence why offices may not be particularly useful for those practising in the criminal remit. However, as stressed in previous sections, James identified the importance of having good working relationships with other members in the court. The ability of a SO to suit heterogeneous working environments proves vital here as it can accommodate varying physical structures.

The importance of having a suitable working environment to facilitate a healthy working culture is necessary. For solicitors, this comes more in the form of an open-plan office, while for barristers, it seems that the courtroom has more influence on the collaborative elements of their everyday interactions. Different individuals, however, vary about the types of environment that works correctly for their firm, and this is very important because it further encapsulates the individualised nature of the work (see Beck, 2000). Ash (IS) prefers to work in a less open-plan environment, as his type of work in immigration often entails a lot of private one-to-one engagements behind closed doors whereas Becky (CLS) stresses the need for having an open plan space in order to maintain a 'strong working environment' because it encourages group work and knowledge sharing. Variations in office layouts were highlighted amongst participants responses, with 75% of respondents stating that open-plan offices created

a healthier working environment overall. This is contrasting to popular perception, given that often open-plan offices tend to be the least popular in other professions. Likewise, the open-plan working environment speaks to the 'sausage-factory' model identified by Newman (2013), which reinforces the idea that LA lawyering can be likened to a form of production line.

This chapter will now proceed to its concluding remarks, in which it summarises what contribution this chapter has made to this thesis, and acknowledges that the working culture of the LA lawyer is best understood in the form of a SO as demonstrated.

8.5 Summary: the importance of recognising the existence of a shared orientation

As emerged from the data, a working culture of LA can be best described in the form of a shared orientation. This chapter justified the importance of moving beyond occupational culture, stressing the distinct need for a broader and more fluid approach to understanding the role of the LA lawyers working culture. A SO was justified by the need for a cultural mechanism that understands the unique and multi-faceted workspace of the LA lawyer, involving varying caseloads, differing levels of employment and diverse working environments. As evidenced in this chapter, a SO (1) offers unity as a way of functioning in a multi-faceted and fragmented occupation; (2) fortifies support systems and collegial relationships in the face of diversity; (3) transcends occupational boundaries as well as negotiating personal and professional overlap; and (4) offers a means of 'finding your feet' beyond the remit of formal education and training. Combining these aims, a SO acts as a meso-level response and coping mechanism to the wider macro-threats, which come to affect the everyday micro-workings of the 'profession within a profession'.

This chapter has shown the various features of a SO in-depth, outlining the importance of understanding that different LA lawyers have varying levels of engagement with each of these factors. These included: collaboration and cohesion; ability to negotiate organisational change; resilience; fighting for justice; a concern for the public good; socialisation processes; and socialising outside of the workplace. This chapter has argued that a SO is maintained via the transmission of the cultural attributes from those

who are experienced, to those that are new to the field. However, a SO is a choice as opposed to an obligation as those within the profession construct and carve their own paths in light of their motivations, journeys into the profession, specialisms as well as roles. The physical working environments of the LA lawyers likewise can both hinder and facilitate the workings of a SO. How a SO often becomes manifest is in line with the physical designs of the working spaces which are inhabited by the LA lawyers. While in the cases of solicitors, open plan offices might lend themselves to more collaborative working cultures; banter and strong working relationships in courtrooms might aid those either practising in criminal law or barristers to hold on to a form of collective, which is deemed to be vital. Diversity and differentiation in practice are unified through a SO framework.

Overall, it was made evident that those practising within LA share similar tendencies and views across the board of both civil and criminal matters. The wide-ranging sample in this research spanning across solicitor-barrister and civil-criminal remits was beneficial to the construction of the SO, as this research is interested in the complexities of the LA world, paving the way for a broader investigation overall. A SO offers a good insight into how the wider profession unites beyond individual specialisms, positions and workplaces. In this sense, the formation of a SO speaks to the deficiencies in the literature on LA lawyering and offers a nuanced insight into their occupational world. It offers a new understanding which helps to comprehend the often hidden, yet vitally important working world of the LA lawyer.

> We are our own kinda tribe, and I really like that!
>
> (Karen, Director of a membership body for LA practitioners)

Chapter Nine

‘A legal aid lawyers’ story.’

This chapter brings together all the previous chapters on the macro-meso-and-micro levels in the form of a combined personalised narrative. Bringing together all the collective meanings that lie behind the 30 individual interpretive stories, this chapter integrates and re-stories these into one composite character to make sense of the LA world (see Crossley, 2000; McCormack, 2004). This research concerns real life and real people and the ethnographic methods deployed in this thesis seek to capture this. This ultimately offers a contribution to a wider field that we cannot forget.

9.1. Justice

Erica is not one person from the legal aid sample pool in this research. She is part of every participant’s story. She chose to become a legal aid lawyer when she was in her mid to late twenties, after spending a period working for an overseas charity. She not only identifies as a legal aid lawyer but also as a mother, a friend, a social worker, a teacher, and a counsellor. Her experience as a legal aid lawyer, however, feeds into and shapes all of these identities. Her role as an LA lawyer is the identity that takes priority. It is a vocation, a way of living and an all-encompassing career path that requires Erica’s full attention at all times.

Erica cannot go to work at 9 am and leave at 5 pm. What would happen if Erica wasn’t there when Carla, a single mother who’s now homeless after being evicted from her accommodation, is crying in desperation, threatening to commit suicide? What would happen if Erica wasn’t there to battle with the Legal Aid Agency for hours and hours in order to try to stop Piers from going to prison for a crime he didn’t commit? What would happen if Erica wasn’t there to mount a judicial review; a legal process which examines whether or not a decision by a public body is lawful. Bob wouldn’t ever receive the 24-hour care and treatment he needs for his degenerative condition, as he is trapped inside the walls of the prison unlawfully. His health would deteriorate significantly, and his future would be unimaginable.

Try doing all of the above, while constantly fighting the government for legal aid funding just to be able to represent and provide justice to the most vulnerable members of our society. Erica is suffering. The clients are suffering. The justice system is failing. But Erica holds on. Erica holds on because so do her colleagues. Erica holds on because she just can't and won't let go.

9.2 Erica

Erica studied law at a UK-based university. Looking back, she might have expected to be taught all about legal aid during her studies - it was a law degree after all - but it was not quite like that. She was happy enough, though. Erica got by with her criminal law module. Despite it being the only elective on legal aid, Erica made the most of it. She didn't want to follow in the path of the rest of her classmates who were all very much encouraged to go down the commercial route. Erica was committed. Committed to her desire to help those in need; committed to using her legal skillsets in a humanistic manner to make a difference to people's lives. Erica absolutely adored helping others. Her mother was the founder of a local legal support trust who provided specialist legal advice for those in need. Erica wanted to follow in her mother's footsteps, and nothing was going to stop her. In her final year of her law degree, Erica applied for the Legal Practice Course in spite of not knowing how she was going to fund it. This wasn't going to stop her though. She would just take on 3 or 4 part-time jobs to try and fund her training. She'd go to the library after her shift finished at the pub around 2 am and work until her classes started at 9 am the next morning. Maybe she'd finally be able to go back to her own home at 5 pm that next day. She'd only be able to pop in briefly though before heading off to tutor Henry down the road for his upcoming GCSE exams. She'd drop off the batch of ironing she did for Susan on her way back before heading to the library again. This was Erica's life now. Nothing else mattered but finishing the LPC if she had any chance of pursuing her dream career.

Time passed, and Erica was stuck in this continuous loop. Towards the end of her LPC, Erica had to secure a training contract. She had spent the last quarter of the year living on floor two of the library in the booth in the corner. Her partner, Isaac would not be happy if she didn't have one directly lined up. After all she had forfeited their time together for her studies. They only saw each other once in a blue moon. Her

family were also adamant that she wouldn't have a chance of getting a training contract because Laura, her cousin, had already spent five years trying to secure one in the same field of housing law with no luck. She had opted to become a paralegal with the hope that this would open up more doors. But Erica wasn't giving up.

