Developing a Taxonomy of Australasian Law Firms Using Configurations of Human Resources and Management

by

Andrew A. Heys
B.A. (Hons), M.Int.S. (Hons)

A thesis submitted in fulfilment of the requirements
for the degree of
Doctor of Philosophy (PhD)

Macquarie University
Sydney, Australia

September 2012

Certification

This thesis is submitted in fulfilment of the requirements of the degree of PhD in the Graduate School of Management (MGSM), Macquarie University. This represents the original work and contribution of the author, except as acknowledged by general and specific references.

I hereby certify that this has not been submitted for a higher degree to any other university or institution.

I further certify that the research conducted for this thesis has received ethics approval from the Macquarie University Human Research Ethics Committee. Ethics application ref: HE24SEP2004-D03271 received final approval on 4th November 2005 and ethics application ref: HE24FEB2006-D04492 received final approval on 26 November 2009.

Signed:

(Student's Name) Andrew Heys

(Date) 28. 9. 12

Abstract

The way law and other professional services firms (PSFs) respond to pressures, such as globalisation, increased competition, de-regulation and the demands of better-informed clients, has led researchers in recent decades to focus on archetypal change, especially among law firms and accounting practices. Scholars employing the archetype concept have broadly noted a move away from the dominant'P^2' archetype toward a greater diversity of forms, many of which closely resemble the managed professional business (or MPB) archetype, a more managerial type of professional firm.

The use of contemporary human resource management (HRM) practices as part of this more managerial orientation is apparently widespread, and may be substantiated by HR practitioners who seek to modernise the management systems of law firms, by reference to a wider body of research that demonstrates links between HRM practices, high-performance work systems and organisational performance. However, there remains little empirical evidence to support conclusions about the utility of these more corporate HR practices and work systems among law firms.

This research investigated the composition and presence of performance-oriented HR and management configurations in a sample of 45 Australasian law firms. The research employed a sequential mixed-methods approach, including convergent interviews, survey design and cluster analysis to classify law firms based on their patterns of use of performance-oriented management practices. Financial performance data were also sought from the firms with the aim of investigating firm performance across and within the clusters.

The cluster analysis identified three main HR and management configurations. 'Democratic Traditionalists', the largest group (n=19), have adopted contemporary HR practices selectively and use a configuration broadly consistent with the classic P^2 archetype. 'Performance-oriented Progressives' (n=16) more reflect the MPB archetype. 'Laissez faire' firms (n=6) adopt a market-based HR system in which coordination and support for professionals is lacking. And an emerging configuration, the 'Regionals' (n=3), appear to operate in stable and less competitive markets and use a traditional approach to law firm management.

This research advances knowledge about the use of contemporary management systems by law firms and has found three clearly distinct configurations of human resources and management. The classification system used here differs from the macro 'structures, systems, values' approach widely used in law firm research. This project advances emerging lines of inquiry about management systems and organisational performance in professional services firms. The research method developed and the resultant taxonomy also makes a methodological contribution and may be useful for ongoing configurational research across the wider professional services sector.

Publications

This thesis reports on a pilot study and two major studies all conducted during the period of enrolment as a PhD student at MGSM, Macquarie University. Work into understanding management configurations in professional services firms is continuing.

Three refereed conference papers have been published during the period of candidature:

- Heys, A and Rodwell, J. (2004), High performing professional service firms build relational and structural capital and strategically harness HR, *Proceedings of the IAMB Conference 2004 November 7- 11, Las Vegas, NV United States.*
- Heys, A. Rodwell, J. How a focus on managing intangible assets drives performance in Australian law firms, (2006) *ANZAM: Proceedings of the 20th Australian New Zealand Academy of Management (ANZAM)* Central Queensland University, Rockhampton, Queensland.
- Heys, A., Rodwell, J. & Jepsen, D., (2011), Configurations of human resources and management in Australasian law firms, *ANZAM: Proceedings of the 25th Australia New Zealand Academy of Management (ANZAM) Conference, Wellington New Zealand, December.*

These papers are attached as appendices.

I would like to thank the anonymous reviewers of these papers whose comments have been valuable and have helped crystallise the findings and ideas subsequently presented in this thesis.

Acknowledgements

I would like to thank my supervisors, Professor John Rodwell, Professor Robin Kramar and Dr Denise Jepsen. Each of my supervisors contributed in different yet important ways, helping me plan, execute and finally finish writing up this research: thank you I am deeply indebted to you all. I would like to acknowledge the critical role played by my family in particular my wife Catherine and my daughter Holly who have given me the love and rich emotional support I have needed throughout the harder stages of this project. I look forward to being 'around' more and less stressed from now on.

My father, T.A Heys, was a professor of education who sadly passed away prematurely in his late 40's, has been an inspiration as I have followed in his footsteps into academe. He's been there in spirit and I would like to acknowledge his legacy and importance to me all these years after his passing. I would also like to thank my mum Jan, herself a graduate of Macquarie University, who instilled in me a love of reading and forced me to 'go and study' earlier in my life, thus setting up critical skills that have enabled me to have an academic career. Also to my parents-in-law Eric and Jenny who helped with minding Holly during a productive writing trip to Canberra and who have shared the journey in other respects. Thanks also to my editor Alison Basden and to my friend Susan Hamilton who have helped me greatly, especially through the last stages of this project.

Thank you to the colleagues who have helped at critical times with advice and suggestions on methods and sources and to Assoc. Professor Guy Ford and Associate Professor Nigel Finch who were both instrumental in helping me gain 'a room of my own' close to home at an important but difficult time in the write up stage when writers block had set in, thank you also to Dr Kaushik Sridhar, my research assistant.

Finally, thank you to the experts and firms who were willing to participate in this research, your willingness to open your doors and disclose private information about your firms has been greatly appreciated and I trust I have captured your perspectives faithfully and also that the insights contained in this research add to knowledge and management practice in the arena of professional services firms.

Table of Contents

Certification ..... *ii*
Abstract ..... *iii*
Publications ..... *iv*
Acknowledgements ..... *v*
List of tables ..... *ix*
List of figures ..... *x*
Abbreviations ..... *xi*

Chapter 1 Introduction 1

1.1 Background 1
1.2 Research questions 9
1.3 Theoretical foundations 12
1.4 Research design and methodology 14
1.5 Justification for the research 15
1.6 Thesis outline 17
1.7 Definitions 19
1.8 Limitations and key assumptions 21
1.9 Chapter summary 24

Chapter 2 Towards a theory of management and performance in law firms 25

2.1 Introduction 25
2.2 The distinctiveness of professional services firms and professional work 26
2.2.1 Traditional accounts of distinctiveness 26
2.2.2 Contemporary accounts of distinctiveness 30
2.3 Institution theory and industry archetypes 37
2.3.1 Archetypes among law firms 40
Research proposition 1 47
2.4 The competitive landscape for law firms 47
2.4.1 The changing organisational context for law firms 47
2.4.2 Organisational responses to the changing market 57
2.4.3 Management responses to competition 60
2.5 Human Resource Management in law firms 66
2.6 Chapter summary 70

Chapter 3 On the links between management and performance: a wider view 71

3.1 Introduction 71
3.2 The role of theory in organisational research 72
3.3 The resource-based view of the firm and strategic HRM 74
3.4 The knowledge-based view of the firm and intangible assets in law firms 83
3.5 Strategic Human Resource Management 86
3.6 The HR-performance link 88
Research proposition 2 91
3.7 The best practices or universal approach 91
3.8 External fit of HRM 94

Research proposition 3 98
3.9 Internal fit of HRM 98
Research proposition 4 102
3.10 Classification schemes 102
3.10.1 The origins of modern organisational typologies 102
3.11 Configuration theory and equifinality 108
3.12 Chapter summary 110

Chapter 4 Understanding the drivers of performance for law firms 111

4.1 Introduction 111
4.1.1 The mixed-methods approach 112
4.1.2 Pilot study summary 113
4.2 Study 1: background 116
4.3 Study 1: method 116
4.3.1 Convergent interviewing 116
4.3.2 Sample 118
4.3.3 Procedure 120
4.4 Study 1: results 121
4.4.1 Overview 121
4.4.2 The 16 performance drivers in detail 122
4.5 Study 1: preliminary discussion 136
4.6 Chapter summary 137

Chapter 5 Configurations of management and performance 139

5.1 Introduction 139
5.2 Method 139
5.2.1 Sampling and data collection 140
5.2.2 Measures 141
5.2.3 Data preparation 151
5.2.4 Validity 154
5.3 Results 156
5.3.1 Respondent demographics 158
5.3.2 Scale results 159
5.4 Cluster analysis 160
5.4.1 Description and justification 160
5.4.2 Procedure 162
5.4.3 Three-cluster solution 164
5.5 Organisational performance analysis 172
5.5.1 Across-cluster performance comparison 172
5.5.2 Method 174
5.5.3 Intra-cluster analyses 182
5.6 Preliminary discussion 185
5.7 Chapter summary 186

Chapter 6 Synthesis, discussion and conclusion 187

6.1 Introduction 187
6.2 Summary of results 189

6.2.1 Pilot 189
6.2.2 Study 1 190
6.2.3 Study 2 191
6.3 Research propositions 194
6.3.1 Research proposition 1 194
6.3.2 Research proposition 2 195
6.3.3 Research proposition 3 196
6.3.4 Research proposition 4 197
6.4 Implications for theory 198
6.5 Implications for practice 204
6.6 Limitations 205
6.7 Future research 206
6.8 Conclusion 208

References 212

Appendices 226

Appendix 1. Pilot survey 226
Appendix 2. Cover sheet – Survey 2 231
Appendix 3. Survey 2 233
Appendix 4. Conference Paper 1 (from Pilot Study) 238
Appendix 5. Conference Paper 2 (from Study 1) 245
Appendix 6. Conference Paper 3 (from Study 2) 255

List of tables

Table 1. Distinctive characteristics of PSFs and managerial implications 35
Table 2. Elements of the P2 form 43
Table 3. Elements of the MPB 44
Table 4. Respondent profiles for each round of convergent interviews 121
Table 5. Summary of the 16 'Drivers of Performance' and dimensions of each driver.... 123
Table 6. Scales and sample items 150
Table 7. Item level factor analysis items with low loadings 155
Table 8. Frequency table of respondent profile 157
Table 9. Frequency table of sample firm profile 158
Table 10. Scale results: Items, means, standard deviations and Cronbach's alpha 159
Table 11. Illustrative summary of ANOVA and Bonferroni post hoc adjustment output across three main clusters 169
Table 12. Detailed cluster solution showing sum scores of the cluster variables by cluster showing indicative one-way ANOVA results and Bonferroni post hoc test results and scale reliabilities 170
Table 13. Mean rank of the cluster variables across the three clusters using non-Kruskall-Wallis, Mann-Whitney and Bonferroni adjustment) 171
Table 14. T-test comparison of cluster variables per performance metric 183

List of figures

Figure 1. Research design..... 15
Figure 2. Sources of institutionalised practices in corporate law firms..... 38
Figure 3. Typology of Strategic HRM systems..... 97
Figure 4. Comparison of market and internal HR systems 100
Figure 5. Boxplot of perceptual scales (sum score) by cluster..... 177
Figure 7. Boxplot showing averaged revenue per total fee earner by cluster 179
Figure 8. Boxplot plot showing averaged revenue per partner in millions by cluster..... 180
Figure 9. Boxplot of American Lawyer Profitability Index across clusters..... 181

Abbreviations

ABS	Australian Bureau of Statistics
CMV	Common Method Variance
CEO	Chief Executive Officer
COO	Chief Operating Officer
CFO	Chief Financial Officer
DV	Dependent variable
GPN	Global professional network
HCWS	High commitment work system
HIWS	High involvement work system
HPWS	High performance work system
HR	Human resources
HRM	Human resource management
IA	Intangible assets
IC	Intellectual capital
ICT	Internet Communications Technology
IV	Independent variable
KBV	Knowledge-based view (of the firm)
KM	Knowledge management
MPB	Managed professional business archetype
OP	Organisational performance
P^2	The professional partnership archetype
PSF	Professional services firms
RBV	Resource-based view
RC	Relational capital
RPF	Reconstituted professional firm
SC	Structural capital
SHRM	Strategic human resource management

Chapter 1 Introduction

1.1 Background

When making decisions about how to organise and configure their management systems, partners and managers in law firms are faced with an array of competing pressures. On the one hand, lawyers in particular are thought to be influenced by institutional and social pressure to conform to conventional and legitimate ways of organising and managing (Deephouse 1999). On the other, competing pressures exist, often brought to light by non-lawyer managers in these firms, such as the need to manage costs, improve processes and attract, develop and retain talented employees. Policies that build and nurture human capital are naturally important priorities within law firms, and thus human resource management (HRM) practices are seemingly well-suited to this context. However, professional services firms are often depicted as rife with conflict between managers and professionals who may have different values, interests and priorities (Golden, Durkerich & Fabian 2000), including whether to invest in contemporary management practices or to hold on to their traditional work systems, typically marked by a low key approach to people management (Lowendahl 2005).

To explain why and how professional services firms begin to change, why they resist change and also why some change efforts fail, researchers have relied heavily on an analytical approach that identifies dominant organising templates within institutional fields. These design templates are commonly referred to as 'archetypes'. Archetypes are defined by "a set of structures and systems that reflect a single interpretive scheme or value system" (Greenwood & Hinings 1993, p.1052). Archetype theory has dominated scholarly research into law firms since the 1990s (Leicht & Fennell 2008).

Archetype analyses draw on the organisational classification literature associated with the typologies of Miles and Snow (1978), Mintzberg (1979) and others (Greenwood & Hinings 1988) and also from neo-institutional theory, a field which explains the apparent homogeneity of organisational forms within institutional fields (DiMaggio & Powell 1983). Archetypes are thought to work best when they are supported by consistent values and beliefs or 'interpretive schemes' (Greenwood & Hinings 1993). Interpretive schemes may either aid archetypal change or impede it; for example, when strongly held values conflict with organisational changes, the changes may fail (Brock, Powell & Hinings 2007). The archetype approach is also informed by configuration theory, an analytical approach developed in the field of strategy (Miller & Friesen 1984). Configurational analyses emphasise the use of empirical taxonomies to classify firms according to a set of shared features. Accurate classification of organisations is recognised a critical stage in organisational research (Short, Payne & Ketchen 2008).

Both the configurational and archetype approaches emphasise the importance of conducting organisational classification on the basis of multiple attributes and, because of this common approach, the terms 'configuration' and 'archetype' are often used synonymously (Brock, Powell & Hinings 2007; Meyer, Tsui & Hinings 1993). However, management practices are not central in the archetype approach to organisational analysis. Instead, organisational structures and their impact on issues such as organisational culture or, in the case of professional services firms, the 'partnership ethos' are generally considered more important (Brock, Powell & Hinings 2007).

A central contention and rationale for the research conducted for this thesis is that the subordination of 'practices' to 'structures' in most law firm research constrains a nuanced

understanding of how these firms are responding managerially to what is a dramatically changing industry landscape (Brock, Powell & Hinings 2007). As a consequence, broad and potentially inaccurate generalisations often emerge in discussions of how law firms are managed. Australasian law firms have been argued, for example, to have work systems that are similar to those in other English-speaking countries (Jennings, Devereaux Jennings & Greenwood 2009). The emphasis on elements such as governance provides a narrow structuralist perspective that downplays the likely and important impact of context in shaping the use of a diverse range of management practices, an area which directly impacts on the quality of people's working lives and potentially on organisational performance.

This thesis draws on institutional and archetype theory to help frame the research questions and to aid in the interpretation of the data that have been gathered. However, the main theoretical framework employed is configuration theory (Meyer, Tsui & Hinings 1993; Miller & Friesen 1984). The use of the configurational approach supports the main research goal of this thesis, which is to develop an original taxonomy (or classification scheme) for law firms, a goal that differentiates this present research from comparable work that tests the alignment of different HR systems (identified in professional services firms) with existing archetypes (cf. Richter, Dickmann & Graubner 2008). Although it is accepted that the concepts 'archetype' and 'configuration' are broadly similar, this research aims to draw a more precise distinction. Greenwood and Empson (2003) defined archetypes as 'organizational forms', delineated by the authors [after Blau and Scott (1962)] by 'governance structures'. In this thesis, the variables used to define a *configuration* are conceived at a step down, at the meso level of 'practices'.

Greenwood, Hinings and Brown (1990) first described the dominant organisational archetype found among professional services firms (PSFs); they called this archetype the 'P^2' form. The term 'P^2' is derived from what were said to be the two fundamental pillars of PSFs: 'professionalism' and 'partnership'. The first pillar, 'professionalism', refers not only to the extended professional training that lawyers and other professionals undertake, but also to the professional values supposedly shared by all professionals – such as service to society and the advancement of justice. The second pillar, 'partnership', describes not only the ownership and governance modes found among P^2 firms in which ownership, costs, profits and liability are shared among the equity holding partners, but, also to the so-called 'partnership ethos' in which the partners of a firm are considered in all respects 'equals'. Because of this norm, consensual decision making is said to be a central feature of P^2 firms. Law firms (along with accountancy practices) are considered canonical examples of professional services partnerships (Von Nordenflycht 2010).

Nowadays, however, not all professional partnerships are representative of the P^2 archetype, and the P^2 form is often contrasted with a more commercial archetype also found among law firms (but also associated with the Big 4 accounting firms), the managed professional business (MPB). The MPB archetype was first identified, also in the 1990s, following an in-depth study of Canadian law firms (Cooper et al. 1996). The MPB is posited to be a more corporatised organisational form characterised by an overlaying of executive management and governance structures on the traditional partnership form of ownership. In MPB firms, decision making is thought to be less collegial than in P^2 firms and managerial values and practices are more influential. Professionalism in this archetype is defined as being less about restraint and service to society and more about professional responsiveness and loyalty to one's firm (Cooper et al. 1996). As the legal services market has increasingly changed around

the world with the pressures of globalisation and the move toward greater specialisation, further archetypes have been identified (Brock, Powell & Hinings 2007; Gray 1999, Malhotra et al., 2003)). However, broadly speaking, a move toward MPB-type forms, especially among larger law firms who face a demanding and more competitive environment, has been widely observed (Lowendahl 2005).

Countries such as the UK, USA and Canada have been a central location of research into organisational archetypes. The Australian legal profession has also been analysed from this theoretical perspective. For instance, Gray and colleagues (1998, 1999; 2008) have deeply analysed the evolution of organisational archetypes and organisational forms in the Australian legal profession. Of particular note for the present research is a taxonomy of Australian law firms developed in exploratory research by Malhotra, Hinings, Gray and McAllister (2003) that used variants derived from archetype theory as the clustering variables to define a taxonomy of organisational archetypes among Australian firms. With this exception, analyses of Australian law firms have predominantly employed a case-study approach and interpretations have tended to rely on the well-established 'structures, systems, values' framework of Greenwood and Hinings (1993), where management practices are included in the framework under the rubric 'systems', but are not of central importance.

Accounts of 'professionals' and professional services firms emphasise a number of defining features: professionals receive extended university-level training prior to being licensed to practise; professionals ascribe to an enshrined body of professional ethics; individuals and their firms are regulated by their relevant professional association; professionals appear to enjoy a high level of autonomy in their work; clients are dependent upon and tend to trust professionals because of the high knowledge asymmetry that exists; and, finally, the product

of the work of professionals is often intangible, for example what they often 'sell' is advice. Because of these features, law firms and other professional services firms present challenging contexts in which to manage, and professionally trained knowledge workers are also often considered to be antagonistic to traditional bureaucracy and management control (Alvesson & Sveningsson 2003). Managing professionals is sometimes likened to 'herding cats' (Lowendahl 2005; Von Nordenflycht 2010), and accounts of law firms emphasise the cultural significance of the partnership mode of ownership and governance in which decision making is said to be democratic and collegial (Greenwood & Empson 2003) and where there is no separation of ownership and management as with traditional corporate organisations.

Some authors have sought a broader categorisation of the work of professionals, arguing the term 'professional services' is confusing, and thus the term 'knowledge work' has found some currency in the literature (Alvesson 2004; Teo et al. 2008). Some scholars have questioned whether knowledge workers in technology firms and advertising agencies might also be considered 'professionals' (Alvesson 2004). For others, this categorisation is misleading; particularly problematic is the inclusion of technology firms in lists of professional services firms. The key issue is when the output of the firm is a product, a piece of software for example, rather than advice (Von Nordenflycht 2010).

In law firms, clients have a relationship with an individual lawyer or a group of lawyers in a practice group (Maister 1993) and, consequently, among the different types of professional services and knowledge intensive firms (Alvesson 2004), law firms are particularly reliant on the quality and loyalty of their human capital (Alvesson 2000). Law firms must effectively leverage human capital to gain a competitive advantage and realise strategic goals (Hitt et al. 2001; Sherer 1995). However, opinion appears divided about how adaptive law firms are, and

are likely to be. Montana (2000, pp.54–57), for example, in discussing knowledge management practices in the law, argued that "in the age of knowledge management, law stands out as an anachronism". Law, he said, "is a conservative calling steeped in its own traditions". The partnership form of organising, while seemingly democratic, may inhibit strategic planning, impede capital-raising and allow vested interests to endure. Partners are often treated reverentially in law firms and sometimes lack people-management skills (Dunks 2010), possibly a consequence of the fact that they are "part-time managers" (Lowendahl 2005, pp.62–63). Some authors question whether the partnership form of ownership is a relic of the past (Greenwood & Empson 2003), while others argue professional partnerships are an ideal way to organise and motivate a group of professionals (Alvesson 2004).

Despite the understandably high research interest in law firms summarised above, research into the management practices and work systems that lead to superior performance in the professional services context is surprisingly under-developed (Greenwood et al. 2005). This lack of evidence is particularly noticeable when contrasted with the wider management context, for example, manufacturing, where there has been extensive interest in exploring the HR-performance link (Arthur 1994; MacDuffie 1995; Snell & Dean 1992). Interest and evidence about the impact of HR on performance is developing in the services sector (e.g., Bartram et al. 2007; Hoque 1999). However, in the professional services sector, research exploring the antecedents of performance has not produced any clear conclusions about the management practices and systems that have the most positive impact (Boxall 2003; Boxall & Steeneveld 1999; Greenwood et al. 2005). The link between contemporary management practices and organisational performance in law firms is, however, important research, as practices within professional services firms have been seen to throw light on broader management trends in knowledge-intensive economies (Teo et al. 2008).

The main goal of the research presented here was to investigate the extent of diversity among Australasian law firms with regard to their configurations of HR and management practices. Recognising the diversity of organisational forms is a long-standing and important goal in organisational research (Greenwood & Empson 2003). The thesis adopts a taxonomic approach, where the variables used to define the groups are developed inductively, through convergent interviews (Dick 1990), and the firms are then classified empirically, using cluster analysis. A similar approach has been explored by Guest and colleagues using sequential tree analysis (Guest, Conway & Dewe 2004). The inductive approach taken here differs from deductive *a priori* methods of classification, common in research that deals with typologies, in which "the groups are conceptualized and named before individual firms are actually placed into them" (Rich 1992, p.760). The research presented here aimed to go beyond pure classification to explore the *impact* of the different management configurations that were found on organisational performance. The research did not, however, try to definitively and simplistically articulate the 'best' approach. Instead, it is acknowledged at the outset that that there are likely to be many potential pathways to success, an idea that has been termed 'equifinality' (Doty, Glick & Huber 1993).

Thus far this chapter has introduced the research topic, industry context, theoretical backdrop and main aims of the thesis. The rest of this chapter is organised as follows: Section 1.2 discusses and frames the main research questions; Section 1.3 discusses the theoretical foundations of the research; Section 1.4 discusses the research design and methodology; Section 1.5 provides a justification for the research; Section 1.6 outlines the thesis structure; Section 1.7 provides definitions to ensure ambiguous terms are clearly defined; Section 1.8 discusses the limitations; and Section 1.9 concludes the chapter and introduces the literature review.

1.2 Research questions

There are well-established theoretical perspectives and pressures imposed by government regulations governing professional services which suggest that law firms are likely to be broadly similar in how they organise and by extension how they manage people, particularly in respect to their professional staff. The neo-institutional perspective, associated with theorists such as DiMaggio and Powell (1983, p.150), suggests that in well-established institutional fields (such as the law) "mimetic, normative and coercive" pressures lead to conformity with clearly defined and legitimated organisational forms. Such an observation is certainly applicable to law firms. Until recently, for example, in Australia, outside ownership of law firms was illegal, and hence most law firms were organised by default as private professional partnerships, owned, managed and run by equity partners, who broadly speaking would share liabilities, costs and profits. Larger firms tended to be more professional in their management because they had the financial means to employ professional managers to lead their functional support areas, and smaller firms without the means to invest in such support structures, tended to be more traditional and less professional (Pinnington & Gray 2007). Large law firms serving corporate clients aimed to recruit the best graduates and compete for national accounts and they therefore mimicked the leading firms in a bid to emulate their success. Arguably, they were also more exposed to corporate management cultures and so adopted the management cultures and values of their clients.

However, as legal markets have become more lucrative, internationalised and competitive and the acquisition, effective deployment and retention of talent more crucial, it is expected that law firms will be seeking competitive advantage by adopting distinctive approaches to management. Some evidence of differentiation exists, for example the taxonomy of Malhotra et al. (2003) identified a five-cluster and a three-cluster solution of archetypes in Australia,

and a recent study of Canadian law firms found a modest degree of novelty in work systems supported high performance (Jennings, Devereaux Jennings & Greenwood 2009). Fresh Australian research is therefore timely, as management practices appear well developed among law firms and thus research may now be conducted to investigate the extent of the diversity that exists in the management systems now being used in law firms, the character of the different systems that may be found and the impact of those systems on organisational performance.

To help bridge these knowledge gaps, this research sought to clarify the nature and impact of HR and management configurations found among Australasian law firms by answering three interrelated questions. First, the thesis aims to 'take stock' of HR and management practices found among Australian and New Zealand law firms and to investigate the practices that expert advisers, active in these markets, recommend law firms should adopt in order to drive performance. Second, this thesis asks, are all Australasian firms employing essentially the same management configurations (are they all moving toward MPB-like configurations, for example), or is there greater diversity in the configurations being employed? Are there lagging firms, for example? Finally, what is the impact of these different HR and management configurations on organisational performance: are they beneficial? In summary, the research for this thesis concentrated on three main themes: the management practices used to drive performance in law firms, the diversity of management configurations (formed by different combinations of these practices) and the organisational outcomes achieved by law firms following different configurations.

The first theme, 'management practices' was investigated with two (related) research questions:

1a) what are the management practices that are considered 'drivers of performance' for law firms? To what extent do these practices reflect management practices documented in the wider management literature and industry and, if they do, does this suggest law firms are now less distinctive and may now be managed using a more corporate management approach?

1b) How widely used are these drivers of performance among Australian and New Zealand law firms?

Question 1a helps to define whether a specific theory of law firm performance needs to be developed for professional services firms, as has recently been argued (Greenwood et al. 2005). Question 1b goes a step further and investigates if the 'drivers of performance', recommended for firms by the experts, are in fact widely found or if the practices are idealised expressions of what law firms *should* do managerially to drive performance and not a reflection of what law firms *actually* do.

The second area of exploration relates to the diversity of management configurations found among Australian and New Zealand law firms; again, two main research questions were posed:

2a) Are there distinctive (homogenous) clusters of law firms based on these performance-oriented management practices, and what is their character?

2b) Do the configurations of management practices followed in each cluster reflect the main law firm archetypes previously identified in the literature?

These questions explore the potential development of an alternative, and potentially more nuanced, classification scheme for law firms and for professional services more generally. Researchers often claim that law firms are becoming more 'managerialist' but rich details

about what actual management practices they are using is lacking. By taking an inductive approach to define the variables used, an alternative classification system grounded in the actual management practices may emerge.

The third area of exploration in this thesis relates to organisational performance. Specifically, the research investigated relative performance in each cluster using a range of commonly used measures of organisational performance, relating to law firms. The research also explored organisational performance *within* the configurations. The goal of this latter question was to explore whether there are key success factors for each configuration, that is, practices that are emphasised more by the better-performing firms in each cluster. These themes were explored through the following two questions:

3a) How well do firms following different HR and management configurations perform in a relative sense?

3b) Are there specific management practices emphasised by the firms that are most successful (per a range of different performance metrics) within each configuration?

1.3 Theoretical foundations

The theoretical foundation of this thesis is drawn from a wide body of literature across diverse but related fields, including the sociology of the professions, organisational studies and strategy. Sociology and the related field of organisational studies is an important starting point and in that literature there is extensive work on law firms and professional partnerships (Greenwood & Empson 2003; Greenwood, Hinings & Brown 1990). The organisational studies literature emphasises the study of organisational archetypes and uses sociological theories such as structuralism (Parsons 1960) and reflexivity (Giddens 1976) to explore themes such as the distinctiveness of professional services firms and the function of these

firms in society and, further, how actions are interpreted; for example, what prompts actors to initiate change.

A field that has been equally important in framing the research questions and methods is strategy. Important themes within strategic management are the role of different HR practices and HR systems or HR 'bundles' and their interaction with strategic imperatives and contexts, and work on these questions figures prominently in the leading strategy journals (e.g., Delery & Doty 1996; Evans & Davis 2005; Lepak & Snell 2002). Strategic human resource management (SHRM) is another major field from which the theoretical foundations of the study were drawn. Particularly germane to the present research are empirical tests of the 'universal', 'contingent' and 'configurational' perspectives on HR (Delery & Doty 1996). Findings on management practices found within the services sector, especially professional services and legal services, were also explored and, finally, analyses of the legal services sector in Australasia and in other parts of the English speaking world were reviewed to incorporate dimensions of this institutional context into the analysis.

The configurational approach is, however, central to the analysis conducted here (Meyer, Tsui & Hinings 1993; Miller 1987). Configurational research has the potential to add richness to analyses of HR and performance, and scholars have made recent calls for a greater focus on this type of research (Dufour & Steane 2006; Short, Payne & Ketchen 2008). However, the potential for the configurational approach to add to the literature on HRM practice has not been widely realised, and this thesis help to bridge this gap.

1.4 Research design and methodology

Three studies were conducted in the program of research reported on in this thesis: a pilot study (Pilot), Study 1 (qualitative) and Study 2 (quantitative). The Pilot was conducted to explore ideas found in the knowledge-based view of the firm (Grant 1996) and investigated the impact of management practices geared toward the accumulation and deployment of intangible assets on perceptions of organisational performance in a sample of Australian law firms and engineering consultancies. The Pilot was conducted to assess the viability of the proposed research area and helped to assess the validity of existing scales when applied to professional services firms. Following the Pilot, the main program of research began. Initially, a qualitative stage was conducted to explore the industry and to define, through convergent interviewing (Dick 1990), a list of management practices thought to be drivers of performance for law firms. Following the qualitative stage, multivariate quantitative research was conducted that involved survey design and the collection of data on management practices and performance from a diverse sample of Australian and New Zealand law firms. Firms were then partitioned into clusters using cluster analysis and finally the organisational performance of the firms was analysed.

The research strategy described above may be referred to as a two-stage sequential mixed-methods approach (Cresswell 2009). Mixed-methods approaches have been widely used in studies of professional service firms (for example Greenwood, Hinings & Brown 1990; Morris & Pinnington 1998). In the sequential mixed-methods approach, the first (qualitative) stage is frequently used to help the researcher(s) become familiar with the industry or phenomena being analysed and to generate themes for the research. At the commencement of this particular research project the actual practices occurring among law firms that were likely to be impacting positively on performance were unclear and, further, the Pilot had shown

existing scales were not clear discriminators between high and low performing firms and potentially lacked content validity when used in this context. Consequently, the drivers of performance could only be accurately identified and tests designed after a rigorous qualitative investigation of the phenomena. Figure 1 (below) illustrates the three different phases in the research.

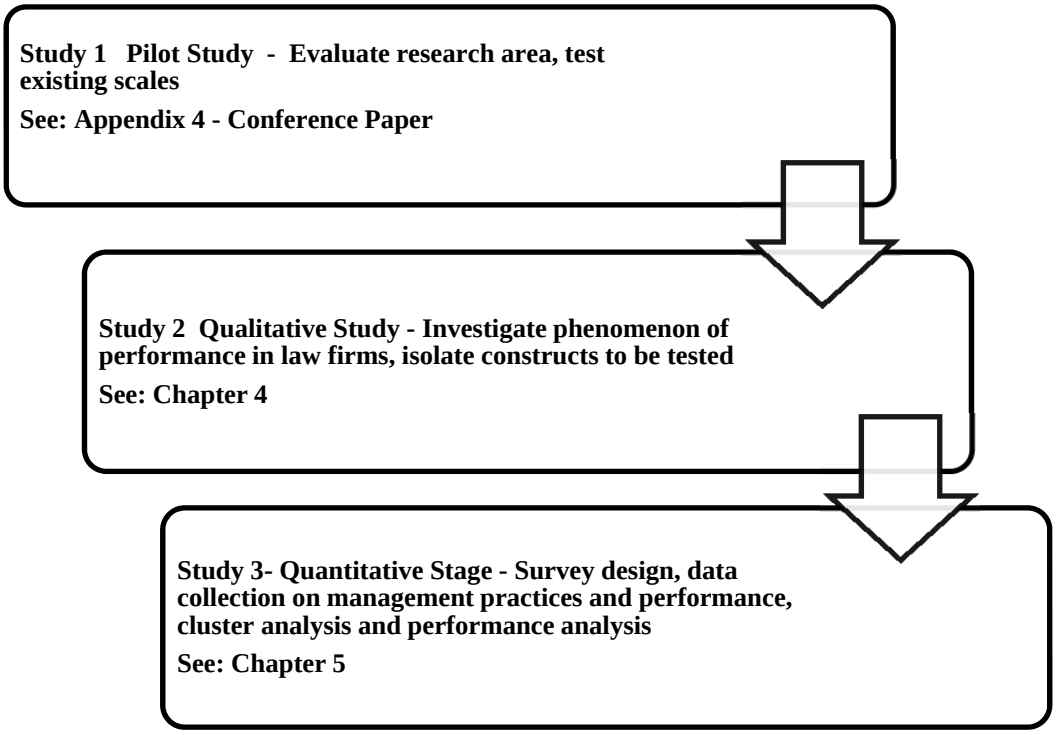


Figure 1. Research design

1.5 Justification for the research

Researchers have deeply explored the archetypes posited to exist among law firms (Ackroyd & Muzio 2007; Greenwood & Empson 2003; Malhotra et al. 2003; Pinnington & Morris 2003) and a wide body of literature shows a positive link between people management practices and improved organisational performance in the wider industry context (Becker & Huselid 1998; Delaney & Huselid 1996). However, these two research streams are presently disconnected. This research connects these two fields to bring a unique set of insights about

contemporary law firm management. In the field of HRM, law firms are under-researched and thus scholars and practitioners must draw inferences from empirical research from outside their direct industry context, thus, this research has clear practical implications. Research aimed at delineating practices that work in a given context is in line with the idea of strategic fit and helps to identify the management practices that support strategic aims in particular contexts (Johns 2006). The HR and other management practices identified here will therefore be of interest not only to an academic audience, by identifying a new set of reliable measures which are seen to drive performance, but also to a practitioner audience, as it will help them plan their HR investment based on activities that are likely to be of high value in their industry context and that drive the type of performance outcomes they seek.

Studies of performance in privately held firms present researchers with many predictable and commonly discussed problems (Dess & Robinson 1984). By definition, privately owned organisations are private about what they do and partners of law firms are understandably sensitive about protecting their privacy, particularly information about their financial performance. Some firms even have clearly stated policies that disallow participation in research. Dess and Robinson (1984, pp.266-267) have suggested two reasons for this:

> access to performance data on privately held firms is severely restricted. Such information is not publically available. Owners very sensitive about releasing any performance related data are the sole gatekeepers to such information on individual firms. Second, even if access to such information is obtained with a sample of privately held firms, there is greater risk of error attributable to varying accounting procedures in these firms. Organizational form – sole proprietorship, partnership, corporation etc. – can cause artificial differences.

Senior professionals, especially partners, in law firms are also busy and are frequently tied to tight financial budgets that leave little time for discretionary activities such as participating in

research. Despite such challenges, the professional services sector is prominent and influential in the business community in terms of the important role professional services firms play in facilitating global business, the amount of revenue they generate and the number of people now employed in the professional services sector, particularly in advanced economies (Greenwood et al. 2005). Thus, research into the management and performance of professional services firms is important to pursue, despite the inherent difficulties associated with recruiting respondents and gathering accurate performance-related data.

By investigating the actual form and impact of management practice in this industry, this thesis contributes to management theory by illustrating the explanatory power of configurational analysis in exploring how law firms are being managed and the likely direction of management practice in this industry (Short, Payne & Ketchen 2008). Configuration theory, which informs this thesis, allows researchers to explore the rich interplay of management practices within industries. It may therefore offer the potential for richer categorisations of firms than presently exists (Miller 1987) and thus may also prove to offer a more nuanced set of insights pertaining to management practices in the industry of law firms.

1.6 Thesis outline

This thesis comprises six chapters. This chapter has introduced the research context and theoretical foundations, described and justified the research questions and summarised the research methods that were employed. Chapters 2 and 3 present a comprehensive literature review. Chapter 2 discusses theories and research that explore the traits of professionals and the unique organisational context of law firms, focusing particularly on management practices thought to work best in law and other professional services firms. This review formed the

basis for developing an analytical framework through which management practices and organisational performance among law firms may best be understood. Chapter 3 explores the wider management literature to investigate evidence that supports the use of particular management practices (or systems of management practices) found in corporate organisations. Chapter 3 also discusses the origins of the configurational approach to organisational analysis and compares typologies (conceptually driven classification systems) with taxonomies (empirically derived groups). The overall goal of the literature review was to explore the likely fit of corporate management practices and configurations in the idiosyncratic context of a law firm.

This research project embraced three related studies. Chapter 4 begins with a brief summary of the Pilot, which is presented in full in a conference paper included as Appendix 4. The Pilot involved an analysis of existing survey data about knowledge management, HRM and perceptions of organisational performance among a sample of professional services firms (law firms and engineering consultancies). The Pilot affirmed initial hypotheses about the link between policies and practices geared toward the effective management of intangible assets and the effect of those practices on organisational performance in professional services firms. The Pilot also contributed to the development of the research questions and design of the research model. The remainder of Chapter 4 reports on Study 1, a qualitative study that consisted of open-ended (convergent) interviews with a panel of experts on law firm management. The methods used, results and a preliminary discussion of the results are all discussed in this chapter. Chapter 5 reports on the quantitative phase (Study 2). The survey used in Study 2 was developed to test the constructs identified in Study 1. The survey used a combination of existing scales and original scales that were developed to closely match the constructs identified in the qualitative stage. Cluster analysis was conducted to classify the

sample firms into distinct configurations according to their management practices, and the chapter also explores patterns of organisational performance across and within the clusters. Chapter 6 discusses the results of the research and the theoretical and practical implications. Finally, the limitations of the research methods are discussed and opportunities for future research are identified.

1.7 Definitions

Where there is a need to draw a distinction between terms that are commonly used interchangeably, the distinction is given and the more common or correct term used thereafter. For example, 'high performance work system' (HPWS) (Becker & Huselid 1998), 'high commitment work system' (HCWS) (Arthur 1994) and 'high involvement work system' (HIWS) (Guthrie 2001) are used interchangeably. Broadly speaking, these three terms all infer a system of management practices that consists of selective recruitment and selection, job design and incentive systems to create long-term commitment to the firm (Guest, Conway & Dewe 2004). However, as has been noted, the term 'performance' within the acronym HPWS implies that favourable firm performance is an inevitable outcome of these practices whereas 'commitment' implies a management orientation (Wall & Wood 2005; Wright et al. 2005). Among these terms 'high performance work system' is, however, the most commonly used term and hence is used throughout. 'Fee-earning professionals' is used in preference to 'lawyers' in recognition of the fact that in some law firms 'para' professionals are important fee earners (Morris & Pinnington 1998). However, paralegals or semi- professionals (e.g., licensed conveyancers) would not be considered by respondents to be 'lawyers' yet they may be important to fees and to client satisfaction (McClean & Collins 2010).