Even when Erica finally told her parents that she had been offered an interview for a potential training contract in a local high-street firm, her dad huffed and puffed disapprovingly. He was concerned that there were no prospects to earn a high salary in Erica's chosen career path and that it just wouldn't be sustainable if she wanted to have a family. But when Erica was awarded a training contract after a year of searching, she immediately took it. Erica didn't care if everyone else around her thought it was a bad idea. This was her passion. This was her dream role. Finally, she could apply her professional skills to make a definite difference to someone's life. Erica was willing to put up a very good fight. She knew the impact of LASPO would try its best to stop her, but overcoming this was something she strived to do. She absolutely loved her role as a trainee housing solicitor, and nothing was going to get in her way.

9.3 'Legal Aid Lawyering'

Erica had now been working at the firm where she completed her training contract for three years. There had been a lot of changes since she started, particularly surrounding the amount of paperwork she had to fill in on a daily basis. She was fed up. Fed up of spending all of her time filling in copious amounts of irrelevant forms. She wanted to be spending that time helping people, but Erica didn't have a paralegal any more. She was scrapped last year. It was now down to Erica to do everything for her clients, both face-to-face and behind the scenes. That's ok though, as Jim (one of her clients) had brought her a lovely thank you card last week, despite only having a penny to his name. That really meant a lot to Erica. She had stuck the card up on her desk so every time she felt overwhelmed, she could look up and remind herself why she was there. Erica still couldn't afford to buy herself a new car because hers was broken, but it was the small gestures that kept her going. She was following her dream after all. That's what she kept having to remind herself of.

It was the fourth new client meeting of the day. Erica had quickly scoffed her stale tuna sandwich down that she hadn't managed to eat the day before in the 5-minute break she had before her next meeting. Hopefully, her client would be there on time as she had another lined up directly after that. Erica was used to waiting around though. Time wasn't really a priority for many of her clients. Every working day for Erica was disorganised; she had never really been able to follow a linear time structure. After all, her work largely depended on the clients and their problems. If they were late, then Erica had to reshuffle her day around. That's ok though; Erica found that quite exciting. Every working day was different, and the thrill of that excited Erica greatly. As long as she got everything she wanted to done, then the rhythm of her day didn't really matter.

What really frustrated her about her time, though, was how restricted it was becoming. Her client meetings were being cut short to an increasing extent, as she was becoming more sought after. Erica wanted to be able to see as many clients as she could. A shortage of LA providers in the area meant that this was more vital than ever before. But at the same time the LA Agency was making the whole process far more bureaucratised. Erica was now having to climb administrative hurdles that she had never had to climb before. She knew the music on hold to the LA agency telephone helpline from start to finish. She did have to listen to it about ten times per day for at least 15/20 minutes per phone call as every new client meeting required her to ring them up to initiate a case. Every time, she profusely apologised to her client for being put on hold. But she was used to waiting now. This was an inherent part of every single working day.

Erica had now been at the firm for over ten years. Her working life was definitely starting to take shape, and Erica embraced this. An opportunity arose to become a partner of the firm, and Erica applied successfully. She had been waiting for this moment. To be honest, Erica didn't think this opportunity would ever arise. She thought that Ned would definitely get it. He started a few years after her, but he was male after all. Erica felt as though she belonged there though. It was her destiny. She enjoyed watching the firm flourish; she enjoyed watching her colleagues flourish. She *really* enjoyed being in the driving seat. The firm felt like home. Erica knew the firm inside out and relished the unique and quirky features of its working culture. She

enjoyed her chats with Fred, the receptionist at the water fountain every day at around 11 am. She loved her spontaneous banterous exchanges with Lee, a fellow housing solicitor, as she walked in and out back and forth to client meetings. She looked forward to seeing Georgi, the cleaner every evening before leaving the office. She adored hearing about her daughter, Grace who had just turned four and was starting primary school the following year. Erica also liked having her own space though. She enjoyed going to the side room in the office if she needed her own headspace. Erica loved having that flexibility in her working space.

After a frenetic week in the office, Erica decided to arrange an office social. It was about time, really. She couldn't remember the last time she had been out. Erica loved going out with her colleagues, not only because she absolutely adored them, but it helped her. It helped her to cope with things. She had had a few difficult cases that week that went beyond her lawyering remit, and she was feeling a bit emotionally unstable. One of her clients had threatened to commit suicide right in front of her, and it had really resonated. She had been having nightmares worrying about it ever since. She couldn't shift it off her mind. It was ok though; she knew her colleagues would be right by her side. They knew what she was going through more than anyone else. They were living in the same little world as she was and would totally understand. Erica knew that they wouldn't judge her. Erica knew that they would sit and listen. Erica knew that they would put her at ease. You see, they were all in this journey together. They shared to same motivations in wanting to fight for social justice and would continue to do so regardless of the toll it took.

It was a Friday evening. Erica and her colleagues were sat in the local pub, chatting. She had just offloaded her worries and felt so much better. She felt ready for the next working week now. She decided to get in the next round of drinks to thank her team for all their hard work over the past few months. The LA Agency had continued to batter their firm, yet everyone still clung on. She wasn't going to lose anyone. She needed her team, and they needed her. As a team they could cope with all the hurdles stemming from the cuts. She couldn't do that alone. Erica went to the bar and bought a round of gin and tonics. She opted for the finest gin they offered because her colleagues were so worth it. She didn't care that she was almost reaching her overdraft. Money didn't really matter after all. Her friendships did, especially in this job. She

could already imagine how her colleagues would react when she took the drinks over. That made her smile.

On her return, she found herself sitting next to Billy, the new trainee solicitor. Erica felt a very strong connection with Billy. She had been there to guide him through the whole process of becoming a legal aid lawyer, and she felt proud of him. He was so close to becoming qualified, and she couldn't wait to tell him that she wanted to keep him on because he had been such a committed and hard-working trainee. He was a superstar. She absolutely loved being a role model. She felt that it was her duty to pass down her knowledge to those starting out in the field. This was something Erica strived to do; they were all climbing the same ladder after all. Everyone in her firm sought to do the same. This was just the way in which her firm was orientated. It didn't stop at just helping the newbies though. Anyone could ask for help, and they would get it, even those who had been there for years and years. Erica encouraged everyone in her department to share knowledge and to lend each other a hand whenever they needed it. She found that this made her firm a much nicer place to work. They identified as a collective in spite of the diversity of individuals working for the firm. They were the Silverman and Co housing department, and she was extremely proud of this identity.

9.4 Family Life

After a couple of years in her position as a partner of the firm, Erica began to reflect on her life. She had devoted absolutely everything she had to her occupation. At the age of 39, Erica decided that it was about time she focused on herself. Isaac had been nagging her for years about having a family. It was time. Time to take a step back and focus on herself and her family. Erica had always wanted children, too, but her job had restricted her. Luckily now she was in a position where she could now take some time out to have a family. As a partner, she was fairly autonomous. Hayley, her colleague, a very junior solicitor was in the same position though, and unfortunately for her, she didn't have the same safety net as Erica. For those at the bottom levels of high street firms, it was notoriously difficult to take time out to have children and come back. Erica felt so incredibly guilty about this, but couldn't dwell on it too much.

Erica could still work remotely in the first few months of her maternity leave and would return early to work to ensure that she didn't take too much time out. She could have her phone on all the time, and be logged on to her emails from wherever she was. She still had to be there for her colleagues, and she was willing to sacrifice some of her own needs in order to make sure her firm didn't lose out too much whilst she was away. Whilst having children was so important to Erica, she didn't want this to have any adverse effect on all the hard work she had done up to this point. She still had a mountain to climb with regards to the fight for justice. Erica would also miss work whilst she was away. It had been her life for the past 15 years or so. Erica knew how to be a legal aid lawyer. She was good at fulfilling that role. She couldn't imagine life without that identity. After all that's who she was - a legal aid lawyer- and this is what she wanted to continue to be[55].

[55] See A5 for a follow-up discussion

Chapter Ten: Conclusions and Recommendations

Being on the legal aid front line is still an absolute privilege

(Maddie, CS)

The narrative throughout this thesis locates the complex and nuanced interactions between the socio-economic backdrop, the LA occupation and the LA lawyer in a threefold manner across the macro, micro and meso levels. It explored the social milieu of the legal aid world in terms of personnel, modes of operation, and positionality within the legal profession as a whole. The macro-meso-micro levels together have helped to produce an overview of the LA terrain, which would not have been encapsulated if each level was explored in isolation. This threefold framework facilitated the discovery of the SO, which offers a new way of understanding the nuanced LA world.

Establishing that the LA lawyer is situated in the position of a precarious worker, this thesis investigated the changing nature of what it means to be an LA lawyer in light of the cuts to LA, following the implementation of LASPO 2012. Close attention has been paid to the effects that reductions in funding and services have had on the 'lived' professional experiences of LA lawyers, as well as the relationship between precarity and LA lawyers' professional identities. The experiences of the 30 legal aid professionals interviewed for this thesis, as well as those encountered within the ethnographic fieldwork, while each unique, can nonetheless be categorised into broader themes. The findings suggest that the legal aid world operates as a 'profession within a profession' given its multifaceted, unique and somewhat marginalised status which contrasts its private counterparts.

LA lawyers have traditionally been understudied; however, they remain an essential part of the mechanics of justice. This research has contributed to socio-legal and criminological literatures. It has also reached out to the wider academic gaze, contributing to literatures on professions, white-collar work, precariousness, occupational culture, and altruistic modes of work. This final chapter will first outline the research questions before it concludes the key findings and their implications presented in previous chapters. It will then reflect on the thesis' key contributions to

theory and academic literature in relation to the research questions. This chapter will conclude with suggestions for future research and final concluding remarks.

10.1 Research summary

As outlined in this thesis, the cuts to LA provision since 2012 present a very real threat to LA practice in England and Wales as established in chapters one and two. This thesis examined the changing professional identity of civil and criminal LA lawyers in light of their shrinking industry and significantly diminishing funds courtesy of LASPO (2012). Chapters five and six addressed the initial research questions: *What consequences have the reductions in funding and services had on the lived professional experiences of legal aid lawyers, and what is the relationship between precarity and legal aid lawyers' professional identities?* The state of the LA profession was assessed on the macro level using ethnographic and interview data, alongside existing secondary data. The identity work of the LA lawyer is multi-functional. Within their 'profession within a profession', they are expected to adapt as a precarious worker. In line of the everyday work, they are forced to take on multiple roles that would have traditionally been occupied by paralegals or administrative assistants. The meaning they attribute to their profession, however, consists of a fragmented identity, adopting the roles of "a counsellor, doctor, psychiatrist, social worker, and LA lawyer", which gives them meaning in light of the constrained macro picture.

Chapter seven addressed the next set of research questions: *What do the developments in the legal aid profession say about the nature of contemporary work and the capacity for state institutions, professional groups and individual professions to 'do good' and how do the cuts to legal aid funding affect the structural (in) security of white-collar professionals (lawyers) who chose to work in a more altruistically-minded as opposed to acquisitive sphere?* Crucially, tensions have arisen between the desire to want to 'do-good' in a profession that has typically been underpinned by altruistic tendencies, and the capacity for those in the profession to continually and effectively practice in such a way. The gap between LA lawyers' aspirations and the realities of their practice has been widened. This exacerbated existing issues, such as a lack of reward (i.e.

financial and/or social), lack of career progression, restrictions on time to be able to perform their roles, occupational burnout and increased emotionality.

Chapter eight considered the final set of research questions through a cultural exploration of LA work: *How do the dynamics of culture and LA work interact within the post-2012 cuts setting, and do LA lawyers uphold a form of occupational culture?* In response to this research question, a new shared orientation framework emerged. The framework seeks to offer a new understanding incorporating the macro, meso and micro levels. The findings outlined the development of a strategy aligned to coping mechanisms in the form of a 'shared orientation'. This was explored as a process that allows those in the 'profession within a profession' to cope in light of broader structural changes, which may variously impede daily practice. Embodying a form of shared orientation encourages cohesion in an otherwise fragmented occupation, and allows those within it to affect the more desirable features of their 'ideal' occupation. The findings make an original contribution to knowledge through an assessment of how a framework of shared orientation functions to consolidate individualised labour in adverse circumstances.

Chapter nine combined the emergent findings to produce a composite character that highlighted the plight of the LA lawyer. The purpose of this chapter was to capture the nuances of the role in terms of expectations, sacrifices and outcomes while indicating how personal and professional identities and values overlap. An additional intention of this chapter was to outline clearly some of the complex aspects of the findings in a dynamic and applied manner, thus communicating the core elements of the data in an accessible format. This makes an original methodological contribution.

10.2. Research findings

This thesis has produced a critical insight into the changing occupational terrain of the LA lawyer in times of precariousness. The three levels of exploration are summarised below in Figure 13, which illustrates the research findings.

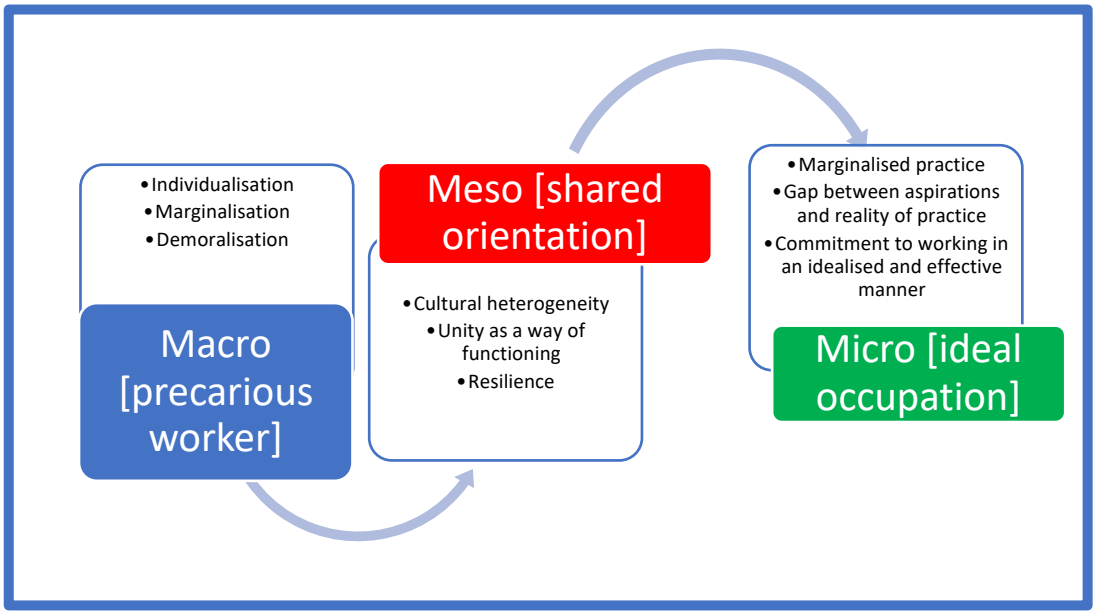

Figure 13: Threefold analysis evidencing findings on the macro, meso and micro levels (Self-elaboration)

As shown in Figure 13, on the macro level, the LA lawyer can be identified as a precarious worker as they face variability and uncertainty, spanning across different workplaces, specialisms, job titles, caseloads and barriers to their work. LA work as a 'profession within a profession' faces further fragmentation and marginalisation in the context of the post-2012 cuts. The findings demonstrated that some LA lawyers remain loyal to their engagement in an 'ideal occupation', as their ability to practice in a humanistic manner allows them to get by in an occupation whereby they are otherwise marginalised (in line with the findings of Zaloznaya and Nielsen, 2011).

On the meso-level, a working culture in the form of a shared orientation was demonstrated to be of more use in understanding both the nature and response of LA lawyering in uncertain times. This cultural mechanism helps to navigate broader macro changes and allows for individuals within the LA world to maintain a sense of unity and cohesion. On the micro-level, despite their marginalised practice, the LA lawyers were seen to hang on to some elements of the 'one-stop-shop', extending their efforts in some cases beyond just the legal remit. The data demonstrated how the gap between lawyer aspirations and the realities of practice is widening.