The intent of limiting the research to fee earners is to focus the research on the management of core (fee-earning) employees only, not all employees in law firms. Identifying the different work systems in use within organisations and isolating research into different types of employees is a convention that is becoming more widely followed in HRM research (Lepak & Snell 2002; McClean & Collins 2010). The terms 'partner' and 'associate' are also used at times in discussions around lawyers. Partner generally means an equity partner who is a part owner of a law firm while 'associate' is used to refer to lawyers employed in law firms. The term 'senior associate' is common in Australian law firms and usually refers to associates who are in senior managerial positions in law firms. Increasingly the term 'partner' may be applied to non- equity holding partners. However, when such individuals are referred to, the term 'salaried partner' is used.

The acronyms SHRM, HR, HRM are used frequently throughout the thesis to refer to different aspects of the theory and practice of human resource management. These acronyms are used as follows. SHRM (strategic human resource management) is used to refer to the academic study of human resource management. SHRM embraces the study of policies and practices used to manage people in organisations and the alignment of those practices with environmental contingencies and strategic goals (Wright & McMahan 1992). HRM stands for 'human resource management', which refers to the policies and practices used to organise work and to employ people in organisations (Boxall & Purcell 2008). HRM is commonly contrasted with the earlier term 'personnel', in which the emphasis is on the administrative side of people management. The final term used here, HR, is an all-encompassing management term generally used to refer to the function within organisations responsible for devising and implementing management policies and practices relating to people

management. Hence the terms ‘HR Department’, ‘HR Manager’ or ‘HR Director’ are all used to refer to the profession or function of human resource management.

1.8 Limitations and key assumptions

The limitations of this research centre on issues such as respondent bias, sample size and common method variance. To mitigate these potential limitations a variety of strategies were employed. For example, data collection for Study 2 was through survey questions (a single method), surveys were responded to by a single respondent (single respondent) and thus the problem of common method variance (CMV) bias emerges. However, recent research suggests the CMV issue is overstated (Spector 2006). In this research the respondents had quite different roles in their respective organisations – some were HR managers, others partners or managing partners and others were paid executives – and thus there was great diversity across the respondent group minimising the CMV problem.

There was also a potential but unavoidable respondent bias, in that firms that agree to participate in such research might be expected to be those that are most interested in gaining new insights into their management practices are also those that already have well-developed management systems. A potential balance to this concern is that because some respondents were employees and not partners of the firms they were reporting on, they may be expected to view survey participation as a relatively safe opportunity to express some dissatisfaction with their firm’s management practices. This respondent diversity introduces more variability into the responses and reduces concerns with sample bias and a social desirability effect shaping responses.

Despite the rigour of the convergent interviewing technique (Jepsen & Rodwell 2008) used in Study 1, the data collected represented the views of the limited number of experts who were consulted. However, this was a diverse group of participants and thus the sample size is not a major concern particularly given the application of the data gathered in the qualitative phase. The limitations in the quantitative phase concerned the reliability of some of the original scales. These scales were derived from the constructs identified in Study 1, thus they had rich content validity, and they were also pre-tested and said by key informants to be valid. To make further checks, these scales were all tested for reliability and, where necessary, item deletions were made to promote reliability, as verified by a target Cronbach's alpha score of .70 or above, prior to clustering the firms (Bartram et al. 2007).

Cluster analysis was the primary technique used in the quantitative analysis. Cluster analysis is a well-established method in organisational research; however, it has been criticised on the basis that it forces groups into clusters irrespective of their similarity (Barney & Hoskisson 1990). To guard against this problem researchers are counselled to have a strong conceptual foundation to inform the interpretation of the results (Ketchen & Shook 1996). One of the methods used in cluster analysis, Wards' method, a hierarchical clustering technique, has a reputation to commonly produce a three-cluster solution when used in isolation. Hence this research used two-step cluster analysis combining both hierarchical and non-hierarchical (k-means) cluster analysis, an approach outlined by Ketchen and Shook (1996). Further, the analysis of the resultant clusters was informed by an extensive literature review and a strong conceptual foundation to ensure an accurate interpretation of the clusters took place.

The size of the law firms in the sample was not controlled for, which opens up a criticism that there are distinct differences between different-sized law firms in terms of the management

systems used and the level of sophistication of the HR and management practices used across different segments of the industry. The intent of this sampling was to study management practices across the industry, not simply in large firms, for example, and thus this limitation is in fact implicit in the research design. Where possible, attempts were made to standardise performance data provided by firms through the use of performance ratios that go some way toward neutralising the effect of firm size. Such controls allow for meaningful comparisons across firms where, for example, gross revenue would provide a meaningless comparison between a large and small firm.

Context is likely to be important is shaping attitudes and responses to interviews and surveys (Johns, 2006), and it is therefore important to note that the data gathered for this research project were gathered on either side of the Global Financial Crisis (GFC) of 2008–09. The interviews were conducted in 2006–07 at a booming economic period for Australia in which significant talent shortages and high attrition were being experienced by law firms. In contrast, the survey data were collected in late 2009 and early 2010, at the end of the GFC when some of the larger law firms were aggressively downsizing. These different contexts may have influenced responses, and will certainly have shaped business performance for some firms during the latter period. Importantly, however, it appears that some law firms were able to perform quite well during the GFC. This is logical as there is naturally a lot of legal activity accompanying the contraction of business, including bankruptcy, redundancies, foreclosure and property and asset sales. It may be said therefore that, though the practice of law is not 'recession-proof', it is more recession-proof than many other industries. The Australian business periodical *Business Review Weekly*, which conducts an annual review of law firm performance, claimed in the introduction to its 2009 survey of law firm performance that: "In good times or bad times, law firms prosper" (Mills & Tidd 2009, p.45)

Finally, in studying people and performance in law firms, the researcher is confronted by a number of significant challenges that are common to all management research (Easterby-Smith, Thorpe & Lowe 1991). First is the relative lack of development of a management vocabulary among the respondents. Second, the motivations of lawyers in relation to this area of research must be accounted for. Many law firm partners appear to know how to present a socially desirable image to outsiders. Thus the researcher must allow for respondent bias and, where possible, verify and triangulate respondents' claims about their industry. Third, because lawyers are client-driven and work predominantly on a 'billable hours' system, they are focused on and protective of their time. Non-billable time is often seen as non-productive. Consequently, lawyers are often unwilling to forego fees to participate in research. Further, strategies designed to alleviate privacy concerns were used and some of these may introduce unwanted results; where possible these outcomes were predicted and safeguards put in place to minimise distortion.

1.9 Chapter summary

This chapter has introduced the research area, outlined the theoretical foundations of the research, defined the research questions and methods used, and discussed the significance of the research and noted some of its limitations The next two chapters present the literature review: Chapter 2 explores theories that explain the distinctiveness of law firms and the challenges around managing for performance in the context of a professional services firm; Chapter 3 takes a broader perspective, discussing prescriptions for managing performance from the wider management literature. These two chapters establish the theoretical and interpretive framework for the subsequent field research and also help to generate the specific propositions tested in the research.

Chapter 2 Towards a theory of management and performance in law firms

2.1 Introduction

This chapter reviews the relevant literature streams that help to explain the key features of law and other professional services firms. The main goal of this chapter is to identify whether a distinctive theory of performance among professional services firms should be developed (Greenwood et al. 2005; Maister 1993). This chapter also discusses the industry of private law firms and highlights key demographics and management trends. In presenting this discussion of the institutional context of the research, the aim is not to be encyclopaedic about private law firms in Australia and New Zealand but rather to provide the necessary background to help develop a sound understanding of the industry and the sample analysed and to inform the interpretation of the data that was gathered.

Chapter two is organised as follows: Section 2.2 discusses what is termed here the 'distinctiveness' thesis. This section investigates the literature on law firms so as to develop a better understanding of the industry context and, more specifically, the challenges of managing a group of professionals. Section 2.3 briefly discusses neo-institutional theory and summarises the research that delineates the main 'design archetypes' found among professional services firms (Greenwood & Hinings 1993). Section 2.4 discusses the competitive landscape for law firms in Australia and New Zealand and charts the growth in demand for business services since the 1980's. The objective here is to explore reasons for the growing emphasis on the 'business side' of law and the competitive dynamics found in many

legal markets in Australasia and around the world. Against this industry backdrop, current and emerging sources of competitive advantage for law firms and managerial responses to the competitive landscape are discussed. Section 2.5 explores current practice and future potential of HRM practices in law firms. Section 2.6 concludes the chapter by drawing together the various themes explored and links those themes back to the main research questions being explored in this thesis.

2.2 The distinctiveness of professional services firms and professional work

Traditionally the sociological literature on professionals and professional services firms has placed a significant emphasis on elements such as the unique and functional role played by 'professionals' in society and on developing sociological explanations for professionals' high social status. Dimensions emphasised in this research included the asymmetry of knowledge that exists between professionals and clients, professionals' preference for autonomous work situations and the non-bureaucratic ways that professionals have been found to organise, namely in professional partnerships. From these points of emphasis, a widely held view has emerged that "managers in professional services firms face a distinctive environment that demands distinctive theories of management" (Von Nordenflycht 2010, p.155). This section of the review explores this idea, first from the traditional sociological perspective and then from a more contemporary perspective, reviewing accounts of professional services firm distinctiveness and the management implications of this distinctiveness.

2.2.1 Traditional accounts of distinctiveness

Up until the 1960s and 1970s, sociological inquiry into the professions tended to focus on describing the main traits of professionals and, by extension, the distinctive features of

professional services firms. This perspective has been called the 'essentialist' perspective (Alvesson 2004). The idealised traits of professionals discussed in this literature include civilised behaviour and the "application of esoteric knowledge and skills to public interest activities, such as the provision of justice and the maintenance of property rights" (Cooper et al. 1996, p.627). A higher purpose or noble calling for professionals is inferred in this literature (Alvesson 2004). Asymmetry of expertise between professionals and their clients is also discussed and describes a dynamic that persists to some extent, that is, that it may be difficult for clients of law firms to assess the skill level of their expert advisers or the quality of the service rendered (Von Nordenflycht 2010).

The asymmetry of knowledge problem has traditionally been interpreted by sociologists as a compelling explanation for why most branches of 'the professions' have ethical codes of conduct and why they retain control over the education, licensing and disciplining of their members. These measures of quality control and self-regulation have traditionally been seen as a way of guaranteeing the expertise and trustworthiness of professional advisers, and thus to build broader societal confidence in the professions (Morris & Malhotra 2009).

Accounts of the professions that characterise these workers and firms as playing a legitimate and important role in regulating society and reinforcing trust in institutions clearly reflect the functionalist tradition of sociological inquiry that may be traced to the theories of Talcott Parsons and Max Weber. Parsons, the so-called father of modern sociology, built on Weber's earlier theories of society and bureaucracies by applying them to modern organisations. Parsons' theories about organisations and institutions are widely referred to as 'structural functionalism' or simply 'functionalism'. Some of this work sought to explain the status and social organisation of professionals as stemming from the importance of their role in society

and from the unique forms of knowledge they control (Parsons 1956). The functionalist perspective dominated earlier sociological accounts of the professions in the United States (Heinz et al. 2005).

A central tenet in the sociology of the professions literature is that professional firms are occupationally distinctive because of their control and use of what is socially constructed as 'expert knowledge'. The basis of the claim of their professional status is that professionals' knowledge relates to some form of skill that is "difficult enough to require some training and reliable enough to produce results" (Morris & Malhotra 2009). The control of expert knowledge often means that professionals retain a great deal of control or autonomy over their working lives.

Observations about the autonomy and social status enjoyed by professionals provoked research interest in professional services firms because these firms stood out as exceptions to the rationalisation of much of economic life into hierarchies (Abbott 1988). Professionals not only control the means of production (e.g., professional advice offered for a fee), they are also largely the managers and owners of the enterprises in which they work. Further, because professionals alone possess the expert knowledge relevant to their profession, non-professionals are seen as incapable of judging the professional competence of professionals. Thus, only professionals are able to make hiring and promotional decisions on the basis of their judgement of an incumbent's expertise and suitability.

The theme of conflict between autonomy and bureaucracy is another mainstay in earlier sociological research into the professions. Interest in this theme emerged as scholars became more aware of the trend for bureaucratic organisations to employ significant numbers of

professionals in their ranks. This trend captured the interest of scholars because traditionally the solo practitioner was thought to best exemplify the ideal professional work situation. It was theorised that once professionals became employees of organisations the demands of bureaucracy would conflict with their professional ideals (Wallace 1995). Thus there emerged a theory of conflict between professional and bureaucratic principles of control that proposed a tension in the loyalty of professionals: on the one hand they were expected to be loyal to their profession and, on the other, responsive to the demands and commercial orientation of the enterprise. When working under such conditions (for example, lawyers working in a corporate counsel division of a non-professional organisation such as a bank), professionals are expected to be more committed to their profession than to their employer (Wallace 1995).

The emphasis on the traits of professionals such as discretion, expertise, autonomy, adherence to standards, professional ethics, dedication and reliability describe the professions in such a way "that one almost suspects the public relations departments of the professions concerned had produced them" (Alvesson 2004, p.33) A range of interests emerge around preserving these notions of professionalism. Professionals themselves may have strong interests in reinforcing such virtuous notions to preserve their status and monopoly over areas of professional practice and, of course, in turn, their perceived high status aids their ability to charge high fees. Clients also have an interest in ensuring the nature and quality of the service received and society is interested in the boundaries and costs of professionalism. These interests are, however, dynamic and influenced by the impact of technology, the size of the entities in which professionals are now found and also by government interests, for example government's propensity to in challenge professional monopolies and their role of upholding professional standards (Middlehurst & Kenny 1997).

According to Alvesson (2004), sociological inquiry concerning the professions has now shifted toward a more critical perspective on the earlier 'essentialist' ideas that stressed the universal qualities of professionals. The literature is now more concerned with themes such as professional closure, a term used to describe professionals' efforts to exclude others from entering their areas of professional practice, on efforts among professional groups to preserve their claims to special status and also on emerging professions' (management consultants, for example) claims to the title 'professional'.

2.2.2 Contemporary accounts of distinctiveness

Contemporary accounts of professionals have now taken on a more pragmatic tone. In describing professionals and professional services firms Alvesson (2004, p.34) notes there are a number of distinctive features that mark a professional :

> the occupation is based on a systematic, scientifically based theory; there is a long and standardized formal education; a strong professional association regulates its members; members have autonomy in the sense that professional knowledge rather than bureaucratic position governs decisions and work within the professional sphere; a code of ethics is established by the profession; there is a distinct occupational culture; there is client orientation; the occupation is socially sanctioned and authorized; there are criteria for certification; there is a monopoly of a particular labour market through self-regulation of entry to the occupation.

Others take a more organisational and managerial perspective and argue that, because of the features mentioned above, professional services firms are a distinct if not unique organisational type that must be managed differently from conventional corporate organisations. David Maister (1993) is widely cited in studies on the management of professional services firms and argues evocatively that managing a professional services firm

is a distinct management domain. For Maister (1993, p.xv), the need for customisation is a critical point of difference between professional services firms and corporate organisations:

> Management principles and practices from the industrial or mass consumer sectors, based as they are on the standardization, supervision and marketing of repetitive tasks and products, are not only inapplicable in the professional sector but may be dangerously wrong.

Customisation of service offerings is also seen as a defining characteristic of the work of professionals by other noted observers. Gabarro (2007) argues that in corporate organisations there is "a high degree of routinization and standardization so that learning can occur in structured venues such as formal training programmes. In contrast most learning in law firms occurs on the job". For Gabarro (2007), this feature emphasises the importance of the stratified apprenticeship model of staffing. Lowendahl (2005) sees the need for customisation as a defining characteristic of professional services firms and emphasises that customisation entails a high degree of discretionary effort and personal judgement by the experts delivering the service; the delivery of services therefore requires substantial interaction between clients and firm representatives.

The need for close client interaction with the professional staff of the firm may have significant managerial and staffing implications. Maister (1993) builds on this point:

> The need for a strong component of face to face interaction means that what a professional service firm sells to its clients is frequently less the services of a firm than the services of an individual or a team of individuals. Thus professional services firms must be able to both attract and retain highly skilled individuals. Further, the professional service firm must compete actively in two markets simultaneously: the 'output' market for its services, and the input market for its productive resources, the professional workforce. It is the need to balance the conflicting demands and constraints imposed by these two markets that creates the special challenges of managing the professional service firm.

Although management may be more challenging and, to a certain, extent more critical to success in non-routine non-standardised environments, it is thought to be challenging to find good managers in professional services firms or, good "coaches for other professionals" (Lowendahl 2005, p.58). Management roles may have lower status and attract less material rewards than client service roles, and time spent managing instead of serving clients may lead to professional knowledge and skills becoming outmoded. Becoming a managing partner in a professional services firm, may be seen as a thankless and highly political appointment. In effect the attitude of some lawyers may be: "why waste a good professional in management?" (Lowendahl 2005, p.59).

Important management tasks, when professionals have what has been termed, a "part-time manager" mindset as many are thought to do, may be crowded out by client work, leaving junior professionals floundering and strategic decisions unresolved (Lowendahl 2005). Professionals may also be hard to coordinate as they are often out of the office and they therefore may not follow firm policies (Lowendahl 2005). Further, professionals may fail to delegate client work that can be handled better by other experts in their firms or at a more junior level (Maister 1997) and, despite the importance of building intangible assets such as increasing a professional's knowledge through training or mentoring or for service innovation, these intangible issues may not be thought of as priorities worth investing in (Mayson 2007). At their worst some of these management dilemmas in law firms combine to form a vicious cycle of reactive working styles, cursory or unprofessional management (because these skills are not nurtured in professionals over time) and reactive client and incentive-driven behaviours that lead to unwanted consequences such as attrition, client dissatisfaction and ultimately to poor or unsustainable firm performance (Lowendahl 2005).

What is a Professional Services Firm?

There appears to be broad consensus that professional service firms differ from manufacturing and other more routine services firms (hotels, for example) and are challenging environments in which to manage. However, some researchers question the uniqueness of professional services firms relative to other knowledge intensive firms, where routinisation and standardisation are also difficult, where strong bonds also form between the agents of the firm and its clients and where knowledge workers' skills are also highly transportable. Alvesson (2004, p.144) questions the prestige of the traditional practice based (Gabarro 2007) professions such as the law and accounting that rest on the practice of a codified body of knowledge; he argues "the greater proportion of the population receiving higher education and the increase in the number of people who could be categorised as professionals in one sense or another reduce the space for this group to be perceived as very special or to expect treatment radically different from other employees". The ongoing characterisation of professional services firms as unique is therefore open to some criticism and indeed the very concept of 'professional' is apparently contested and less salient than in an earlier era. Von Nordenflycht (2010) rightly asks, "If lawyers are professional, as they are widely asserted to be, what about ad agencies? Physician practices? Software firms? If not why not?"

To address these definitional issues, Von Nordenflycht (2010) has developed a comprehensive taxonomy of professional services firms in which three main characteristics of these firms are defined (knowledge intensity, low capital intensity and a professionalised workforce) and the managerial implications of these characteristics are then drawn out. The following section summarises the dimensions of this taxonomy.

The first dimension, 'knowledge intensity', indicates that the production of a firm's output relies on a substantial body of complex knowledge (Starbuck 1992) and that knowledge is embodied in individuals rather than in equipment, products or organisational routines. Knowledge intensity results in managerial problems referred to as 'cat herding' and 'opaque quality'. 'Cat herding' is an evocative metaphor used to describe the challenges associated with directing and retaining knowledge workers, whose skills are widely valued and who are therefore highly mobile and who may reject traditional means of management control. Because of these features knowledge workers are thought to be motivated by different, less directive managerial controls and they are therefore thought to respond best in decentralised working environments where rewards are contingent or deferred (Von Nordenflycht 2010). 'Opaque quality' refers to the problem discussed earlier of knowledge asymmetry. The knowledge asymmetry and consequent difficulty clients have in judging the quality of the work of a professional gives rise to the need for mechanisms to signal quality; these include bonding (meaning internal quality controls, such as sharing profits and sharing liability along with difficult and extended qualifying and assessment periods), reputation, appearance and ethical codes. These dimensions emphasise the reliability and credibility of professional advisers to outsiders and help them judge the quality of work that is otherwise 'opaque'.

The second dimension in the taxonomy, 'low capital intensity', has both negative and positive effects. In a negative sense, low capital intensity increases employees' bargaining power, because their skills are transportable and they can easily start their own firms; however, in a positive sense, low capital intensity reduces the need to raise investment funds and allows professionals to organise in ways that might not be acceptable to outside investors (Von Nordenflycht 2010).

The third dimension, a 'professionalised workforce', is thought to manifest in what is called a 'trusteeship norm' among professionals where altruistic aims and clients' interests take precedence over commercial concerns (Von Nordenflycht 2010). The trusteeship norm results in restrictions against outside ownership of firms. A further outcome of the professionalised workforce is that professions are often self-regulated monopolies with the length and difficulty of gaining the qualification and certification to join the profession a significant barrier to entry. However, the professionalised workforce criterion is also thought to create muted competition. For instance, professional codes often prohibit a range of commercially competitive behaviour such as soliciting competitors' clients and advertising (Von Nordenflycht 2010). The distinctive characteristics of knowledge intensity, low capital intensity and a professionalised workforce and their accompanying managerial implications and organisational response are summarised in Table 1 below.

Table 1. Distinctive characteristics of PSFs and managerial implications

Distinctiveness characteristic	Managerial implications	Types of organisational responses
Knowledge intensity	Opaque quality	Quality signals: bonding; reputation; appearance; ethical codes
	Cat herding	Alternative incentives: Deferred contingent compensation; autonomy and informality
Low capital intensity	No investor protections	Autonomy and informality: No outside ownership
Professionalised workforce	Trusteeship norm	No outside ownership (collective responsibility for quality)
	Muted competition	Slack/inefficiency Autonomy and informality

(Source: Von Nordenflycht 2011)

A professional services firm may conform with this taxonomy to a greater or lesser degree by virtue of the context in which the firm operates. For example, the growth in the importance of corporate counsel departments may diminish the opaque quality of a corporate lawyer's work thereby lessening the need for symbols to indicate quality. Corporate counsel are more informed consumers of legal services and therefore less convinced by symbols and more by the quality and cost of work. 'Cat herding' may also be less of a concern as contemporary professionals are thought to be socialised into bureaucratic norms and corporate management techniques in larger firms from early in their careers. Alvesson (2004, p.144) argues that "most professionals nowadays work in medium sized and large bureaucracies. These professionals probably develop fewer traditional orientations".

Outside ownership may also be less constrained. For example, a few law firms in Australia are now publically owned; others have unconventional organisational structures, such as being organised as sole traders; and there are also privately owned 'virtual' law firms that have only employed lawyers and no formal partnership structure. The notion of muted competition has also been diluted in Australia, with advertising for law firms and 'no win - no fee' payment terms now allowable along with hyper-competitive labour market dynamics the norm among corporate law firms. Thus we may see that many of the assumptions of the past and even the present about the distinctiveness of law firms as a managerial context are open to some criticism, if not to a direct challenge. With the uniqueness of law firms therefore somewhat open-ended, the prospect of the generalisability of findings from the wider knowledge-intensive organisational context into law firms becomes more apparent.

As this section as shown, there are no simple answers to the question of how to best manage law firms. The size and scope of many of the national and international law firms around the

world suggests that they have had to take on more centralised forms of control, greater levels of hierarchy and to become more managerially oriented, and thus in some senses they have become more like corporate organisations (Hitt, Bierman & Collins 2007). However, Gabarro (2007) suggests that beyond simply abandoning traditional partnerships for a hierarchical corporate forms that law firms may need to become 'ambidextrous organisations' (Tushman & O'Reilly 2002). Gabarro (2007, p.xxiii) claims that as law firms become larger and more global they may need to use aspects of the corporate model to deal with greater scale and complexity however that they should aim to do so without "disassembling or negatively affecting the basic structure of the stratified apprenticeship found in successful practice based organisations".

2.3 Institution theory and industry archetypes

From the 1990s onward, research into professional services firms became influenced to a large extent by studies that drew on the theoretical tradition of institutional and neo-institutional theory (Leicht & Fennell 2008). Institutional theory suggests that "the regulation of organizational behavior occurs through and is a consequence of taken for granted beliefs, schemas and values that originate in larger institutional contexts" (Leicht & Fennell 2008, p.433). Institutional theories are well established in organisational studies because they provide strong accounts of the processes through which "institutions govern action" (Lawrence & Suddaby 2006, p.215).

Institutional pressures are said to create an 'institutional field' that shapes attitudes and shared values and therefore creates widespread consensus on and conformity to accepted organisational design templates and management practices. These pressures include 'normative' pressures, through which actors are socialised (for example, during their

professional training) to accept and adhere to customary ways of organising; 'coercive' pressures, such as the regulatory power industry bodies possess to issue and withdraw practising certificates (e.g., to license and disbar practitioners); and 'mimetic' pressures, such as the tendency of new incumbents in existing fields to mimic established ways of organising – such as those practised by leading firms (DiMaggio & Powell 1983).

The interplay of these forces is the collective product of three core institutional domains of activity: the state and its regulatory agencies, the professional associations, and the educational process through which professionals develop their expertise. These three domains all regulate, influence and create the context in which the professional staff and professional services firms enter into exchange relationships (Lebleblici 2007). These relationships are illustrated in Figure 2.

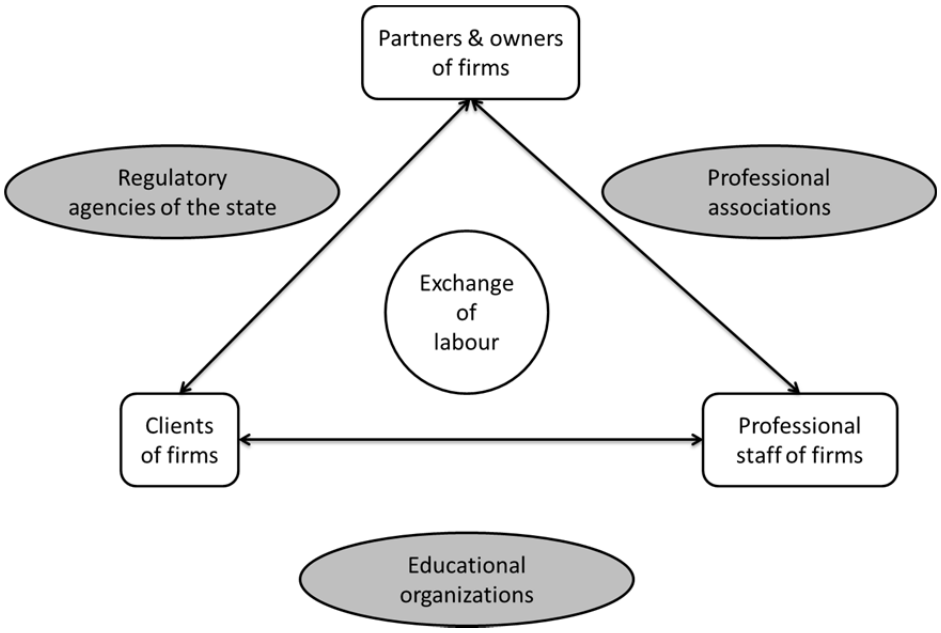


Figure 2. Sources of institutionalised practices in corporate law firms

Elite firms are considered particularly influential actors in neo-institutional accounts of why organisations in the same industry appear to be so similar. It is argued that by mimicking leading firms, new entrants hope to build their own legitimacy and to emulate the leading firm's success (Jennings, Devereaux Jennings & Greenwood 2009). By adopting well-established ownership forms and employment systems, firms are thought to garner legitimacy in the eyes of key constituencies such as clients and potential employees (Deephouse 1999). While the institutional perspective is concerned with the development of institutional fields, the *neo*-institutional perspective (DiMaggio & Powell 1983; Meyer & Rowan 1977) is concerned with change processes within institutional fields. Neo-institutional researchers are also interested in the role of agency: concepts such as 'institutional entrepreneurism' and 'institutional work' have emerged more recently that help to explain institutional change and how actors, driven by their own agency, may shift and ultimately change institutional norms (Lawrence & Suddaby 2006).

Scholars working from this agency-oriented perspective have sought to provide some balance to what has sometimes been seen as the overstated institutional perspective that characterises individual firms and entrepreneurs as beholden to institutions and incapable of free will. Researchers explore the 'heroic' role of key individuals or organisations in breaking the 'iron cage' (DiMaggio & Powell 1983) of institutions and changing their industry (Lawrence & Suddaby 2006). While such theoretical developments indicate that institutional precepts that infer actors are beholden to institutions may lack currency, Leicht and Fennell (2008, p.431) argue that "the changes in the markets, organisational forms and technologies that support the delivery of professional services do not signal the end of institutional theory but rather provide fertile ground for the use and extension of institutional theory".

2.3.1 Archetypes among law firms

As discussed above, notions of legitimacy and DiMaggio and Powell's seminal isomorphic pressures (1983) give clear theoretical guidance for why organisations resist change and why they may conform to legitimated ways of organising within a well-established institutional field. Greenwood and Hinings (1988) call these dominant organisational templates 'design archetypes' and in explaining the notion of different trajectories of change ('change tracks') they announced a process termed 'archetypal change'. Archetypes, may be defined by both their structural coherence and underpinning 'interpretive schemes', a concept that evolved from an earlier idea 'provinces of meaning' (Ranson, Hinings & Greenwood 1980). However, the tracks through which archetypes change and remain the same, even when organisations face similar contextual crises, may be distinctly different. Change tracks may lead firms toward successful change or inhibit change and be associated with inertia (Greenwood & Hinings 1988). Change tracks and archetypal change help illustrate that not all change efforts succeed and that there are multiple change tracks firms may follow. Some organisations "fail to sustain their change momentum and revert to their prior states, because the latter are more consistent with the archetype, others get caught between the original and an emergent archetype in an apparently schizoid state" (Brock et al. 2007, p.3).

In the literature on professional services firms, the main archetype against which all others are compared is the 'P^2 archetype', also referred to as the 'P^2 form' or 'Professional Partnership' (Greenwood, Hinings & Brown 1990). P^2 firms are described as organisations in which strategic direction is weak and not centrally controlled (Brock, Powell & Hinings 2007). P^2 firms are defined by two pillars. The first of these is professionalism. As already described, the workforce in a P^2 firm comprises, in the main, the professional workforce consisting of both partners (owners) and associates (employed solicitors) who work autonomously, and

whose values and work are governed to some extent by institutions such as, in the case of the law, courts and law societies. The second pillar of the P^2 system relates to the way professional firms often organise themselves to practise, which is predominantly in privately owned professional partnerships where power, costs and professional liability are shared amongst equity holding partners. Although P^2 firms are organised hierarchically, with junior level associates reporting to more senior associates, who ultimately report to partners in the firm, individual lawyers are often afforded a high degree of autonomy and are expected to exercise professional judgement and discretion, even from early on in their professional careers. The P^2 form is argued to be an effective way of organising knowledge workers and is widely found among law firms and accounting practices in particular. The practice of law has characteristics, risks and regulatory pressures which make the professional partnership a particularly entrenched and widespread way of organising. An analysis conducted in 2003 of the Top 100 professional services firms globally illustrated that law firms remain 100% organised as private partnerships, while a greater number of other types of professional services firms (such as architecture and engineering services) had moved toward a private corporation model or the publically traded corporation model (Greenwood & Empson 2003).

The evolution of the P^2 archetype within the professions of law and accounting has been deeply explored from within the field of organisational studies for the last 20 years, with a particular focus on the UK, Canada and the US (for example Cliff, Devereaux Jennings & Greenwood 2006; Cooper et al. 1996; Gray 1999; Greenwood & Empson 2003; Greenwood & Hinings 1993; Greenwood, Hinings & Brown 1990; Malhotra, Morris & Hinings 2006). Some scholars argue that the need for greater commerciality and the growing influence of managerial values in law firms have undermined the utility of the traditional 'P^2' archetype. Scholars often argue that a more commercial/managerial archetype, identified in a classic

study of Canadian law firms, the managed professional business (MPB) (Cooper et al. 1996) is now more widespread.

The MPB archetype is an organisational form characterised by a corporate form of governance that comprises an executive board, greater executive discretion, more explicit strategic planning and the employment of professional managers to run the day-to-day operations of the firms, with functional executives such as Chief Operating Officer, Human Resource Director, Chief Finance Officer now commonplace in firms (Lowendahl 2005). Cooper et al. (1996) characterised the change in organisational archetypes from P^2 to MPB as similar to the geological processes of glacial sedimentation, where one system slowly engulfs another and where corporate systems and values overlay and slowly replace traditional professional systems and values. This exemplifies the idea of convergent change (Greenwood & Hinings 1996). Malhotra et al. (2006, p.175) argue it is the dynamic market conditions that have arisen in recent years that is changing traditional ways of approaching professional services firm management:

> Environmental factors such as changing client demands, forces of globalisation and regulations governing professional services precipitated changes in how these firms were governed and managed. More formal managerial structures, structures and systems developed resembling larger corporations.

Tables 2 and 3 show the contrasting dimensions of the P^2 and Managed Professional Business (MPB) archetypes as described by Cooper et al (1996). These tables show the identification of an archetype is normally conducted on the basis of recognised and coherent patterns in the organisational structures, as defined by 'systems', 'structures' and the underlying 'interpretive schemes' that support them. Other archetypes that have been identified in the literature on law firms include the 'star' form, which is small and elite, like a boutique investment bank and

which will specialise in niche areas of practice (Gray, 1999), the global alliance (Brock, Powell & Hinings 2007) and the reconstituted professional firm (Ackroyd & Muzio 2007).

Table 2. Elements of the P2 form

Interpretive scheme	
Governance	Fusion of ownership and control A form of representative democracy Revolving managerial tasks among the owners Local office as the centre of commitment
Primary task	Professional knowledge Peer control Work responsibility as indivisible Strong links with clients Widely distributed authority Minimum hierarchy
Systems	
Strategic control	Rationality: low analytical emphasis Interaction: consensus decision-making
Marketing – Financial control	Specificity of targets: precise financial targets Tolerance of accountability: high tolerance Time orientation: short term
Operating control	Range of involvement: low range Primary focus of involvement: professional standards and quality of service Decentralisation – centralisation: decentralised
Structure	
Differentiation	Level of specialisation: low Criteria of specialisation: professional divisions and personal interest
Integration	Use of integrative devices: low Use of rules and procedures: generally low

(Source: Cooper et al. 1996)

Table 3. Elements of the MPB

Interpretive scheme	
Effectiveness	Management
Efficiency	Client service
	Competition
	Marketing and growth strategies
	Rationalisation
	Productivity
Systems	
Strategic control	Rationality: moderate analytical emphasis
	Interaction: more directive decision-making
Marketing – Financial control	Specificity of targets: precise financial and market targets
	Tolerance of accountability: low
	Time orientation: short term and long term
Operating control	Range of involvement: medium range
	Primary focus of involvement: professional standards, quality of service, planning, marketing and compensation
	Decentralisation – centralisation: more centralisation
Structure	
Differentiation	Level of specialisation: medium
	Criteria of specialisation: professional divisions and functional difference
Integration	Use of integrative devices: medium, development of hierarchy and cross-functional teams
	Use of rules and procedures: emphasis still on standards and quality, but more rules generally

(Source: Cooper et al. 1996)

The study of archetypes is a particularly relevant construct for scholars to employ in the analysis of change (Cooper et al. 1996). New archetypes can be stable only if they are organised around a new set of coherent or widely accepted values; without supportive interpretive schemes new archetypes may be 'stuck in the middle' and unstable. Scholars address the issue of coherence by analysing the valence of the perceived interpretive schemes to assess the stability of the archetype. Interpretive schemes may be seen as a type of 'cultural

oil' that lubricates the archetype. The inclusion of this values dimension "gives prominence to the beliefs and attitudes of groups in the consideration of organizational design transitions" (Ackroyd & Muzio 2007, p.742). The analysis of interpretive schemes is also important as it delves into the lived experience of humans within groups and how these rich shared beliefs cause groups of people to cohere around consistent themes and attitudes (Greenwood & Hinings 1993). Research by Gray (1999, p.93) illustrates how interpretive schemes support or may hinder change. Reporting on case studies of three Australian law firms the response of a partner to a reminder that managerialism was increasingly prevalent in corporate law firms he noted the partner's response. "That's dreadful. Don't you think that's dreadful? I don't want law to be a bureaucracy, I prefer a college. Law is still a lifestyle thing". This attitude shows that the valence of the interpretive scheme required to support an emerging corporate archetype is likely to be weak in this particular firm.

Much of the work undertaken on archetypes is qualitative, along the lines illustrated above, relying predominantly on case studies and analysis of secondary industry data. The archetypes discussed in this literature are predominantly conceptual interpretations of governance modes and, like typologies, may be said to some extent to reflect researchers' bias (Miller & Friesen 1984). The archetypes are not quantitatively derived and may therefore be considered idealised and not actual expressions of organisational forms.

Although archetype-oriented research is predominantly focussed on governance systems, some archetypal research has focussed on management practices. Scholars employing the archetype framework have for example examined compensation policies (such as the introduction of performance-based profit sharing) and also career practices such as the 'up or out' principle (Morris & Pinnington 1998). A study of employment practices in English and

Welsh solicitor practices focusing on ‘up or out’ promotion systems found that ‘up or out’ promotion systems were used less frequently by the legal profession in the UK than in the US, and also that contemporary monitoring practices (such as appraisals and performance-based pay) were being used instead to motivate performance. In another study, Pinnington and Morris (2003) examined management practices in 190 UK law firms. Although they found evidence of increased managerialism in the industry, they argue the dominant industry archetype (the P^2 form) was largely intact.

The preceding discussion has summarised a range of perspectives on the forces shaping the organisation and management of law firms. The distinctiveness of professionals and of professional services firms as an organisational type is a long-standing, although increasingly contestable, stance. Some empirical research suggests law firms have not changed their fundamental nature and that a layering of more corporate management practices is occurring over existing structures for example (Pinnington & Morris 2003). Clearly, law firms are idiosyncratic, if not unique, and rely on human capital, and therefore it would be expected that, although there may be diversity in organisational forms, newer ways of managing will also have been adopted quite broadly across different markets and also that law firms will be following one another closely. Given the competitive nature of industry would be expected therefore that large and mid-sized law firms will have permanently moved toward more managerial modes and that smaller, ‘boutique’ law firms may also be using more contemporary management practices. Against this background, then, the first research proposition may now be stated:

Research proposition 1

The legal services sector in Australia and New Zealand will be expected to exhibit homogeneity in respect to the employment systems and management practices found across the industry, a reflection of their universal recognition of the critical role of human capital as a source of competitive advantage in knowledge intensive industries and of the impact of the institutional forces shaping their values and structures.

2.4 The competitive landscape for law firms

2.4.1 The changing organisational context for law firms

Over the last 30 years, the Australian legal services sector has expanded and changed dramatically amid economic conditions that have been highly favourable for business. From the mid1980s onward, successive Australian governments undertook extensive trade liberalisation, policies such as reductions in import tariffs, deregulation, privatisation, changes to employee bargaining regimes and tax reforms have combined to create an open and competitive climate for business (Pinnington & Gray 2007). Trade liberalisation, including China's ascent to the World Trade Organisation and rapid economic growth, has led to a boom period for Australian mining, fuelling business activity in Western Australia and Queensland in particular, increasing the need for law firms that specialise in commodities and mining and also driving expansion of Sydney and Melbourne based firms to other states.