10.2.1 The marginalised LA lawyer

Findings suggest that the LA lawyering profession faces significant marginalisation. This is twofold: as a result of increased pressures on LA provision, and through occupational marginalisation as a result of disparaging attention from private lawyers, the media and broader society. Inadequate training and preparation for working within LA, demonstrating that participants are alert to potential failings beyond their control early on in their careers, exacerbate this marginalisation. This places them on the peripheries of the profession as their personal investment and motivations are not matched by professional or institutional provision. Likewise, while the LA profession is becoming more diverse, some inequalities in social class, gender and race remain, particularly within the remit of being a barrister.

As set out in chapter five, this research found that participants were motivated in different ways to work within LA. The most significant motivator for career entry and continuance in the field was the ability to 'do-good' or to work for the wider social good. This was in contrast to the high level of frustration as the LA lawyers were being forced to become increasingly detached from their clients, resulting in feelings of being under-valued, frustrated and powerless to do their jobs as recognised in chapter six. They did so with a degree of resignation and acceptance, as their restriction of practice was just 'how things are going to be'. Participants in this research were not driven by monetary gain at all due to the low salaries associated with the work, and the remaining participants were working in LA by default because of how their specialism was funded. Some of the participants stated that if anything the LA element of their work was a significant barrier to their everyday practice. Recognising what motivates individuals to enter the profession is essential, as the current terrain has the potential to dissuade new recruits.

The research also showed that the participants with altruistic motivations were keen to follow their motivations by putting the client first, as evidenced in chapters six and seven. While the participants indicated that they enjoyed representing the 'underdog', working for the social good was often visible in more intrinsic ways as opposed to being public-facing. For example, those within this sample accepted the macro situation and did minimal campaigning on the wider scale against the cuts to LA

funding. They discussed the issues amongst their fellow workers to support each other but remained professional in their approach with an inward-facing front, venting only within the walls of their own occupation. This could be attributed to their marginalised position, lack of overall confidence and the inability of LA lawyers' to do anything about the situation enforced as part of broader austerity programmes. As changes to the regulation of the legal profession continue, likewise the future of the 'profession within a profession' is uncertain, and its formation may significantly alter from how it has traditionally been perceived for centuries (see Boon, 2015).

10.2.2 Reconfigured professional identity of the LA lawyer

These motivations can be linked to the context in which the LA lawyer works and the impact it has on their professional identities as outlined in chapter six. Wider cuts to LA funding, combined with the marginalisation created as a consequence of increased bureaucracy from the LA Agency, have resulted in a precarious macro context. In this research, the 'new' LA lawyer straddles the chasm between legal and political domains more than ever before as they are placed in a position where their agency is very much restricted. The cuts to LA funding came as part of the UK government austerity programme; a fiscal policy that consists of sustained reductions in public funding. As the Ministry of Justice tightens the grasp on the LA Agency, those inside it become increasingly alienated as the gap between their aspirations and practice gets wider and wider creating a strong sense of structural insecurity. The findings, while limited by the size of the sample group, suggests support for hypotheses outlined by Newman and Welsh (2019: 64), who argue that 'English criminal defence lawyers currently present as alienated workers' as a result of '…structural change-most notably funding cuts and demands for efficiency'. Evidence of this can be seen across both civil and criminal remits in this study; however, further research is needed.

As emerged from the research, the LA lawyer can be seen as a precarious worker. Not only has the relationship between the lawyer and client changed but so has the relationship between the lawyer and the state. The professional status of the LA lawyer has been undermined, and they face an even more 'limited professional role' (Katz, 1982). The role is limited in the sense that multi-tasking becomes crucial in an already resource-restricted environment. As argued by Zaloznaya and Nielsen (2011), LA

lawyers are now subject to 'task-marginality' whereby those in the field spend far more time doing menial tasks rather than using their advanced levels of professional and legal skills to help those most at need. This results in extreme frustration as it inhibits and restricts the ability of the LA professionals to follow their aspirations of working for the social good.

An emergent finding was how the professional identity of the LA lawyer has weakened in line with alterations to their way of practising. The 'profession within a profession' is being more and more dominated by standardised practice as a result of processes implemented by the LA agency. Therefore, the ability to do LA lawyering as a vocation has been undermined, and the role is increasingly being viewed as just a 'job'. This results in a crisis of professional identity due to a growing antipathy towards the adversarial nature of the work. In line with the work of Boon (2005), this widens the gap between expectations and reality as the gap between motivations/ training, and realities of practice become even vaster. These findings may increasingly make it difficult to attract and retain people in legal aid work.

Confined LA practice imposed by the LA agency further determines and constrains knowledge and practice, and has resulted in LA lawyers facing a shift in their own autonomy and professionalism. As they are required to carry out more administrative duties, they can be seen to be slipping into roles that are typically seen as being lower-middle-class jobs. While lawyers would previously pay other people to write letters and carry out administrative duties on their behalf, restrictions have resulted in the lawyers having to do a lot of these jobs themselves. The combination of low salaries, low social status and disregard for professional skillsets all contribute to the precariousness of LA work. The loss of professional independence, as well as the restricted ability of those in the field to carry out the work in the way that mirrors the motivations for many wanting to work in the field in the first place could help drive people out of the field of work. The more resources and time are being squeezed, the more difficult it is to 'do-good', undermining the very purpose of LA work. As a consequence this contributes to the diminished professional status of the LA lawyers which is problematic, as "lawyers serve an important constitutional importance" (Boon, 2015: 36).

10.2.3 The ‘ideal’ LA profession

Besides the difficulty with doing good under the constraints found, this research suggests that LA lawyers nevertheless attempted to sustain the ‘ideal’ identity of the LA lawyer. The participants remained positive as the desire to continue to ‘do-good’ remained desirable. The LA lawyer’s deep engagement with their clients and wider social justice orientations simply allow the lawyers to ‘make do’ in a profession whereby they are otherwise marginalised, not only by their private counterparts but also by broader society as evidenced earlier. As the findings in chapter seven showed, LA lawyers were, therefore, willing to endure personal and profession sacrifices, resulting in practice restriction, occupational burnout and capped progression. The commitment to working in an effective and idealised manner, demonstrating altruism, resilience and determination was evident across both civil and criminal remits alike.

The finding that the ability of the LA lawyers to continue to offer a ‘one-stop-shop’ whereby LA lawyers act as a source of multiple services through which clients can have their legal (and selected other) needs met in just ‘one-stop’ has been somewhat sacrificed. This was indicative of earlier points such as the widening gap between aspirations and realities of practice, which, as a result, means the lawyers feel more dispirited. However, the quest to want to continue to fight for justice has been made easier through reliance on group networks. Networking played a significant role to enable LA lawyers to connect and communicate virtually as well as in person. Likewise, a stable form of working culture enabled the LA lawyers to cling on to their ‘ideal profession’, even if it was more fragmented in the realities of practice. This formed the basis of the meso-level analysis.

10.2.4 Coping mechanisms

Put simply, this thesis has demonstrated that the occupational terrain of the legal aid lawyer has, and will continue to change because of the precarity of LA funding. Suitable coping strategies need to be identified to help soften the impact of this. Despite the many challenges encountered by participants on their LA paths, they were overwhelmingly positive in the strive for justice. Participants were resilient and

accepted what was happening to the wider macro-terrain because they were energised by and engaged with their fellow colleagues.

On the meso-level, the existence of a working culture was the solid foundation that allowed the participants to 'get by' on a day-to-day basis. It was as if their individual motivations were no longer significant in isolation, but through group connection, and the desire to belong and engage in a broader and more integrated network of LA lawyers was more important. This group element plays an even more significant role in which the professional typically acts as 'a company of one' due to its individualised nature.

As opposed to applying the blanket model of an occupational culture to the field, a more apt working model emerged from this study, which encapsulates the individualised work of the LA lawyer emerged in the form of a 'shared orientation' (SO). This framework not only captures cultural dissonance amongst those working in LA; but also, it likewise acts as a coping mechanism and/ or an emotional outlet from the wider fragmentation of the role as a result of funding cuts, which consequently prioritise efficiency over quality. This cultural framework, which is sustained by both teamwork and individualisation, likewise attempts to keep the LA profession alive, despite it being stretched at its seams. The main functions of having a SO are: offering unity as a way of functioning in a multi-faceted and fragmented occupation; fortifying support systems and collegial relationships in the face of diversity; transcending occupational boundaries as well as negotiating personal and professional overlap; and as a way of 'finding your feet' beyond the remit of formal education and training. The SO fundamentally accommodates the cultural heterogeneity of the LA world that traditional models of occupational culture would otherwise overlook, offering a nuanced and more accurate picture of their working world.

The SO was seen to be passed down from the more experienced LA lawyers to those newly entering the 'profession within a profession'. LA lawyers chose to maintain this SO as opposed to being *obligated to* uphold a working culture. LA lawyers uphold their working culture and holistic imperative because, on the one hand, they *desire* to,

but on the other, it is imperative to their survival as their broader working structures become progressively more insecure.

While the occupational terrain of the LA lawyer has fundamentally - and will continue to be - adversely affected by cuts to funding, the need for them to maintain a strong core and support each other is more necessary than ever. In a profession where typically the core is hollow as each lawyer follows their own professional path, building and strengthening the SO is entirely in the hands of the LA lawyers themselves.

10.3 Wider contributions to academic literature and theory: is there capacity to 'do-good' anymore?

This thesis has made a definite contribution to the understandings of the 'modern' LA lawyer, wider socio-legal literatures on LA lawyering and legal cultures by offering a snapshot into their working world in the post-LASPO context. It has also identified several themes found within the theoretical framework that reach out to the wider sociological academic audience. These include the study of professions, white-collar work, precariousness, occupational culture, and altruistic modes of work. Theories of precariousness have been used here to explore the changing nature of a traditionally white-collar, altruistic profession. An original contribution to the study of occupational cultures has been made, as a nuanced and more-fitting framework of how culture and work interact in the LA context has emerged. Overall, this thesis sheds light on a subject matter that is very much aligned with broader political dynamics. This thesis, therefore, offers an insight into what it means to be a middle-class 'liberal' professional in the 21st century. Broadening out from specific research questions, the findings also brought about the need to reflect on wider questions: to what extent have we de-valued work? Moreover, to what extent have we said that the only work that can be rewarded is financially orientated?

The interviewees described a prevailing sense of the de-valued nature of working for the common good as bureaucratic-practice is prioritised over humanised-practice. Moreover, while having the title of being a 'professional' used to give agency to be able to make or implement social change, here we see a significant shift in what it

means to work in an altruistic profession. This is a result of the de-professionalisation of key actors within the world of work. The structural insecurity of working in a traditionally altruistic sphere brings to light challenges which are not often faced within the acquisitive sphere. Reward comes in the form of a discourse of 'giving', in the sense that an interaction between the lawyer and the client is not merely just a 'transaction', but rather an emotionally-informed reliance on each other. The portrait of the contemporary LA lawyer that has been presented in this research is one that is enveloped with the outward and inward desire to 'do-good', yet the effect of austerity continues to question the very nature of this identity.

As evidenced in this thesis, the LA lawyer profession requires those within it to have a form of moral obligation to move away from self-interest and to want to help others. As the 'profession within a profession' becomes increasingly precarious, those within it face meagre rates of pay, occupational burnout and marginalised practice, which limits the level of client care one can offer. This thesis has demonstrated that what is needed in the LA role, is the balance between finding a suitable level of altruistic practice and professionalism that fits with the complex nature of modern society and wider austerity measures.

As further evidenced here, having a lack of ability to implement altruistic practices within the profession, may result in reduced occupational efficacy, since altruism was a prominent motivation for half of the individuals in this sample. Maintaining a sense of altruism, even if it is in the form of informal mechanisms such as a SO, this may help professions to maintain some traditional characteristics, slowing down the trend of de-professionalisation. Despite this, the way in which economies and governments are changing could mean that the whole question of what it means to be an LA professional could continue to change drastically, and could thus almost become extinct in a generations time if things continue the way they are. This calls for continued research.

10.4. Recommendations for future research

Since this thesis began, the climate in which LA lawyering exists has continued to evolve. While this research offered a snapshot between 2016-2017 when the fieldwork

was carried out, and the data was obtained; due to the changing nature of LA, research needs to be able to 'keep up' with the ongoing changes to the macro-context. There is, therefore, an ongoing need for further research and this needs to happen quickly and fluidly to be able to adapt to the ever-changing landscape. Future research should consider the impact of continued economic change on LA lawyers; the effect of the LASPO review recommendations on LA; what an LA lawyer study with a wider geographical span would look like; what would make a useful piece of client-focused research, and; how further study of the shared orientation model should proceed. These would all benefit scholarship within the areas of LA, the legal profession, as well as contributing to work carried out by scholars on occupations and public services generally, but especially under austerity.

In line with this, the Government have published their Post- Implementation Review of Part 1 of LASPO (February, 2019), alongside a separate review of LA for inquests, as well as a Legal Support Action Plan that lays out the Government's 'vision' of the modern system of legal support as a consequence of LASPO (Ministry of Justice, 2019; The Justice Gap, 2019). The review seeks to assess the extent to which LASPO has met its four original objectives:

1) Making significant savings
2) Discouraging unnecessary litigation
3) Targeting legal aid at those who need it most
4) Delivering better value for money

The overall conclusion is that LASPO was only 'partially' successful in meeting these objectives (*ibid)*. While significant savings have been made, evidently this has had serious knock-on effects on the occupation which has somewhat rationed justice. In a positive light, however, the review further identifies themes that have emerged from a collective body of 100 interested parties who have a vested interest in LA. The LASPO review has considered these themes[56], and as such, the Legal Support Action Plan

[56] "The themes identified include: (1) the removal of areas of civil and family law from the scope of LA, (2) that people who need legal aid cannot access it, (3) the Exceptional Case Funding scheme is not working, (4) fees for legal aid work are inadequate, (5) there has been

outlines changes the Government intend to make. This further sheds light on what the future of the LA occupation holds.

However, these changes have been accompanied with both positive and negative commentary, and while some of the proposed changes may help reform LA, others may exacerbate the existing problem as there is a "…risk of being seen as just kicking the can down the road" (Bob Neill MP- Chair of the Justice Select Committee). Two of the key areas for change are the implementation of the outcomes of the review on both means-testing and the 'pilot of early advice in social welfare law' (The Justice Gap, 2019). This will fundamentally pose new challenges for the researcher, as the underdog, in this case, the legal aid lawyer, continues to fight for the justice they deserve. There is, therefore, an ongoing need for continued research in this field of inquiry.

The sample for this research was both small and purposive and simply granted by means of opportunity. While the findings are neither comprehensive nor definitive, they offer a vital snapshot into the occupational world of the LA lawyer. A wider geographic span, as well as more prolonged research with more barristers, solicitors and other professionals within the LA backdrop in the form of multi-site research, will assist with further understanding of the occupation and the ways in which it both functions and endures in its precarious context. This would benefit both civil and criminal remits.

Clients are likewise obvious respondents for further research, as they would offer a different perspective overall. As Rhiannon (WS) noted: "Clients still assume that I'm a big fat cat living in a mansion". A very different vision may emerge from the clients' perspectives, as they have a very different way of seeing the LA world. While LA lawyers can present themselves in a manner in which they seem fitting, painting an idealised picture, research with LA clients may reveal further that LA lawyer's 'talk the talk' but do not always 'walk the walk' (see Newman, 2013).