Australia's favourable weather, its stable economic and political climate and its proximity to dynamic markets in Asia are other factors that have enticed multinational corporations to establish regional offices in either Sydney or Melbourne. Further, Australian banking and finance institutions have been highly successful since the industry was reorganised following the floating of the Australian dollar and the granting of banking licenses to foreign banks in

the 1980s. Corporate law firms in cities such as Melbourne, Sydney and Brisbane have been major beneficiaries of growth in these corporate legal markets, with some establishing national practices to service these clients. Internationalisation has also been important, with many Australian companies expanding internationally; conversely, foreign entrants setting up operations in Australia have also been active consumers of Australian legal services. These different business contexts and trends all necessitate increasing amounts of lawyering and have led to dramatic growth and change in the Australian legal services sector.

Australia's economic success has also been consistent, unlike other Asia-Pacific countries, and the economy remained resilient even during the recent global financial crisis (GFC) of 2008–2009. The CIA World Fact book (2012) describes how the Australian economy fared during the GFC:

> The Australian economy grew for 17 consecutive years before the global financial crisis. Subsequently, the former Rudd government introduced a fiscal stimulus package worth over US$50 billion to offset the effect of the slowing world economy, while the Reserve Bank of Australia cut interest rates to historic lows. These policies - and continued demand for commodities, especially from China - helped the Australian economy rebound after just one quarter of negative growth. The economy grew by 1.4% during 2009 - the best performance in the OECD - by 2.7% in 2010 and by 1.8% in 2011.

Outside the corporate sector, other societal trends have also supported the growing need for legal services in Australia. A buoyant housing sector has provided a steady stream of work for smaller firms over the last twenty years. Enterprise bargaining and changes to matters pertaining to workplace law provide a reliable source of legal work, as does insurance work such as personal injury claims and criminal law. Family law has also been a strong area of practice, as the divorce rate has remained high (Sallmann 2012).

The growth in demand for legal services by corporations is also influenced by a growing use of legal processes as a legitimate extension of business strategy. Galanter and Palay (1991, pp.43–44) describe the industry dynamics in the US which caused the growth in commercial litigation they claim:

> An increasing portion of this litigation involves the business firms that are the primary clientele of large law firms. With increasing frequency, these companies are targets of civil rights, wrongful discharge and product liability claims. Less visibly but more importantly they have become more frequent and more aggressive users of the legal system in disputes arising from their dealings with one another. This is marked by the surge in contracts, intellectual property and other business cases in the federal courts. An increasing number of business disputes are not being resolved in the informal style… It has become acceptable for corporations to be plaintiffs and to sue other corporations; there is an increasing use of litigation as part of business strategy. A significant portion of this larger total of litigation is more complex and involves higher stakes, calling forth larger amounts of lawyering.

There is good evidence to suggest Australian businesses have followed a similarly litigious path and that legal action is also now seen as a legitimate adjunct to business strategy for large companies in Australia.

According to the Australian Bureau of Statistics (ABS) as at June 2008 there were 11,244 'other legal services' businesses operating in Australian. The category 'other legal services' excludes barristers operating as sole trader businesses and other places of work for lawyers including: legal aid commissions; community legal centres; Aboriginal legal services; government solicitors and public prosecutors. The 11,244 businesses includes solicitor firms, patent attorney businesses, service payroll entities and businesses providing various legal support services employed 84,921 people. Of those people, 16.3% were proprietors or partners of unincorporated businesses and 6.4% were principals/directors of incorporated businesses. In 2008, 33.6% of the total fee income was derived from commercial law and

18.9% was from property law (ABS 2009). IBIS World describes the industry as being in the mature stage; however, it notes this has not deterred international firms from entering the Australian market including recent entries by international firms such as Allen and Overy, DLA Piper, Norton Rose and Clifford Chance. There are six major national law firms in Australia: Mallesons Stephen Jacques, Freehills, Minter Ellison, Clayton Utz, Allen Arthur Robinson and Blake Dawson. These firms account for approximately 15% of industry revenue (Sallmann 2012).

The economic context for New Zealand law firms has been similar to some extent to that faced by Australian firms, but economic growth has been less dramatic and the legal industry and is consequently less dynamic and competitive. New Zealand has also liberalised and modernised its economy, but the population and economy are much smaller than Australia's and the economy relies heavily on primary industry such as dairy and also on tourism. New Zealand law firms are predominantly small firms, with a recent report from the New Zealand Law Society showing that 90.6% of NZ Law Firms had only between one and three partners, and roughly the same proportion had five or fewer fee earners (NZ Law Society 2011).

Greater opportunities, more competition, greater risks

Australia's emergence as an open and competitive economy has presented law firms with myriad commercial opportunities reshaping the industry landscape dramatically. However, growth in the 'business side' of law firms also presents a set of more complex management challenges and also some unintended consequences. The opportunities, risks and management responses to these opportunities and risks are now discussed.

The first major opportunity and challenge is national and international expansion. In recent decades Australian law firms have developed a national and international presence. To some extent, geographic expansion has taken place by necessity as large tenders for legal work, where firms are selected to be on panels of preferred suppliers, often require law firms to commit to providing continuous service at the national and, in some cases, international, level. Consequently, many Australian law firms have expanded into different jurisdictions around Australia and internationally either through affiliations with other firms, as part of a network, through referrals, also termed 'best friend agreements' (Pinnington & Gray 2007). Some firms have also established offices in a range of national and international locations. As firms become national and international their greater size and scope also results in increased operational complexity and financial risk. For example, the financial risks associated with a new office failure introduce a pressing need for stricter financial discipline, corporate governance and more executive decision making. The near collapse of Allen, Allen and Hemsley ('Allens') due to the corrupt actions of a rogue partner based in the firm's London office in the 1980s may have provided a catalyst to many firms putting better governance and controls in place (Pinnington & Gray 2007).

The need for better coverage and the search for economies of scale led to several high-profile mergers and acquisitions of large Australian law firms from 1990 onward that created several large national firms. Amalgamations have driven the need for reorganisation and led to the creation of more complex management structures which were unnecessary in the earlier era when the largest law firms had around 20 partners at most and solicitors were limited to practice in the state where they were admitted as solicitors (Campbell, Malone & Charlesworth 2008). In that era, traditional approaches to partner selection, promotion and remuneration were also built on the assumption of a homogenous workforce with similar

needs, values and skills, with all partners making comparable contributions. Partners were all equals in such firms, they were mostly men and they shared profits equally. In the contemporary environment of large diverse firms, lockstep profit-sharing systems are becoming a rarity as many move toward performance-based profit sharing (Oakes 2012).

The financial rewards for senior lawyers in law firms appear to make the hard work worthwhile for those elite few who flourish and become partners in successful firms. The financial rewards of partnership are significant; in large law firms, dividends to some equity partners are thought by industry insiders to surpass A$1 million per annum (Beaton 2007). Further, the executive level pay packets of law firm partners are not scrutinised by external shareholders or written about by business journalists, and this privacy is a significant but seldom-mentioned benefit of private ownership. Arguably, profits (in effect annual salaries) such as these are commensurate with the responsibility and potential liability of being a partner in a prominent law firm and, in a wider sense, reflect the importance of the work of law firms to industry (Sharma 1997). However, the demands of working in a busy law firm, such as the notoriously long working hours endured by both rising lawyers and partners, and the high standards and potential professional liabilities partners assume, are a deterrent for many. Stress, monotony and long working hours have led to many personal problems for those working in the profession of law, and have turned many young aspiring lawyers away from the profession in search of better quality of life (Campbell, Malone & Charlesworth 2008). It has been said that the high stress that drove professionals in previous generations may be less readily accepted by many lawyers today (Greenwood & Empson 2003).

The widespread use of the ‘billable hours’ system of budgeting in law firms nowadays is also important to consider here as this system contains both opportunities and unintended

consequences. Billable hours is a time-based charging system whereby lawyers work toward a daily target of billable hours set by the firm, which is then broken down into discrete billable 12-minute segments of work. The 'billable hours' system is valuable to firms in some important respects: it makes budgeting easier and puts an emphasis on continual hard work, and therefore tends to promote profitability, if not high-quality work or client satisfaction (Hitt, Bierman & Collins 2007). The pressure of these targets (or budgets) may also mean that senior lawyers are often too busy to do very much other than billable work for a client. The billable hours approach causes lawyer-managers to be very 'client-driven' and reactive (Campbell, Malone & Charlesworth 2008). The 'billable hours' dilemma is therefore not simply a cliché for many law firms but is in fact an operational necessity; many partners cannot simply stop doing the lion's share of the billable client work in order to focus solely on their role as people managers. The problems associated with and caused by billable hours accounting systems are not easily resolved; furthermore, the financial benefits of the billable hours approach will arguably make it difficult to unseat.

The business model of many firms is also a source of growth and a driver of profit but also carries inherent risks. In general terms law firms rely on two fundamental approaches. The first of these is 'leveraging' a practice in which a number of junior lawyers work for one supervising partner on a large matter. Each of the junior lawyers or fee earners are billed out to the client at an hourly rate higher than that paid to the fee earner, the difference contributes to the firm's profit. In the second approach firms are be less leveraged, that is they have less junior lawyers and more of the professional staff operate at more senior levels, charging a higher hourly rate. The first approach is common in large law firms, the second in mid-sized firms. Highly leveraged firms can also be highly profitable (Hitt et al. 2001); however, large firms also carry a risk that well-paid professionals will, at times, be under-utilised and that the

firm may need to shed professional staff during slack periods (Lowendahl 2005). During the GFC some of the larger Australian law firms in particular experienced a slow-down in business as the lack of liquidity in capital markets dried up deals and many larger firms undertook forced redundancies, closed their partnerships to new entrants and cut back on benefits for staff by freezing headcount, stopping training and reducing employee support services. The Australian Financial Review Annual Partner Survey of 2009 showed that, among 31 firms surveyed, only 120 partners were appointed in 2009 (AFR 2009). Interestingly, another business press report from 2009 in the Business Review Weekly suggested profits among the large law firms had remained steady from previous years (Mills & Tidd 2009).

Large corporate counsel departments are now a defining feature in the life of corporate law firms and they (corporate counsel) are often demanding and discerning clients. Under pressure to reduce legal costs, corporate counsel may impose strict conditions and price pressure on law firms and may also, to some extent, compete with their legal providers by bringing some legal work 'in house'. Corporate law firms (that is to say, firms who work solely for corporations, institutions or governments) in particular have therefore become more focused on client satisfaction than in the past, an increased source of pressure for these firms.

In Australia, peripheral industries have grown up around law firms – legal media, legal recruiting and legal consulting firms. Business magazines and legal publishers sponsor annual awards programs for law firms such as the Business Review Weekly 'Client Choice' awards for professional services firms. These peripheral activities and areas of support for law firms tend to enhance the already high status of the industry, yet, they also enhance competitiveness among firms. Sophisticated marketing and sales campaigns are also expensive and complex to

run for firms, adding to fixed costs and diverting partner's attention from billable work or mentoring staff. Participating in awards can be costly and the return on investment of such awards may be negligible. While legal recruiting firms profit from voluntary attrition and their presence in the market may also promote lateral hiring and poaching.

Deregulation has also created pressures. Property conveyancing may now be practised by licensed Conveyancers and competition from foreign entrants to Australia, is now significant. For example, when the UK-owned global law firm, Allen & Overy set up offices in Australia recently, it did so by aggressively recruiting a team of senior partners from a leading Australian firm, Clayton Utz. Other global firms, such as Norton Rose, have also entered the Australian market and have established a local alliance by acquiring a mid-sized Australian firm, Deacons. The global alliance DHL operates in Australia in partnership with a firm formerly called Phillips Fox, and there is also a local Australian branch of the global US firm, Baker and McKenzie. The UK mega-firm Clifford Chance has also recently established an Australian presence following a local merger. The entry of these global law firms into the Australian market is often achieved or enhanced by poaching local legal talent, a trend that will force many firms to more generously and competitively remunerate their legal staff to promote retention (Sallmann 2012). Market forces such as these will undoubtedly force law firms to closely consider the cost effectiveness of various management initiatives and thus to prioritise and focus their investments in areas of greatest perceived return on investment.

Advances in Internet Communications Technology (ICT) have been another major driver of change in the way lawyers work, and also to the ways that legal services are delivered. To some extent ICT untethers lawyers from the office, as it does many other knowledge workers, and allows them to stay connected using smart phones, Skype and web conference

technologies that are becoming increasingly ubiquitous in society. Email and high speed web connections allow knowledge workers flexibility to work remotely with work-life balance goals in mind, but the same technologies may also cause work intensification and increase clients' expectations of turnaround times (Nesbit 2004). The technology (e.g., word processing) skills of the new generation of lawyers have also been thought to be a contributing factor in lessening the need for support staff (Ackroyd & Muzio 2007). ICT allows for the outsourcing of basic legal work to India and other low-cost locations, potentially offering clients even more choice or giving law firms other cost saving options to consider, offshore data processing for example. Knowledge-management practices have also become refined in law firms with the development of sophisticated database technologies and retrieval systems (Hunter, Beaumont & Lee 2002; Khandelwal & Gottschalk 2003) and the legal publishing industry is now increasingly digitised. Corporate clients, equipped with sophisticated supply chain technology "are able to carefully scrutinize what they are receiving for dollars spent, and thus what legal functions might be better or more economically performed in house" (Hitt, Bierman & Collins 2007, p.27). Technology is therefore a double edged sword; an aid to business efficiency but also a source of increased competition and pressure.

The issue of workplace diversity is another important trend in the working context for lawyers. The professional workforce in most law firms is now diverse, with far stronger representation in the profession from women and members of racial and religious minorities. Law firms may perceive a moral element in the promotion of diversity – it is the right thing to do - but there is also a business case for diversity that takes account of client preferences to deal with firms that are non-discriminatory and also aligns the workforce profile with key demographic trends including greater enrolment numbers in university law courses by women

than men (Wilkins 2007). However, as Wilkins notes, the experience of law firms with diversity in the US has not always been easy, with traditional promotion and reward systems for partners designed to protect the existing partnership ethos or culture. Law firms will therefore need to be increasingly considerate of, and responsive to, a wider range of employee needs than in the past, particularly in relation to the participation of female lawyers (Law Society Report 2001). The merger activity and internationalisation of law firms is another challenging context for larger law firms that brings the need for inclusive cultures and also drives an increased need for diversity management policies such as merit-based hiring, advancement and flexible work practices.

2.4.2 Organisational responses to the changing market

The impact of these various modernising forces in the operating environment of law firms places significant stress on aspects of their traditional business model. The economics of partner recruitment is one significant and problematic area that has been changed by market trends. The goal of attaining the title 'partner' is perhaps the most fundamental form of deferred, contingent reward described in Von Nordenflycht's taxonomy (2010) and is seen as an ideal way to inspire long-term hard work in professionals (Greenwood & Empson 2003). The intrinsic motivation of the title and benefits of being a 'partner' in a law firm is also thought to obviate the need for a heavy investment in management monitoring (Alvesson 2004).

Tournament theory describes the law firm context well and has been convincingly used to liken life for an aspiring partner in a law firm as similar to that of a competitor in a tournament (Galanter & Palay 1991). The prize in the 'tournament of law' is to be awarded equity partnership and the fact that there are limited places available in legal partnerships

creates tournament-like conditions in which professionals compete with one another for the few places available. In this analysis, partnership has been interpreted as a deferred payment in the form of equity or a share in the firm's profits that will be ongoing so long as the partner continues to contribute to the firm's success (Galanter & Palay 1991). However, lawyers who opt out of the tournament and leave a firm without becoming a partner may do so because they are disaffected or impatient with waiting to "make partner" and, in doing so, may attempt to take their clients with them as they try for partner elsewhere. Client relationships are often part of the attraction of hiring senior lawyers.

Concern about the risk to client loyalty was in part a driver behind the 'up or out' management practices of New York law firms first proposed by Paul Cravath from the New York law firm Seward Guthrie Steele in the early 1900s. Cravath's approach emphasised the recruitment of elite law school graduates as salaried associates who would be supervised by partners and given the opportunity for increased responsibilities and steady advancement to partner level. Cravath discouraged lateral hiring of lawyers because he believed that lawyers who had begun their careers in other firms might have acquired habits inconsistent with the Cravath method, and that lawyers would provide the best service to clients and the firm when they were given the greatest opportunity for advancement. The Cravath 'no lateral hiring policy' and logic became synonymous with an 'up or out' employment system whereby a mid-ranking professional deemed unsuitable to one day become a partner would be asked to leave before developing overly intimate relationships with clients (Shah 2005).

The 'up or out' business model described above relies on firms reinforcing the loyalty shown by diligent lawyers by regularly adding new members to the partnership. However, increasingly firms are elongating the qualifying periods for lawyers (Ackroyd & Muzio

2007). Longer waiting periods are an example of what are called 'internal closure mechanisms', which are the means through which partners exercise control over the employment conditions of lawyers in order to protect their self-interests. Too many partners may dilute the equity if profits are constrained by the market. Natural attrition, especially retirement of older partners allows for new entrants to the partnership. However many older partners are resistant to retire as often their lifestyle becomes geared to their high salaries.

Reward systems for partners and associates are another organisational response associated with the corporatisation of law firms. Annual dividends (profits) in law firms were traditionally distributed to partners annually according to a lockstep system (fractional equity ownership) in which a new equity partner progresses through a series of 'steps' to finally attain full parity status - a full share of the profits. More junior (or fractional) equity partners receive a percentage corresponding to the 'step' they have reached on the lockstep (Gilson & Mnookin 1985). However, increasingly many law firms are adopting performance-based reward systems and are broadening of the definition of a 'partner' to include non-equity or employed partners. Trends such as these have seen a dramatic change to the notion of partnership in law firms and have been a response to a hyper-competitive market in which partners are more demanding and want their fair share of profits and are less willing to spend time progressing slowly through a lockstep system.

Another response to the changing market has been the rise of corporate management teams and external advisers who have been brought in by many law firms to lead functional support areas and operations and provide strategic advice to law firms. Professional managers are now commonplace among large and even some smaller law firms as lawyers have realised they are running complex businesses - for example the large Australian law firm Mallesons Stephen

Jacques reported to the BRW Report of 2009 a $552.6m turnover (Mills & Tidd 2009). Many law firm partners have realised that while they may be good lawyers they are not necessarily the best managers and many now have a Chief Operating Officer and other senior officers leading functional support areas. Professional managers are said to have different motivations from owner/managers, they have a different management style, they are more objective and the profession of management itself is associated with unique attitudes and values that differ from those of lawyers (Daily & Thompson 1994). Professional managers have "not been socialized into deferring to the superior knowledge and expertise of professionals, they have taken a broader, macro view. They (managers) want to manage, to improve the coordination and production efficiency of the PSF and to introduce a strategic perspective" (Brock, Powell & Hinings 2007, p.229).

2.4.3 Management responses to competition

Identifying and nurturing sources of competitive advantage

When faced with increased competition, and in the search for competitive advantage, law firms need to consider many complex issues, in terms of both the markets they wish to enter and the resources they need to mobilise to be competitive. Oakes (2008) characterises the market for legal services as comprising the 'commodity market' and 'knowledge services market'. Law firms, he suggests, can be financially successful in both markets. However, the commodity markets are more subject to downward price pressures (Becker et al. 2001).

In some legal markets, competitive advantage is derived from a firm's 'brand' and their success is determined by whether existing and potential clients see their firm as suitable, or indeed able, to undertake a particular kind of work (Greenwood et al. 2005). The reputation of key partners is often a critical determinant of a law firm's brand and thus around whether a

firm will be selected to act on a particular matter. In other legal markets, competitive advantage may lie in the efficiency of internal processes and the firm's ability to deliver high-quality legal advice at a competitive price. Competitive advantage is derived in other firms from the quality and depth of their relationships with key clients, while other firms aspire to be thought of as 'trusted advisors' and target opportunities to offer wider business advice, effectively pitting such firms against business advisory and consulting firms during mergers and acquisition transactions, for example.

Competitive advantage for specialist law firms is likely to be derived from expertise in a particular area of law, their knowledge of a particular industry, such as employment law, mergers and acquisitions, or in their firm's knowledge of a particular business sector. In Australia, some law firms focus on the mining industry, particularly in Queensland and Western Australia, and others on banking and finance, given Australia's role as a regional hub for many financial institutions. Industry knowledge is potentially a source of sustainable competitive advantage for firms as it is in many respects a *firm-held* asset and not solely the property of an individual, and thus it may be less portable than other assets (such as client relationships) and resistant to competitive moves by rival firms (Alvesson 2004).

Competitive advantage for larger firms can be found in size and scope of service. 'Full service' firms are able to compete for the work of large corporate and government clients. Such firms have the required depth and breadth of service that larger clients demand and that only a few other firms can match. Diversification of practice areas for big firms is traditionally explained by portfolio theory, an economic theory that explains why law firms move to manage risk by diversifying their specialisations to suit a range of economic conditions (Gilson & Mnookin 1985). Both specialist and full-service firms, however, have

economic risks. In a recession, a firm that specialises in M&A work may find itself without work, while a larger firm may have the breadth to diversify and be able 'carry' the less in-demand areas of practice.

Competition in the legal services sector occurs around price, reputation, knowledge of the specialty and service quality (Campbell, Malone & Charlesworth 2008). In all these circumstances, advantages are likely to be derived from acquiring, nurturing and effectively deploying valuable resources, in particular intangible assets such as competence and relational resources (Haanes & Lowendahl 1997)**.** Employee motivation and flexibility will be moderated by social capital dimensions such as organisational culture and morale (Hitt, Bierman & Collins 2007). The earlier part of the chapter discussed the critical interpersonal relationships that exist between law firm representatives and their clients, and hence the retention of clients is therefore related at least in part to the acquisition, retention and effective motivation of high-quality individuals and teams.

The critical role of individuals and teams brings retention of talent into sharp relief in a law firm. In the pre-GFC years, voluntary turnover became a defining feature of law firm management and many people-related initiatives were geared toward retention, particularly of younger and mid-career lawyers. An exodus of young lawyers occurred in the pre-GFC years with some of these people seeking better paid positions in London or as lawyers in countries with more favourable tax conditions than in Australia, and still others leaving private legal practice for well-paid jobs as in-house lawyers. A final group left the legal profession entirely, discouraged by the long working hours and enticed by the large salaries on offer in other sectors of the economy (Campbell, Malone & Charlesworth 2008). The need for retention in

that era drove up salary costs for law firms, especially increasing salaries paid to starting lawyers.

Retention problems are sometimes related to dissatisfaction with the supervising manager's management style. Poor management or a breakdown in the reporting relationship may be exacerbated by the part-time manager dilemma (Boxall & Purcell 2008). Exacerbating this a culture of autonomy and self-management may lead to a reluctance to manage or be managed (Mayson 1997). Conversely when some professionals become managers they are perceived as micro managing not leading (Alvesson & Sveningsson 2003). Many law firms have become aware of these types of management problems; unwanted turnover and low morale have seen many law firms develop competency-building programs, particularly in terms of generic skills training in leadership and people-management techniques, especially for professionals with managerial responsibilities, including senior associates and partners**.**

Retention is also now becoming a critical problem at more senior levels in law firms. Lawyers traditionally remained with their firms for long periods of time, and those who 'made partner' tended to spend their entire career at the same firm. Partner mobility and other lateral movements among lawyers are now, however, commonplace. Some disaffected professionals leave to set up their own boutique firms (Gray 1999) others join rival firms. Traditionally targeting professionals from one's rivals was frowned upon in the profession; however, law firms are now becoming more open to 'lateral hiring' of mid-career or even partners of law firms (Shah 2005). However, statistics from the UK that suggest high numbers of 'lateral hired' partners fail within five years of moving to a new firm (Byrne 2011). Nevertheless, firms sometimes buy an entire area of legal practice by enticing leading partners and senior associates from successful rival firms to defect as mentioned earlier in this chapter. Poaching

talent has been an essential pillar in the market entry strategy of international firms entering Australia. Partner attrition and the rise of lateral hiring among firms has been facilitated by regulatory changes; for example, the NSW Legal Profession Regulation Act (2005) made it easier to hire partners laterally.

Hiring at senior levels (widely called 'lateral hiring') is consistent with the more aggressive 'buy' approach organisations adopt to resourcing and human capital development (Cappelli 2008). 'Buy' approaches to acquiring talent are more common among technology firms who shun the risks associated with company-funded training in preference for hiring more experienced and highly skilled staff who tend to need or expect little, if any, ongoing professional development. In contrast to the 'buy' approach, law firms who emphasise training and mentoring seek to compete by 'making' their own partners, and they will emphasise associates' option value or long-term partnership potential (Malos & Campion 2000).

The 'make' approach to talent development that was, and in some firms still is, the traditional cornerstone of staffing in law firms (Jennings, Devereaux Jennings & Greenwood 2009), Make approaches in law firms are also sometimes referred to as a 'cradle to grave' work systems. The typical cradle to grave approach works as follows: each year a cohort of university graduates are hired into entry-level positions where they often underpaid, allocated repetitive work and expected to work long hours. In return, entry level professionals expect to be given developmental opportunities and to be mentored so as to allow them to complete their training after university. Within this system, it is only the very talented and hard-working who progress up the hierarchy until they are eventually invited to join the partnership. Some lawyers prepared early on for their later leadership roles by being allocated

managerial responsibilities as part of their professional development. Senior associates are often for example expected to supervise junior lawyers. In the US legal profession this career path is referred to as a 'partner track'. Traditionally, the 'cradle to grave' employment model was thought to create coherence in an organisation, allowing for the inculcation of firm values in rising lawyers over long periods of time (Morris & Pinnington 1998; Pinnington & Morris 2003).

Malos and Campion (2000, p.749) describe two approaches to staffing a professional services firm using the analogy of a trading option (ie. the option to purchase a share at a future point in time). Hiring an associate is likened to taking out an option on a stock as they explain:

> The hiring of associates (salaried professional employees) is viewed as an investment of resources made to acquire options on associates' future partnership potential. The firm then uses training and mentoring, as well as deferred compensation (the promise of partnership) to hold these options open by bonding associates to the firm while their professional development is assessed. Disposition of associate options – that is their exercise ('up') or their abandonment ('out') – will depend on partnership qualifications at the end of apprenticeship period, which firms typically refer to as the 'partnership track'.

Firms that hire entry level associates and promote from within, using a 'cradle to grave work system' tend to have larger numbers of junior, fee-earning staff. This work system allows highly profitable leveraging to occur as discussed earlier. The extent to which a firm is leveraged is tempered only by regulations that dictate the maximum number of lawyers working under the supervision of any one partner. Acording to Malos and Campion's options model (2000) the success of cradle to grave systems is contingent upon a firm's ability to manage and mentor junior employees effectively. Firms that manage ineffectively within a highly leveraged model can be expected to have high turnover. In contrast firms that use

lateral hiring have fewer junior lawyers (lower leverage) and thus are less reliant upon good people management practices such as training and mentoring.

Professionals hired laterally are often thought by firms to be more difficult to manage as they are harder to inculcate with the firm's values and behavioural norms, and thus hiring laterally is said to require more cultural due diligence (Olson 2008). Despite the extra care needed in the hiring process the lateral hiring strategy is nonetheless attractive to many law firms: 'laterals' require less training investment: they may bring clients with them from their old firm and they may also bring new expertise into a firm and knowledge of competitors. It may even be tempting for firms to 'buy' their way into a market by laterally hiring partners or whole practice groups from rival firms. Lateral hiring may however have costs. Lateral hires may be less loyal and inclined to 'move around', they may find it hard to fit in to firms and move on quickly. Lateral hiring may also be demotivating for internal candidates who may see their chances of becoming a partner as facing a setback every time a new partner or senior associate is hired from outside the firm.

2.5 Human Resource Management in law firms

Human Resource Management policies and practices are widely seen as instrumental to a firm's ability to develop the strategic capability of its pool of human resources (Colbert 2004). The peculiar challenges of the law firm industry, in particular the partnership ownership structure of most firms and the character of the workforce, mean, however, that HR managers face a challenging environment in which to ply their trade. The field of human resources is sometimes seen as on an evolutionary path moving from an strictly administrative role toward one more akin to a strategic partner, where line managers and employees are the

key stakeholders and where HR plays a role in overseeing people initiatives designed to drive business outcomes (Ulrich & Brockbank 2005).

The HR literature contains a strong emphasis on devolving managerial responsibility to line managers. However devolving responsibility to line managers for the execution of HR policies may face difficulties in law firms because many lawyers tend to regard their managerial responsibilities as secondary to their client service role. In general, lawyers are not natural managers and thus HR policies are likely to be inconsistently applied; some lawyers may be naturally skilled in people management, others less so. An associate's experience of a firm's HR policies is therefore likely to be contingent on the skills and interest of the partner to whom they report. Compounding this in many law firms, partner billings (because of their higher charge out rates) often constitute a large proportion of a firm's *total* billings, and thus if law firms hope to continue to be financially secure, partners need to continue doing a large proportion of the firm's billable work. The importance of their own fees naturally retards partner's capacity to undertake mentoring with mid-ranking or junior staff (Schmidt 2006). Importantly, the pressure of client work also limits the amount of time partners have to focus on their own professional development, for example around people management. Important clients often demand that a file be attended to by a partner, even when some of their work could easily be delegated to more junior (and cheaper) solicitors (Dent 2008).

Another potential challenge around implementing the corporate HR model in a law firm relates to the status of HR departments in law firms. A key theme in the work of many leading authors in the field of SHRM, is that the HR director should contribute to organisational strategies in a direct way and have what is usually referred to as a 'seat at the table', which means being a member of the senior management team and a participant in strategic planning

(Ulrich & Brockbank 2005). However, HR directors (and other non-lawyer executives) rarely hold equity in professional services firms and so are technically answerable to equity-holding partners. Despite the corporatisation of some branches of professional services, an equity holding continues to confer symbolic if not instrumental power to equity-holding partners above that of salaried employees, regardless of their seniority (Pinnington & Morris 2003). The organisational structure of many law firms may also influence the somewhat compliant role played by HRM and other support functions in law and other professional services firms. The functional areas of law firms such as finance, marketing and IT are typically situated in a department labelled 'Shared Services'. The shared services model exacerbates perceptions of a front office-back office hierarchy. Non client facing roles are down the pecking order in the same way that a cost centre might be considered less important than a profit centre in a corporate organisation.

When HR managers in law firms attempt to widen the scope of their activity beyond their traditional remit of selection, performance management, remuneration and training into wider areas such as work re-design, cultural change, leadership development, retention planning and employee engagement programs, they must be careful not to be seen to be falling into the trap of being seen to be "driven more by administration or fashion rather than strategy" (Sheppeck & Militello 2000, p.5). Anecdotally law firms have been keen, but somewhat capricious, adopters of HR initiatives. HR initiatives have been abandoned if a return on investment is not perceived by the partnership. To be given licence to undertake a wider and potentially more value-adding scope of work, HR departments must aim to communicate the value of their work (Ulrich & Beatty 2001). HRM initiatives are often costly and seen in some respects by some partners as discretionary, it is incumbent upon management professionals to rest their investment decisions on strong evidence (Barney & Wright 1998). The perception

that HR investments are discretionary is a significant problem in many organisations but is particularly problematic in privately held firms, especially partnerships where non value adding investments are viewed as coming directly from the partner's profits.

Despite their aspirations and objectivity, employees and managers in support areas of law firms often appear disaffected. In many firms they seem to be undermined by a competitive 'us and them' dynamic that occurs in organisations where there is a clear delineation between 'fee earners' and 'support staff' or 'legally trained professionals' and 'others'. Although HR professionals and other professional managers are aware of the need for change, they face significant hurdles and entrenched interests. Lawyers, for example, can be conservative (Mayson 1997), and arguably their legal training and experience lead to a focus on risks or a 'prove it' mentality. Corporate managers, and even managing partners and chairmen who govern with the consent of their colleagues in the partnership, therefore face significant hurdles when executing internal and external strategies that deviate from the norms of the industry.

In many law firms, the implementation of HR practices has undoubtedly been a challenging exercise. In some law firms the development of HR has started from quite a low base, with policies focusing on lifting the firm's standards around HR basics such as selection, training and performance management. HR managers have, in this first phase of their work, adopted a perspective that Ulrich (1997a) terms the 'administrative expert', in which the focus has been to bring HR practices and behaviours up to the minimum standard expected in a modern organisation. In some law firms, HR managers have been able to progress beyond this basic stage and are moving toward a more advanced approach that Ulrich and Beatty (2001) call a 'strategic partnership'. HR managers in these more advanced firms are now developing and

implementing sophisticated HR plans that are explicitly linked to their firm's strategic goals. In these types of firms, there is a clear logic to the pattern of management practices with the people management policies geared toward clearly defined outcomes.

2.6 Chapter summary

This chapter has explored the literature in search of evidence of the need for a specific theory of management for performance in professional services firms and has critiqued some of the axiomatic ideas and interpretive frameworks often applied to law firms: the distinctiveness thesis, neo-institutional theory and design archetypes. The chapter has shown that, although the distinctiveness thesis is well established and based a long tradition of scholarship, that it is increasingly contested ground. The Australasian context for law firms and the implications for management practices and structural and cultural change to law firms have been discussed – with the corporatisation of many firms underscoring challenges to ongoing claims of distinctiveness. The potential role of HRM practices and policies in law firms have also been considered. The question of whether a distinct theory of management is required for law firms appears difficult to resolve conclusively based on the review conducted in this chapter however, there are good arguments to suggest law firms are no longer as distinct as they once were. Nevertheless, some distinctive features of law firms need to be considered in the application of corporate HRM and other performance-oriented practices when applied to law firms if they are to be successful. Corporate management practices might be tricky if not difficult to apply to law firms but the notion that the application of corporate management practices in the context of a law firm will be "dangerously wrong" (Maister 1993, p.xv) seems, at best, out-dated.

Chapter 3 On the links between management and performance: a wider view

3.1 Introduction

This chapter presents the second part of the literature review and comprises 12 sections, including this one. The main goal of this chapter is to explore the wider management literature for insights into specific HR and management practices that may be bundled to create configurations that match the aspirations, organisational context and workforce characteristics of law firms and that promote associate and partner behaviours that lead to superior firm performance. This chapter begins with a brief sidebar discussion on the role of theory in organisational research (Section 3.2) and argues a strong evidence base is critical to both researchers and ultimately also to practitioners, especially in the field of SHRM. Sound theory is important as it provides the conceptual foundation for empirical tests and is a cornerstone of evidence based management. Section 3.3 then explores the literature in detail discussing the 'resource-based view' of the firm (RBV), a theoretical framework that identifies a pathway to competitive advantage highly applicable to knowledge intensive firms. Section 3.4 extends this discussion by considering the related idea of the 'knowledge based view' of the firm. The chapter then introduces strategic HRM (3.5) and section 3.6 extends this discussion summarising research that has attempted to prove there is a link between specific HR practices, HR 'bundles' (MacDuffie 1995) and organisational performance. The chapter then discusses the three main theoretical perspectives used in HRM research: Section 3.7 addresses the universal or 'best practices' approach to HRM; Section 3.8 the contingency or 'best fit' idea and Section 3.9, the configurational or 'internal fit' perspective (Delery & Doty 1996). Section 3.10 explores approaches to organisational classification, (3.11) discusses the concept of equifinality and Section 3.12 provides a conclusion to the chapter.

3.2 The role of theory in organisational research

Theories are not solely of interest to researchers, for, although the main goals of researchers and practitioners may differ, a strong theoretical model is said to hold great value to both, as Wright and McMahan (1992, p.296) suggest:

> Practitioners are primarily concerned with the accuracy of prediction of a theoretical model in order to guide their decision making; thus an accurate theoretical model allows for better decision making in conditions of uncertainty. Theorists-researchers on the other hand, have great concern for understanding the why behind the prediction. For them, a well-developed theoretical model allows for testing of the model and based on these tests, revision of the model to increase its accuracy.

Organisational theory is developed from concepts that imply abstraction and thus some organisational theories are quite oblique. Organisations are often best studied from multiple perspectives (Hatch 2006) and organisational theory is therefore complex. Complexity may also make organisational theories hard to operationalise and difficult to understand and teach. Institutional theory, for example, contains language and concepts that may be difficult to understand and translate into actionable prescriptions for managers. Institutional theories have been seen to have failed to affect the practical discussions of managers outside the academic community, despite their apparent practical application and the grounded nature of institutional research (Lawrence & Suddaby 2006). However, for Lawrence and Suddaby, the failure for institutional theory to translate into practice is disappointing because of the 'realistic' treatment of organisations as more than production machines or economic actors:

> The institutional perspective has brought to organization theory a sophisticated understanding of symbols and language of myths and ceremony, of decoupling, of the interplay of social and cognitive processes, of the impact of organizational fields, of the potential for individuals and groups to shape their environment, and of the processes through which those environments shape individual and collective behaviour and belief. (Lawrence & Suddaby 2006, p.2)

Configuration theory is also a theory of complexity, of the interaction of internal elements with external contingencies; configurational theories have great potential to aid research. Arguably, however the potential of configurational theory is, as yet, unrealised, in part due to the complexity of configurational approaches to organisational analysis. In some sense configuration theory is analogous to systems theory. Systems theory is a field which has been popularised by writers such as Peter Senge (1992) who use the systems approach to explore organisational themes, in Senge's case organisational learning. Popular iterations of systems theory such as these have been important in advancing the notion of system-wide or holistic analysis of organisations.

The choice of a theoretical perspective is also important. Delery and Doty (1996) argue this point in relation to the theoretical perspective taken in HRM, they argue that the examination of relationships between HR practices and systems and organisational performance is either explicitly or implicitly informed by either a universal, contingent or configurational theoretical perspective. Further, the choice of one perspective over another will shape the variables used, tests conducted and the selection of outcome variables. These three perspectives are discussed in depth later in the chapter. Theory is also critically important in an applied field such as management; without theory, practitioners inevitably resort to trial and error. Hatch (2006, p.3) has commented, "Organization theory has helped me time and again to analyse complicated situations in the organizations with which I have worked, and to discover or invent effective and creative means for dealing with them". Finally, the absence of theory or a conceptual foundation constricts research and may hamper the development of a field. Indeed, the absence of a theoretical or conceptual foundation in HRM was an early source of criticism in the field (Barney & Wright 1998).

Theory must be conceptually cogent and able to be operationalised and hence testable. Theory also clearly informs data gathering and the choice of paradigm chosen – qualitative, quantitative or mixed methods – which may in itself indicate a value judgement on the part of the researcher.

3.3 The resource-based view of the firm and strategic HRM

The RBV is regarded as a strategic framework that can be productively applied to professional services firms who seek to create value for their clients through the effective deployment of their resources, especially human capital (Lowendahl 2005). Understanding the antecedents of firm performance is a long-standing goal in organisational research (Crook et al. 2011). For the last 15 years, researchers working from the perspective of the resource-based view of the firm (RBV) have highlighted the role of human capital as a key factor explaining why some firms outperform others (Crook et al. 2011). The RBV offers insights into the way that management practices support the development of human capital and offer insights into the potential role of heterogeneous 'well bundled' resources in aiding sustained firm performance.

The RBV has been described as an 'inside out' approach to competitive advantage (Boxall & Purcell 2008). Resource-based theories suggest that, rather than looking at the characteristics of different markets, firms should look internally and identify their valuable resources and then seek to nurture and effectively deploy resources that add value to customers. The RBV is commonly contrasted with the positioning-oriented or 'outside in' approach typified by Michael Porter's (1980) 'competitive forces' idea popular throughout the 1980s. Porter's theories of industry structure looked at "critical choices associated with competitive strategy – primarily choices about which industry to enter and which competitive position to seek in it"

(Boxall & Purcell 2008, p.87). Although intuitively market-based and resource-based theories are different, Lowendahl (2005) argues the RBV complements more traditional strategic management thinking.

Resource-based theories emphasise that firms should seek to identify and nurture their heterogeneous firm resources in the search for competitive advantage. However, according to RBV analyses, not all resources are valuable. Resources that hold the key to competitive advantage must pass the VRIO test, that is, they must be 'valuable, rare, inimitable and well-organised', to deliver sustainable competitive advantage (Barney 1991; Teece, Pisano & Shuen 1997; Wernerfelt 1984). *Sustainable* competitive advantage is said to exist only when other firms find it too difficult to replicate the advantages a certain firm has developed (Lippman & Rumelt 1982). Therefore, according to Wright et al. (1994, p.303) "a competitive advantage is not considered sustained until all efforts by competitors to duplicate the advantage have ceased".

Birger Wernerfelt is considered to have made one of the most important and ground-breaking shifts from classical strategic thinking to the RBV (Wright, Dunford & Snell 2001). While teaching strategy at Michigan business school in the early 1980s, Wernerfelt became frustrated with what he saw as a limiting view of strategy, in which management researchers focused on the external environment rather than on the existing and potential strengths of the firm. Thus he set about proposing alternative ideas about the sources of competitive advantage. Business portfolio theory was critical in shaping Wernefelt's ideas, in particular the Boston Consulting Group (BCG) model that profitable portfolios help to fund investment in emerging businesses for diverse companies or, more simply, that firms can develop tomorrow's resources from today's resources (Lockett, O'Shea & Wright 2008).

Margaret Peteraf (1997), another key thinker in the development of the RBV, argues that firm heterogeneity is a necessary but insufficient condition for competitive advantage to emerge. Heterogeneity of resources means that firms endowed with more efficient or superior resource 'bundles' will be better able to satisfy customer requirements or produce goods more economically. Heterogeneity "implies that firms of varying capabilities are able to compete in the marketplace and, at least break even. Firms with marginal resources can only expect to break even; firms with superior resources will earn rents" (Peteraf 1997, p.189). Applying a resource-based perspective could help managers determine what kinds of assets may help to deliver a competitive advantage, and whether it would be more satisfactory to acquire them or develop them internally.

Resource-based thinking also underpins Prahalad and Hamel's (1990) idea of 'core competencies', in some senses a popular version of the RBV that emphasises how competitive advantage is derived from a firm's ability to develop and master unique processes or firm attributes. Rather than product or service differentiation, core competencies are a step back and found in *processes* such as Sony's ability to master miniaturisation of electronic components. Another important scholar of the RBV is Jay Barney's. Barney's seminal piece on the RBV (1991), is widely cited in the both the strategy and SHRM literature when referencing the resource-based approach. Barney describes three types of resources that can be sources of competitive advantage (Barney & Wright 1998, p.32):

> *Physical capital resources* include such things as the firm's plant, equipment and finances. *Organizational capital resources* which consist of such things as the firm's structure, planning, controlling, co-ordinating and HR systems. Finally *human capital resources* include such things as the skills, judgement and intelligence of the firm's employees.

The RBV is consistent with the core competencies idea in that it focuses on sources of competitive advantage 'upstream' of product markets and rests on the firm's idiosyncratic and difficult-to-imitate resources (Teece, Pisano & Shuen 1997), many of which are intangible assets (Itami 1987). Hence knowledge embedded in human capital has become widely recognised as a source of competitive advantage (Crook et al. 2011).

Applying the RBV to Human Resource Management

The resource based view of the firm is not specifically a human resource management theory in isolation. Rather it has been applied by scholars investigating the role of human assets in providing competitive advantage and implicit within this general approach is an emphasis on the people management policies and practices developed and administered by HR departments also known as the HR system. The role of HR in competitive advantage focusses on the "characteristics of a firm's human resources including all of the knowledge, experience, skill and commitment of a firm's employees and their relationships with each other and with those outside the firm". In addition "all of the programs, policies and practices that firms use to manage their human resources may also play a role in creating competitive advantage" (Barney & Wright 1998, p.32).

The first test of the RBV, 'value' is defined by how instrumental a resource is in helping a firm decrease costs or increase revenue. Thus the first question for HR practitioners is: How can the HR department aid in either decreasing costs or increasing revenues? The answer may be found in both tactical and direct interventions (for example, by applying insight into aspects of workforce behaviour that may save costs, such as direct interventions into the nature of relationships with key suppliers which allow for cost savings to be made) or alternatively by designing more long-term programs geared toward enhancing employee

engagement (which may increase client satisfaction). The reward system is thus a critical lever that HR can influence tactically or strategically to create value.

The second test of the RBV, rarity, may also be applied to HRM; Barney and Wright (1998) suggest that most firms view the labour pool for particular jobs as relatively homogenous. Any labour pool, however, contains differences in individuals' job-related skills and abilities. Competitive advantage can arise from some firms targeting employees from particular categories that competitors view as homogenous. The US department store Nordstrom, for example, focus on finding high-quality sales staff and incentivising them with highly contingent pay which allows them the potential to earn more than similar workers in different organisations (Barney & Wright 1998). Another approach is to view the labour market as being normally distributed and thus to see high-quality human resources as rare in any given population (Wright, McMahan & McWilliams 1994). With respect to law firms, Sherer et al. (1995) showed that lawyers from the best-rated law schools in the US were rare and valuable resources who helped to deliver competitive advantages by virtue of the networks they established as students and the prestige associated with graduates from certain schools; certain categories of human capital, therefore, are a source of competitive advantage.

In looking at the rareness test from an HR-law firm perspective, it is logical to discuss the concept of how a firm might access sufficient resources from within a very limited pool of sufficiently skilled professionals. A market reality is that certain areas of legal practice will only ever contain a limited number of experts or firms that clients would even consider appointing. Competition for such key talent is becoming fierce among the leading law firms in legal markets and this naturally leads to firms hiring 'poaching' partners from rival firms. Size or capacity is another rare commodity in Australasian law firms. For clients wanting to

appoint a firm to service their business nationally, there are only a handful of firms with sufficient scope to meet that criterion. Some types of resources may therefore represent a minimum standard of entry to a market segment, sometimes referred to as 'table stakes' (Purcell 1999), for without these attributes the firms are not even able to achieve parity, let alone achieve a competitive advantage. Another rare commodity for law firms is the ability to fund work. For example, only a handful of firms would be willing to undertake class action litigation work in which the likelihood of securing fees commensurate with the number of hours worked is contingent on the outcome of the case. Rarity, therefore, is a vitally important asset in the legal services sector.

The third test of the RBV, inimitability, refers to the inherent difficulty a competitor may face in attempting to replicate aspects of a firm's HR advantages. Obviously competitors can easily replicate individual HR practices found in successful firms, as they are normally visible. Firms may even attempt to replicate an entire work system of a successful firm. Attempts at replication of some resource advantages are often said to fail, however, because of the path dependencies (such as the unique history of the organisation), causal ambiguity and social complexity inherent in many of the inimitable aspects of a firm's HR system which make it so successful in its original context (Boxall & Purcell 2008).

The term, 'path dependencies', refers to the idea that a firm's competitive advantage, developed in part through its HR policies, is contingent to some extent on its unique history. For example, the 'underdog spirit' at Southwest Airlines, a US domestic airline that has withstood many attempts to replicate its low cost, point-to-point, no-frills business model which is based heavily on the customer service ethos among its carefully selected and managed staff, has been difficult to replicate for new entrants (Barney & Wright 1998).

Southwest had faced major opposition from established players in the US domestic airline market in its early years and this is said to have contributed to its unique culture and created the right context for its high performance work system to be effective. Imitators of Southwest have not had the same success with the business model, in part because these path dependencies are not the same as at Southwest. Causal ambiguity exists when the link between the firm's resources and a competitive advantage is imperfectly understood; if other firms cannot understand this link it will be difficult for them to replicate it, that is, they don't understand how the resource enables competitive advantage. Another term, 'social complexity', encapsulates the idea that certain social phenomena (such as organisational performance derived from the discretionary efforts of employees) are complex, so as to make it impossible to manage or influence them systematically. A competitive advantage that arises from the social complexity of a firm's interactions cannot be imitated (Wright, McMahan & McWilliams 1994).

The notion of 'dynamic capabilities' is important in the RBV approach. The term 'dynamic capabilities' denotes how firms are able to address changing circumstances by exploiting existing internal and external firm-specific competencies (Teece, Pisano & Shuen 1997). Issues of importance within this approach are often those seen as "outside the traditional boundaries of strategy such as management of R&D, product and process development, technology transfer, intellectual property, manufacturing, human resources and organizational learning", these are the "newer sources of competitive advantage" (p.510). Dynamic capabilities are also sometimes referred to as second-order resources, that is, those that defy changes in the environment, such as changing consumer trends or product innovation, and which thereby allow organisations to renew their products or services and develop and sustain competitive advantage.

The final criterion in Barney's VRIO framework, 'organisation', refers to the necessity for the effective deployment of a firm's valuable resources. Resources need to be well organised for a firm to be able to exploit them in ways that lead to competitive advantage. Firms must have in place the "systems and practices that allow human resource characteristics to bear the fruit of their potential advantages" (Barney & Wright 1998, p.35). The organisation criterion brings the whole HR system into focus. HR systems are seen by some authors as a more likely source of competitive advantage than individual HR practices (Lado & Wilson 1994). The organisation of human capital is a function of many dimensions, including elements of organisational capital such as job design, work flow, support systems and technologies.

The RBV of the firm has become the primary conceptual foundation in the field of SHRM in the 1980s and 1990s, particularly in research relating to firm performance and competitive advantage. The RBV holds appeal to researchers interested in the strategic impact of HR policies and practices. Prominent HR researcher Delery (1998) argues that "whether explicitly or implicitly, the majority of research within the field of SHRM has adopted this (resource based) perspective". Wright et al. (2001, p.705) make an important distinction in their review of SHRM and the RBV. The authors stress that a broader conception of the terms HR and HPWS might be appropriate, perhaps under the general label of 'people management' that emphasises the multiple practices that impact on employees rather than single practices. "By using the term people management rather than HR, we expand the relevant practices to those beyond the control of the HR function, such as communication (both upward and downward), work design, culture, leadership and a host of others that impact employees and shape their competencies, cognitions and attitudes" (p.705).

Law firms might benefit from adopting this RBV perspective in determining appropriate HR and resourcing strategies to help them leverage their distinctive advantages and position in the marketplace. For example, a resource-based perspective might help a firm determine whether to seek to poach a successful partner from a rival firm with the aim of building a practice around that partner. A resource-based perspective might lead to questions about whether that same partner's success is reliant in part upon the specific team of lawyers with whom he or she works, whether the success of that partner is contingent upon the outstanding referrals provided by another practice area within the firm or whether that person's success is attributable to how engaged all workers are in that particular firm. Such considerations emphasise the notion of bundling and deployment of resources within a coherent system to create value (Mueller 1996).

Human assets are hard to imitate due to scarcity, specialisation and tacit knowledge (Coff 1997). However, the implications of managing in an environment where a firm's valuable resources "walk out the door each day" creates management dilemmas which, if not resolved, may mean that firms cannot achieve a sustainable advantage from human assets" (Coff 1997, p.375). Many of these management dilemmas, such as retention, deferred compensation and the partner tournament, have been discussed in the previous chapter.

The HR system potentially can be a source of sustainable competitive advantage because it is intangible (and harder to observe and therefore precisely imitate) than more 'visible' resources such as products or processes (Lado & Wilson 1994). Boxall (1996, p.67) notes a useful distinction can be drawn between human capital advantage and human process advantage. The former, human capital advantage, results from employing people with competitively valuable knowledge and the historical quality of the hiring process, while

human process advantage is a function of "difficult to imitate, highly evolved processes within the firm such as cross departmental and executive development". Accordingly, human process management can be thought of as the product of its human capital and human process advantages". This insight may be good news for firms reliant on key individuals as it may mitigate the strategic risk of losing a key individual or team by implying resource advantages are less mobile and more firm specific, for example, client relationships might be developed with a firm, rather than resting solely with a key individual.

3.4 The knowledge-based view of the firm and intangible assets in law firms

The RBV stresses 'embeddedness' and 'inimitablility' of resources which render sources of competitive advantage difficult to replicate. Another emphasis in the RBV is on the invisible assets of a firm, particularly knowledge assets (Itami 1987). Grant (1996) sees these knowledge-based resources as fundamental and has posited the idea of a knowledge-based view (KBV) of the firm which focuses on tacit knowledge (commonly referred to as intellectual capital), and its exploitation, as drivers of sustainable competitive advantage. A firm's intellectual capital (IC) or intangible assets (IA) encompass assets such as the firm's market knowledge and competitor information, its intellectual property, (patents and trademarks), its databases and all its proprietary business processes. The term 'human capital' refers to the knowledge and competencies that a firm possesses by virtue of its employees' individual and collective knowledge, their skills and experience and the core competencies that an organisation builds amongst its staff through various knowledge-sharing activities. Relational capital refers to a firm's external relationships, its customer relationships, distributor relationships, networks and processes that deepen a firm's knowledge of its customers and competitors.

Intellectual capital research investigates the relationship between human and relational capital in terms of their impact on a firm's performance. Professional services, the environment under investigation in this research, offer an ideal environment in which to test the currency of models in the knowledge management literature (see Appendix 4). Karl-Erik Sveiby's (1997) Intangible Assets Monitor (IAM) is geared toward measuring intellectual capital in knowledge-intensive firms. Sveiby's approach is that it is knowledge-intensive organisations in particular that should learn to quantify the intangible assets they develop in order to better assess their competitive position and gain a more holistic perspective of their own performance by monitoring the extent to which the firm is building intellectual capital (IC). The quality of a firm's intellectual capital is thought to be a leading indicator of a firm's performance, that is, it helps predict the firm's future performance. The Intangible Assets Monitor (IAM), an intellectual capital scorecard, was developed in the context of Sveiby's work as an executive of Skandi, a publishing company and was designed to help the firm monitor its intangible assets.

In some types of professional services firms, most notably management consulting, the practice of building and managing intellectual capital is well developed (Dunford 2000). In others, such as the legal profession, the strategic value of knowledge management is not as apparent (Hunter, Beaumont & Lee 2002) and law firms indicate that partners do not always take the time to share the insights gained from each assignment (Khandelwal & Gottschalk 2003). Professionals are prone to protect their knowledge; they tend to work in a semi-autonomous fashion or as a discreet unit and they will often have insights and methods that they alone possess. Professionals may see knowledge as their own; some may even regard knowledge as the source of their worth or even their power and regard their tightly held knowledge as an insurance policy against their own redundancy (Davenport & Klahr 1998).

The level of a firm's IC can be measured in three main categories. The first dimension is the firm's employee competence or human capital and is measured using measures such as the ratio of customer-facing to support staff, experience level of employees, number of employees with university degrees and so on. The second dimension, internal structure, is measured by looking at harder examples of IC and encapsulates intellectual property, patents and databases. It may also take stock of organisational structures such as levels of hierarchy or decentralisation of authority. The third dimension, external structure or relational capital would be measured by taking stock of factors such as the firm's market orientation, the level of sophistication of its CRM systems, competitive intelligence gathering processes and so on. A full understanding of the role of intangible assets and their link to competitive advantage and firm performance goes beyond human capital to also include relational capital (RC) and structural capital (SC). Companies that embody RC often emphasise their strong relationship with the market the company serves and this market orientation has been shown to contribute positively to new product market performance (Li & Calantone 1998). Key components of a market orientation are the firm's customer orientation and competitor focus (Slater & Narver 1994). A further key component of RC is the impact of demanding customers (clients), especially given this focus on the customer (client), which involves companies developing a comprehensive understanding of their customer's (clients) business and how they perceive value. Companies with this emphasis spend a lot of time on before-and-after-sales service and also place great emphasis on training. Similarly, competitor focus involves inculcating practices and cultures which encourage people in all parts of a company to track their competitors' market moves and potential weaknesses. A market focus stresses that all members of the company will need to perceive their key competitors' strengths and weaknesses (Slater & Narver 1994).

As the preceding discussion has shown, the RBV and KBV are critical frameworks to help understand competitive advantage in knowledge-intensive industries such as professional services firms. The RBV gives insight into the critical role of human capital and the HR system as potential sources of sustainable competitive advantage, while the KBV emphasises that human capital must be supported by other intangible assets, such as relational capital and structural capital which emphasise value creation for clients through better service. In the next section the field of strategic human resource management and evidence that supports the contribution of HRM to firm performance is discussed.

3.5 Strategic Human Resource Management

The field we know today as HRM or, commonly, Strategic Human Resource Management (SHRM), evolved from the earlier concept of Personnel Management, which was administrative and disconnected from the strategic goals of the organisation. Strategic HRM emphasises a stronger connection or alignment of HR policies with the aims and context of the firm. Researchers in HRM have drawn heavily upon ideas from within the field of strategic management, and developments in the field of SHRM have followed closely in the footsteps of developments in the field of strategy. For instance, the organisational typology of Miles and Snow (1978) and the competitive strategies approach of Porter (1980) were closely followed by papers in HRM outlining the desirable corresponding HR strategies that one would expect to find to support generic strategies (Schuler & Jackson 1987).

The term human resource management began to replace personnel management from about the 1980s. From the 1980s onward participative management had emerged in the US and elsewhere as a means of humanising work, placating organised labour and moving American industry in particular onto a more commercial and flexible footing to respond to national competitive pressure from Japan (Kaufman 2001; Walton 1985). However, HRM was

perceived in its early years of the 1980s and 1990s as being built upon a weak conceptual foundation (Bacharach 1989; Wright & McMahan 1992). The emergence of the RBV, discussed in the previous section, was seen as applicable to the theory and practice of HRM, giving it a stronger conceptual foundation and this has helped research in the field of HRM develop along coherent lines.

HR practitioners have had a long-held desire to demonstrate the value of their work they do to the rest of the organisation (Wright et al. 2005). However, prior to the mid-1990s there was also limited empirical evidence to support the use of HRM to enhance firm performance and thus to substantiate the considerable spending on employee-centric activities, such as training, job design, performance appraisals, career planning and job enrichment that HR practice seemed to require. Arguably, the inability of HR professionals to articulate clearly the value of what they do often means that platitudes such as 'people are our greatest asset' are not always reflected in practice. Consequently, many organisational decisions seem to suggest a relatively low priority on both the human resources of the firm and the HR department. (Barney & Wright 1998). In many organisations the HR function has not been thought of as a strategic asset and consequently it is under pressure to reduce expenses and demonstrate efficiency in the delivery of its services (Becker & Huselid 1998).

To some extent, practitioner concerns about the legitimacy and tenuous position of HRM have been reflected in a key research agenda within the academic field of SHRM. The HR-performance agenda emerged in the 1990s with the publication of several pivotal articles (followed by many more) which have gone some way toward establishing a link between HR and organisational performance (Arthur 1994; Delaney & Huselid 1996; Huselid 1995;

MacDuffie 1995; Osterman 1994; Youndt et al. 1996). Quantifying the 'HR-performance' link has remained a key focus among quantitative researchers in SHRM.

3.6 The HR-performance link

Isolating and measuring the impact of HRM practices on organisational performance has attracted sustained academic and practitioner interest since the early 1990s. The "highly cited milestone studies of the mid 1990s" (Wall & Wood 2005, p.434) by authors such as Snell and Dean (1992) and Delaney and Huselid (1996) began a flood of research using regression and correlation analysis to test the impact of HRM on organisational outcomes in a range of industry contexts. Recent reviews (Sun, Aryee & Law 2007; Wall & Wood 2005; Wood 1999) have demonstrated how comprehensive these investigations have been; however, the jury is still out over our ability to 'prove' the causal direction between HRM practices and organisational performance (Wright et al. 2005). Much is still not known and the linear methods used in previous research, mostly regression analysis, have many weaknesses. Furthermore, little work has been done to explore the HR-performance link using qualitative research techniques, despite recent calls for such research (Ackroyd & Muzio 2007; Armstrong & Shimizu 2007). A further weakness is that much of the research that has been done has been conducted in the manufacturing context, an environment where the dependent variable can be more easily isolated.

Services industries have been less studied within this tradition (Boxall 2003). Some research has been conducted in tourism. Hoque (1999), for example, studied the interaction of HRM and quality management and the impact on performance in the UK hotel industry and Bartram et al. (2007) studied the impact of HRM on performance in the healthcare sector. Even less research has been conducted in privately held professional services firms (Greenwood et al.

2005; Hitt et al. 2001; Jennings, Devereaux Jennings & Greenwood 2009). There are many reasons for this but one of the most obvious is that professional services firms generally do not publish their business results and thus an objective dependent (performance) variable is difficult to obtain. Further, because of firms' differing accounting treatments, it is also difficult to standardise and compare their performance. One must thus use proxies and minimise the known weaknesses in outcome variables and data gathering methods. Privately held firms are also extremely protective of their privacy and in practical terms it is notoriously difficult to get them to respond to surveys (Dess & Robinson 1984).

While little is known about the impact of management practices on the performance of law firms, the practices-context-performance link has been largely developed in other contexts within the field of SHRM. Nevertheless, there is strong evidence to suggest positive links between what have been variously called 'high-involvement', 'high-commitment' and 'high-performance' work systems and improved organisational performance (Arthur 1994; Becker & Huselid 1998; Camps & Luna-Arocas 2009; Delaney & Huselid 1996; Huselid 1995; MacDuffie 1995). This line of research has developed and empirically tested a number of different theoretical perspectives on the HR-performance link. Most authors working from this perspective have explicitly or implicitly adopted either a 'universal', 'contingent' or 'configurational' theoretical perspective to their analysis of the links between HR and performance (Delery & Doty 1996).

The HR literature is somewhat limited in terms of coverage, particularly in relation to the impact of HR practices and HR systems on professional services firms. Also, as some reviews have highlighted (Wall & Wood 2005), there are several unresolved methodological concerns associated with the research methods employed, particularly in terms of how convincingly

researchers are able to establish a causal chain between HRM practices and organisational performance. Others have detailed methodological problems (which may in fact be difficult to avoid, especially in private companies), including issues with single respondent bias and common method variance and the type of dependent variables used in this research (Godard 2004; Hartog & Verburg 2004).

Employment systems that foster a particular set of relationships between organisations and employees in one organisational context may not readily apply and may actually prove to be counter-productive in another context, as has been argued by many critics of the high-performance literature (Godard 2004; Johns 2006; Vedder 1992; Wall & Wood 2005). Hartog and Verburg (2004, p.57) summarise the argument succinctly: "the context in which organisations operate may limit or enhance the usefulness, distinctiveness and success of high performance work practices or systems". Wall & Wood (2005) argue that the relationship between HR and firm performance fails traditional scientific tests. Other scholars who have adopted a critical perspective on the HR-performance link such as Godard (2004) and Wall and Wood (2007) have focused on methodological problems with the way this research is conducted.

There is a broad consensus that law and other professional services firms are people- and knowledge-centric organisations and that the effective deployment of intangible assets is a source of sustainable competitive advantage. Coupled with this RBV and KBV, there is substantial evidence to suggest that practices from the field of SHRM or 'people management' practices, when aligned to organisational strategies and contingencies, impact positively on HR outcomes and thus enhance firm performance. With this theoretical and

empirical backdrop we may now suggest a second research proposition about management and performance in law firms as follows:

Research proposition 2

Management practices that lead to the development or acquisition of human capital and other management practices geared toward increasing intellectual capital will distinguish high from low-performing professional services firms.

Modes of theorising in HRM

Within the HR field there are thought to be three modes of theorising (Colbert 2004) around the impact of people management and performance and the relationships between HR and strategy: the universal or 'best practice' approach; the contingency or 'best fit' approach and the configurational, 'holistic' approach (Delery & Doty 1996). The chapter now turns to the key elements and fundamental differences between these three modes of theorising.

3.7 The best practices or universal approach

In essence, the universal or 'best practices' argument (Becker & Huselid 1998; Pfeffer & Veiga 1999) suggests that a set of high-performance work practices will be beneficial to all firms who adopt them. The assertion is that these HR practices will lead to higher performance, independent of an organisation's strategy (Colbert 2004). The precursor to the 'best practices' approach is Richard Walton's (1985) Harvard Business Review article 'From control to commitment in the workplace', which heralded the start of a wave of scholarship on the merits of what are also called commitment-based work systems, which Walton contrasted with earlier 'Taylorist' or control-based approaches to management (Wall & Wood 2005). The commitment-based approach emphasised a work system that sought to elicit commitment

from workers and played down the need for direct supervisory control. The climate in the US in the 1980s was ripe for this type of thinking. From the end of the 1970s, industry had been "seeking new ways to substantially increase organizational performance in the face of growing domestic and international competition, new technologies and changing social values" (Kaufman 2001, p.176). Douglas McGregor's theories had softened attitudes to workplace culture in the years prior to the 1970s, containing as they did a normative message that 'theory x' managers were missing out on opportunities to empower workers.

The 'best practice' approach is most closely and popularly associated with the work of Jeffrey Pfeffer. Pfeffer (1994) initially articulated a set of 16 people-management practices that he argued were common across US publically listed companies that had achieved the highest share–price increase between 1974 and 1994. Pfeffer made a particular point in his early work on the 'best practices' approach that the companies in his analysis defied many of Porter's five forces criteria (Porter 1980). For example, Pfeffer wrote extensively about Southwest Airlines' approach to people management and noted that throughout its history the airline had only ever focused on its core operating regions within the domestic US market, thus defying one of Porter's five forces that expansion should not be limited to domestic markets. In later work, Pfeffer's list of best practices was condensed to a list of seven, aggregating some practices into what might better be termed 'best principles' (Pfeffer & Veiga 1999).

Lists of best practices tend to revolve around HR practices also known as 'high commitment' HR (Wood & Albanese 1995) or 'high involvement work systems' (Bae & Lawler 2000). The practices and systems nominated as best practices are usually underscored by the idea that: employers should make a commitment to their employees by empowering them to make decisions and then award them for superior performance with above-average but contingent

pay; employers should invest in their employee's development and hire selectively and that such policies will promote reciprocal commitments from employees and thus lead to greater discretionary effort that may translate into customer satisfaction and greater workforce flexibility.

Pfeffer's seven best practices are: above-average remuneration contingent on the organisation's ability to pay; empowerment of employees through a variety of means, such as transparency with respect to business performance, enabling employees to take actions which will positively impact on the company; cooperative relations with trade unions; 'symbolic egalitarianism' or minimising obvious signs of status differences across organisational levels; internal job markets 'hiring from within'; selective staffing; job security and intensive training (Pfeffer & Veiga 1999).

The 'best practice' approach was arguably a product of its time and sits comfortably with other comparable work from the era such as Peters and Waterman's book 'In Search of Excellence' that encourage benchmarking of leading organisations. Populist and normative approaches to management and work systems have understandably been criticised from a number of perspectives. Vedder (1992), for example, was highly critical of the 'Excellence' movement, citing several examples of firms that had followed its tenets and suffered detrimental effects.

Mark Huselid (1995) is another scholar associated with 'best practices' or the universal HR approach. Huselid, who undertook a large cross-sectional study of management practices in nearly 1000 US organisations, showed organisations achieved positive outcomes from the application of the 'high performance work system' (HPWS). HPWS consisted of internal

career opportunities, formal training systems, appraisal measures, profit sharing, employment security, voice mechanisms and clear job definition (Delery & Doty 1996; Huselid 1995). Huselid's research showed that the application of these work systems had a statistically significant impact on intermediate employee outcomes (turnover and productivity) and on a positive effect of short-and long-term measures of corporate financial performance. Huselid's study was seen as a breakthrough in the field of SHRM.

Despite its importance in the development of the field the universal or 'best practice' perspective has been criticised, for example, Colbert (2004, p.344) considers it a:

> reductive, linear view of an organizational system which ignores the notion of system-level resources – an important notion in the RBV … the (best) practices are not strategic in the sense used elsewhere in the SHRM literature (ie. contingent on strategy or explicitly aligned with specific strategy) and may simply be termed prudent, in the sense that they have been shown to consistently enable a given firm to perform better than it might otherwise. Research under this perspective has been useful in identifying discrete HR practices that are universally sensible, but it has not contributed much in the strategic sense, if we take strategic to mean practices that differentiate the firm in its industry and that lead to sustainable competitive advantage.

3.8 External fit of HRM

The second major theoretical perspective in the HR literature is referred to as the contingency perspective. Contingency arguments "are more complex than universalistic ones because contingency arguments imply interactions rather than simple linear relationships incorporated in universalistic theories" (Delery & Doty 1996, p.807). In contrast to the universal approach, research employing the contingency perspective looks for performance effects arising from particular HR practices unique to an organisation and how well those practices align to either a particular strategy (Schuler & Jackson 1987) or a distinctive organisational culture or history (Cappelli & Crocker-Hefter 1996). Research taking the contingency perspective adds

a mediating dimension between HR practices and performance, which is the particular business strategy being followed by the firm. Thus the argument is that the effectiveness of HRM is contingent upon the type of business strategy the organisation is pursuing and/or the other management practices with which HRM practices are combined, such as quality management or quality-enhancing practices (Hoque 1999). The contingency argument is different from the universal approach, which suggests these HR practices have universal utility but does not control for or factor in these mediating variables such as operating conditions or other factors such as organisational structure (Camps & Luna-Arocas 2009).

The contingency argument is well captured by the work of Baron and Kreps (1999). Their work on HR strategy advises managers to consider the impact of five forces on HR policy choices: the external environment (social, political, legal and economic), the workforce, the organisation's culture, its strategy, and the technology of production and organisation of work. HR choices should be informed by a clear recognition of the firm's distinct situation and policy planners considering external alignment should also aim for internal alignment or horizontal fit of HR practices (Baron & Kreps 1999).

Tests of the contingency or 'best fit' thesis are usually conducted with multiple independent variables (IVs) against a dependent variable (DV) that is linked to an organisation's strategy. A contingency study in a high-tech industry, where the organisation's success depends upon new product advances, might look for links between an HR practice or practices and a DV such as rates of innovation (the researchers would measure this using a proxy for performance against this strategy, such as the number of new patents applied for in the period during which the HR policies had been in place).

The alignment of HR strategy with the organisation's strategy or context is commonly referred to as external 'fit' (Delery & Doty 1996). Porter's generic strategies of cost leadership and product differentiation have, for example, been matched with HR strategies seen to most effectively support the features of these strategies (Arthur 1994). Earlier work in SHRM described the HR practices typically found during different business life cycles (Schuler & Jackson 1987).

The contingency perspective has been criticised as determinist in that it argues that modes of organising the HR system are selected according to the organisational strategy and other contingencies such as the environment in which the firm is operating (Dufour & Steane 2006). The centrality of the contingent factor makes it difficult to generalise managerial insights from one strategic context to another. For instance, Miles and Snow (1984) matched their strategic typology with the HR systems they felt would support the realisation of each strategy within their famous typology of generic strategies. 'Type A' work systems (designed to support 'Defender' strategies) are characterised by an internal labour market, in which socialisation and training are common; performance is assessed through behaviour; appraisal is for developmental purposes; there is employment security; employees are viewed as a valuable source of information; employee voice mechanisms are well developed and jobs are well defined. Conversely, in 'Type B' work systems (designed to support Prospector strategies) 'lateral' hiring is commonplace; there is little training; employee performance is measured by output; there is little employment security or employee voice and jobs are broadly defined. Analysers are thought to best suit a hybrid A/B HR system with a combination of practices from both work systems.

The Miles and Snow HR systems are illustrated in Figure 3 below. The approach is somewhat formulaic and potentially misleading given the other variables that may moderate the success of Type A, Type B and Type A/B work systems beyond simply an organisation's strategy.

Human Resources Management System	Type A (Defender)	Type B (Prospector)	Type AB (Analyzer)
Basic strategy	Building human resources	Acquiring human resources	Allocating human resources
Recruitment, selection, and placement	Emphasis: "make" Little recruiting above entry level Selection based on weeding out undesirable employees	Emphasis: "buy" Sophisticated recruiting at all levels Selection may involve pre-employment psychological testing	Emphasis: "make" and "buy" Mixed recruiting and selection approaches
Staff planning Training and development	Formal, extensive Skill building Extensive training programs	Informal, limited Skill identification and acquisition Limited training programs	Formal, extensive Skill building and acquisition Extensive training programs Limited outside recruitment
Performance appraisal	Process-oriented procedure (for example, based on critical incidents or production targets) Identification of training needs Individual/group performance evaluations Time-series comparisons (for example, previous years' performance)	Results-oriented procedure (for example, management by objectives or profit targets) Identification of staffing needs Division/corporate performance evaluations Cross-sectional comparisons (for example, other companies during the same period)	Mostly process-oriented procedure Identification of training and staffing needs Individual/group/division performance evaluations Mostly time-series, some cross-sectional comparisons
Compensation	Oriented toward position in organization hierarchy Internal consistency Total compensation heavily oriented toward cash and driven by superior/subordinate differentials	Oriented toward performance External competitiveness Total compensation heavily oriented toward incentives and driven by recruitment needs	Mostly oriented toward hierarchy, some performance considerations Internal consistency and external competitiveness Cash and incentive compensation

Figure 3. Typology of Strategic HRM systems

Contingency theory is, nonetheless, compelling and intuitively seems to sit well with the idea of strategic HRM. With some concerns about the simplicity of the contingency perspective noted, and building on earlier discussions concerning distinctiveness among law firms, it is reasonable to expect that law firms will be linking their management practices to environmental contingencies and organisational characteristics and structures and also that they may have a localised 'version' of high-performance work system that reflects their organisational contingencies. Thus a third research proposition may now be stated.

Research proposition 3

Law firms will have adopted some corporate management practices thanks to the impact of outside consultants, corporate managers and the impact of contemporary work values on their traditional systems however it is also expected that law firms will also have developed endemic management practices that reflect the industry, in particular the partnership form of governance.

3.9 Internal fit of HRM

The third dominant mode of theorising in HRM is configuration theory (Meyer, Tsui & Hinings 1993) or the 'internal fit' perspective. The configurational approach is distinct from the contingency approach, which focuses on the external environment or business strategy as the main moderator of the utility of different HR practices or systems. Configurational approaches to HR explore the proposition that organisational performance is enhanced through the deployment of 'bundles' of internally consistent HR policies. If the contingency approach emphasises *external* fit, the configurational approach emphasises *internal* fit between the practices coupled with the alignment of that bundle to the firm's strategy or context (Delery & Doty 1996). To some extent, contingency and configurational perspectives are complementary rather than competing perspectives (Baron & Kreps 1999).

Configurational approaches to HR emphasise that HR policies have a multiplicative effect Wood (1999, p. 368) succinctly states this point: "it is sensible to select practices in conjunction with and not in isolation from each other". Warnings are also given in work adopting the internal fit perspective to guard against what Delery and Doty (1996) call 'deadly combinations' of management practices. Deadly combinations are caused when HR practices are implemented together that undermine one another and potentially compromise

the utility of the entire management system. The classic example of a deadly combination is an organisation that aspires to build teamwork and team-based structures but which leaves in place individualistic performance goals forcing employees to focus on meeting their own performance indicators which may sometimes be achieved to the detriment of the wider group or the entire organisation (Boxall & Purcell 2008). Boxall and Purcell (2008, p.202) also note the warnings given in the literature against costly duplication of practices:

> …such as over-designed selection systems where extra hurdles add no further predictive power to the process. Consider the example of the firm that would benefit from structured interviewing and reference checking of job applicants but decides instead to design an 'assessment centre' with five or six kinds of test involved. Chances are that much of the assessment centre is an expensive white elephant. Little of value has been added for the considerable extra expense involved.

The internal fit perspective emphasises that it is the way that HR practices are combined that matters most, and that HR practices should be implemented as a system to make them work in complementary or multiplicative ways. Practices may be combined simply to prevent duplication or to produce specific human capital objectives (the retention of female lawyers for example, through a recruitment policy aimed at women which is complemented with a strong set of policies around maternity leave).

Delery and Doty (1996), propose two employment systems consistent with the idea of internal fit: the market-type system and the internal system shown in Figure 4. Market-based systems converge around themes such as self-sufficiency, lateral hiring and results-based awards, provide little employment security and involve broad job descriptions. In contrast, internal HR systems are characterised by internal labour markets (internal hiring), socialisation and training, performance evaluation with a strong behavioural and developmental purpose, high job security, voice mechanisms and clear job descriptions. The market-based system may be

seen to resemble Miles and Snow's (1984) Type A system while the internal system resembles the Type B system illustrated earlier in Figure 3 (Delery & Doty 1996).

HR Practices	Market-type system	Internal system
Internal career systems	Hiring almost exclusively from outside the organisation. Very little use of internal career ladders	Hiring mainly from within the organisation Extensive use of well-defined career ladders
Training	No formal training provided Little if any socialisation taking place within the organisation	Extensive formal training provided Great amount of socialisation within the organisation
Results-oriented appraisals	Performance measured by quantifiable output or results- oriented measures Feedback in the form of numbers	Performance measured by behaviour-oriented measures Feedback more for developmental purposes
Profit sharing	Profit sharing used extensively	Few incentive systems used Very little use of profit sharing
Employment security	Very little employment security given	Great deal of employment security among those who make it through the initial trial period Extensive benefits to those who are outplaced
Participation	Employees given little voice in the organisation	Employees likely to have access to grievance systems Employees more likely to participate in decision making
Job Descriptions	Jobs are not clearly defined Job definitions are loose	Jobs are very tightly defined

Figure 4. Comparison of market and internal HR systems

Others, for example, Sheppeck and Millitello (2000), have mirrored this approach and aligned configurations of HR with strategic archetypes. Sheppeck and Millitello developed a typology of 'realised organisational configurations' based on a framework that considers environment, business strategy, HRM practices and the level of management support for HRM as the factors that make up the configurations. Five configurations of strategic HRM are defined: combination; classic operations; emerging operations; classic product leader and classic customer. The first two of these configurations are said to be associated with mediocre

organisational effectiveness and financial outcomes while the final three tend to result in above average sustained performance. However, they provide no evidence beyond observation to support their assertions concerning the success of one configuration in relation in their typology relative to the others.

Another contribution of configurational HR is the recognition that distinctly different HR configuration might be appropriate for different groups of workers and that different configurations of HR might be used concurrently within the same organisation for different types of employees. For example, core knowledge workers, who are managed with commitment-oriented HR systems, have been contrasted with contract or ancillary workers who are managed with compliance-oriented HR systems (Lepak & Snell 2002). This notion, of managing different groups of people within the same organisation according to different HR systems, has found currency under the general term 'workforce differentiation' (Huselid, Becker & Beatty 2005) and is increasingly being adopted in management practice. Osterman's (1994) work was pioneering in this respect. He explored the presence of workplace transformation strategies in a large sample of US enterprises, focusing solely on exploring the practices being used to manage what he called CORE workers, those whose function related directly to the production of products or delivery of the services from which the organisation earned its revenue.

The internal fit perspective is exemplified by a study of the US automobile industry conducted by MacDuffie (1995). The study looked at workplace reform in auto plants and found that mutually consistent HR practices support workplace reform and that certain 'HR bundles', were related to productivity and quality. MacDuffie's work is widely cited and considered important because it introduced the idea of internal fit among practices, or what he

termed ‘positive bundling’ of work practices. Configurational research methods have also been used to explore the impact of different configurations of HR on organisational outcomes such as employee turnover (Arthur 1994).

Research proposition 4

If diversity exists across the industry, firms with the most stable configurations of practice that is with the best ‘internal fit’ will be the most likely to be performing effectively. Ceteris paribus, those firms adopting performance oriented management systems would be expected to outperform conventional firms.