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a rise in unrepresented litigants, and (6) 'advice deserts' have developed in certain geographical areas"

The research set out to address the complexity and multi-faceted nature of the resource-constrained LA world. The ability to look at LA lawyers practising in both civil and criminal remits allowed for various layers of analysis, which fundamentally helped construct the institutional identities that emerged out of this research. In particular, the extensive sample benefited the construction of the SO, as it would have been harder to justify if fragments of the profession were explored in isolation. While this meant that the breadth of the 'profession within a profession' could be explored, likewise depth was achieved due to the threefold analyses. As mentioned in chapter four, civil lawyers often seek a 'remedy', whereas criminal lawyers often seek to penalise. The findings emergent from this thesis were more positive than expected, as previous research has indicated adverse findings. For example Newman's (2013) ethnographic work on criminal defence lawyers evoked more of a negative outcome outlook on the work. This could be attributed to the fact that he focused on the lawyer-client interaction solely within the remit of criminal defence. Again, this likewise justifies the need to also research from the perspective of the clients as they could paint a different picture to the LA lawyers.

Further research is also required into how a SO model features manifests across the 'profession within a profession'. While the SO has been addressed on the surface level in this thesis and its existence is evident, a future study should build on this by further assessing the extent to which the SO is applicable across 'multiple-sites' with varying LA actors. By applying this framework in differing geographic, economic and demographic backdrops, the extent to which it is both a viable and suitable model to understand the LA lawyer's working practice can be assessed. As the macro context becomes precarious to an increasing extent, the ability of a SO to withstand external pressures and continue to act as both a response to the LA lawyer's marginality, as well as a coping mechanism needs further exploration. A greater understanding of the working culture of the LA lawyer is likewise needed to understand further how flexible and adaptive the framework of analysis is as it is very much in its experimental stages.

The emergent model of the SO from this research may prove valuable in the study of other complex occupations, as it has emerged a valuable framework of study where a blanket model of occupational culture may not suit. As a flexible framework, allowing

for differing levels of engagement, this could be useful to other large professions which have multiple 'professions within a profession', i.e. medicine, social work or education, just to name a few.

10.5 Final considerations

Overall, the author believes that this thesis has met the aims it laid out initially and as such offers a valuable contribution to the knowledge on the subject of the LA lawyer and the challenges that are faced in their everyday work. Existing academic work was not able to move us beyond looking at the more specific features of the LA world in isolation from each other, whether that be a particular aspect of their work or a specific specialism. The threefold analysis adopted in this thesis has encapsulated the LA 'profession within a profession' in a detailed and nuanced manner.

LA lawyering cannot be explained solely through macro theories of sociology of work and precariousness alone, as this misses out the interactions on the organisational and individual levels. Likewise, without situating the profession in the macro context, an accurate and valid representation of the LA world would not be given as the LA cuts permeate every layer of the occupation. Social reality in the context of the LA lawyer is multifaceted and complex, and therefore such an eclectic approach is needed to give real insight. It is through this threefold model that a richer picture of how precarity and austerity refract down the varying levels of the LA occupational terrain emerges. The humanity of lawyers is not something that is regularly spoken about. External characteristics are very one-dimensional, and they ignore the day-to-day professional roles. This thesis has sought to address that.

While the individualised LA lawyer has been presented here as a precarious worker facing marginalisation and fragmentation, it is through their SO that they can maintain and attempt to cling on to their ideal occupation in an attempt to challenge wider tactics of austerity. Fundamentally, SO acts as a meso-level catalyst to manage macro-level threats, which in turn affects how LA lawyers go about their everyday micro-practice.

In summary, encapsulating this occupational world in full was a hugely daunting task; however, it is a *crucial time* to have obtained a richer understanding of what it means to be an LA lawyer in times of precariousness.

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1%2526pq%253Dsanchagrin%252B2014%252Bla%2526sc%253D0-18%2526sk%253D%2526cvid%253DA56E7CD0FE5A4EFC98BB7404860181A9#search=%22sanchagrin%202014%20law%22> Accessed 9th September 2019.

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Appendices

A.1 Consent form

Title of Project: The Changing Occupational Terrain of the Legal Aid Lawyer in Times of Precariousness
Name of Researcher: Emma Cooke

-I, the undersigned have read and understood the research brief provided dated… for the above study
-I have been given enough time to consider my decision, ask questions and have had these answered satisfactorily
-I understand that my personal details will not be given to anyone outside of the research project
- I understand that taking part in the study will involve being interviewed and observed
-I understand that my words may be used within the research; however my anonymity will be maintained at all times
-I understand that I can withdraw from the research at any time and this will not be questioned.
- I agree to take part in the above research project

Participant
Name: Date:
Signature:

Researcher
Name: Date:
Signature:

A.2. Information Sheet

This research is being carried out for the purpose of an ESRC funded PhD project entitled: 'The Changing Occupational Terrain of the Legal Aid Lawyer in Times of Precariousness'. This project will seek to describe and analyse the occupational culture of the 'legal aid lawyer' in England, both in general and in the current economic climate, further assessing the extent to which this 'occupational mindset' features in the day-to-day lives of the legal aid professionals. Furthermore, this research will aim to understand the consequences that reductions in funding and services will have on the 'lived experiences 'of the legal aid lawyers. This research aims to study and analyse the culture of legal aid lawyers in the formal setting of the workplace. I will be observing the behaviour, the culture and the general environment of the office and noting down any elements I feel that are beneficial to my research. I will be carrying out my research through participant observation, complemented by 30 oral-history interviews in order to facilitate a deeper understanding. Ethical safeguards will be built into the study to ensure that anonymity, informed consent and confidentiality is maintained. Particular sensitivity will be taken to ensure that client confidentiality is always respected. Every research participant will be required to complete a consent form at the start of the research. Data will be stored in a very secure location on a locked computer and likewise recordings and data will be discarded of appropriately after the research has finished. Personal or place names will not be disclosed, and pseudonyms will be used. This project is entirely voluntary and all participants have the choice to opt out at any time during the research process.

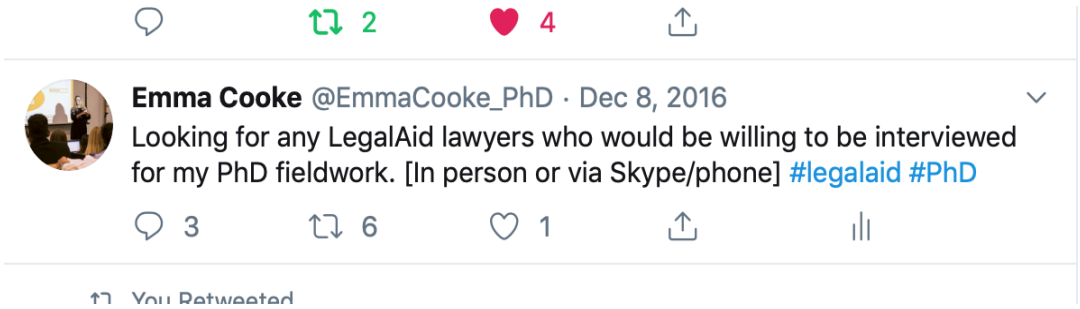
If you have any questions or concerns, then email the researcher at:
ec416@kent.ac.uk
For any complaints, or other concerns, please contact:
J.Ilan@kent.ac.uk