3.10 Classification schemes

3.10.1 The origins of modern organisational typologies

Modern theories of professional work and about professional archetypes are steeped in a long tradition in the social sciences that begins with the work of Max Weber (1864–1920). Weber’s work is often termed ‘grand theory’, a label that recognises the profound influence of Weber’s thinking about societies, organisations, bureaucracies and the role of professions in society. Weber is perhaps most famous for his (1922) theories developed at the start of the 20th century about the religious origins of the development of capitalism. ‘The Protestant Ethic and the Spirit of Capitalism’, published in German in 1905, draws broad conclusions about how secular society developed due to the impact of Calvinist values on entrepreneurs during the industrial revolution. In later work, Weber explained the important role that the rationalisation and diffusion of formal bureaucracies in modern society play in creating social cohesion, particularly emphasising the importance of bureaucracy in societal development. Weber’s ‘social action theory’ (Weber 1947) marks one of the earliest references to organisational typologies. This work introduced social domination theory and described the

ideal types of ‘patrimonial’, ‘feudal’ and ‘bureaucratic’ organisations, with Weber showing how each type could be categorised by a number of mutually complementary, or at least simultaneously occurring, attributes (Miller & Friesen 1984). For Weber, the ideal civil service is detached from partisan politics. Order arises in society from hierarchy, and meritocracy is a central principle creating stability. In the literature of organisational archetypes, Weber’s work is a critical starting point, in particular his characterisation of the aforementioned ideal bureaucratic type and its accompanying principles. The bureaucratic form was efficient and emphasised rational behaviour, legal types of domination, and the extensive use of bureaucratic rules and procedures. Weber’s work on bureaucracy is reflected in seminal works in modern strategy, such Mintzberg’s (1979) characterisation of the ‘professional bureaucracy’ and Miles and Snow’s (1978) ‘defender’ archetype; these two typologies have been central in the development of modern management theory.

Accurate organisational classification has always been critical in organisational research, and in theory building and empirical testing in general. Classification occurs when researchers organise a diverse set of facts into a form from which laws, propositions and theories may be derived (Ulrich & McKelvey 1990). Organisational classification provides the basis for strong research by “breaking the continuous world of organizations into discrete and collective categories” (Rich 1992, p.758). Classification has been especially important historically in the study of organisational strategies. Strategies consist of the integration of many dimensions that can be configured in seemingly endless combinations, and without a classification scheme the researcher would need to deal individually with the many variables of interest, for example, price, automation, product line breadth, product integration, forward integration, advertising and credit policy. A classification scheme “brings order to an incredibly a cluttered conceptual landscape” (Hambrick 1984, p.28).

The configurational approach provides a rich perspective on the three main goals of organisational research: description, explanation and prediction (Short, Payne & Ketchen 2008). Configurational research "offers descriptions of organizations not by focussing on firm level dimensions such as age and size but rather by identifying groups of firms that resemble each other along (other) important dimensions" (Short, Payne & Ketchen 2008,p.1054 emphasis added).

The Purdue brewing studies are important in the history of organisational classification and were critical in the development of cluster analysis as technique to classify organisations on the basis of multiple attributes. The Purdue studies were based on an analysis of the US brewing industry between 1952 and 1972. The research sought to improve upon 'structuralist' arguments from sociology (c.f. Parsons 1960) that assumed homogeneity within strategic and professional groups, based on the role these groups play in creating coherence in society. Strategic group mapping provided greater depth to analyses of industry dynamics by showing how firms "become more similar to or more different to each other" (Harrigan 1985, p.55). The studies of the US brewing industry were aided by characteristics of the brewing industry allowing the researchers to conduct their analysis at the firm level; companies within the brewing industry were single-business entities, not divisionalised structures, and the industry during that period was fairly stable due to the stability in the price of grain. Econometric arguments and methods would lead to a hypothesis that larger firms would prosper at the expense of smaller firms, but these studies found this was not the case. In fact they showed that several smaller firms had in fact prospered. The Purdue brewing studies showed that, by paying attention to homogeneity within strategic groups and by grouping firms to establish internally homogenous but disparate strategic groups within the one industry, information

could be revealed about the sources of competitive advantage that would normally be obfuscated by treating all firms within the same industry as essentially the same.

McKelvey's work is authoritative in the area of classification schemes for organisations. Initially McKelvey (1975) set out guidelines for the development of multivariate taxonomies building on scientific principles derived from the field of biology. Ulrich and McKelvey (1990) later used what they called a 'taxonomic/evolutionary approach' to classify a large sample of firms from the US and Japanese electronics industries. Using cluster analysis, they discovered that there were indeed distinct populations of similar (homogenous) firms within the industries, echoing findings from the Purdue brewing studies. In this research, elements such as firm size, productivity and organisational diversification were used to determine clusters within the general population of the industry.

Configuration theory and the approach of taxonomy

Most researchers in strategy draw a distinction between typologies and taxonomies, where typologies, although they may be based on some level of empirical inquiry, are defined as those that are not quantitatively based. Strategic typologies, such as those of Mintzberg (1980), Miles & Snow (1978) and Porter (1980), are said to be of good descriptive use but are thought to have little predictive or explanatory power (Hambrick 1984). Taxonomies, on the other hand, reveal similarities and differences among organisational elements and can provide the basis for explanation, prediction and scientific understanding of a number of organisational phenomena, including structure, effectiveness, managerial behaviour, strategy organisational change, and many other elements (Meyer, Tsui & Hinings 1993)
Hambrick (1984) illustrates the difference between typologies and taxonomies with the example of a study he conducted with Schecter (1983) to examine the phenomenon of

business turnaround. Their study used cluster analysis to examine the strategic changes made by a sample of poorly performing businesses over a four-year period. The study set out to determine whether Hofner's conceptual typology of turnaround strategies (revenue generating, cost cutting and asset reduction) could be empirically observed. The actual strategies they found using cluster analysis (labelled 'asset/cost surgery', 'elective product/market pruning' and 'piecemeal') differed significantly from Hofner's classification scheme.

The research reported on in this thesis adopts an inductive taxonomic approach to search for an alternative way of classifying law firms according to their configurations of management practices. Typologies, such as those found in archetype theory, tend to suggest that organisations within the same industry often closely resemble each other and that institutions govern action (Lawrence & Suddaby 2006). In contrast, the process of adaption is emphasised in configurational research (Dess, Newport & Rasheed 1993; Miller 1987; Miller & Friesen 1984) and thus configurational accounts suggest that management systems are likely to be diverse and dynamic.

Although configuration theory points to diversity it does not allow for an infinite number of sustainable organisational forms (Miller & Friesen 1984). Moreover, not all configurations are thought to be sustainable. Miller and Friesen (1984), for example, emphasised several non-sustainable types in their taxonomy of strategy making. Similarly Miles and Snow's (1978) typology of generic strategies identified the 'Reactor' type as an unsustainable organisational form. The taxonomic approach where groups are identified empirically result in the identification of both viable and non-viable work systems, whereas typologies often posit ideal types.

Some authors claim there is an artificial dichotomy between typologies and taxonomies:

> Whereas organizational typologies may originate in the concepts and intuitions of theorists, all useful typologies have two properties: they synthesize configurations from multiple attributes, and their types are grounded in empirical experience. Similarly, whereas taxonomies are constructed by applying quantitative analytical techniques to a formal data base, all useful taxonomies are theoretically grounded. (Meyer, Tsui & Hinings 1993, p.1183)

Even Hambrick, a proponent of the taxonomic approach, has said that he does not "somehow deem taxonomies to be superior to non-quantitative taxonomies" (1984, p.28). However, other authors are more critical of typologies. Carper and Snizek (1980) asserted that common sense 'a priori' classifications of organisations prominent in the 1960s, such as those of Etzioni (1961), Blau and Scott (1962) and Thompson (1967), fail to pass the most basic tests of logic and are little more than tautologies. These monolithic types, where group membership is defined by one or two attributes, are largely redundant and typologies are now considered relevant only if they are multi-dimensional and if they accurately replicate reality (Rich 1992).

What is important in their definition of a configuration in strategic research is that it contains relationships among elements or items representing multiple domains, including the less visible elements as acknowledged by (Ulrich & McKelvey 1990) in their electronics study (such as strategy, structure, process and environment). Miller (1987) proposed four imperatives for the existence of a configuration: environment, structure, leadership and strategy. Others have used the word 'configuration' in a broader sense to refer to groupings of attributes; this has occurred more frequently beyond the realm of strategy, for example, in the analysis of HR practices, as discussed in earlier in this chapter (Lepak & Snell 2002; Malos & Campion 2000).

It is important that classifications must be recognisable and appear accurate to the people who work within the institutional setting (Bakke, 1959, Rich 1992). Fulfilment of this criterion is a necessary but not a sufficient condition for a classification scheme to be deemed to be acceptable for academic research. Typologies have been said to be more 'poetic' (Miles, 1983) generalised observations of industries, that do however often ring true. In terms of creating utility for researchers, however, classification schemes need to be more comprehensive and be derived from multi-method research which initially isolates their clustering variables using qualitative methods and then moves on to statistically verify the presence of populations (clusters/configurations) using empirical methods.

3.11 Configuration theory and equifinality

The configurational approach to organisational analysis has informed research in many different settings and has been used to answer a variety of research questions. The idea of a configuration or 'constellation of practice' (Meyer, Tsui & Hinings 1993) emphasises the interaction of many organisational elements and asserts that parts of a social entity take their meaning from the whole and cannot be understood in isolation. The configurational perspective has informed a diverse research agenda, including the 'Purdue brewing studies' of the 1970s that identified distinctive or homogenous sub-sets of firms (called 'strategic groups') within industries (Harrigan 1985; Hatten & Schendel 1977; Hatten, Schendel & Cooper 1978). The configurational approach has also been used to develop theories that propose the presence of ideal organisational 'types' (Miles & Snow 1978), to generate typologies of generic organisations and strategies (Mintzberg 1979; Porter 1980) and in the development of organisational archetypes discussed in Chapter 2 (Cooper et al. 1996; Greenwood, Hinings & Brown 1990). Configuration theory also underpins taxonomic work on functional and dysfunctional strategy-making (Miller & Friesen 1984) and on corporate

turnarounds (Hambrick & Schecter 1983). More recently, the configurational approach has been used to find evidence of 'strategy absence' (Rodwell & Shadur 2007).

Configuration theory, or the approach of holistic organisational analysis, has therefore been critical to the development of modern management theory and can also be seen to inform management practice. In organisational research focusing on *explanation*, the configurational perspective differs from other more common approaches. Ketchen, Thomas and Snow (1993, p.1278) have suggested that organisations can be best understood by "identifying distinct internally consistent sets of firms (rather) than by seeking to uncover relationships that hold across all organizations". Indeed, "configurational research contends that some configurations fit better than others within any given context and thus are more successful. Ultimately, configurational research aspires to offer accurate prediction of which sets of firms will be successful under a particular set of circumstances" (Short, Payne & Ketchen 2008, p.1054).

The differences between the groupings of organisations are caused by a stable and complex form of *interdependency*, sometimes referred to as coherence, among characteristics (Pettigrew 1992). The study of patterns of characteristics of organisations became more widely recognised in analyses of organisational configurations. That is, each of the different forms of organisation "may be driven toward configuration in order to achieve consistency in its internal characteristics, synergy (or mutual complementarity) in its processes, and fit with its situation" (Miller & Friesen 1984, p.21). Miller and Whitney (1999, p.141) describe configurations as follows:

> In the abstract, configurations may be defined as constellations of organisational elements that are pulled together by a unifying theme such as unequalled service or pioneering invention…. The object of a good configuration is always to develop a committed, enthusiastic cadre of people who collaborate shamelessly

> to get and keep customers who value their services. In this endeavour, the well configured business takes on a life of its own; solving today's challenges while carrying within it the seeds of renewal.

Because of interdependencies within systems, quantum, rather than piecemeal change in the HR system becomes necessary (Miller & Friesen 1984). Incremental change, therefore, becomes problematic. The idea of 'equifinality', found in configurational research, states that there are many equally valid pathways to organisational success (Doty, Glick & Huber 1993). It is clear that no one definitive study will establish a causal chain between different HR practices or different HR systems and organisational performance or success, especially in an industry such as the law which is notoriously difficult to research due to different accounting treatments and the absence of objective reliable performance data. However, piece by piece, a collective body of evidence may emerge over time (Pinnington & Morris 2003).

3.12 Chapter summary

This chapter has presented a wide-ranging review of the relevant literatures from strategy, organisational studies (sociology) and HRM to provide a theoretical foundation for the research and conclusions. It has shown the importance of accurate classification for management research and the potential impact of performance-oriented HR and management in law firms. To be successful, however, lawyer-managers must be able to effectively bundle their management practices to create coherence or internal fit, and they must at the same time be able to employ configurations that effectively fit their external conditions and the institutional pressures they face to conform to industry norms. For a law firm, this last element is perhaps the greatest challenge. The last two chapters have provided a theoretical framework for understanding how management practices drive performance in law firms. The three studies presented in the following chapters explore this topic empirically.

Chapter 4 Understanding the drivers of performance for law firms

4.1 Introduction

This chapter focuses on the methods and procedures used in Study 1, a preliminary qualitative phase consisting of four rounds of convergent interviews with a panel of 17 experts. The main goals of Study 1 were twofold: First, to build the researcher's knowledge of the industry and phenomena under investigation and to isolate the constructs that would be used to define the configurations in the subsequent cluster analysis. Second, the qualitative stage was included to enable the adaption and generation of survey items that would reflect the distinctive language, the organisational attributes and the performance measures of law firms. The two aims of the qualitative stage informed the method adopted, convergent interviewing and connected the qualitative and quantitative stages of the research.

In this introduction and prior to reporting on Study 1, a brief summary of the findings from the Pilot is also presented (a fuller discussion of the Pilot is included at Appendix 3). The summary of the Pilot is provided mainly to illustrate the inadequacies of existing scales (developed and verified in studies from the wider organisational context). This study justifies the importance of developing a research instrument using a grounded (inductive) approach, particularly when analysing organisations that have idiosyncratic characteristics (such as law firms).

4.1.1 The mixed-methods approach

When used carefully, mixed-methods research strategies can offer a depth of insight that purely quantitative research cannot uncover. In-depth interviewing, as a means of investigating workplace relationships, is a valuable way to supplement quantitative studies into relationships between variables (Morrison & Robinson 1997). In mixed-methods research, the qualitative phase of survey and hypothesis testing is not necessarily subordinate to the quantitative phase; rather the qualitative data add richness to the conclusions drawn from quantitative methods. Savaya and Cohen (1998, p.163) describe succinctly the merits of a mixed-methods approach:

> The use of qualitative methods provides the researcher with broad description and a deeper understanding of phenomena from participants' own perspective, while quantitative methods temper researchers' biases and emphasise reliability, validity and the search for parsimonious solutions. In combination the methods enable researchers to learn about different groups they are studying and also employ rigorous methodologies that are necessary for hypothesis testing and replication of findings.

In addition to the strong methodological reasons given above, there are other reasons for employing mixed-methods. In the present research the inclusion of a qualitative phase also helped to ensure that respondents would considered the survey questions (developed or adapted for Study 2) relevant and insightful, increasing the likelihood of gaining an adequate response to the survey. A deep understanding of an industry is also thought to enhance a researcher's ability to gain 'idiosyncratic credits' with research subjects through expertise, interest, curiosity and conformity to the subject's norms of professional conduct (Hollander 1974). It was hoped that by gaining this knowledge and understanding the subsequent survey design would include terminology appropriate to the ways lawyers organise certain concepts (Hines, 1993). The mixed-methods approach is therefore ideal for exploring an industry with idiosyncratic language and conventions (Cresswell 2009).

Mixed-methods research is not without its critics, especially those who decry the subordination of qualitative inquiry to an auxiliary role within a methodological hierarchy in which qualitative methods are at the bottom in the role of exploration while quantitative methods are at the top in the more important role of confirmation (Denzin & Lincoln 2005). Howe (2004, p.54) states that "the mixed methods movement takes qualitative methods out of their natural home, which is within the critical interpretive framework".

Given this concern about rendering a qualitative stage to a purely functional role in mixed-methods research, a strong attempt is made to synthesise the findings from the two main studies for the research in Chapter 6. This discussion of the merits of mixed-methods research highlights several of the reasons why an inductive approach was selected for this research.

4.1.2 Pilot study summary

As described in detail in the conference paper included in Appendix 3, the Pilot analysed data from a sample of 36 law firms and engineering consultancies using a pen and paper survey instrument (the full survey is included in Appendix 1) to explore the impact of management practices, oriented toward building and managing intangible assets (including human capital and other forms of intellectual capital) on perceptions of organisational performance. The well-established scales used in the survey were drawn from several different management disciplines, including knowledge management, SHRM, marketing and intuitive measures of intellectual capital derived from the intangible assets monitor of Sveiby (1997). Analyses conducted in the pilot, in which the intensity of use of the practices were compared across the high-, medium- and low-performing groups, confirmed that a strategic approach to HRM was a key differentiator between high- and low-performing professional services firms. The relational capital variables 'competitor knowledge processes', 'customer knowledge

processes' and 'customer demandingness' and the structural capital variable 'decentralisation' were also significant.

The findings from the Pilot seemed to contradict a widely held belief about human capital building processes, also known as HRM practices, that practices such as selective staffing, training equitable reward systems and an open cooperative attitude to unions will lead to superior performance (Huselid 1995; Wall & Wood 2005). However, because these firms are in the knowledge services industry and all are clearly aware that their only real source of value creation is by leveraging human capital, they all appear to perceive that they already invest effort in these management practices. Also, because the firms are to a degree all operating from the same institutional influences they may be expected to have adopted similar management practices, a hypothesis tentatively supported by the findings (DiMaggio & Powell 1983).

Importantly, the Pilot suggested that firms use consistent practices when managing professional people but that the strategic input of HR may be greater in some firms. Competitive advantage may therefore be found by moving such firms toward an SHRM approach. Further, that by adopting a market-oriented footing, in which client and competitor trends are tracked and people are empowered, competitive advantage may be found. The Pilot therefore affirmed the value of professional services firms developing strategies to identify, nurture and effectively deploy their intangible assets.

The Pilot showed that the application of linear tests assessing the impact of common management practices, derived from large-sample cross-sectional studies, would be unlikely to yield deep insight into management-performance relationships in the more institutionalised

and idiosyncratic environment of the professional services sector. Allowing for and reporting on context is increasingly seen as a critical part of an effective research strategy (Johns 2006).

The use of unionisation as a construct in this sector is an example of how context must be accounted for in organisational design. Unionisation was clearly an inappropriate measure in this context, as union membership is traditionally low in professional services firms. Similarly, to test for training intensity in a general sense was shown to be too imprecise, as all firms reported that they were undertaking training of their staff, and annual training is mandatory to retain professional accreditation. The Pilot had shown that using existing constructs would yield only limited insight in the planned research.

Although the Pilot was a cross-sectional survey (based on two industries) and could therefore determine only limited causality, the findings were complementary to, and indicative of, what might be expected from the more in-depth Study 1. The weakness of this comparative research design is emphasised by Hocque (1999, p.420) when discussing the findings of a study in the UK hotel industry. The findings from that study led him to conclude that an industry-specific approach is the most relevant to the study of HR and performance in the services sector, "given the heterogeneity of the services sector …generalizations across the sector are probably meaningless" … "industry by industry analysis, rather than analysis of the services sector *en masse*, will probably be more illuminating". The industry-by-industry approach is also in line with more recent thinking in organisational research that advocates a strong consideration of organisational and environmental context in research design and reporting (Dufour & Steane 2006; Johns 2006).

4.2 Study 1: background

Study 1 was designed in part to respond to the weaknesses of existing constructs uncovered by the Pilot. The weakness of these existing scales prompted the need for a qualitative stage to unearth a more nuanced view of the management drivers of performance in the professional services sector. Convergent interviewing aimed to isolate a set of constructs that could be developed into scales and tested in a survey.

4.3 Study 1: method

In Study 1, 17 expert practitioners and consultants to the legal services industry were interviewed during two time periods to investigate the phenomenon of organisational performance in law firms. Interviews were selected as a process of data gathering to add richness to the research findings and to build a deeper understanding of the deep-seated issues connected to the research area and to build an understanding of the industry including of its language and conventions. The method of interviewing selected was convergent interviewing (Dick 1990), a qualitative diagnostic technique (Jepsen & Rodwell 2008).

4.3.1 Convergent interviewing

Convergent interviewing is conducted in a series of rounds of interviews used to establish issues around which opinions converge. Each round of interviews helps the researchers to identify where opinions converge or diverge with regard to the phenomena under investigation; successive rounds invariably identify new issues. Convergence on the issues occurs when interviewees identify no new issues for two rounds. The interviewer can then be confident the research has been exhaustive (Jepsen & Rodwell 2008). The number of rounds is not pre-determined.

The interviewing begins with an interview with the person assumed or recommended to be the most knowledgeable on the issue being investigated. This interview is followed by the next most knowledgeable person. Ideally these two people should be expert on the issues being investigated but ideally they should approach the issue from different perspectives. Each round consists of three or four interviews and the results from each initial round of interviews are then evaluated prior to the next round commencing. Themes are identified and potential areas to be explored in more depth are determined and probing questions developed. Note-taking, rather than taping and transcribing interviews, is the recommended technique for this methodology (Dick 1990). Convergent interviewing is efficient in that there is a definitive point where the researcher can be confident that all the important issues have been identified. With other interviewing methodologies, such as semi-structured interviewing, the end point, or when to stop, is less clear.

Convergent interviewing allows participants to talk freely about a phenomenon without the constraints of a pre-determined set of questions, as could occur in a structured interview where the answers given are limited by the questions asked. Convergent interviewing is well suited to mixed-method research and to investigating management and performance in privately held firms, where information relating to business performance is rarely provided (Greenwood et al. 2005). Interviewing allows for complex phenomena such as 'leadership', 'accountability', 'performance' and 'efficiency' to be explored in depth, and for subtle nuances to be explored and disagreement among participants highlighted. These disagreements add to the credibility to qualitative findings (Lincoln & Guba 1985). Including qualitative methods as part of a research design allows the researcher to explore relationships between constructs of interest and to probe for deeper meaning and for exceptions. When used appropriately, qualitative research methods are thought to provide "deeper insights into

the research area than is possible only using quantitative methods" (Jepsen & Rodwell 2008, p.650).

Convergent interviewing contains many strong features. It is methodologically sound in terms of reliability and validity. Reliability in qualitative research indicates the approach is consistent across different researchers and different projects. Several reliability strategies were followed in the convergent interviewing process: findings were triangulated by subsequently reviewing the academic and business literature, including an extensive search of articles on business management and performance in law firms, clarifying researcher bias, debriefing through the presentation and discussion of the results with academic colleagues at an academic conference (Heys & Rodwell 2006) and through the analytical process. Validity in qualitative research means that there is a strong correspondence between researchers' claims about knowledge correspond to the reality (or the research participant's construction of reality) (Cho & Trent 2006). Validity in this study was enhanced by verification procedures such as discussing the findings and topic area with key advisors external to the participants in the survey and using a grounded approach wherein topics and issues mentioned in the interviews were researched by the investigator to ensure that participants accurately identified and described those topics (Marshall & Rossman 1995). The data were also gathered freely and volunteered, which is generally thought of as a more valid form of information in qualitative research (Denzin 1978).

4.3.2 Sample

The names of potential experts were assembled from published commentary and articles on the legal services sector in Australia and through the assistance of key informants using a form of 'snowballing' recruitment, an approach considered useful in accessing hidden

populations (Cooper & Schindler 2003). In snowballing, initial respondents are identified and is then used to locate others who many possess similar characteristics. Snowballing has been used to study "drug cultures, power elites, community relations, insider trading and other applications where respondents are difficult to identify and contact" (Cooper & Schindler 2003, p.203). Snowballing as a sampling method may create a certain bias in the respondent group, such as a group of friends, who refer one another to the researcher may hold similar views on a research area. The respondent bias problem arising from this form of sampling was, however, not present in this research due to the diversity of the sample.

Interviewees included consultants to the legal services industry, legal practice academics, HR directors, managing partners and non-legal general managers of law firms. All participants were interviewed in either Sydney or Melbourne. The consultants interviewed were currently working with a wide variety of firms in both Australia and New Zealand. The respondents were industry 'insiders' who had a balanced perspective on strategic formulation, management practice and a good understanding of the drivers of performance in the legal services industry. The respondents were privy to accurate performance data about their own and their clients' law firms but were not specifically asked to share this information. A de-identified list of participants is shown in Table 4 overleaf.

The sampling and interviewing method employed also helped to account for respondents' subjective, personal or positional biases. Diversity in the respondent profile aided triangulation of information by accessing different informants and sources (Huber & Power 1985). The available literature, mostly from the business press and print media (legal affairs sections), on management in law firms was also consulted, which aided with the interpretation and validation of the respondents' views.

4.3.3 Procedure

Potential interviewees were invited to participate in the study by an official letter written on university letterhead. Prior to the commencement of any interviews, ethics clearance was sought from the Macquarie University Ethics Committee. Participants were asked to sign a consent form describing the research aims and assuring them of the confidential basis of their participation. Confidentiality, coercion and informed consent are the main ethical issues with this form of research and these issues were carefully managed though the wording of the invitation and any direct approaches made to participants (for example by phone) were undertaken in a low key manner to gauge interest and then followed up with a formal invitation and explanation of the research aims. Prior to conducting each interview, participants were asked to sign a consent form. Notes from the interviews were kept locked in a filing cabinet in the researcher's office. Confidentiality of the participants was assured through the use of de-identified reporting.

To begin each interview, respondents were asked the following broad question: 'What can you tell me about the performance of law firms and how it's achieved?' The question was deliberately open-ended to forestall researcher bias on the topic (Dick 1990). Subsequent rounds of interviews either confirmed previous respondents' views (and thus signalled convergence) or suggested areas of disagreement that were subsequently explored. Between each round, 'probing' questions were developed to explore nuances within the converged issues allowing for a thorough investigation of the key issues, identified, for example, by identifying exceptions or coincidences and probing for deeper understanding of key issues. In this way, a deeper understanding of key issues developed (Jepsen & Rodwell 2008). Seventeen interviews were conducted in five 'rounds' of between two and four interviews per round. The diversity of respondent demographics is illustrated in Table 4.

Table 4. Respondent profiles for each round of convergent interviews

Round	Respondent Profiles	Perspective
1	Legal services consultant	Strategic adviser
	Legal services executive coach	HR and Leadership
	Legal services consultant	Firm performance/client satisfaction
2	Legal services consultant	Knowledge management expert
	Senior legal academic	Labour market/thought leadership
	Serving Managing Partner	Law as a business
3	Serving Managing Partner, large firm	Large top tier firm, internationalised
	Serving Managing Partner, mid-size firm	Specialised market
	Serving General manager, small- firm	Non-lawyer general manager
4	Serving Managing Partner, large firm	Large top-tier firm, internationalised
	Serving Managing Partner, mid-size firm	Award winning mid-tier firm
	Retired Managing Partner, large firm	Historical perspective
5	Serving Managing Partner, large firm	Large top-tier firm, internationalised
	Serving Managing Partner, mid-size firm	Highly profitable mid-tier firm
	Serving Managing Partner, mid-size firm	Iconoclastic firm
6	Serving HR Director, large firm	PSF specialist but new to law from accounting
	Serving HR Director, large firm	Veteran HRD in law

4.4 Study 1: results

4.4.1 Overview

Participants tended to be open and, once rapport and credibility were built, interviewees began to speak freely and at times critically about management practices in law firms. The convergent interviewing convention of not recording interviews was important and encouraged ongoing disclosure. Issues and themes were identified in successive rounds as follows:

- In Round 1, several issues were identified by two or more participants: leadership, accountability, decentralisation of authority/autonomy, holistic performance management, thought leadership, collegiality such as consensus decision-making among partners and managerial development.

- In Round 2 the following new themes emerged: managerial training, employment value proposition, balanced client focus, role clarity – clear job definition / people knowing what's expected of them at each level of the hierarchy.
- In Round 3 the following new themes emerged: developmental appraisals and performance management, process excellence – effective delegation and preventing hoarding of work, careful but strategic hiring of 'laterals', development of an employee value proposition to compete for talent (an attractive set of reasons to work for the firm), clear (and enforceable) client strategy.
- In Round 4 the new theme of diversity emerged in relation to the role of women in contemporary law firms and appealing to minorities, institutionalising quality.
- In Round 5 the theme of balanced client focus sharpened; earlier participants had mentioned being client focused but hadn't mentioned the need to balance this with work-life balance consideration.
- In Round 6 no new themes emerged – more a restatement of earlier issues in more formal HR-type language and thus this round concluded the interviewing.

4.4.2 The 16 performance drivers in detail

This section reports the participants' views on the drivers of performance, based on handwritten notes rather than a taped transcription of the interviews. The attitudes of the respondents are paraphrased with the goal of adding to the richness of the description and to enhance the validity of the results. The 16 'Drivers of Performance' and the dimensions of each driver are summarised in Table 5.

Table 5. Summary of the 16 'Drivers of Performance' and dimensions of each driver

	Driver/Construct	Dimension of each driver
1	**Leadership**	Importance of Managing Partner's leadership style. Leadership skills are well developed at each level of the hierarchy.
2	**Accountability**	Partners are held to account for anti- social behaviour. The firm has a performance management system that takes account of performance holistically including behavioural dimensions of performance such as staff mentoring and business development.
3	**Process excellence**	Effective allocation of work (appropriate delegation), quality assurance processes to minimise 'write-offs' (uncharged work).
4	**Client strategy**	The firm makes well informed and firm market-based decisions ,e.g., not to establish a banking and finance practice and client-based decisions – not to act for employees in workplace law
5	**Balanced client focus**	In firms where balanced client focus is strong there is a focus on service and the client experience. The firm manages the billable hours syndrome by, for example, capping billable hours expectations at reasonable levels to encourage internal and client-focused activity, e.g., business development and balances client demands with employee's needs.
6	**Vision**	The firm communicates to clients what it stands for. The firm has a vision that may be clearly and easily articulated by the Managing Partner.
7	**Diversity**	Management practices exist to facilitate the attraction and equal participation of women and minorities. Practices are in place which allow for older de-equitised Partners to remain active in the firm but that also ensure older partners do not' hang around' in the partnership free-riding on the efforts of others.
8	**Employee value proposition**	A suite of policies are put in place to attract and retain employees in a competitive labour market such as international transfer opportunities, diversity policies and community engagement programs or pro bono work.
9	**Voice mechanisms**	There are mechanisms in the firm that ensure partners have a say in the running of the firm. There are democratic approaches to governance especially through the elected role of the Managing Partner and a collegial climate.
10	**HR & support excellence**	The firm has high quality HR systems and Executive level HR input, good financial discipline, high quality IT and knowledge management systems are in place.
11	**Clear job description**	Professionals have clearly delineated responsibilities at each level of the professional hierarchy and know what is expected of them.

Table 5 (continued)

12	**Effective management of lateral hires**	Appropriate hiring of mid-career professionals as required or as a specific hiring policy. Cultural problems with the fit of lateral hires into the culture of the firm are actively managed.
13	**Selective staffing**	The firm has pre-determined selection criteria that fit the organisation's needs and culture. It goes about identifying and selecting future Partners on the basis of their fit in the partnership not simply to retain them in a contested talent market.
14	**Thought leadership**	Partners are active contributors to contemporary legal debates through e.g. authorship. Having the 'leading lights' in a particular area of the law; acting on high profile cases and transactions.
15	**Competence building processes**	Growing managerial talent from within the professional ranks and effectively preparing future leaders with development activities designed to assist their progression to partner.
16	**Decentralisation of authority**	Organisational structures and work teams which are as small as the task allows creating familiarity, ownership and engagement.

1. **Leadership** was emphasised by all participants as critical to a law firm's success. Several respondents stressed how important it was that *all* partners and senior solicitors displayed leadership qualities. The critical role of the managing partner was most strongly emphasised. One participant, for example, cited an instance where a leading top-tier law firm was moving through a difficult transition phase following a merger with another firm: "it was (managing partner's name)'s ability to motivate staff that had led to the resurgence of that firm". This same Managing Partner was said to have challenged partners to have both a legal practice and a leadership practice. However, "Leadership," said another participant, "is not something that comes naturally to many lawyers", since "most lawyers have been exposed to a very limited model of leadership and many of them have worked in the same firm or even in some instances for the same person their whole working lives before becoming leaders themselves". Leadership might well be considered then to be a normative or aspirational driver of performance. In some respects, leadership is what participants feel *should* happen to drive performance but it is not necessarily what they feel always *does* happen. The style of leadership emphasised by the participants was transformational rather than a classical heroic

style of leadership (Podsakoff et al. 1990). It was felt that leaders were expected to be diplomatic and consultative while at the same time demonstrating decisiveness and direction for the firm and transforming both individuals and the firm through their leadership.

2. **Accountability** was seen by several participants as integral to a law firm's success and sustainability. For a surprising number of participants, accountability was embodied by a strong institutional response to instances of anti-social behaviour, especially when that behaviour was in conflict with the firm's values, codes of conduct or contemporary standards of workplace behaviour. Several participants emphasised how important it was that when anti-social behaviour occurred, particularly on the part of partners, that someone was willing to stand up to the person involved and hold them accountable. Accountability, for some participants, even extended to asking partners whose behaviours were seen as not fitting in with the firm's values, to exit the partnership and the firm. One managing partner claimed he had previously asked partners (whom a quorum felt did not fit their culture) to leave the firm, despite the high cost of "buying" a partner out.

Holistic performance management systems for partners and associates, encompassing a wide range of performance criteria, were seen by participants as a good way to promote accountability among professionals and were thought to be an effective way to promote the types of behaviours needed by firms to drive performance. The managing partner of a mid-tier firm said of the effect of recent changes to his firm's performance management system, "there was an immediate effect felt after the introduction of our new performance management system, especially in terms of how it increased the business development activity undertaken by partners". Some participants, however, claimed that the default criterion for assessing a partner's annual performance was predominantly their financial performance against an

annual budget (total billings and realisation rates), and that at some firms this is "still far and away what counts most". Remuneration committees were often tasked with making annual determinations about an individual partner's share of the annual profits, and some committees based their ratings on their performance across a range of criteria: financial contribution, business development activity, service to the firm and the partner's performance as mentor. One participant talked about the phenomenon of a partner who is a successful financial contributor but displays toxic anti-social behaviours; in such instances "the real test of a firm's commitment to its stated values is around how such people are managed. Is the firm willing to hold a high performer accountable for anti-social behaviour if they are that financially successful?" Accountability is clearly a complex construct; however, in this study it was surprisingly and consistently spoken about with reference to holding partners accountable for their performance and, in particular, holding them accountable to standards of behaviour.

3. **Process excellence** was spoken about in reference to the design of effective internal business processes. For some firms, this was said to mean effective workflow processes. One *human* process mentioned was the way in which work is allocated (or delegated) among professionals. Work allocation is necessary to ensure professionals are deployed effectively. Some respondents noted it was not uncommon for partners to 'hoard' work within their own practice groups. Surprisingly, some were thought to be reluctant to even refer work to other practice groups within their own firms. Such behaviours were said to limit the possibility for knowledge sharing and potentially limit opportunities to deepen or broaden a firm's relationships with its clients. Participants commented that law firms need to develop high-quality internal processes so that overflows of work are redistributed effectively to others within a firm who have the capacity (time) and skills to do the work. Account management

practices and disciplines in law firms were, however, said to be challenging to implement because of the tendency of partners in particular to look after their own patch and advance their own interests over collective interests.

Processes excellence as a construct was also referred to by respondents with reference to the implementation of practice management systems, such as Law 9000, a quality assurance regimen for law firms. Respondents from firms that had undertaken this accreditation noted how important it had been in terms of helping them to benchmark and improve their internal management systems. This type of initiative is clearly evidence of a professionalisation of law firms' management practices and systems. Interestingly, such accreditation systems are also potentially a coercive instrument that would lead to homogeneity in how firms are managed. To be accredited, firms have to show they are managed against a standard set of criteria.

4. **Clear client strategy** is a driver that reflected participants' comments about the need for law firms to make clear and enforceable decisions about the type of clients with whom they wish to work. One respondent, a managing partner, commented that his firm had recently decided not to establish a banking and finance practice group, despite some interest and prompting from clients. "To open a 'banking and finance' practice," he said, was "potentially lucrative"; however, his firm "did not have sufficient depth of talent in the area to make the practice sustainable". *Clear client strategy* can also refer to whether the firm operates predominantly in the plaintiff or defendant market. One participant's firm, for example, took a decision not to act for employees in workplace law matters, which he said had made things "a lot clearer". The presence of a *clear client strategy* was also thought to impact on human capital decisions and meant a firm may need to acquire or divest itself of particular partners or even disband a practice group. When a firm takes a clear decision to exit an area of

professional practice, it was said that they must also "exit" from the firm partners who have that specialty. Consequently, a market exit decision is not taken lightly. In contrast, a decision to enter a specialty market may require that a firm is able to quickly acquire the requisite professional expertise to service that market. Thus firms may need to laterally hire a partner or senior lawyer from a rival firm (usually at high cost) to entice that person to move and sometimes this is done in quite an opportunistic way. Firms may 'get wind' of a partner or individuals from a practice group at a rival firm who are unhappy and quite rapidly move to make that person or people an offer to switch over.

The *clear client strategy* driver may also be seen to relate to the need for the *accountability* and *leadership* drivers, discussed above. To execute *clear client strategy*, for example, managing partners may be required to 'police' strategy decisions, for example, by referring back to agreed decisions in supporting a partner bidding for a particular type of work, or allocating firm resources to a proposed tender. Such policies may also extend to refusing to allow a partner to do a particular type of work. For a corporate organisation that is managed by a team of executives with clear authority, clear market strategies may be relatively easy to pursue; the CEO makes decisions supported by the board and shareholders or owners and the decision is then executed without question. However, for a law firm *clear client strategy* requires that a managing partner is able to build consensus around his or her decisions although managing partners are often aware that they may be challenged and even unseated if their decisions are unpopular with a sufficiently vocal and powerful coalition within the partnership group.

5. **Clear vision** (vision orientation) was seen as a driver for firms. Some participants spoke about the importance of having a vision consistent with conventional and widely understood

terms, with vision-setting being part of a broader strategic management process. A clearly articulated vision was seen as important to both the outside world and a firm's employees. Other participants saw vision more in terms of a mission or definition of service ethic or specialisation, such as "clients wanting to know what you stand for". This might be embodied in a tag line, such as that employed by the Australian top-tier firm Corrs Chambers Westgarth: 'making business sense'.

6. Balanced client focus was considered important as a driver of client loyalty and word-of-mouth business. Clients were felt to not always be the most expert consumers of legal advice. One managing partner of a mid-tier firm elaborated on the importance of client service this way: "they (clients) often can't tell the difference between good legal advice and poor legal advice, but they do know good service". Several other respondents saw the client's experience as critical to their satisfaction and thus of their propensity to recommend or re-engage a firm. Many Australian firms compete annually in the *Business Review Weekly* client choice awards, the result of a national survey of clients of professional services firms. Some of the firms interviewed for the study were recipients of BRW client choice awards and these awards are displayed in their reception areas and feature prominently in marketing materials.

An over-emphasis on client focus for a firm can, however, have unintended consequences and can result in senior lawyers spending insufficient time on anything other than client work. "Lawyers," one participant noted, "tend to come to work solely to serve their clients" and in doing so they may place a low priority on the internal dimensions of their role, especially their roles as mentors and managers of developing associates. Client focus can also mean professionals forget about their own and others' well-being: "some lawyers would rather ask staff to work all weekend or late into the night than say 'no' to a client". Respondents

mentioned that law firm partners in particular need to recognise the importance of the internal dimensions of their role: budgeting, managing cash flows, minimising write-offs, making collections (of fees from clients) and mentoring and managing staff. A critical issue often discussed in professional services firms is the so-called 'billable hours syndrome'. Because lawyers are required to keep their billable hours at a certain level over specified reporting periods, they tend to prioritise client work over internal managerial work. Some of the mid-tier firms interviewed are trying to limit the number of expected billable hours per day to ensure that professionals do not 'burn out' and that adequate time is allowed for training, mentoring, knowledge sharing, client management and other value-adding but non-billable activities.