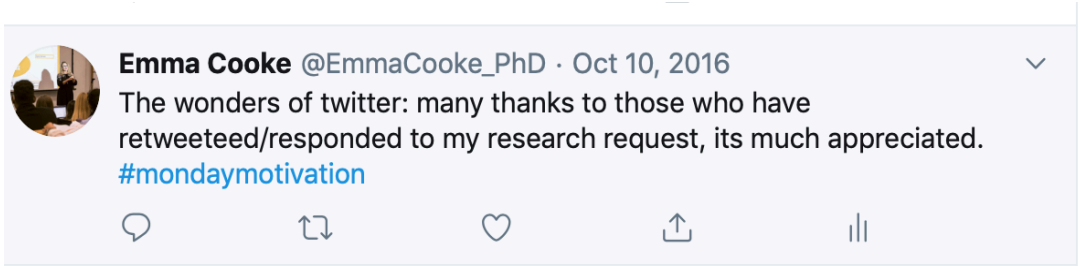
A.3 Interview schedule

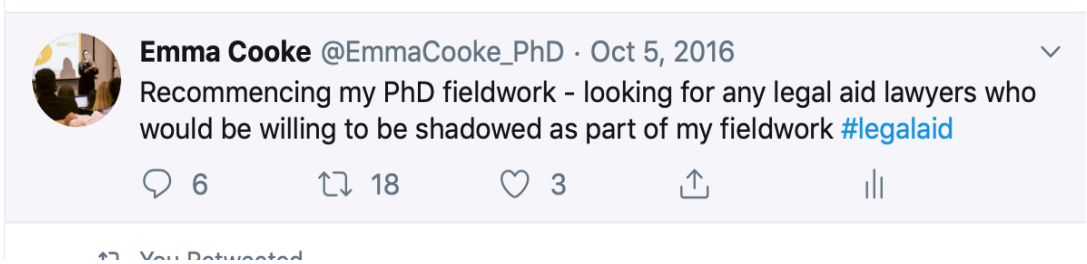
Interview Schedule

1) **Brief Background:** Tell me a bit more about your journey into the profession? / Why legal aid?/ How long have you been a legal-aid lawyer/ have you always worked in the same place/ what area do you specialise in?/ Family background – does anyone else within the family work within the field of law?
2) **Positives/ Negatives:** What do you enjoy most about the occupation / What do you enjoy the least/
3) **Stereotypes:** Do you think there is a general stereotype associated with being a legal aid lawyer?/ Has your experience reinforced that stereotype?
4) **Gender:** more female or male orientated?/ specific to the legal aid sector?/ Does this affect and/ or shape your role?
5) **Class:** Which class would you most associate yourself with?/ What class would you say most legal aid lawyers come from?/ Does class affect your role or the access to your role?
6) **Organisational Structure:** How many employees are there within this firm?/ how is the office laid out/ do you think this is effective? Are there certain practices and customs that are regularly displayed within the office/ Do you communicate in a certain way with other Lawyers?
7) **Family:** What is your work-life balance like?/ Do you have any children?/ Are you married?/ Do you spend a lot of time with your family?/ Would you be happy with your child working as a legal aid lawyer?
8) **Typical Day:** Tell me about your typical day, from when you wake up to when you go to sleep?/ what do you like to do on your day off?/ do you socialise with other lawyers?- are they within the legal aid sector?/ / Do you think that a specific skillset is required to work within the legal aid sector? / Do you think that there is almost a politics to your role in defending needy clients?
9) **Other Law enforcement cultures:** How would you describe the working culture of other law enforcement agents i.e. police/ prison officers?/ are there any similarities to your world of work?/ Do you regularly interact with other members in the criminal justice field?
10) **Occupational Culture**: would you argue that there is a distinctive culture associated with your profession?/ If so, would you self-identify as belonging to it/ Can this be applied outside of the legal-aid arena?/ does this have an impact on your day-to-day roles
11) **Current economic climate [LASPO Act/ LAA and MoJ cuts]**: Have you personally seen significant changes or impact on the profession in light of the recent reductions in funding?/ How has this affected your client group or traditional client base?/ Has this affected your caseloads?/ Reflecting on your career within the legal-aid sector, does your role feel any less secure than before as a result of this?/ Has this made your role less enjoyable/ and/or satisfying?/ How do you feel about the recent restructuring of the profession?/ Do you think it's a fair way of allocating Duty Crime Contracts?/ Do you think the media has played a positive or a negative role in light of the recent changes in Legal aid?

A.4 Calls for participants via Twitter







A.5 Chapter nine follow-up discussion

"Lives are told in being lived and lived in being told" (Carr, 1986: 61). Chapter nine described the nuanced manner in which some LA lawyers experience their world of work based on the empirical evidence gathered. This chapter sought to explore these features through a personalised narrative based on a composite character of all the participants in this research. From this, the following empirical themes were identified in this chapter, which flows across the macro-meso-micro levels[57]:

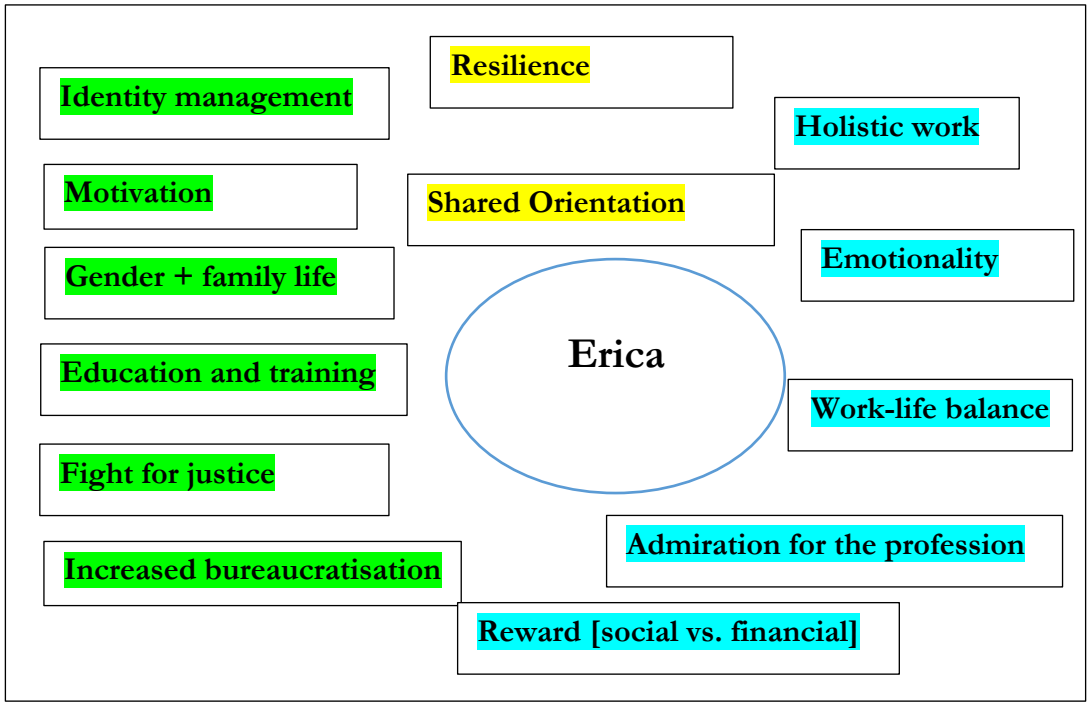


Figure 14: Emergent themes across the macro-meso-micro levels from chapter nine (Source: self-elaboration)

The following discussion will seek to unpick these themes and their relevance to this study. By doing so, it elucidates the findings from the data in more intricate and micro-detail.

[57] Key: Green (macro)/ Yellow (meso)/ Blue (micro)

Motivation

Erica has always wanted to work within LA. It was the altruistic elements of the work that attracted her, and nothing else. She could 'do-good' in her position as an LA lawyer, and that is what excited her the most. Her motivation for this emerged even before her education and training, and she maintained this motivation throughout her career despite barriers to her work. This was not exactly everyone's motivation but was a strong theme in the ethnography as evidenced.

Reward (social vs financial)

Erica did not earn much money at all. She could not afford to upgrade her car; likewise the round of gin and tonics in the pub really took a significant chunk of her wages, but she did not mind. As evidenced, she was in the role entirely to 'do good' and to assist those most at need. Alistair (CB) argues that: "Working in LA is great, yeah an absolute great feeling to work with people who need someone to stick up for them. LA makes that possible. If that reward was not there, then I don't know what I'd do. I'd definitely have to look for another job". In other words, those working in LA do it because of the social reward, as fully justified in chapter five. They are not in the profession for monetary reasons; however, YLAL have called for the 'reintroduction of a mandatory minimum salary' after it was revealed that 1 in 4 trainee solicitors were paid below the 'recommended level'. This is a result of the Solicitors Regulation Authority scrapping the minimum salary for solicitors in 2014 (The Justice Gap, 2019). The minimum salary recommended by the Law Society of England and Wales is £19,619 outside London and £22,121 inside London (Law Society, 2019e). While this is not compulsory, firms are advised to pay these rates in order not to lose individuals who cannot therefore reach the profession due to lack of financial incentive. This was common for many in the study, but some also took on non-LA work to boost their income.