7. Diversity is a driver that is embodied by law firms having both a diverse workforce and effective diversity policies plus the right organisational culture to accommodate this greater diversity. Some respondents noted a greater emphasis on programs designed to attract and retain female professionals, while others noted how important it was for firms to be able to attract professionals from other minority groups. One participant noted, however, that accommodating a diverse workforce did not always come easily for partners. An anecdote was shared about managing partner of a large firm who when publically welcoming new intakes into the firm, was struggled to pronounce the Chinese name of a newly appointed lawyer. Apparently he commented jokingly that he "wished there was a Smith or Jones for him to welcome". This joke, intended perhaps to be self-deprecating in reference to his poor pronunciation skills, was interpreted by the participant as an example of how conventional law firms, while willing to hire lawyers from a more diverse population, are not necessarily always comfortable doing so. The comment made was that diversity in hiring needed to be accompanied by programs to foster more inclusive attitudes, especially from older partners

who are used to a more homogenous 'WASP'-like workforce and unused to working with colleagues from diverse backgrounds.

In referring to diversity some respondents also spoke about the vexed role of older professionals, particularly older partners. Participants spoke about the introduction of the designation 'Special Counsel', for example, which is becoming more commonplace in the legal profession. The title is often allocated to older 'de-equitised' or former partners who continue working for the firm but with reduced expectations and responsibility, for example, for meeting financial budgets or managing clients and staff. Australia's aging population points to a need for law firms to find an ongoing role for older partners wishing to scale back their levels of responsibility and stress but continue their professional life. There is a double-edged sword here though, as one respondent put it, in that some partners hold on in the partnership, resisting calls for retirement because they cannot afford to retire. This situation can be avoided by firms implementing measures to ensure partners are financially secure when they reach retirement. Some firms now mandate that partners participate in voluntary superannuation (pension) schemes, or stipulate a maximum age at which partners must retire from partnership, thus creating room to allow younger partners to enter the partnership without diluting the overall equity pool among the partners.

8. Employee value proposition (EVP) describes a driver that relates to firms' need to compete for talent, and highlights that the business model of a law firm relies to some extent on being competitive in the labour market in terms of the career and work opportunities, plus the compensation and benefits on offer. The development of a compelling EVP was mentioned by respondents as something that was practised by some of the most successful firms. An EVP is represented by a distinctive set of policies designed to differentiate firms

from their labour market competitors. Examples of such policies include the opportunity for an international posting. An EVP may also relate to the provision of maternity leave, a firm's pro bono work opportunities, or other corporate citizenship programs.

9. Employee voice is a driver that reflects the process of participative management and the more traditional notion of collegial collaborative decision making traditionally associated with professional services firms. When discussing governance and high-level decision making in firms, respondents said they preferred a managing partner, rather than a delegated CEO, to have final authority. In a comment that apparently affirmed the collegiality of partnerships, one respondent claimed partnerships are "incredibly resilient". Another said that some partnerships were surviving "in spite of themselves". One participant said that "with the amount of work around in the market, many law firms have been able to survive without a lot of thought going into what they do; however, partnerships like this can only survive, they cannot thrive". The 'proprietorial mindset' was highlighted as a controversial issue and a weakness of partnerships. One respondent noted that partners at some firms are "loath to invest" in their people or to share the benefits of success with their employees.

10. **Support excellence** was identified as a driver in terms of the important role played by those in support functions in law firms, such as HR, marketing, IT and finance. Despite opinion converging on the importance of high quality support, opinion diverged on whether support excellence had been realised, with one participant commenting to the effect that partners had been "largely disappointed" by the impact of HR initiatives in their firms. Another comment was made that HR "rarely has a seat at the strategy table" and yet another that "HR managers are paid well in top-tier law firms because the partners buy their subservience; they pay them to be compliant". In contrast, other participants considered the

HR Director role integral to the running of the firm. A HR Director from a large firm described her role as "strategic", noting that she and her senior management colleagues operated "not unlike a corporate senior executive team". Regardless of the criticisms levelled at the performance of HR in particular, and of shared services generally, participants recognise the potentially important role of such functional managers, and for this reason the driver has been termed 'support excellence' rather than relating specifically to HRM.

11. **Clear job description, or role clarity,** was seen as a driver in respect to the perceived need for a clear delineation of roles and, in particular, clear definitions of what is expected at each level of the professional hierarchy. One managing partner said that "partners need to manage clients, do the high level work, manage people and budgets, work as a team and follow policies; senior associates need to train others and train themselves and manage junior solicitors while junior solicitors need to do the work, be trained and want to be trained within the context of a career plan".

12. **Effective management of 'lateral hires'** was seen as an essential element for firms embracing lateral hiring, a practice necessary to fuel growth in an era of high demand. Lateral hiring was seen as an effective way to build human capital at mid-career and senior levels. However, lateral hiring was thought to have accompanying challenges, such as the issue of cultural 'fit' of lateral hires and the potential risk of losing clients to rival firms when 'lateral hires' voluntarily leave a firm. No participants noted the presence of unwritten rules against lateral hiring or poaching staff. Rather, the general tenor of the discussion was that lateral hiring or poaching was widely practised and a broadly accepted within the industry. Lateral hiring also emerged as a theme in the clear client strategy driver discussed earlier. Lateral

hiring was seen at times as opportunistic and thus without due diligence on the potential lateral hire. This driver suggests that reactive lateral hiring may be a risky strategy.

13. **Selective staffing** as a driver was talked about particularly in terms of the selection of entry- level lawyers into top tier firms; while university grades were said to be the 'default selection criteria', particularly for the blue chip firms, university grades are apparently not the only criteria. The participants suggested that law firms are also attempting to select graduates based on cultural fit, for example, through trial periods during a clerkship that law students complete in New South Wales during the summer vacation at the end of their fourth year of study. The fact that they are very hard to get in to for university graduates is seen as important in enhancing an elite image for top-tier firms. Elite firms were said by one participant to have a significant advantage over others in terms of the "raw material they commence with", meaning talented, hard-working and self-disciplined people self-select into these firms. These students, said the same participant, "like the fact that it is hard to gain entry into elite firms". Top legal graduates are very self-motivated and "expect to be marked hard" when they join the legal profession.

As discussed earlier, in the HRM literature selective staffing is commonly thought to include practices such as psychometric testing, multiple interviews and interviewers and structured interviews. What does selective staffing mean in practice for a law firm? Recruitment practice reflects the size of the firm and the level of professional being recruited. At the graduate level, for example, and in the larger top-tier firms where their strong 'brand' attracts applications from the highest-performing graduates, university grades are often the default criteria and only elite students with a high GPA tend to be even short-listed or able to gain trainee-level positions (summer clerkships) to begin their professional training after their fourth year of

university. During internships aspiring associates try to make positive impressions on their future employers. In contrast, the managing partner of a fast-growing successful mid-tier level firm explained how his firm has rejected the approach of hiring only the top performing graduates in preference to solid, hard-working, pragmatic people. The managing partner argued "these more rounded, pragmatic people fit more closely with what our clients want in terms of business-focused advice than the highest-performing students".

14. **Thought leadership**. Many respondents talked about attracting clients to their firm by having the "leading lights" in a particular area. Thought leadership is seen as building the brand of the firm and also becomes part of the employee value proposition when it comes to attraction. Thought leadership includes activities such as senior partners contributing to legal debate and being seen to be acting on high-profile matters of national interest, or on large commercial transactions of interest in the business community, or winning awards. Having thought leaders brings kudos to a firm and allows it to compete for high-profile work which then leads to more work – a virtuous cycle ensues.

15. **Managerial competence building** embraces the idea that law firms need not only to train their developing professionals at a technical level, a requirement that is often made by Law Societies to ensure lawyers' knowledge of the law remains current, but also that they invest in ensuring rising lawyers develop key competencies at each level. This driver was also spoken about as occurring when firms are able to grow their managerial talent from within the professional ranks and thereby prepare them adequately for their future partnership role within the firm. One respondent talked about the "progression to partnership" as necessarily constituting a pathway in which leadership competencies need to be assessed and developed at each level of the hierarchy. Earmarking a lawyer to be a future partner was "a critical

decision for firms", said another participant. However, he warned that "decisions about who should enter a partnership needed to be made on the basis of 'fit', not simply to promote retention".

16. **Decentralisation**. The research affirmed the value of creating small teams structured around either client groups or practice groups with particular legal specialties. Decentralisation may fit the work of smaller, more specialised teams more readily than larger teams. Respondents felt that decentralisation of authority creates employee engagement, which is important for professionals at all levels. For example, even a junior solicitor who may be working on a routine part of a larger litigation case could be made to feel a part of the project if they were regularly briefed on the progress of the case and the importance of their contribution to the overall result. Promoting a sense of ownership can be achieved with weekly project meetings and updates. Other respondents talked about the value decentralisation of authority created in terms of the quality of mentoring received and the opportunity it provides for senior lawyers to learn how to manage.

4.5 Study 1: preliminary discussion

The 16 'drivers of performance' for law firms are consistent with theories discussed in the reviewed literature about law firm management and high-performance work systems. Performance management, selective staffing, employee voice mechanisms, clear job description, competency building processes (intensive training) and decentralisation of authority are consistent themes across the best practices/HPWS literatures. Opinion also converges on the importance of aligning HR practices with organisational strategies and environmental contingencies, which reflects a central tenant of strategic HRM (Baron & Kreps 1999). For instance, lateral hiring as an effective growth tactic is discussed as suitable

and effective for mid-tier firms, while others identified that when the market is tight for talent retention policies become more critical. When discussing selection criteria, opinions converge on the need to be selective, while some firms emphasise the importance of cultural fit and others acknowledge university grades are their firm's most heavily weighted criteria.

4.6 Chapter summary

This chapter has presented the results of the preliminary stages of the research project including a summary of the results from the Pilot and a more detailed report on Study 1, the qualitative stage, consisting of convergent interviewing with 17 experts on management in law firms. The chapter discussed the processes used in the analysis of the interview data to determine convergence and thus illustrates the rigour that underpins the development of the research instrument used in the quantitative research to be reported on in the following chapter. Chapter 5 describes Study 2, in which patterns of use are diagnosed among firms with regard to the constructs identified in the convergent interviews.

Chapter 5 Configurations of management and performance

5.1 Introduction

This chapter describes the development of the survey, sampling, multivariate statistical tests, the development of the taxonomy and analysis of business performance across and within the clusters. As with Chapter 4, the results of these tests are also presented here to aid continuity. The chapter consists of five sections, including this one. Section 5.2 reports on the development of the research instrument, how the data were gathered and cleaned prior to running the analyses. Section 5.3 describes and justifies the methods used to test some of the research propositions, in particular cluster analysis, reports on the results of the scales and discusses the final cluster solution. Section 5.3 also describes how the performance ratios were derived, the statistical procedures used in the analyses of organisational performance and the results. Section 5.4 entails a preliminary discussion of the taxonomy and organisational performance trends within and across the clusters.

5.2 Method

Study 2 was similar to the Pilot, in that both studies were paper-based surveys asking the leaders of professional services firms to answer questions about their management practices and their perceptions of organisational performance. However, the statistical analyses in the two studies differed markedly and illustrate two approaches used by researchers to answer different questions. A linear approach explores hypothesised relationships between independent and dependent variables, whereas a non-linear approach, such as the synthesis

found in configurational research, explores problems where relationships are complex and the notion of independent and dependent variables is not seen as relevant (Miller & Friesen 1984). Study 2 illustrates the types of questions that can be answered using non-linear methods of analysis, such as cluster analysis, in preference to more conventional linear approaches, such as regression (Short, Payne & Ketchen 2008).

5.2.1 Sampling and data collection

A database of law firms was built in two stages. Initially a database with the names of managing partners from New South Wales-based law firms was obtained from a key informant. The list was then augmented with a mailing list bought from a commercial vendor which provided, where available, two or more names including each firm's managing partner and/or HR manager around Australia and New Zealand. The final list was checked and refined, with significant effort made to eliminate avoidable reasons for a non-response. Checking revealed that the list included a number of inaccuracies. The inaccuracies in the list reflect the dynamic nature of the industry including managing partner turnover or change, HR directors moving firms and a number of changes due to recent mergers, acquisitions and name changes.

The survey was then sent to 250 Australasian law firms. The cover sheet (Appendix 2) outlined the purpose of the research and discussed ethical and privacy issues. The cover sheet emphasised that the research was confidential, with surveys being coded, and it was explained that coding surveys was common practice and necessary to ensure multiple responses were not received from the same firm. Coding would also allow communication with participants, which was a key incentive for participation and a key tactic within the respondent recruitment strategy. It would also facilitate interpretation of the results. The first mail-out was followed

by phone calls to encourage responses, a second mail-out followed with a refined and corrected mailing list and, finally, a further round of follow-up phone calls.

5.2.2 Measures

In this study, the term 'clustering variables' is used in preference to 'independent' and 'dependent' variables, following the argument that labelling variables 'independent' and 'dependent' is not applicable to research on organisational configurations (Miller & Friesen 1984)

Clustering variables

Survey items were derived from the qualitative study, which identified 16 drivers of organisational performance in law firms. Some of the underlying constructs were tested using multiple scales and consequently 19 scales are discussed in this section. All response scales were Likert-type.

The survey scales and items (A–S) were:

A. Visionary Leadership was equated with the established construct of 'transformational leadership' as described by Podsakoff et al. (1990) and so this study used their four-item scale, which has been shown to assess transformational leadership styles. The stem of 'Leaders in this firm' was used and matched with items such as 'have a clear idea of where the firm is heading' and 'are able to inspire others with their plans for the future'. A five-point response scale was used (1=Strongly disagree to 5=Strongly agree).
B. Clear Vision or mission was measured with an original five-item scale derived from the qualitative study that assessed the extent to which firms have articulated a clear

mission for their organisations. The stem of 'To what extent do you agree that' was matched with items such as 'the firm has a clearly defined mission or vision' and 'our staff know what we stand for'. A five-point response scale was used (1=Strongly disagree, 5=Strongly agree).

C. Client Focus was measured using two sub-scales. The first, an established scale developed by Li and Calantone (1998), used eight items to test a firm's market focus (the extent to which they are client-centric and attempt to predict and respond to the future needs of their clients). The original seven-point scale was adapted to a five-point scale employing positive word anchors, for example, 'We *regularly* use clients to test and evaluate new services' and 'We *systematically* process and analyse client information'. An additional three (original) items were added to fully capture the construct identified as a driver in Study 1. These items explored the extent to which firms are managing the human repercussions of their effort toward client focus. Some firms were said to be so client-focused that they neglect the interests of their staff, mostly in expecting long stretches of evening or weekend work preparing documents to meet client deadlines. Items that addressed this side of client focus included 'We balance client needs with the firm's needs' and 'We sometimes say "no" to clients to protect the well-being of our staff'.

D. Voice Mechanisms (making decisions about how work gets done) was tested with a six-item scale derived from three sources. Four items (D22–25, 26) had originally been used by Sun et al. (2007) to test voice mechanisms. The term 'employees' was changed to 'lawyers' to reflect the focus of the research on core employees (Osterman 1994). Two extra items were added, namely: 'Our partners are able to directly influence how the firm is run', included to incorporate an aspect of voice identified in the qualitative research relating to the democratic nature of the partnership model, and

‘Our firm has frequent formal information sharing meetings (e.g., monthly)’, an element identified in the qualitative stage (Hartog & Verburg 2004).

E. Work Flow Processes was a six-item scale derived from Study 1 and from ideas relating to the delegation of work presented by Mayson (1997). This construct was described by participants in Study 1 as relating to a aspects of workflow – some of which are neutral, relating simply to sound financial management for example, ‘Our firm translates work in progress into cash in a timely fashion’ and also to practices designed to prevent ‘hoarding of work’ and promote sound delegation of work, including releasing lawyers to other partners to bolster teams in busy groups when their own areas have capacity. The questions were designed to explore the extent to which the firms have enacted policies to promote better deployment of human capital. Examples of items include: ‘Professional work is delegated in a way that prevents mistakes that cost the firm money’ and ‘The reward system in this firm supports the appropriate delegation of work’.

F. Accountability. The survey tested the construct of ‘accountability’ using a five-item, five-point Likert scale which asked about the type of criteria used in performance appraisal, the consequences of performance ratings in terms of remuneration decisions and bonuses, and how closely pay and profit sharing decisions were tied to non-financial indicators of performance. The scale was developed from the constructs identified in the qualitative stage. Two items in the scale proved to be problematic. For item F36 ‘With regard to equity holding partners … what proportion of remuneration decisions is based on behavioural indicators (e.g., teamwork)?’ and F37 ‘With regard to non-equity holding professionals ... what proportion of pay decisions is based on behavioural indicators is based on behavioural indicators (e.g., teamwork)?’. These

items showed high levels of missing data and it was decided to remove them from the scale.

G. Employee Value Proposition. The EVP construct relates to the extent to which a firm actively markets itself in the labour market as a desirable place to work, compared with its service market and labour market competitors. Such initiatives are sometimes described as employer 'branding' and range from activities in the graduate recruitment market, participating in 'employer of choice' benchmarking surveys and using the media to promote the firm in the job market. The EVP construct was tested using a three-item five-point Likert scale (1=Strongly disagree, 5=Strongly agree) with items such as 'We have deliberately developed a coherent set of HR policies designed to attract talent to our firm'.

H. Lateral Hiring was identified in the qualitative research as an important issue to be managed carefully by law firms. An original 10-item five-point Likert scale was used (1=Strongly disagree, 5=Strongly agree) to measure lateral hiring practices and also attitudes toward laterally hired lawyers.

I. Diversity was identified in Study 1 as an important driver of performance. To measure a firm's policies and attitudes to diversity, six items were adapted from a University of Wisconsin (Stout) survey of university employees. The six items from Wisconsin were included because of similar workplace dynamics that exist in both law firms and universities. A seventh (original) item was added: 'To encourage internal promotion to partner, we have strategies to encourage natural attrition or retirement for long-tenured partners (e.g., de-equitising, special counsel status, enforced superannuation, consultancy agreements with former partners, enforced retirement age)'. Some may see these policies as discriminatory and hence not in keeping with a general push toward encouraging and facilitating older workers staying in the workforce. However,

this was not the intention in the question design and was also not the inference made during the qualitative stage of the research. Rather, de-equitising policies are seen as creating the opportunity for older workers to continue to contribute professionally without the burden of managing a large practice or having to meet a set budget. Such practices are widely in place across several branches of the professional services sector.

J. Managerial Training was identified in Study 1 as important. The scale, derived from the qualitative stage, was a four-item scale that included items such as 'This firm invests heavily in training people for their managerial responsibilities' and 'We prepare our potential future partners for the challenges of leadership from an early stage of their careers'.

K. Performance Management needed to be based on more than just financial performance and also to include behavioural indicators of performance. This scale asked participants to assess their performance management systems. The stem 'To what extent does your performance management system account for' was matched with items such as 'business development activity' and 'thought leadership activity'. There were 12 items in the scale.

L. Client Strategy was identified in Study 1 as an important driver of performance in law firms but important also was the necessity for discipline surrounding the execution of a strategy. Participants acknowledged that at times managing partners need to enforce strategic decisions. The conventional areas of strategic planning (for example, does the firm have goals and does it communicate those goals) were measured in the survey using selected items from Powell (1992). The question stem was 'Please assess the accuracy of the items below', and the five-point Likert response scale ranged from 1=not very accurate to 5=very accurate. Items included: 'We have broad long-range

goals known to all lawyer managers and professionals'. The strategic enforcement dimension of the construct had a different stem, namely, 'With respect to decisions about who this firm will or will not act for' and was linked with items such as 'Our strategic decisions are strongly enforced' and 'If needed, we will hire or exit partners to match our strategy'.

M. Thought Leadership was tested with an original five-item scale (1=Disagree strongly, 7=Agree strongly). Sample items included, 'It is important for us to be seen to have the "leading lights" in our specialist areas' and 'Our firm invests considerable resources into being seen as thought leaders'.

N. Selective Staffing was tested using six items derived from an original seven-item scale developed by Snell and Dean (1992) (1=Disagree strongly, 7=Agree strongly). The wording of the scale was adapted to make the firm the unit of analysis and the organisational context was adapted to enhance the content validity of the scale, for example, the term 'employees' was changed to 'professional staff'. Sample items included: 'We have rigorous selection processes for professional roles (e.g., tests, interviews)' and 'A great deal of importance is placed on the staffing process in this firm'.

O. Role Ambiguity. The importance of role clarity was identified as important to the success of law firms. To test this construct, an 11-item role ambiguity scale developed by House et al. (1983) was shortened and adapted to suit the context. For example, 'I' was changed to the more general phrasing 'professional staff'; therefore the original 'I feel certain about how much authority I have' was changed to 'Professional staff feel certain about how much authority they have'. Some reverse-coded items in the original scale were amended to reflect the dominant positive coding with the survey. Three items within the scale were original items developed to reflect the constructs

identified in Study 1, for example, around the ascension to partner: ‘Our partners are clear on what is expected in their role’ and ‘Our senior associates are clear on what is expected in their role’ and ‘Our junior lawyers are clear on what is expected in their role’.

P. Performance Management/Developmental Appraisals. The presence of developmental performance management was assessed using three items adapted from Snell and Dean (1992). A new stem was developed as follows: ‘Regarding accountability and performance of our professionals and partners’. It was paired with items such as ‘a great deal of emphasis is placed on finding avenues of personal development when performance is discussed’.

Q. Continuous Improvement. To test this construct, a four-item scale from Conca et al. (2003) was used. The response scale ranged from 1=Not implemented to 7=Fully implemented. The stem was ‘Please indicate your firm’s level of implementation of each of the following’ and was matched with items such as ‘continual monitoring and improvement of services and processes’ and ‘specific structures to support quality improvement (quality committees, work teams)’.

R. Strategic HRM. The extent of strategic orientation of the HR department was identified in the Pilot as a differentiator of performance between high and low performing firms and was also identified as important in Study 1. To test the level of strategic HRM, a four-item scale adapted from Becker and Huselid (1998) was used. The stem ‘Please indicate the extent to which you agree or disagree with each statement’ was matched with items that included ‘Does you firm make an explicit effort to align business and HR strategies?’ A reverse-coded item was included in this scale as follows: ‘Is HR seen primarily by senior management as a cost to be

minimised versus a source of value creation?' This item was recoded prior to the data analysis.

S. Decentralisation of Authority. This scale measured the extent to which decision making is decentralised in a firm. The scale was adapted from Delaney and Huselid (1996). The stem, 'Please indicate the lowest level in your firm at which someone has the authority to make the final decision about the following' was combined with seven items that included 'The number of people in your firm', 'Evaluating worker performance', Work scheduling or overtime' and the response scale ranged from 0=Executive Committee to 7=Senior Associate.

Outcome variables

Perceptual measures

T. Estimated Organisational Performance was developed in an attempt to operationalise three common human capital-oriented proxies of performance discussed in the literature: discretionary effort, voluntary attrition and employee engagement (Ulrich 1997b). These constructs were each measured with a single item. Discretionary effort was measured by the item: 'Do professionals in your firm do more than is typically required in the contract or job description?' Voluntary attrition was measured by asking participants to estimate the 'Level of voluntary annual turnover among professionals' and used a five-point scale ranging from <5% to 20%. Employee engagement was measured with the item: 'Estimated level of "engagement" among professionals' and ranged from 'Very low', to 'Very high'.

U. Perceptual Measures of Performance. The use of perceptual measures of performance is well established in the literature (Hartog & Verburg 2004). Perceptual measures of performance are often used in research on private firms and have been found to

correlate well with objective measures of organisational performance (Venkatraman & Ramanujam 1987). Perceptual scales ask respondents to assess their firm's performance relative to their peers or competitors (Harel & Tzafrir 1999; McClean & Collins 2010). An underlying assumption of such scales is that respondents have sufficient perspective and information to accurately compare their firms' performance with that of similar firms (Powell & Dent-Mitcallef 1997). The scale used was a well-established 12-item, four-point Likert scale developed by Delaney and Huselid (1996). The stem read, 'Compared to your competitors/nearest peers, how would you compare your organisation's performance over the last three years in terms of….', and was matched with items such as 'quality of service or programs', 'satisfaction of clients' and 'profitability'. The response scale ranged from 1=Worse to 4=Much better.

Financial performance measures

To alleviate participants' perceived concerns about the disclosure of sensitive data, a preamble to the final section of the survey reminded respondents that the survey was confidential, stressed the importance of obtaining objective measures of performance in organisational research and explained that no firm's performance would be identified or disclosed.

Financial performance indicators. The harder performance data were gathered through four items each using categories of performance, a strategy designed to reassure participants of confidentiality. The items were as follows: item 59 asked for the 'Estimated gross revenue in the last year', item 60 asked 'Estimated annual profit per (full equity) partner profit sharing principal in the last year', item 61 asked for the 'Blended hourly billing rate in the last year' and item 62 asked for the 'Profit margin in the last year'.

Sample survey items

Table 6. Scales and sample items

Construct	Sample items	Source(s)
Leadership	Leaders in this firm have a clear idea of where the firm is heading.	Podsakoff et al. 1990
Vision	To what extent do you agree that firm's vision/mission is communicated well to clients?	Derived from Qual.
Client focus	We sometimes say 'no' to clients to protect the well-being of our staff.	Li & Calantone 1998
Voice	Our lawyers are able to suggest improvements in the way things are done.	Sun et al. 2007; Hartog and Verburg 2004
Work flow	Professional work is delegated in a way that prevents mistakes that cost the firm money.	adapted from Mayson 1997
Accountability	To what extent does your performance management system look at non-financial measures of performance (e.g., teamwork)?	Derived from Qual.
EVP	We have deliberately developed a coherent set of HR policies designed to attract talent to our firm.	Derived from Qual.
Lateral hiring	We have a deliberate lateral hiring strategy in this firm.	Derived from Qual.
Diversity	Women are encouraged to fully participate in this organisation.	Univ of Wisconsin/ Qual
Managerial training	This firm invests heavily in training people for their managerial responsibilities.	Snell & Dean 1992
Holistic perf. mgt	To what extent does your performance management system account for deviant behaviour?	Snell & Dean 1992
Client strategy-strategic discipline	Please assess the accuracy of the statements below: our strategic client decisions are strongly enforced.	Powell 1992
Thought leadership	Our firm invests considerable resources into being seen as thought leaders.	Derived from Qual.
Selective staffing	All the right people are involved in important selection decisions.	Snell & Dean 1992
Role ambiguity	All the responsibilities inherent to professional jobs are clearly defined.	House et al. 1983
PM2 appraisals	A great deal of emphasis is placed on finding avenues of personal development when performance is discussed.	Snell & Dean 1992
Continuous improvement	Please indicate your firm's level of implementation of each of the following: continual monitoring and improvement of services and processes.	Conca et al. 2003
Strategic HR	Does your firm make an explicit effort to align business and HR strategies?	Huselid 1995

5.2.3 Data preparation

Data cleaning

Data cleaning of the data set needs to occur prior to conducting predictive statistical tests (Pallant 2009). In this research data cleaning was quite straightforward and entailed entering the raw data into Excel and then conducting checks to ensure the data had been accurately entered, with a research assistant reading out scores from the returned surveys as they were checked in Excel. A reverse-coded item was recoded at this stage and an initial scan of missing data was conducted. This validation process ensured the data were entered accurately and once these checks were made the data was then imported into SPSS.

The first step in preparing the data file for a cluster analysis procedure is to aggregate the individual items in each of the scales to produce the variables that will ultimately be used to cluster the cases. The researcher can choose to either use the mean or sum scores of the relevant scales to create the variants to be used in the clustering algorithm. With some types of data in cluster analysis it is necessary to standardise the variables, for example, by converting all the scales into seven-point scales or five-point scales. It may also be necessary to calculate a *z* score for the variables (Sherer 2007). In this research the scale scores were simply summed. Standardisation of clustering variables when data have disparate values is important in cluster analysis so that all the variables contribute equally to the distance or similarity between the clusters. However, in this research instrument the majority of the clustering variables were measured using seven-point scales; most of the five-point scales in the survey were not used for the clustering algorithm and therefore would not affect the result.

Missing data

In cluster analysis, untreated missing data can hamper statistical power for the resultant within cluster sample sizes. Before attempting to address missing data using a deletion or imputation method it is important to identify patterns in the missing data to see if there are problematic items or scales. Some of the scales were untried or newly configured in this research and hence the reliability of individual items or scales was in some cases unknown beyond the pilot testing that had occurred. In reviewing the missing data, the pattern of skipped items suggested some specific items within certain scales were of concern to respondents or were confusing. Examples included a scale termed 'accountability', designed to determine whether behaviours were considered in decisions about remuneration for equity and non-equity holding professionals. On this scale there were seven instances where one or both of two items asking about pay decisions for partners and non-partners (F36, F37) were skipped by respondents. Respondents may have been reluctant to reveal the exact nature of their performance management system, or they may have felt there was a 'right' and 'wrong' answer about how much their performance management systems should be measuring non-financial aspects of performance. Another possible explanation is that non-equity holders were assessed one way and equity holders were assessed another, and admitting a significant disparity between owners and employees may have been considered socially unacceptable. These two items were therefore deleted and the sum score was recalculated. The new configured scale had a Cronbach's alpha of .71.

There are several other standard methods of addressing missing data: listwise deletion, pairwise deletion and imputation (Hair et al. 2010). Listwise deletion entails removing the case entirely from the analysis if there is missing data, pairwise deletion entails removing the case from any analyses that involve the variables from that case that are missing and is

favoured over listwise deletion because it allows for more cases to be included in some of the analyses and imputation involves replacing missing data with estimated values derived from other variables or cases such as the mean of the scale from which the data is missing. Due to the restricted size of the sample, both listwise and pairwise deletion would be problematic and constrain the size of each cluster and also further analyses of the resultant clusters. Imputation was therefore the favoured approach to missing data. The most reliable imputation method is Full information Maximum Likelihood (FIML). FIML is a principled method of imputation of missing variables, and is relatively free of distortion, particularly when compared with listwise deletion and mean imputation(Peugh & Enders 2004). (FIML) was used in SPSS using the EM (Expectation Maximisation) algorithm function. The widely used EM technique is considered particularly appropriate if the research questions involve means and co-variances (or correlations), and is a straightforward method for obtaining maximum likelihood estimates when dealing with incomplete data (Peugh & Enders 2004).

Reliability

With regard to the lateral hiring scale, the Cronbach's alpha was checked after the data were collected and was found to be low. Experimental item removal and rechecking involved analysing the correlations of the questions with each other and also to the recalculated sum score for the scale. Where the correlations were low on individual items they were removed from the scale, a new sum score was calculated and correlations were re-run. Eventually an acceptable Cronbach's alpha of .77 was obtained for the scale by removing items H41, H42, H43, H47 and H48. For the purpose of the analysis, the scale became a five-item scale including items such as 'We see lateral hires as more likely to leave' and 'Some partners in this firm are reluctant to introduce lateral hires to their clients'. The sample size (n=45) precluded the use of scale-level factor analysis. However, future research on a larger sample

would likely uncover two factors in the scale. It is expected that one factor would be the actual practices associated with lateral hiring, for example, whether laterals are hired opportunistically or as part of a deliberate staffing strategy, and the second factor is likely to be more related to firm-wide attitudes toward the practice and toward laterally-hired professionals or 'lateral hires' as they are known in the industry.

5.2.4 Validity

Face validity

A strong test of the validity of a set of questions for use in statistical research is to assess the face validity of the instrument the researcher intends to use. Face validity essentially describes the acceptability of the item. When an item is face valid, a respondent is accepting that the question is a legitimate test of an underlying construct. Prior to gathering the data for this research the instrument was pre-tested with a small panel of industry advisors and the instrument was described as legitimate and comprehensive instrument to test management in law firms.

Factor analysis

Factor analysis is an ideal method to ensure the validity of items being measured, that is, that the scales being used are measuring what they are supposed to measure. However, scale-level factor analysis requires an absolute minimum sample size of 50 (Hair et al. 2010). Given these numbers, this dataset (n=45) did not support scale-level factor analysis. Item-level factor analysis is, however, allowable with smaller data sets, although it has been criticised as lacking relevance. To check the validity of the individual items, principal factor analysis was conducted at the item level with the goal of checking the reliability of items in the original

scales (derived from the qualitative stage). Four items showed low loadings, as indicated in Table **7**.

Table 7. **Item level factor analysis items with low loadings**

Scale	Item	Loading
Balanced client focus	C.19 We sometimes say 'no' to clients to protect the well-being of our staff.	.220
Work flow process	E32 Our firm translates work in progress into cash in a timely fashion.	.220
Diversity	I.57 To encourage internal promotion to partner we have strategies to encourage natural attrition or retirement for long tenured partners.	.263
Holistic performance mgt.	K.72 To what extent does your performance management systems account for record keeping and archiving?	.256

These results, while low, were close to what is commonly considered an acceptable loading of 0.3. There are several explanations for these low loadings. C19 was perhaps too strongly worded; more moderately worded items tend to show stronger loadings. Item E32 was perhaps too specific. I.57 may not have applied to smaller firms in the sample, but may be a phenomenon only in larger older established firms. Item K72 was from a well-validated scale by Snell and Dean (1992), and its low loading might have arisen from low content validity in this context. The diversity and small size of the sample might have also contributed to the result. After removing these items, recalculating the sum scores and rerunning the cluster analysis, the same cluster solution was obtained. Future researchers should therefore not dismiss these items but rather check the loadings, especially when they are used with a larger sample.

Collinearity checks

Multicollinearity refers to when variables co-vary and is particularly problematic in cluster analysis because it can affect or skew the final cluster solution, affecting the insight to be gained from the cluster analysis (Hambrick 1984). Hair et al. (2010, p.524) describe the problem succinctly:

> the concern is that the set of clustering variables is assumed to be independent but may actually be correlated. Multicollinearity may therefore become problematic if several variables in the set of cluster variables are highly correlated and others are relatively uncorrelated. In such a situation the correlated variables influence the cluster solution much more so than the uncorrelated variables.

To prevent this problem, checks were made for collinearity by testing for correlation among the scales as a final check prior to conducting the cluster analysis. The correlation checks showed that some of the scales were collinear as follows:

- WorkFlowProcess and VoiceMechanisms = 1.00
- DecisionMaking and VoiceMechanisms = 1.00
- DecisionMaking and WorkflowProcess = 1.00

To address this problem, the scales Workflow Process and Voice Mechanisms were excluded prior to proceeding with the cluster analysis and the scale Decision Making was retained.

5.3 Results

This section presents the results of the survey, beginning with the descriptive results noting the sample (individual and firm) demographics. At the conclusion of these two rounds of recruitment, 45 responses had been received, a response rate of approximately 25%. This response rate was lower than hoped for, although it was not outside the norm for studies that utilise data from organisations (Baruch & Hotom 2008). Private law firms have a tendency to be guarded when it comes to research. Some firms appear to have explicit policy decisions

against participation in surveys (several letters or verbal responses were given to this effect), they may also be plagued by survey fatigue or even, simply by time constraints. However, there was no noticeable non-response bias in the population and the firms ranged broadly in size, location and profile. Participants were serving senior managers in either line management roles (managing partners or CEOs) or senior HRM professionals (HR directors or HR managers). The demographic profile of the sample is given in Table 8.

Table 8. Frequency table of respondent profile

Item	Number of respondents	Percentage in sample
Designation		
• Managing partner	12	27.9
• Partner	4	9.3
• Paid executive	14	32.6
• HR manager	13	30.2
Number of years worked in the firm		
• 1–5 years		
• 6–10 years	22	50
• 11–20 years	8	18.2
• 21 years or more	8	18.9
	6	13.6
Number of years in current role		
• 1–3 years	12	28.6
• 4–6 years	17	40.5
• 7–12 years	8	19.1
• 13 years or more	5	11.9

Table 9 illustrates the demographic profile of the survey and illustrates the diversity of both the sample and the respondents. This diversity is important in single respondent survey design and in such studies can help to mitigate respondent bias and common method variance. In Table 10 the scale results are then summarised, followed by a series of tables showing the further investigations conducted on the resultant clusters.

5.3.1 Respondent demographics

The sample that responded to the survey was quite diverse. In terms of firm size, almost half the firms surveyed (48%) were smaller firms, with 1–10 equity partners, with another 36% of firms those we might consider mid-sized firms (with nine firms in the 11–20 partner range and a further seven with 21–30 partners). Larger firms, with 31+ partners, made up just 12% of the sample. Thirty-four firms (75%) indicated they had 'salaried partners', a reflection on the broader conception of partnership found in modern law firms although over half the firms (51%) had five or fewer salaried partners. Individual respondents reflected the following designations: Managing Partner 12/45=27%, Paid Executive 13/45 29%, HR Manager/Director 13/45 29%, Partner 4/45 9%.

Table 9. Frequency table of sample firm profile

Item	Number of firms	Percentage in sample
Number of equity partners in the firm		
1–10 partners	20	48.78
11–20 partners	9	21.95
21–30 partners	7	17.07
31 partners or more	5	12.20
Number of salaried partners in the firm		
0–5 partners	20	51.28
6–10 partners	8	20.52
11–20 partners	6	15.38
21 to 40 partners	5	12.82
Number of FTE fee earning employees in the firm		
1–30 employees	14	31.82
31–60 employees	11	25.00
61–175 employees	9	20.45
176 employees or more	10	22.73
Location of head office/firm		
• Sydney	15	33.33
• Melbourne	6	13.33
• Brisbane	5	11.11
• Regional Australia	9	20.00
• New Zealand	10	22.23

5.3.2 Scale results

Table 10 gives details on the main scales used to test the constructs identified in Study 1. The results shown below indicate the scale results following data cleaning, item deletion, correlation checks and reconfiguring scales to ensure reliabilities. The Cronbach's alpha coefficients for the scales are all above .70 with the exception of Workflow, which was .65.

Table 10. Scale results: Items, means, standard deviations and Cronbach's alpha

	Items	Mean of Summed Score	SD (*s*)	Cronbach's Alpha
Leadership	4	15.1	2.8	.91
Vision	5	18.2	3.3	.82
Client focus	11	36.1	7.0	.84
Voice	6	24.1	2.9	.70
Work flow	6	22.9	3.0	.65
Accountability	3	11.3	1.9	.71
EVP	3	11.5	2.0	.74
Anti-lateral hiring sentiment	5	12.7	3.7	.77
Diversity	7	27.2	3.8	.76
Training	4	13.5	3.0	.79
Holistic performance mgt	12	41.7	6.1	.84
Client strategy-strategic discipline	7	24.8	5.9	.87
Thought leadership	5	27.2	5.3	.88
Selective staffing	6	26.8	4.6	.77
Role ambiguity	7	38.7	6.7	.94
Performance mgt. 2 developmental appraisals	3	16.1	2.9	.79
Continuous improvement – Quality processes	4	20.1	4.2	.81
Strategic HR	4	20.6	5.0	.81
Decentralisation	8	16.6	4.0	.78

5.4 Cluster analysis

5.4.1 Description and justification

Cluster analysis is a multivariate technique used to group objects based on characteristics that hold across a population or sample. Cluster analysis allows for the identification of groups based on their similarities in terms of the variables selected. Cluster analysis is commonly used to develop taxonomies. Cluster analysis has a range of business applications; it is widely used, for example, in marketing studies to as a technique to classify markets into segments or consumer groups. Clustering algorithms look for multi-dimensional similarities between cases on a given set of variables, defined by the researcher, establishing clusters which are most similar to one another on those variables and most different from the other cases on the same variables. Hair et al. (2010 , p.486) explain that "the resulting clusters should exhibit high internal (within cluster) homogeneity and high external heterogeneity". A challenge in HR-related research is whether to determine the likely number of groups using, for example, an existing typology before conducting the cluster analysis, or to conduct the cluster analysis, determine the appropriate cluster solution and then interpret the clusters on the basis of a conceptual or theoretical underpinning. The approach adopted here is consistent with the inductive approach employed by Guest et al. (2004) and MacDuffie (1995), where the clusters of HR practices are defined first and then the groups interpreted afterward.

Cooper and Schindler (2003, p.641) outline the five stages of cluster analysis as follows:

1. Selection of the sample to be clustered
2. Definition of the variables on which to measure the objects, events or people (e.g., financial status, political affiliation, market segment characteristics, symptom classes, product competition definitions, productivity attributes)

3. Computation of similarities among the entities through correlation, Euclidean distances and other techniques
4. Selection of mutually exclusive clusters (maximisation of within-cluster and between cluster differences) or hierarchically arranged clusters
5. Cluster comparison and validation.

With cluster analysis, the researcher has many choices in terms of the methods employed. In fact, a criticism of cluster analysis is that a change in one element of the technique used to cluster a sample may significantly alter the clustering solution. There is no unique clustering solution and thus the researcher should have a strong conceptual basis to deal with issues such as why groups exist and what variables logically explain why objects end up in the groups that they do.

An important choice for researchers is the decision to employ either a hierarchical or a non-hierarchical clustering method. Hierarchical cluster analysis (for example Ward's method) is used when there is no prior knowledge of the likely number of clusters or their characteristics. In contrast, non-hierarchical techniques (k-means) are used when hypotheses concerning the number of clusters already exist and the researcher can direct SPSS to compute a specific number of clusters (for example, a three-cluster solution). Frequently researchers employ Ward's method and k-means successively or in tandem to ensure a parsimonious solution is obtained. The combination of the two techniques allows for greater surety in the resultant cluster solutions than the use of a single clustering technique. However, researchers need sufficient information about the data to determine the number of clusters and to be confident that the clusters are not simply an artefact imposed by the clustering method (Cooper & Schindler 2003).

5.4.2 Procedure

Two stage-cluster analysis

The clustering method used followed the two-stage approach recommended by Hair et al. (2010) and discussed above. The first stage entailed the use of an 'exploratory' hierarchical cluster analysis using Ward's method to calculate the squared Euclidian distances. This procedure resulted in three-, four- and five-cluster outputs. The penultimate three cluster output produced the following cluster solution: cluster 1, n=25; cluster 2, n=3; and cluster 3, n=16.

The output means for the five-cluster solution were used as the starting means for the second stage of the analysis, a quick cluster procedure using k-means. A three-cluster solution was sought and obtained using this procedure, with the final cluster solution settled on as cluster 1, n=19; cluster 2, n=6; cluster 3, n=16; three cases did not appear in the final cluster solution (these cases are considered an emerging cluster) and one outlier case was identified that was excluded from any further analysis.

ANOVA across clusters

To identify the defining characteristics of each cluster the next stage of the analysis sought to identify the variables that discriminated between the clusters – and therefore the variables that defined the clusters. These defining features of each configuration were found by conducting one-way ANOVAs on the final three-cluster solution. These ANOVAs were used only to aid interpretation and not for inferential purposes. To ensure that only the key discriminating variables that defined the clusters were noted, a post hoc (Bonferroni) adjustment was applied to the ANOVAs, whereby for any separate test the adjusted alpha was equal to the overall alpha (.05) divided by the number of cases (45). Despite this conservative adjustment, all

except one of the clustering variables were significant, confirming the stability of the resultant solution. The results of this analysis are shown in Table 12.

One of the clusters identified was too small (n=3) to be verified and hence these three cases were omitted from the final cluster solution. The cluster analysis also revealed an outlier case with unusual characteristics that does not fit with the other cases and distorts the cluster solutions. The outlier was also excluded from subsequent analyses. Despite its small size, the emerging configuration is worth considering, and presents opportunities for further research. These opportunities are discussed in Chapter 6.

A final check of the discriminating variables between the clusters was conducted by employing equivalent non-parametric procedures. Non-parametric statistical methods are commonly used to analyse samples that are not normally distributed or where the data are categorical. Non-parametric tests may also be employed where the sample size is small (Siegel & Castellan 1988). Although the data were normally distributed and the variables ordinal, 44 firms represents a limited sample, and hence non-parametric tests were applied to verify the results from the ANOVA procedure. It was expected the non-parametric tests would yield an identical result to the equivalent parametric tests of variance and this was, in fact, found. The results of the confirmatory non-parametric tests are shown in Table 13.

The three configurations identified were found to be stable as verified by the strict post hoc testing that was conducted. However, the profile of firms within each cluster was of interest in further assessing the nature of each configuration, and analyses were conducted to help diagnose each firm's characteristics. First, the firms' case numbers were linked back to their survey codes and identified with their name and location. The broad character of the clusters

was assessed using researcher judgement and prior knowledge of the firms and the use of existing archetypes of the industry were helpful here in aiding the interpretation. The firms in cluster 1 were not prominent 'name' firms, but were lower-profile and, generally speaking, smaller firms. The firms with 'well known' names appeared more in clusters 2 and 3. Also it was noted that the New Zealand firms fell predominantly into cluster 1, a result that perhaps reflects the more conservative character of the industry in New Zealand and the smaller scope of business in New Zealand.

5.4.3 Three-cluster solution

In the section below the three stable clusters identified in the cluster analysis are discussed. This section also develops general comments about the emerging configuration.

Cluster 1: Democratic Traditionalists (n=19)

Firms in cluster 1 use an HR and management configuration that appears to be quite consistent with the classic P^2 archetype. These firms have been named 'Democratic Traditionalists'. Relative to the two other larger clusters, the Democratic Traditionalists rank low on 8 of the 17 significant clustering variables. This finding does not suggest that firms in this cluster have not implemented these practices at all, rather, that they have done so at a lower level of intensity than the other groups identified in the research. The practices de-emphasized by these firms aggregate around a theme of strategic management, which suggests firms following this configuration are only marginally interested in adopting practices which lead to a market orientation and clear strategic goals. A logical conclusion would be that these firms were operating in stable (mature) markets and hence there is little perceived need for a predetermined strategy or for strong leadership, and little perceived need for HR practices geared toward specific competencies or as enablers of strategic goals. These

practices may also be seen as introducing unwanted cultural change or it may be thought that such practices would raise expectations of what could be achieved in terms of behavioural change or management practices that the firm would not be able to successfully execute.

Variables in the 'high' category for the Democratic Traditionalists, included accountability, anti-lateral hiring sentiment, thought leadership and process excellence. Firms in this cluster are also in the 'high' category on Workflow Processes and in the 'mid' category in terms of their Diversity. These firms seem to be democratic, accountability appears to be strongly enforced and these firms have traditional attitudes to careers which may mean they are committed to internal promotion. The Democratic Traditionalists also seem focused on using their existing resources effectively, as evidenced by their high relative scores on Process Excellence and Work Flow, items that although not significant in the ANOVA, had, in an absolute sense, a high mean score. A result that has two different explanations is the focus among these firms on Thought Leadership. In one sense thought leadership might be considered a progressive market-oriented practice geared toward producing a commercial outcome of attracting clients. However another interpretation is that a focus on Thought Leadership is consistent with traditional values such as scholarship, professionalism and service to the profession.

Cluster 2: The Laissez-faires (n=6)

All Australian firms, this cluster included two of the larger more prominent firms in the sample, three mid-tier firms and a smaller regional Australian firm. Firms in this cluster seem have adopted a Laissez-faire type configuration, where loose coordination rather than formal control from the centre is more important, and self-reliance and autonomy (in practice areas or for individual professionals) are allowed. Relative to firms in the other two clusters, these

firms were high on none of the clustering variables, indicating a lower focus on performance-oriented management practices. Although these firms were not in the 'high' category on any of the clustering variables, they were, however, in the 'low' category on a many of the other variables, including leadership, vision, client focus, democratic decision-making, accountability, employee value proposition, diversity management, managerial training, holistic performance management (measures), client strategy, thought leadership, selective staffing, role clarity, performance management (appraisals) and process excellence.

The dominance of 'low' results in this cluster seems to suggest that professionals in these firms receive less support and coordination than in the other clusters, that neither external client orientation nor internal 'pro-social' behaviour was supported through HR policies. Relative to the other clusters, and in terms of all the significant differentiating variables, these firms were lower on all items in comparison to the other two clusters. One possible explanation for this result is that these firms are already performing well in a stable practice area and they do not see a need to invest in practices orientated toward performance and further that monitoring mechanisms are seen as unnecessary. These firms may be functioning effectively without the need for strong leadership or to move their firms onto a footing consistent with strategic management principles around formal business plans, for example. These possible explanations are explored further in subsequent analyses and discussion.

Cluster 3: Performance-oriented progressives (n=16)

Cluster 3 comprises a mix of mid-sized and larger firms, including some of the better-known 'name' firms. Relative to the other clusters, cluster 3 firms have adopted the performance-oriented management practices to the greatest extent; in fact, they are in the 'high' category on all (but one) variable. Firms in this cluster have moved toward a performance-oriented

management system across a number of dimensions: they have adopted strategic management principles such as strategic planning and vision setting; they appear focused on leadership and leadership training; they focus on driving accountability for partners and down the professional hierarchy through holistic performance measures; they regard the HR function as strategic and seem to use strategic HR practices such as selective staffing, diversity policies, developing an employee value proposition, hiring selectively and ensuring expectations are clear through their efforts to create role clarity.

An interesting area within the overall approach of these firms is their open attitude to lateral hiring. The variable Lateral hiring sentiment that looks at negative attitudes to lateral hires and lateral hiring was in the 'low' category in this cluster, suggesting a market-driven, market-oriented approach to staffing is tolerated. Lateral hiring is clearly not *prime facie* a deleterious management practice. In fact, many firms appear to rely on it as a critical element in their HR system, as discovered in the interviews. Lateral hiring, may, however, have unintended consequences and undermine other aspects of the employment system, in particular, managerial training that sets up an expectation for internal promotion. Managerial training is typically geared toward internal hiring systems and thus the career prospects of existing staff may be damaged by external or lateral hiring, particularly hiring equity partners from outside the firm.

(Emerging) Cluster 4: The Regionals (n=3)

Cluster 4 comprises three Australian 'regional' firms that were single-office practices located outside of the metropolitan capital cities of Sydney and Melbourne. These firms were excluded from the one way-ANOVA comparisons however, in an absolute sense, the mean score of these firms on almost all the clustering variables was lower than the three larger

clusters. Clearly this result is inconclusive due to the small sample size. However it appears these regional firms are not particularly focussed on policies and practices oriented toward performance. There are several explanations for the low intensity of use of these practices among the 'Regionals'. These firms may not be able to afford to invest in HR practices, alternatively because they are located away from the main commercial activity in Australia they do not feel the same pressure to conform to 'new' ways of managing professionals as those firms based in larger centres. Further the Regionals are probably operating in relatively stable markets and may not feel there is much growth potential in their firms, irrespective of the level of investment activity designed to drive performance.

Parametric and Non-Parametric Analyses of Variance

Following are a series of tables with further details of the output from the statistical tests described above. Table 11 provides a summary of the three-cluster solution based on ANOVA and post hoc tests, as described above, across the three main clusters. The Regionals was too small a group to include in further statistical analyses across the clusters and is therefore not included in this table. The more detailed Table 12 shows the means of the distinguishing variables between the clusters and the results of the Bonferroni comparisons. Table 13 shows equivalent non-parametric tests of association. Non-parametric tests are normally used when data are not normally distributed and not numeric (categorical variables), and it also used to analyse small samples. In this instance non-parametric tests were employed to cross-validate the results of the ANOVA. As Table 13 shows, the non-parametric tests of association verified the results obtained using their parametric equivalents. This verification was achieved by running a Kruskall-Wallis test across the three larger clusters, which established the mean rank for each clustering variable, and using Mann-Whitney tests to confirm this finding. A Bonferroni correction of .001190 was applied to confirm the result.

Table 11. Illustrative summary of ANOVA and Bonferroni post hoc adjustment output across three main clusters

	Cluster		
	Democratic Traditionalists	The Laissez-faires	Performance-oriented Progressives
Number	1	2	3
Cluster size	(19)	(6)	(16)
Demographic Profile	Syd (3), Melb (4), Bris (3), NZ (7), Regional (2)	Syd. (4), Melb (1), Regional (1)	Syd(8), Melb (1), Bris(2), NZ (2), Regional (3)
Clustering Variables			
Leadership	LOW	LOW	HIGH
Vision and mission	LOW	LOW	HIGH
Balanced client focus	LOW	LOW	HIGH
Decision making	LOW	LOW	HIGH
Accountability	HIGH	LOW	HIGH
Employee value proposition	NotSig	LOW	HIGH
Lateral hiring negativity	HIGH	NotSig	LOW
Diversity	MEDIUM	LOW	HIGH
Managerial training	HIGH	LOW	HIGH
Holistic performance management	LOW	LOW	HIGH
Client strategy	LOW	LOW	HIGH
Thought leadership	HIGH	LOW	HIGH
Selective staffing	LOW	LOW	HIGH
Role clarity	MEDIUM	LOW	HIGH
Performance management – developmental appraisals		LOW	HIGH
Process excellence	HIGH	LOW	HIGH
Strategic HR management	LOW		HIGH
Decentralisation	NotSig	NotSig	NotSig

Table 12. Detailed cluster solution showing sum scores of the cluster variables by cluster showing indicative one-way ANOVA results and Bonferroni post hoc test results and scale reliabilities

Scales	Cluster 1 Democratic traditionalists	Cluster 2 The Laissez-faires	Cluster 3 Performance-oriented Progressives	Cluster 4 The Regionals
Visionary Leadership†	14.68low	13.50low	16.94high	12.33
Vision & Mission†	17.21low	17.17low	20.63high	14.00
Balanced Client focus*	34.42low	30.83low	42.44high	26.00
Decision making†	24.42high	20.83low	25.19high	23.00
Accountability*	11.42high	9.00low	12.50high	11.00
Employee Value Proposition†	11.42n.s	9.83low	12.81high	9.67
Lateral Hiring Negativity†	14.42high	13.67n.s.	11.13low	10.33
Diversity*	27.42med	24.50low	29.88high	22.00
Managerial Training†	13.97high	10.83low	15.19high	10.00
Holistic Perf Management*	41.21low	36.67low	46.50high	36.00
Client Strategy*	23.20low	23.50low	29.50high	17.67
Thought Leadership*	28.16high	24.67low	30.19high	14.67
Selective Staffing†	26.32low	24.67low	29.81high	20.00
Role Clarity*	38.84med	30.33low	43.13high	33.00
Performance management - developmental appraisals*	16.11	13.67low	18.00high	13.00
Process Excellence*	20.84high	15.33low	22.69high	14.33
Strategic HR Management†	19.37low	22.83	23.50high	9.33
Decentralisation (n.s.)	15.95	17.83	17	15.33

Notes: *measures which clearly differentiate between the clusters in the clustering ANOVA
†measures which show a tendency to differentiate between the clusters at .001190
Low indicates the relationship between the variables in the post hoc checks of association between the three larger clusters, the clusters marked low are those with a low relative level of activity in the management practice
Med indicates the cluster shows a moderate relative level of activity in the management practice
High indicates the cluster shows a high relative level of activity in the management practice

Table 13. Mean rank of the cluster variables across the three clusters using non-Kruskall-Wallis, Mann-Whitney and Bonferroni adjustment)

Scales	Cluster 1 Democratic traditionalists	Cluster 2 The Laissez-faires	Cluster 3 Performance-oriented Progressives
Visionary Leadership†	17.84low	12.33low	28.00high
Vision & Mission†	16.34low	15.08low	28.75high
Balanced Client focus*	15.82low	10.00low	31.28high
Decision making†	21.29high	9.92low	24.81high
Accountability*	19.50med	7.42low	27.88high
Employee Value Proposition†	18.76low	10.00low	27.78high
Lateral Hiring Negativity†	24.66high	24.67	15.28
Diversity*	18.18med	7.50low	29.41high
Managerial Training†	20.45high	9.00low	26.16high
Holistic Perf Management*	17.45med	8.50low	29.91high
Client Strategy*	15.08low	15.92low	29.94high
Thought Leadership*	19.87med	8.00low	27.22high
Selective Staffing†	18.42low	12.17low	27.38high
Role Clarity*	19.66med	5.58low	28.38high
Performance management - developmental appraisals*	18.76low	9.83low	27.84high
Process Excellence*	20.16med	5.75low	27.72high
Strategic HR Management†	14.76low	24.25	27.19high
Decentralisation (n.s.)	15.95	24.50	21.69

Notes: *measures which clearly differentiate between the clusters
†measures which show a tendency to differentiate between the clusters at .001190
Low indicates the relationship between the variables in the non parametris checks of association between the three larger clusters, the clusters marked low are those with a low relative level of activity in the management practice. Med indicates the cluster shows a moderate relative level of activity in the management practice. High indicates the cluster shows a high relative level of activity in the management practice

Summary

The results of the cluster analysis and analyses of variance show clear differences in the HR and management configurations adopted and that clear and meaningful patterns exist in the clusters that were found among the sample firms. Clearly defined and intuitively meaningful configurations of HR and management can be demonstrated among Australasian law firms.

5.5 Organisational performance analysis

5.5.1 Across-cluster performance comparison

This section describes the methods, procedures and results of the organisational performance analysis. To compare performance across the sample firms required standardised and valid measures of organisational performance, relevant to law firms. The performance of law firms is, however, difficult to analyse objectively and there are many different metrics that observers of the industry have claimed best measure of law firm performance. To analyse performance here several different metrics were used and thus the search for a definitive output variable for law firm research has been set aside in the present analysis.

The survey used in Study 2 gathered two different types of performance-related data to try to gain a rich set of insights into the sample firm's performance. First, respondent perceptions of their firm's performance relative to their peers were gathered. The use of perceptual measures of performance has been shown to be effective in studies of privately held firms (Dess & Robinson 1984) and such indicators of performance have also been shown to correlate well with objective measures of performance (Venkatraman & Ramanujam 1987). The scale used was developed by Delaney and Huselid (1996), and this scale has been widely used and cited in studies of organisational performance. Second, participants were asked to provide data on financial indicators of performance (including gross billings for the previous year, profit margin, annual profit per partner and blended hourly rate, which is the average fee per hour of professional work charged by a firm). The financial measures of performance were collected via self-reported categorical variables (see Appendix 3 for actual questions and categories). Participants were also asked to provide demographic information on their firms, including the number of equity partners, salaried partners and total fee earners. These demographic

variables enabled standardised measures of performance to be calculated using simple ratios such as profit per equity partner.

The response rate on the subjective performance scale was 100% (n=45). Participants clearly felt comfortable responding to questions relating to their firm's performance in the form of a perceptual scale. The response rate affirms the utility of this type of measure to assess the performance of privately held firms as predicted by the literature. However, as expected, the financial measures of performance exhibited higher rates of missing data with some firms unwilling to give answers to any questions in this section of the survey. Valid responses to the harder output variables were as follows: Q59, (41); Q60, (35); Q61, (36); Q62, (34).

It was expected that some participants would leave out the financial indicators of performance section within the survey. However, it was hoped that by requesting this information in categories (instead of actual numbers) that respondents would feel more comfortable providing this data. However, it is unknown whether this decision within the overall survey design affected the response rate positively or negatively. The use of categorical data points rather than exact numbers necessitated that performance data were calculated using averaged numbers for each firm. Where relevant, these were calculated as the mid-point at the relevant point in the scale. For example, if a firm stated its annual revenue was $50–75m, the number $62.5m was used for the calculations. This rounding introduces a margin of error in these variables, and thus the final performance metrics are best described as 'indexes of performance' rather than representing precise performance figures for the firms. It should be noted that all performance related data pertaining to law firms have some likely inaccuracies. For example, US research often uses benchmark data on the industry as authoritative; however, the limitations sections of papers that use this source often note that the information

is self-reported and thus prone to error (Malos & Campion 2000). It is argued therefore that this index is of comparable reliability to other self-reported reports of firm performance found in the literature that claim to be representative of organisational performance.

5.5.2 Method

Measures

In this section a brief explanation is given of each the variables used to measure firm performance. For each variable an explanation is given to show how the measure was derived and what the measure reveals about a law firm's performance.

Perceptual measures of performance. The scale used (Delaney & Huselid 1996) asks respondents to compare their firm's performance across a range of dimensions, relative to their peers or competitors, for the last three years. This scale is designed to measure organisational performance across a range of dimensions including attraction and retention of key employees, employee relations, client satisfaction, development and quality of new programs and services. The scale also asks about financial performance, such as growth in sales and profitability. It would be expected that firms who are both profitable and who are perceived to invest profits back in to their firms will score well on this scale as these are more visible dimensions of performance and may positively influence a respondent's reflections on their firms' performance. The actual items and the reliability for the scale used here were reported on earlier, in Section 5.2.2.

Profit per equity partner (averaged). Profit per equity partner is argued to be the best indicator of firm performance across professional services firms (Maister 1993) and is favoured because it accounts for multiple strategies across different types of practices. For

instance it allows for comparisons between firms that are highly leveraged and those that have lower leverage. The measure is said to puts the onus on to individual partners to control profitability in their practice groups by managing in ways that fit their leverage profile. Profit per equity partner is a metric widely used in published performance tables of law firms (for example, annual BRW professional services surveys use this metric). Profit per equity partner is also relevant as it is used by law firms themselves to compare their performance year on year. To calculate Profit per equity partner the (averaged) turnover (annual billings) for each firm was calculated by dividing the high and low numbers in each category by two, for example, as before $50–75m turnover was computed at $62.5m. This number was then divided by the number of equity partners given and that figure was multiplied by the averaged profit margin, a categorical variable, that was also determined using an average (for example, 20–30% profit would be calculated at 25%).

Profit per equity partner is a reflection that firms are managing a number of different elements effectively, namely, the price per hour charged by firms, their utilisation rates (percentage of available time billed), the total number of billable hours worked and write offs – work that is discounted or cannot be charged for due to errors or client complaints. Professional staff in law firms work on fixed salaries, they may receive a bonus in some firms, but generally speaking, costs are fixed. Small firms are sometimes very profitable and in some small firms annual profit per equity partner can be high if the firm does well in a certain year. Some mid-tier firms are also very profitable and naturally some large firms are highly profitable. The high profitability of these firms is a reflection of the same dynamics – that is, price and utilisation – and also in some practice areas of large firms of their ability to extensively use the leveraging strategy by billing out their professional employees at a multiple of what they are paid.

Revenue per total fee earners (averaged). Also known as revenues per lawyer but called here 'fee earners'. Revenues per lawyer is a performance metric that has been used in prior research on the performance of law firms (Jennings, Devereaux Jennings & Greenwood 2009) and is widely regarded as a legitimate index of relative performance in studies of professional services firms (Greenwood et al. 2005). Revenue per professional (lawyer) has also been validated as reliable metric in prior research on law firm performance. Malos and Campion (2000) reported a correlation of 0.71 between revenues per professional and profits per partner. To calculate revenues per fee earner, the averaged gross revenue was calculated as per the rule stated above and then divided by the total number of professional staff in each firm including equity partners, salaried partners and fee earning professionals. At the top and bottom end of this scale (<$10m and >$200m) it was necessary to estimate the figures. At the lower end this figure was calculated at $7.5m and at the high end the figure was calculated at $250m. The total revenue number was then divided by the number of total fee earners. Jennings et al. (2009) argue this metric taps the productivity of all professionals within a firm .

Revenue per Partner (averaged) was calculated by taking the averaged gross revenue and dividing it by the number of equity partners. This figure has also been used in recent studies of performance in professional services firms. It is argued to illustrate the productivity of partners and the likely profit stream, and is said to be similar to sales per employee in corporate organisations, a commonly used outcome variable (Jennings, Devereaux Jennings & Greenwood 2009).

The American Lawyer Profitability Index is the ratio of profits per partner (PPP) to revenue per lawyer (RPL). This index is used by *The American Lawyer* periodical as a definitive measure of law firm performance. The index is said to be a measure of how the

profit margin of the firm and its leverage or ratio of lawyers to partners combine to make the proceeds flow to the bottom line (Kelly 2007). The metric provides a good illustration of performance and helps to compare firms that have different leverage profiles.

The results of the inter-cluster comparisons are shown in a series of boxplots, below. After calculating the relevant data points, variously represented as percentages, indexes or gross numbers, the data were entered into SPSS and, for each metric, a boxplot was generated for the cluster using the available information. The boxplots are shown below. Boxplots were selected because they are an ideal way of visually representing performance related data within the clusters: they clearly show the shape and spread of the data, illustrate outliers and perhaps most importantly facilitate easy visual comparison between the clusters on each metric.

Perceptions of organisational performance

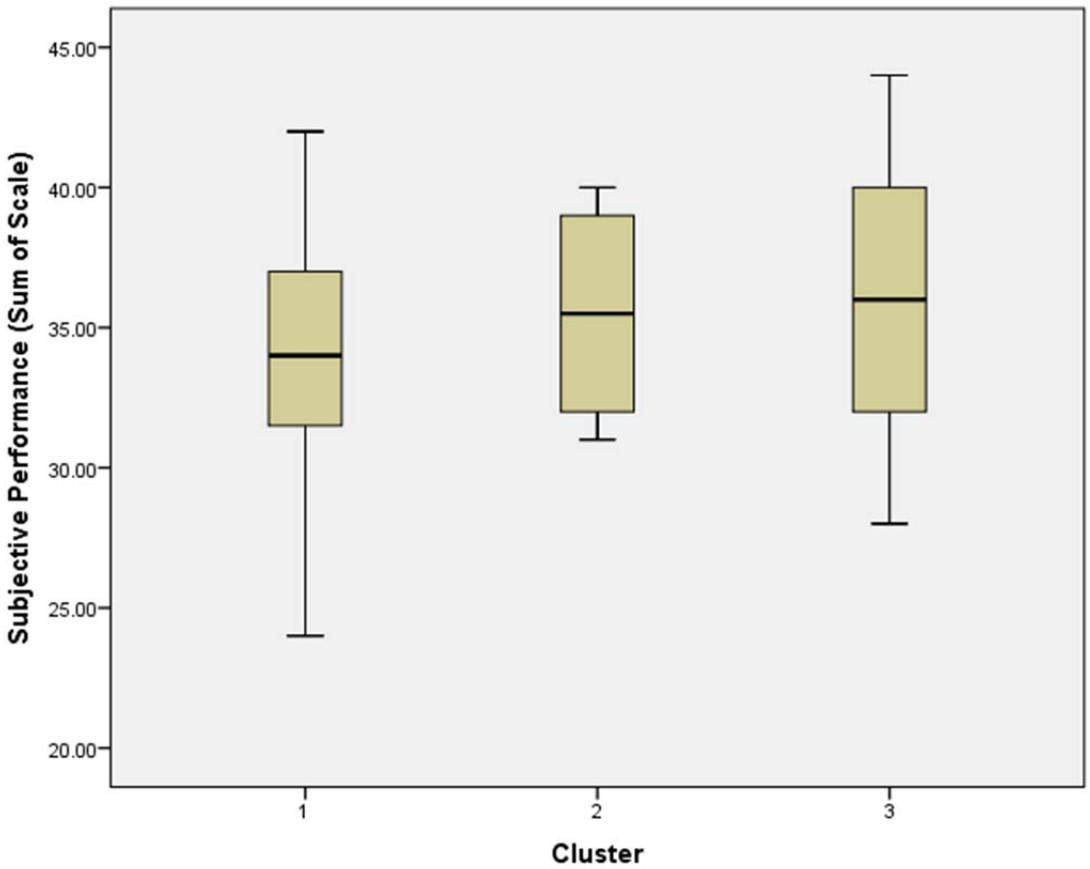


Figure 5. Boxplot of perceptual scales (sum score) by cluster

Figure 5 illustrates that the cluster 3 'Performance-oriented Progressives' rate their firm's performance slightly more favourably than the other clusters (x=36). However, there is a strong overlap between the three main clusters on this outcome variable. The three main clusters show a tight aggregation of their result between 30 and 40 and no outliers appear.

Profit per equity partner (averaged)

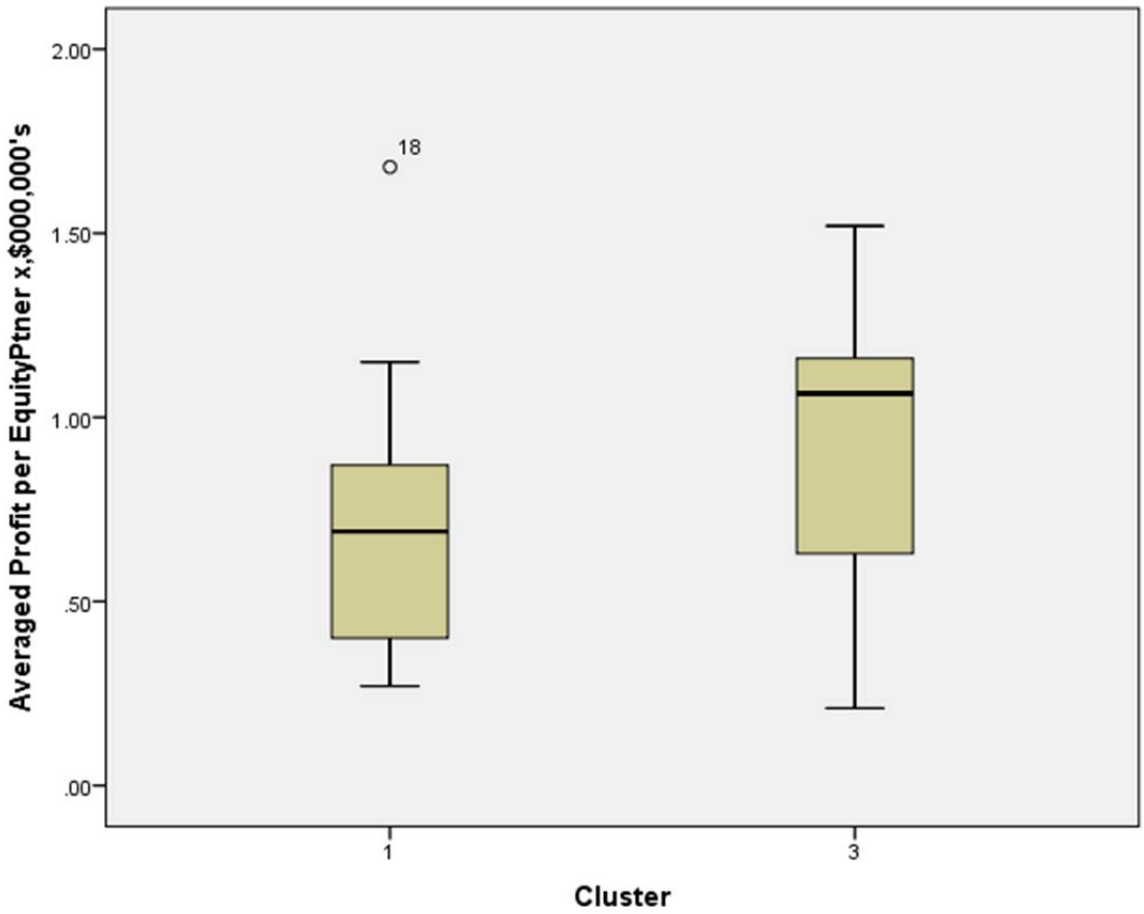


Figure 6. Boxplot of averaged profit per equity partner in millions by available cluster

Profit per equity partner illustrated in Figure 6 was calculable only for cluster 1 and cluster 3. The boxplots show that in an absolute sense the Performance-oriented Progressives are yielding more profit to the partners than the Democratic Traditionalists, and this reflects well on the performance of the partners of firms in this cluster. It should be remembered, however, that this comparison is likely reflecting differing demographic profiles of cluster 1 and cluster

3; cluster 3 are larger more 'name' firms more of whom are located in large cities with more corporate clients while the cluster 1 firms are smaller firms and would be expected to be less profitable than large corporate law firms.

Revenue per total fee earners (averaged revenue per lawyer)

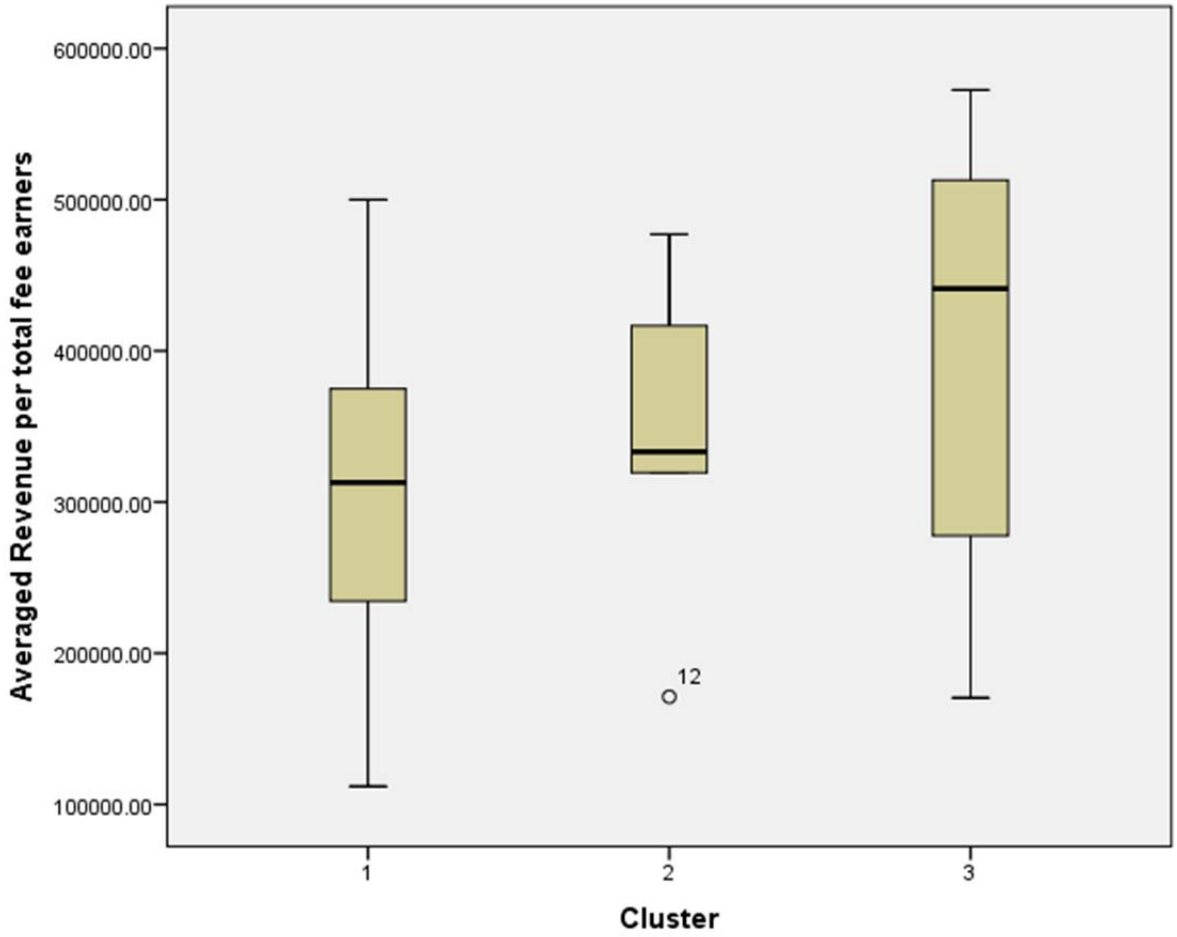


Figure 7. Boxplot showing averaged revenue per total fee earner by cluster

Figure 7 illustrates the close overlap of the firms in terms of the overall productivity of lawyers (fee earners) across all the clusters. The boxplots show a tight aggregation of the data on this output variable (cluster 1 x=$305,858; cluster 2 x=$343,550; Cluster 3 x=$402,524). The cluster 3 firms have a higher mean and median ($441,176) than cluster 1, indicating that these firms have the most productive lawyers. One firm in cluster 2 (case 12) appears to have particularly unproductive lawyers relative to the other firms in that cluster.

Revenue per partner (averaged)

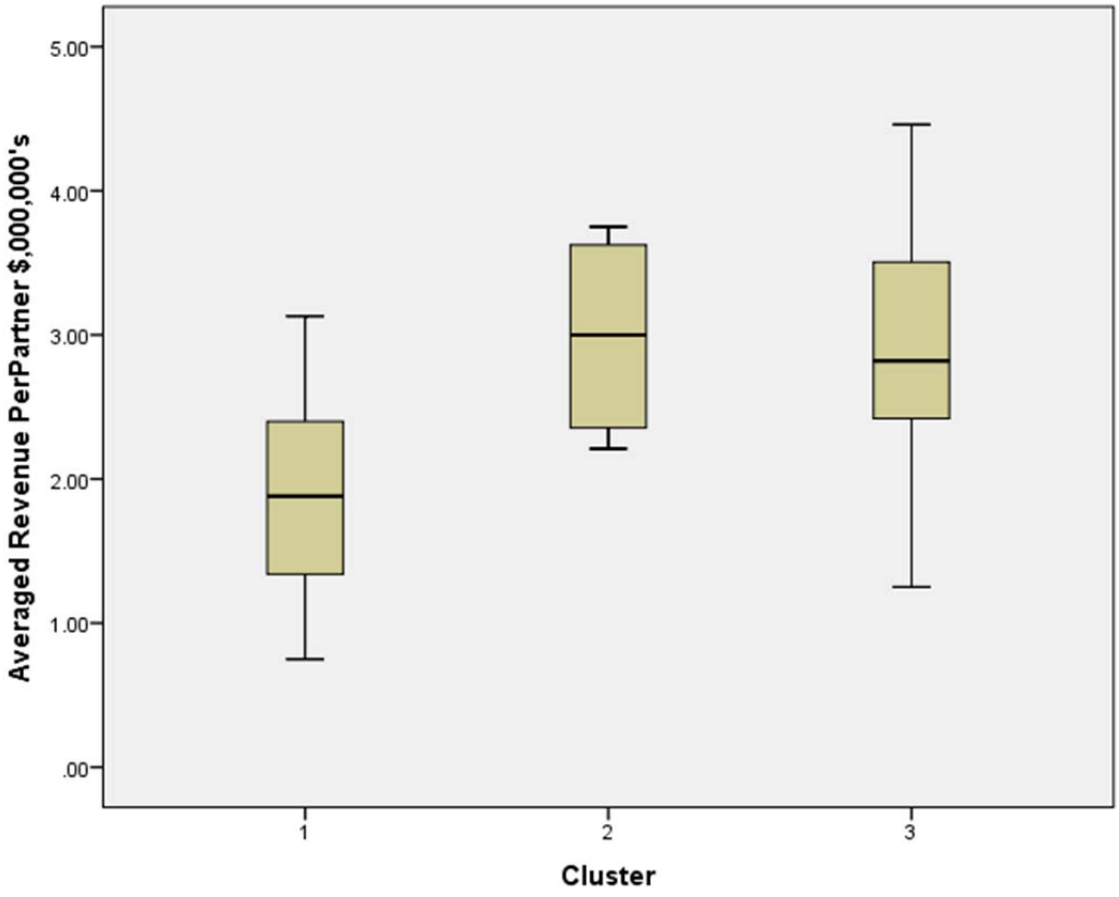


Figure 8. Boxplot plot showing averaged revenue per partner in millions by cluster

Figure 8 illustrates that the cluster 1 firms achieve performance in the lower range (x=$1.8m) relative to the other two main clusters (cluster 2 x=$2.9m and cluster 3 x=$2.8m). This result is in part a reflection of the average size of the cluster 1 firms. This metric does not provide a good reflection of relative performance across such a diverse sample; however, it is useful in analysing firms of comparable size and revenue. The comparable performance of the cluster 2 and 3 firms is perhaps a more relevant result illustrated in this figure and shows the firms across these two clusters on average perform very similarly.