Gender + family life

Erica thought she would never reach the 'partner' position because of her gender. She was sure that her male counterpart would get the role. Erica wanted to have a family, but she was worried that this would have too much of an impact on her working life

which she had worked so hard for. This was even harder for her colleague though, who did not have the privilege of being more senior in Silverman and Co. She did not have the autonomy to be able to leave the profession to have children as there just was not time. She would be at huge risk of losing her job as the firm would probably just send her work elsewhere. Likewise, juggling the requirements of LA work is difficult. As Rachel (a partner and HS) states that a combination of long working hours, altered work-life balance, a shift in priorities, as well as the need to be both on call for work and for your children 'can make things very difficult'.

Education and Training

Erica's findings relate specifically back to chapter five. While her education did not feature much LA-centred work, and she took on a multiplicity of jobs to fund her training. She also spent every other living hour of the day in the library. As Nicholas (CS) further justifies:

> We've had to work so hard to get to where we are now as LA lawyers. It's definitely not an easy ride, and just like any other profession- it takes absolute commitment in both your education and training. It also takes a hell of a lotta intuitive as unfortunately the existing learning structures don't always equip you the way they should do!

This also coincides with the findings from the YLAL social mobility survey (2018). 72% of their respondents have or will have debt over £15,000 as a result of their education and 26.5% have debt equating to over £35,000 (on top of undergraduate loans) (YLAL, 2018). Debt required with low salaries is undoubtedly a barrier to the profession. As evidenced previously, over 53% of their respondents claimed that they were earning less than £25,000 5 years PQE (YLAL, 2018). The findings concluded that low rates of pay was one of the biggest challenges facing those in the sector, as in many cases it is just not feasible or sufficient in monetary reward.

The Fight for Justice

Erica was in the united fight for justice. This succeeded all of her other identities, as evidenced in the opening paragraph. Despite her own personal commitments, her role as an LA professional succeeded over the rest. Likewise as demonstrated above,

nothing was going to get in her way of doing so, despite the many hurdles she had to face throughout the course of her journey to both becoming and being an LA professional. These hurdles included the impact of LASPO, wider LA cuts, increased bureaucratisation, emotionality and lack of financial reward. Although many of my respondents may have been inclined to talk up the altruistic nature of their motivation when talking to an outsider, my participation observation in meetings, courts and workplaces provided me with opportunities to see how the LA lawyers behaved in practice.

Increased Bureaucratisation

Erica had to spend an awful lot of her time filling in paperwork in order to meet the requirements of the LA agency. Applications for LA are now submitted via the LA agency administrative centres, and there is a requirement for numerous documents to be submitted alongside it, including wage slips, previous convictions, bank statements, tax returns etc. Kemp's (2010) findings incur that: "… the administrative requirements of the means test could be too onerous for some people, and this could have the unintended consequences of restricting access for eligible applicants, particularly those who are vulnerable". This also places an incredible burden on the solicitors. They now have to administer an increasingly bureaucratised practice, which results in compromised service as this subsequently reduces the amount of time they have to spend dealing with clients' problems as they are otherwise too preoccupied with admin.

Identity Management

As expressed in the opening, Erica faces a multiplicity of identities within both her personal and working life; however, her identity as an LA lawyer is the one that takes priority because it takes over her life for a variety of reasons. It is a vocation as opposed to a job, and she put her all into becoming an LA lawyer. She also refers to being identified as a 'social worker', a 'teacher', as well as a 'counsellor'. This all feeds into the holistic imperative as discussed in chapter seven. As Sophie (CS) further reasons: "it is not just crime, but legal aid law in general deals with a lot of homelessness issues, human rights issues and it cuts right across the board. You are looking at *all* aspects of the clients' lives, and you deal with some key issues that we

face in society today. LA lawyering incorporates all of that". In this case, the identity of being an LA lawyer also takes over due to the sheer amount of time those within the profession have to commit to being in the role. Likewise, as expressed in chapter two, LA lawyers have multiple identities: self-serving, professional experts and champions of access to justice (Goriely, 1996), and that this conflict of identity ultimately plays a critical role when thinking about the profession. Identity management, therefore, plays a central role in LA work.

Work-life balance

Erica's work does not constitute a 9-5 role. The participants in this research all expressed that one of the most significant negatives to the role was the lack of work-life balance. This further links to chapter seven, as in order to provide a 'holistic' service, this inevitably takes up more time than just simple legal transactions and exchanges. Likewise, as Ben (HS) argues: "… in housing law it is a bit of a tricky one because you do just get walk-in clients that just come in off the street saying they have got nowhere to sleep tonight. The only way to remedy this is to issue a judicial review application, which means staying and doing an out of hours application". Erica has to be available at all times 'just-in-case' something comes up. As Nicholas (CS) further notes: "…this is a choice to spend our lives doing this, and so I don't mind getting a call in the middle of the night. I don't mind getting a telephone call on a Saturday morning or a Sunday evening, whatever it is. It's just the way I've chosen to spend my life and so it is an all-consuming job". In similar vein, Alistair (CB) likewise states that he could 'easily clock up 60/70 working hours a week'. To this end, LA lawyering is all-encompassing. As Jane (HS) maintains: 'it's a calling, and only certain people are drawn to this type of work". It is therefore common for LA lawyers to work up to 12 hours a day, for very little financial reward.

Holistic work

Erica consistently found herself running out of time in meetings because she had to deal with wider problems that the clients faced. This was part and parcel of her role though, so she catered for that. After all, delivering a holistic service matched her 'do-gooding' motivation to work as an LA lawyer. However, Erica found these wider problems sometimes challenging to face if they went too far beyond her lawyering

remit. This resulted in Erica needing an outlet to release some of her emotions as the pressure got a bit too much.

Emotionality

Erica had experienced a few consecutive difficult cases and really needed an 'emotional outlet'. This mirrors the findings of chapter seven, which sought to explore emotional labour and occupational burnout. One of the biggest issues within the remit of LA lawyering is the notion that some of the client's problems that LA lawyers face are just too overwhelming and unmanageable to solve (Schroer and Shabecoff, 2013). An emotional balance is therefore needed as it is sometimes very easy to get too attached, as 'often you are the only one who is willing to help that person' (James, CS). One of the biggest challenges of being an LA lawyer is, therefore, learning how to manage this and to find an appropriate emotional outlet. Having access to a 'shared orientation' can really assist with that.

Shared Orientation (SO)

Evidence of the SO can be seen within Erica's day-to-day interactions. For example, features such as knowledge sharing, solidarity, camaraderie and collaboration can all be identified in the excerpt above. Erica stated that she encouraged everyone in her firm to knowledge share and 'lend each other a hand'. Likewise, Erica made use of her colleagues as an emotional outlet after she had experienced a few consecutive difficult cases that week.

Resilience

Despite the number of challenges Erica faced regularly, including lack of pay, lack of time structure, the emotional burden, being overworked, burnout as well as increased bureaucratisation - Erica was resilient. She was resilient because she was committed, alongside all her other colleagues at her firm. She was resilient because she had a responsibility to not only act on her own part but her clients, her colleagues as well as in the wider fight for justice. Erica was able to be more resilient because of her strong working culture in the form of SO.

Admiration for the Profession

Erica clearly absolutely loves her job. It is something she strived to do for a long, long time, and she fought hard to get there. Despite all the hurdles she faces on a day-to-day basis she remains working as an LA lawyer because she wants to. Erica completely and utterly *adores* being an LA lawyer.

Summary

This composite chapter has identified themes across the macro, meso and micro levels which have emerged from the 'data-driven analyses. The themes speak to all of the levels of the threefold framework adopted in this thesis, highlighting the benefit of adopting a three-hundred-and-sixty-degree perspective that combines the overall context, the level of the profession and the experience of the individuals.