The American Lawyer Profitability Index

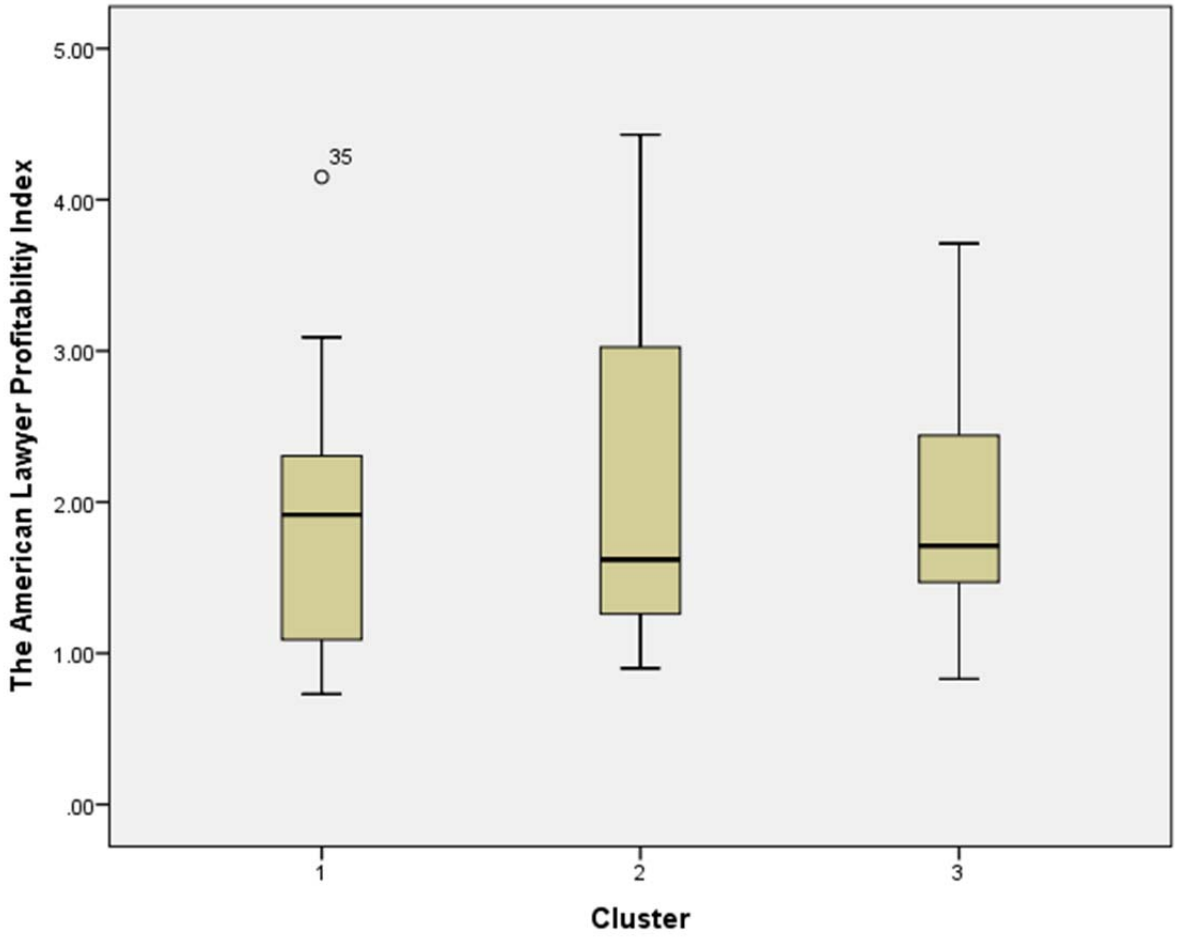


Figure 9. Boxplot of American Lawyer Profitability Index across clusters

Figure 9 shows a comparable level of performance among the three clusters on the AmLaw Profitability Index. The distributions in clusters 2 and 3 are negatively skewed (Pallant 2009), indicating that firms appear to be managing their profit/leverage mix well. In comparison to the 2011 American Lawyer report, the best performing firm on this metric posted a score of 3 and the worst performing firm scored .96 (The American Lawyer, 2011). In comparison, Australasian firms appear to be performing comparably well with a few firms in the sample apparently managing this ratio particularly well (Cluster 1 x=1.89, Cluster 2 x=2.31 and Cluster 3 x=1.94).

Overall, the results of the inter-cluster comparisons appear to support the idea of equifinality (Doty, Glick & Huber 1993). In other words, there is no clear winner in this analysis. Tentatively we may argue that cluster 3 – Performance oriented progressives – are performing most consistently across the five performance metrics, which provides some support for the idea that the performance oriented practices help to drive performance; however, this conclusion is only tentative due to the size of the sample that was tested.

5.5.3 Intra-cluster analyses

The performance-related data were then further analysed to understand whether particular practices characterised the higher-performing firms *within* each cluster. Firms that performed better or worse on each of the output variables were identified and the means of each of the clustering variables then compared to see if they were statistically different. The procedure and results are described below.

Procedure

Each cluster was analysed separately using the 'data select' function of SPSS. Next, a frequency scale was computed for all of the output variables discussed above. Once the frequency table was derived, the median was selected. All cases below this mid-point were deemed to be 'low performing' and all cases above were deemed to be 'high performing'. This nomenclature is relative only to the other firms in each cluster. Cases were then recoded in SPSS, with 0=low-performing firms and 1=high-performing firms. The means of all the clustering variables were then compared between the high- and low-performing firms (only within the two largest clusters) using an independent t-test at a confidence interval of 95%. Variables with a p value $\leq .05$ were deemed to be significantly different between the 'high' and 'low' performing groups. The scores of the significant variables were then cross-checked

to see if the difference meant that the high-performing groups scored higher on the significant variables. The results of these analyses are shown in Table 14. The variables where the higher performing firms have a lower mean value than the lower performing group within the cluster are indicated (#). These analyses would be beneficial for firms to conduct in order to create alignment between the configuration their work systems are most aligned to and the outcome metric they are most trying to drive or improve.

Table 14. T-test comparison of cluster variables per performance metric

Performance metric	Sig Items Cluster 1	Sig Items Cluster 2	SigItems Cluster 3
Performance Perceptions	Managerial Training#		Managerial Training PerfMgt 1 Holistic Measures) PerfMgt2 (Developmental Appraisals) Process Excellence
Profit per equity partner Revenue per equity partner			Process Excellence#
Profit per total fee earner		PerfMgt2 Holistic Appraisals	Anti-lateral hiring sentiment
American Lawyer profitability index	Decentralisation		Leadership# Accountability EVP

Note: # indicates high-performing firms have a lower mean (appear to do less of the practice) than lower performing groups in that cluster per the metric

Results

- *Perceptual measures of performance scale.* On this measure the higher-performing firms among the Democratic Traditionalists undertook less managerial training than the lower-performing firms, a somewhat counter-intuitive result, while the higher-performing firms in cluster 3, the Progressives, were higher on four measures: undertaking more managerial training, using more holistic performance metrics, undertaking more developmental appraisals, and being more focused on seeking process improvements in their firms.

- *Profit per equity partner.* The only significant result was that the cluster 3 firms appear less focused on process excellence.
- *Profit per total fee earner.* Higher-performing firms on this metric in cluster 2 have more developmental appraisals and in cluster 3 the higher-performing firms appear more negative in their attitude toward laterally hired employees.
- *American Lawyer Profitability Index.* The higher-performing firms on this metric in cluster 1 appear more decentralised. In cluster 3, high-performing firms have strong accountability measures and have a well-developed employee proposition; however, interestingly they appear to be less directional and vision-oriented than their lower-performing peers in the same cluster.

Interpretation

There are some interesting results here that are worthy of further comment. First, the results seem to suggest that the biggest differences made by individual practices or sub sets within the clustering variables are in the cluster 3 'Progressive' firms. Items that are apparently influential in driving overall performance (as measured by the subjective performance scale) are managerial training, performance management (holistic systems and appraisals) and process excellence – all intuitively meaningful results. Interestingly, however, those firms that appear to de-emphasise one of these same items (process excellence) appear to perform better when performance is measured on the narrower financial metric of profit per equity partner. Profit per lawyer is apparently related to anti-lateral hiring sentiment, a finding that is open to several different interpretations. On the face of it, the finding says that when attitudes to outside hiring are negative the productivity of employees is better. However, this seems simplistic. This finding may be stemming from another firm attribute, such as teamwork or internal career paths that would correlate if tested with anti-lateral hiring sentiment. For

cluster 3 firms another result stands out. The high-performing firms on the AmLaw Profitability Index have a lower mean on the leadership scale; perhaps this means that authority and leadership are widely dispersed in the organisations that score well on this metric – to drive this type of financial performance dispersed authority seems to work best. This conclusion would be supported by reference to a complementary feature, which is high accountability. This analysis produced other significant results. In cluster 1, high-performing firms on the perceptual scale have a lower mean on managerial training, suggesting training isn't effective or is not adding any value and thus its cost and ineffectiveness are detracting from perceptions of performance. Cluster 1 firms who are higher performing on the AmLaw Index are more decentralised, which reflects their Democratic traditional orientation. Finally, with regard to cluster 2, there is only one significant result, which is that firms following the Laissez faire configuration who have the most productive employees are those who appear to conduct developmental appraisals. This is a logical result that suggests professional employees need more direction in this type of organisation.

5.6 Preliminary discussion

The results of Study 2 show that law firms in Australian and New Zealand can be classified according to their patterns of use of the drivers of performance identified in study 1: that these practices are not normative, that they are well entrenched. Further that there is diversity in how these practices are configured among Australasian firms. This finding suggests that law firms are adopting management practices and combining those practices in ways that match their circumstances. The clusters found reflect a number of different streams of the literature reviewed in chapters 2 and 3 (a discussion that will be developed further in the next chapter), specifically dominant archetypes found in the literature are reflected in the configurations of management practices. That is the configurations are consistent with what might be expected

to be found among firms that represent the classic the P^2 and MPB archetypes. Although, it should be noted the research did not set out to test these archetypes and the instrument used was not oriented toward a test of the archetypes. The configurations found are also suggestive of different bundles of HR (for example, Delery & Doty 1996; Malos & Campion 2000; Miles & Snow 1984).

The findings around organisational performance are also illustrative of the property of 'equifinality' that there is no one 'best' way of managing but rather there are many possible pathways to superior performance. There is no clearly better performing configuration according to the analyses that the data has allowed, however the Democratic Traditionalists and Performance-oriented Progressives appear to be consistently well performing, illustrating the importance of stability. Finally the intra-cluster analyses reflect the importance of internal fit illustrating points such as costly duplication of practices being detrimental to performance.

5.7 Chapter summary

This chapter has discussed the design and implementation of study 2 and also reported on the results. The chapter has discussed how the research instrument was developed and verified and has discussed the clustering procedure and interpretation. It has also described the methods used to analyse the performance of firms across and within the three clusters verified in the analysis, and the results of that analysis. The cluster analysis identified three distinctly different configurations of HR and management among the sample firms and an emerging cluster, and then interpreted the character of those firms against the backdrop of archetype theory and the broader precepts of institutional and configuration theory. The final chapter discusses these findings in further depth and identifies future directions and opportunities that emerge from these findings.

Chapter 6 Synthesis, discussion and conclusion

6.1 Introduction

The studies undertaken for this research have investigated how Australian and New Zealand law firms configure their management systems and the extent to which the configurations were found to drive performance. Organisational performance was analysed using a combination of a) perceptual scales used in academic research on privately held firms (Delaney & Huselid 1996) and b) financial indicators of performance commonly used in analyses of law firm performance. The research has developed an original taxonomy of law firms, developed inductively and based on configurations of HR and management practices.

The research questions and propositions investigated here were developed from a comprehensive review of the literature pertaining to the management context of law and professional services firms, specifically what is termed here the 'distinctiveness' thesis and also through research on industry archetypes and also strategic human resource management and configuration theory as applied to HRM. The two major studies have brought together these two presently disconnected fields of research to unearth a new set of insights concerning the management of law firms.

The research has demonstrated the viability and utility of an alternative approach to the classification of law firms conducted at the level of HR and management practices. This identification of work systems is used in the wider management literature concerning 'HR bundles' the classification of firms according to their work systems relatively under

developed in the literature on professional services firms (c.f. Malos & Campion 2000). In the research conducted for this research the clustering variables are the product of a rigorous qualitative investigation of the industry and have rich content validity and this taxonomy can therefore be definitively regarded as relevant and original.

Study 2 strongly affirms the notion of 'equifinality' that is rather than there being 'one best way' of managing a law firm it appears there are multiple pathways to success. What the research suggests is that it is more important for law firms to aim for coherence in the management systems they use and also to ensure their management systems match their strategy and/or organisational context. This finding is a particularly pertinent to law firms given the dynamism in some Australasian markets and the tendency of law firms to mimic one another and to tinker with their management system, a practice that may destabilise an existing configuration.

The research followed a sequential mixed methods strategy (Cresswell 2009) that was described and reported on in chapters 4 and 5. The research strategy used is consistent with what has been termed an inductive approach to organisational classification (Subramony 2009). The multivariate procedures that followed in study 2, cluster analysis and analysis of variance allowed the configurations to be named and an original taxonomy of law firms to be developed.

This final chapter summarises the findings from the three studies (Section 6.2), and connects the qualitative and quantitative findings into a coherent set of conclusions. This chapter provides answers to the research propositions (Section 6.3) and considers the theoretical and practical implications of the research (Section 6.4 and Section 6.5 respectively). The chapter

then briefly re-considers the research limitations (Section 6.6) and connects this discussion to on opportunities for future research (Section 6.7). The thesis concludes by considering the overall meaning of the findings and notes the original contribution to management theory (Section 6.8).

6.2 Summary of results

6.2.1 Pilot

In the Pilot, survey data from a sample of engineering consultancies and law firms (n=38) on management and performance was analysed. Established scales and measures from across a broad spectrum of management disciplines were used in the survey. These included items from HRM, the Intellectual Assets Monitor (IAM) and marketing. Firms were separated into 'high' 'medium' and 'low' (performing) sub groups according to their score on Delaney and Huselid's (1996) subjective performance rating scale. The groups were then compared using a one-way ANOVA test with the aim of identifying the statistically significant variables differentiating the high and low performing firms. The results were checked using Bonferroni post hoc checks. The following variables were found to be statistically significant differentiators between the high and low performing firms:

- an SHRM orientation
- customer knowledge processes
- competitor knowledge processes
- customer demandingness
- decentralisation
- rookie ratio.

The results of the Pilot were encouraging and broadly supported the tenets of the resource-based view and knowledge-based view of the firm as applied in the professional services

context. Specifically, the importance of managing relational and structural capital carefully and also developing a strategic orientation to HRM within a decentralised environment were affirmed. However, the inadequacy of existing scales to fully detect meaningful differences between the high and low-performing firms within the sample was a clear constraint and it was concluded that existing scales were inadequate discriminators. This finding contributed to the research design, namely the need for a qualitative stage and for survey design informed by qualitative research.

6.2.2 Study 1

In Study 1, convergent interviewing (Dick 1990) was used to gather data from a panel of experts to uncover the management practices seen as 'drivers of performance' for law firms. Opinion converged on a set of constructs that formed the basis of the survey that was then designed in Study 2.

The experts' opinions converged around the following 16 constructs:

- the need for leadership and vision orientation
- an environment of accountability
- process excellence, such as effective delegation
- the reputation and directional benefits of a clear client strategy
- thought leadership as a marketing tool and means of differentiation
- balanced client focus where client needs are attended to closely without a detrimental impact on the well-being of professional staff
- instituting proactive labour market strategies such as the management of diversity (gender, age, ethnic background), the development of an employee value proposition,

benchmarking the firm's employee benefits and packaging benefits - to aid attraction and retention

- the empowerment of professionals with voice mechanisms and the decentralisation of authority
- operational (support) excellence, such as HR and process excellence
- role clarity, so that at each level of the hierarchy people understand their role clearly
- effective management of lateral hires
- holistic performance metrics
- selective staffing practices
- developmental appraisals
- managerial skill building.

These constructs were opened to peer review through a conference presentation and further checks of the reliability of the interpretations were made, such as reviewing the business press and consulting industry experts during the subsequent survey design. These checks verified the accuracy of the conclusions drawn from the analysis of the data.

6.2.3 Study 2

Study 2 consisted of the design and administration of a survey to test the constructs identified in Study 1. The respondent sample consisted of partners or senior executives from 45 law firms from around Australia and New Zealand. Prior to any analysis, data cleaning was conducted, including scale and item distribution checks, checking reliabilities by calculating the Cronbach's alpha for each of the scales, checking scale correlations and recalculating the alpha following item deletions; attending to missing data in a principled manner using mean imputation and conducting checks for multi-collinearity and then excluding collinear

variables. A two-stage cluster analysis was then conducted (using Ward's method followed by k-means clustering). The cluster analysis established a three-cluster solution consisting of the 'Democratic Traditionalists', the 'Laissez-faires' and the 'Performance-oriented Progressives', it also isolated a small or emerging cluster (the 'Regionals', n=3) and identified an outlier. The 'Regionals' and the outlier were excluded from any further statistical analysis. Patterns within the data were identified by using a parametric multiple comparison procedure (one-way ANOVA across the three clusters and Bonferroni post hoc tests). The parametric tests of association were reconfirmed with their equivalent non-parametric tests to double-check for differences between the clusters. The result of a Kruskall-Walls H test was confirmed with the Mann-Whitney test, used with the Bonferroni correction applied at the same level as in the ANOVA. The non-parametric tests confirmed the ANOVA results.

The final stage of the analysis entailed analysing organisational performance among the firms. Analyses of firm performance were conducted across and within the clusters to investigate differences between high- and low-performing firms. The analysis of organisational performance conducted on the clusters was somewhat constrained by the sample size and the response sample to this section of the survey. Although participants were willing to share their perceptions of their firm's performance, they were less willing to respond to questions about financial performance, even though these questions were posed using categorical scales. Despite the lower response rate on this section of the survey, some interesting results and potential lines of research emerged..

Overall, the results lead to a conclusion that the management systems used by law firms in Australia and New Zealand are modernising, albeit at different speeds and that they are diverse. Among one cluster, the Democratic Traditionalists a conservative adoption of

management practices geared toward performance was found while among the Performance-oriented Progressives the work systems appear to have moved more definitively toward mobilising the professional workforce toward a commitment orientation and toward performance through effective people management.

There are several interpretations of the results found. On the one hand we can argue, perhaps somewhat simplistically, that the evidence of adoption of progressive management techniques indicates that either a) non-lawyer managers are starting holding sway and have been able to introduce performance-oriented policies, with the managerial agenda infiltrating (to some extent) even the Democratic Traditionalists' approach to management or conversely b) that it is the partners of law firms themselves who have changed and who are advocating these newer ways of managing and further that they are willing to fund performance-oriented management programs and cede a significant measure of control to non-lawyer managers. Later research will be needed to explore this micro or attitudinal level. The axis of influence is perhaps manifesting in a power struggle in the 'Laissez faire' firms, who haven't settled on a clear configuration and may be in a state of transition. The 'Regionals' are perhaps isolated to some extent from the same influences that affect the other firms; perhaps the managerial agenda is less influential among these firms because the markets where they operate are less competitive and thus there has not been a strong need to implement the drivers of performance.

The results show that contemporary management practices geared toward organisational performance are felt to be of broad utility in the context of a law firm and that these suite of practices appear to be quite widely used in Australia and New Zealand. The practices also appear to have a positive impact on organisational performance, as shown by cluster 3, the

Progressives, who perform consistently well across all the performance metrics that were analysed.

6.3 Research propositions

In this section responses to the research propositions are forwarded in the light of the results discussed above.

6.3.1 Research proposition 1

The legal services sector in Australia and New Zealand will be expected to exhibit homogeneity in respect to the employment systems and management practices found across the industry, a reflection of their universal recognition of the critical role of human capital as a source of competitive advantage in knowledge intensive industries and of the impact of institutional forces shaping their values and structures.

Proposition 1 has been partially disproven. The Pilot had suggested professional services firms were homogenous with regard to the HR and human capital management policies they use,. Performance differences were found to be the result of a greater market orientation and general coordination of people management practices through SHRM.

Study 1 also hinted at homogeneity the opinions of the experts converged around a set of practices firms should implement to drive performance but several comments suggested some firms had thrived though the booming 1990's and 2000's even without a strong performance focus. These comments suggested some firms would be slow to move toward a configuration geared toward performance. Study 2 confirmed that suspicion - some firms had been slow to move. The cluster analysis showed significant differences do exist in terms of the mix of management practices used by law firms across Australia and New Zealand.

The Laissez-faires and Regionals appear to be quite slow or even reluctant to move toward management system designed to coordinate work and drive performance through garnering the commitment of professionals. Even the Democratic Traditionalists have been selective and have rejected some practices seen as unnecessary given their circumstances, for example they have a low strategic and market orientation and prefer to focus on internal efficiencies and capacity building programs. In contrast, the Progressives are strongly performance-oriented and relative to the other firms have adopted all the drivers of performance to a greater degree. Clearly diversity does exist in terms of the management practices used by law firms, firms are not homogenous.

Institutional pressures may lead law firms to *organise* in similar, socially legitimated ways, but they do not appear to *manage* in homogenous ways, in fact their management systems appear quite diverse in so far as the organising mode of a professional partnership seems to allow.

6.3.2 Research proposition 2

Management practices that lead to the development or acquisition of human capital and other management practices geared toward increasing intellectual capital will distinguish high from low-performing professional services firms.

Tentative support has been found for Proposition 2. The Pilot showed that several practices from within the structural and relational capital categories did, in fact, distinguish the high and low performing firms in the cross-sectional sample. In general, this result provides support for the use of policies geared toward building and nurturing intangible assets in

professional services firms. However, within the human capital category in the Pilot study SHRM was the only differentiator between the high-and low-performing firms and no individual HR practice distinguished the high and low groups. This result shows that strategic oversight and coordination of HR policies are the critical enablers of performance not individual practices.

The analysis of performance conducted on the taxonomy in study 2 gives further support to the importance of human capital management policies at both the system wide level (cluster 3 marginally outperformed cluster 2 according to all the performance metrics tested) and among the higher performing group within cluster 3 human capital building policies, particularly related to performance management distinguish the high from the lower performing firms.

6.3.3 Research proposition 3

The legal services sector will have adopted some corporate management practices thanks to the impact of outside consultants, corporate managers and the impact of contemporary work values on their traditional systems however it is also expected that the legal services sector will also have developed endemic management practices that reflect the industry in particular the partnership form of governance.

Strong evidence of moves by law firms to institute performance-orientated work systems was found in all three studies. The Pilot showed that professional services firms had embraced practices consistent with the high-performance work system, including training, decentralising authority and aligning work practices to strategic direction or context through a strategic HRM. The experts interviewed in Study 1 further pointed to many individual elements within the high-performance work systems as beneficial to law firms, suggesting

the experts feel law firms should be taking their cue from corporate organisations. However, some participants noted that not all stakeholders or firms support the initiatives of non-lawyer managers in moving firms toward more corporate management practices. For example participants pointed to some negative attitudes that persist toward HR managers and HR initiatives.

Some of the practices thought to be important in driving performance such as workflow processes, coordinating mechanisms, and policies to enforce strategic decisions, highlight the need for control mechanisms in professional services firms that are less important in corporate organisations where authority is more explicit along a chain of command. This finding lends support to the proposition – law firms are adopting corporate management approaches but within that shift practices that reflect the different governance modes and professionalised workforce are also prominent.

6.3.4 Research proposition 4

If diversity exists across the industry, firms with the most stable configurations of practice that is with the best 'internal fit' will be the most likely to be performing effectively. Ceretus paribus those firms adopting performance oriented management systems would be expected to outperform conventional firms.

Proposition 4 has not been proven. Clusters 1, 2 and 3 all perform well across all four performance metrics tested, perceptual, profit per equity partner, profit per fee earner and the AmLaw Profitability Index. Of these three Cluster 3, the Performance-oriented Progressives are the most consistently well performing firms. However the sample size and response rate on the output variables significantly constrains any conclusions that can be drawn around this

proposition. Further research with larger samples will be needed to advance this proposition further.

6.4 Implications for theory

The key finding from this research is that there are diverse and distinctive management systems, configurations of HR and management, being used in Australasian law firms and that firms in Australia and New Zealand do appear to be moving toward a more 'corporate' management approach consistent with the Managed Professional Business archetype. The finding of diversity shows that leveraging human capital assets is seen as a key source of competitive advantage for law firms. This finding reflects the knowledge and resource based view of the firm (Grant 1996; Barney 1991).

Some firms in this industry sample (C3) appear to have moved more radically in the direction of managing for performance, others appear to be tentatively orientating their management systems toward high-performance management practices (C1), and still others are apparently in a 'stuck in the middle' state (Greenwood & Hinings 1988) (C2). Although not conclusive due to the constrained sample size, a fourth cluster of firms (the Regionals) appear to be inert or passive, possibly reflecting the idea of failed change 'tracks' (Greenwood & Hinings 1988). or perhaps that they suffering the effects of muted competition a consequence of the professionalised nature of the workforce and of a less competitive environment (Von Nordenflycht, 2010).

The intuitive quality and richnesss of the taxonomy developed here support the importance of post priori analytical approaches (Guest, Conway & Dewe 2004). In some respects the research also validates the intuitive and analytical utility of more generalised classifications of

firms (exemplified by typologies and archetypes) at least as a starting or reference point for analyses of the professional services sector. However it is argued that a richer program of research such as that begun here is now needed to move the study of professional services firms beyond the verification of archetypes. There are now more 'variations' of what would traditionally have been termed the MPB form and also seemingly more variations on the P^2 form. Further research with larger samples may further validate these result and longitudinal research will also be important to examine how these configurations evolve with changing institutional and environmental pressures.

Although the research conducted here attempts to move beyond the neo-institutional frame ideas from the institutional field continue to have relevance. The findings for example reflect the neo-insitutional idea that 'mimetic' processes occur between industry leaders and followers in institutional fields (Di Maggio & Powell 1983). However, it is argued that in some respects mimicry is now occurring between the wider business community and law firms and also from corporate managers and external advisers on to lawyer-managers, rather than from early-adopting market leading firms on to followers. The qualitative phase of this research emphasised this point, with several participants discussing the important role of consultants in shaping their management systems and drawing favourable parallels between their approach to management and the corporate model. Several participants even likened their program of management reform to modernisation, which reflects an evolutionary dynamic, that is, law firms are evolving naturally to be more like corporate organisations (Bartram 2011).

The research shows that it is the HR system that is a likely source of competitive advantage more so than any advantage that may flow from individual practices (Lado & Wilson 1994).

The organisation of human capital is a function of many dimensions including elements of organisational capital such as job design, work flow, support systems and technologies. In fact Wright et al. (2001, p.705) make an important distinction in their review of SHRM and the RBV. The authors stress that a broader conception of the terms HR and HPWS might be appropriate perhaps under the general label of 'people management'. People management stresses the multiple practices that impact on employees rather than single practices. "By using the term people rather than HR, we expand the relevant practices to those beyond the control of the HR function, such as communication (both upward and downward), work design, culture, leadership and a host of others that impact employees and shape their competencies, cognitions and attitudes." This idea fits nicely within the RBV analysis because a key notion within the RBV is sustainability of competitive advantage even in the face of the attempt by competitors of substitution or replication. The embedded, invisible nature of the interactions of different processes within the HR system makes them difficult to observe and therefore difficult to replicate. The fact that the 16 constructs tested here go beyond HR practices and extend into a wider set of management practices reflects this point and provides impetus to the examination of people management systems rather than strictly HR practices or systems.

The results confirm that configuration theory provides a rich, nuanced view of management practices used in professional services firms, whereas typologies informed by institution theory precepts provide only a general overview of how people are managed because of this generalised approach does little to guide action. Configuration theory, because of its focus on the interaction of practices, emphasises that law firms need to consider whether their practices and policies are mutually reinforcing, whether the configuration they are using helps the firm

meet market demands and achieve strategic aims, and how they might begin and manage the process of configurational change.

Internal alignment or fit is emphasised in the configuration approach, is part of the effective functioning of these organisations. Practices that seem to work together include the role of organisational leaders in building accountability among partners and other senior professionals, and the subsequent interaction of process disciplines and improvements around, for example, the allocation of work. Client strategy is also inter-related to these activities. To enforce client strategy decisions (around types of work or key account strategies, for example) requires strong leadership, intervention processes and effective management systems to drive accountability. Such enforcement will also be supported by an instrumental and effective reward system that, for example, acknowledges non-billing activity such as business development and referral of work to other practice areas.

The taxonomy developed has the potential to guide change and emphasises that if an organisation wishes to change from one configuration to another, that the change needs to be widespread and not merely one or two practices. This finding builds on the theory of quantum change (Miller & Friesen 1984) and suggests that:

- law firms wishing to change will need to change many characteristics together
- piecemeal change might destroy a configuration without having the scope to erect a new configuration
- the desired configuration needs to consist of many mutually-supportive elements that fit together and act as a structure of resistance against unwanted change.

Within the taxonomy developed here, the cluster of firms referred to as the Democratic Traditionalists appear to have adopted a structure of resistance against unwanted change. In this cluster of firms, practices or elements such visionary leadership, vision and mission and strategic HR appear to have been rejected, suggesting such elements may be seen as destabilising or simply of little value given the firm's situation. In contrast, the Democratic Traditionalists have adopted the practices seen as creating cost efficiencies and initiatives that are likely to be appealing in the external and internal labour markets, such as thought leadership, employee voice, managerial training and policies to foster diversity. These elements are most likely seen as congruent with their existing management configuration and suggest these firms are attempting to adapt to their environment.

In using a taxonomic approach to derive the configurations found in this classification scheme, this research provides empirical support for the view that there is greater diversity in managerial practice among law firms than allowed for by the institutional perspective. One explanation is that it is market forces, rather than institutional ones, that are more powerfully driving the evolution of management practice in law firms toward a more corporate model. This explanation is supported by the comparable findings of Malhotra et al. (2006), who draw on contingency theory to explain heterogeneity in the form of organisational archetypes found across different professional sectors. In simple terms, they argue that these accounting firms and law firms organise themselves differently because they face different pressures.

The findings show that law firms increasingly recognise the need to identify, acquire and nurture their intangible assets and also demonstrate the utility of policies geared toward building and managing intangible assets. The variables and interaction of the variables found in the qualitative research reflect tenets of the RBV (Barney 1991; Teece, Pisano & Shuen 1997; Wernerfelt 1984) and KBV (Grant 1996). Executive leadership and the leadership

culture spoken about in the qualitative stage as necessary to firm success are, for example, rare and inimitable resources for a firm.

The results of this research support the use of configurational approach to organisational analyses which is more sophisticated and customised and informing of management actions. The configurational approach extends on ideas from best practice and contingency and emphasize the need for systems to be coherent, reinforcing patterns of characteristics that carry the seeds of renewal within their various elements. More broadly and theoretically, the results confirm the heterogeneity of organisational forms within the Australasian legal services industry, building on the heritage of the strategic groups research (e.g., Hatten & Schendel 1977), challenging the dominance of the P^2 archetype and the institutional argument of homogeneity in institutional fields (DiMaggio & Powell 1983).

These findings are not out of step with the direction of institution theory, which is clearly being reorientated as the reality of multiple legitimate organisational forms has become more clearly demonstrated and as the field has evolved and a wider body of empirical research has emerged. While typologies have their place, particularly in terms of how firms are organised, this research has shown they are not definitive idealised types, nor are they static. This research illustrates the legitimacy and sustainability of multiple forms of organisation, as raised by the property of equifinality, because all the clusters appear to be performing quite well. Taxonomies are also more specific and more powerfully informing of management actions, whereas the broad research outcomes that ensue from typologies are more descriptive.

6.5 Implications for practice

The research has four major practical applications. First, it provides lawyer-managers with a framework against which they may assess their firms' level of adoption of performance-oriented management practices. The research, however, is not normative in the manner of the popular business press or 'best practices' school of HRM. There is no attempt here to say that *all* law firms should be undertaking *all* these management practices at *all* times. Instead, the findings show that the way that management practices are combined is what matters; stability and integrity of the configuration and its fit with the environment and firm strategy are the key to success. The research also points to a conclusion that the industry is becoming stratified and potentially it seems to be erroneous to talk of one industry. Further research may be needed to verify this conclusion.

Second, the research allows lawyer-practitioners to identify which configuration their firm's management system most resembles and therefore allows them to identify the critical HR or management practices within each configuration that are associated with higher-performing firms. These practices can then be emphasised within the configuration that is being used.

Finally, the research allows practitioners to effectively plan for change. Knowledge of what configuration they are using will alert them to the need to be very careful about piecemeal change because of its potential to destabilise the entire configuration and have a detrimental effect on the firm's performance during periods of transition. The interconnectedness of management practices within each configuration is a critical point of emphasis within this approach and the presence of clear configurations is an important finding within an industry that is known to experiment 'at the margins' with its management practices. The efficacy of the configurational approach demonstrated here (Miller & Friesen 1984) highlights the

importance of HR managers and academics thinking in terms of *patterns* of practices that reflect the interdependency of the practices and characteristics (Pettigrew 1992), rather than adopting one-size-fits-all HR practices. This research provides a timely warning about such 'tinkering' and shows that piecemeal change can be risky. Accordingly, it places greater emphasis on the need for system-wide change over reactive or incremental change designed to address short term contingencies in the market. The finding that partners lack commitment to stay the course of change is concerning in periods of configurational transition as they tend to be sceptical of change and want an immediate return on investment.

Finally as the SHRM literature suggests, the benefit of individual HR interventions should be closely monitored so as to build a business case for sustained investment in human capital building initiatives, as frequently partners are said to resist HR interventions as too costly or regard them from the outset with some suspicion. Importantly, novel management interventions should be seen to align internally with existing practices or be part of an agreed transition to a new configuration and supported by attitudinal change or a change in the underlying 'interpretive scheme'.

6.6 Limitations

This research has some limitations many of which have been discussed in the introduction and the methods sections of each study. To briefly recap. Firstly, the drivers of performance isolated in the qualitative stage reflect the perspectives of those interviewed, and with only 17 participants in the sample this perspective could potentially be considered limited. However, the interviewing method used, convergent interviewing, is rigorous and the purpose of the qualitative stage obviates some of the normal concerns about sample size. The sample in the quantitative stage of the research was also smaller than hoped for and limited some of the

statistical tests that could be run; however, it should be noted that as the firm was the unit of analysis, not individuals, the sample actually covers management practices applied to several thousand people and not 45 people. The response rate of approximately 20% is also reflective of the industry and not out of step with current response rates in organisational research.

Finally the research here focuses solely on the management of fee earning professionals (lawyers); these are the core employees as defined by Osterman (1994). The goal of focusing more tightly on specific work groups allows for more relevant sampling and more closely replicates actual management practice in which different groups within the one organisation are managed using different techniques and different management systems (McClean & Collins 2010; Verburg, Hartog & Koopman 2007). Research only on the management of professionals might be criticised as presenting a limited view of the antecedents of performance and elitist, further research is however recommended to address these concerns.

6.7 Future research

Future researchers may wish to investigate the dynamics of the development of these configurations over time, since in a changing political or economic landscape or industry evolutionary factors could conceivably transform these organisational forms. The phenomena and relationships investigated here are well suited to longitudinal research. The links between competitive strategy and HRM strategy would be another area of potential research building on the findings of these studies, following explorations of previous, more general research in the services sector (Boxall 2003), where competitive strategies and HR strategies tend to co-vary.

The thesis also contains an important methodological contribution. The research methods developed here provide a clear pathway for future researchers to be able to test these configurations in different jurisdictions over time or to search for new configurations. Any future research will become a critical test for the utility of the findings presented in this thesis. Finally, as the survey instrument was developed inductively it has rich descriptive validity and the scales that have been developed here have been shown to have high reliability. This contribution will help future researchers begin to more easily answer a wide range of research questions about the links between HR and management practices and organisational performance in the law and in other branches of the professional services.

The assumed focus of this research has been on solicitors as core operating workers, rather than on how managers might be managed or how non-core staff perceive their employment conditions. Additional research might explore differences between how different types of workers might be managed within the professional service sector, around themes such as organisational culture, perceived fairness or equity.

The firm was the unit of analysis in this research. However, some of the larger firms in the sample extend across several jurisdictions (states and territories in Australia and provinces in New Zealand). The limitations of this approach in terms of the available population and its impact on sample size and other factors have been discussed above. Future research along similar lines might be worthwhile at the enterprise level rather than at the firm level, following an approach taken by Osterman (1994), who conducted a cross sectional study of workplace transformation across a large sample of US enterprises. Using the enterprise, rather than the firm, as the unit of analysis gave a truer picture of the actual management practices in use, rather than a remote corporate view of what was supposed to be happening with its

accompanying respondent bias. The study therefore reflected actual practice rather than the head office view. Law firms would also be interesting to investigate from this perspective as many of the larger Australian firms now are quite geographically dispersed. It is quite conceivable that employees' experience of management practices will differ greatly in different states or even within different practice groups within the one firm. This approach would increase the sample size if the researcher could earn the trust of the managing partner of the head office. One challenge in this research would be to carefully select the dependent variables so as to effectively investigate the impact of management practices at the level under investigation.

6.8 Conclusion

The human resources and management problems for managers in professional services firms, such as law firms have been shown to be a significant challenge for law firms in Australia, New Zealand and in other markets. In contested or competitive markets these firms need to try and differentiate their services, modernise work through the effective deployment of IT and other knowledge management initiatives, institute control costs and acquire and leverage their human and relational capital effectively and they must contend with new entrants and competition for their markets, for their services and for their traditional sources of talent. These challenges must be met within an institutionalised context, where not all change initiatives will be supported by the underlying values of the principals and where new management practices may clash with existing programs or may fail as they have limited benefit in the knowledge services sector.

Many larger law firms are now increasingly globalised, as clients have expanded nationally and internationally, ambitious Australasian firms have followed, and this has resulted in many

of the larger firms adopting both a national and international presence. Deregulation has also shaped the sector. As governments at various levels have challenged the power of professionals to self-regulate, they have acted to allow for greater competition from lower-trained 'para' professionals in areas such as conveyancing and allowed foreign law firms to enter the lucrative markets of Sydney and Melbourne. Technology has shaped the sector allowing for new modes of service delivery and demanding new competencies. Clients, too, have become more informed, and 'in house' lawyers have either taken the place of external advisors or helped their employers become more selective and sensitive about price and the quality of advice or representation. In sum, the industry has now become ultra-competitive, forcing many firms to rapidly reorganise and corporatise in order to survive. HRM practices have become commonplace in the transformed environment of a modern law firm and have been a crucial enabler of strategic change.

The research reported here is novel and contributes to management theory by enriching existing classification schemes about the organisation and management of law firms (and other professional services firms) currently found in the institutional literature and related disciplines. An argument has been made that the focus of prior research on structural issues in firms, such as ownership and influence in denoting the presence and emergence of different industry 'archetypes', presents a somewhat limited 'macro' perspective and has paid insufficient attention at the 'meso' level of the actual management practices found within these archetypes, particularly as they relate to and are geared toward organisational performance. While authors working from within the institutional perspective have broadly noted an increased commercialisation and managerialism in law firms, that research is very general about the character of this 'managerialism' and little if any research has been conducted on the impact of these practices on organisational performance. The research that

has been undertaken was mostly British and Canadian, and this thesis has provided a much-needed Australasian perspective to this literature.

This research is timely. Most archetype-oriented research downplays the importance of management practices. In summarising archetype-oriented research Brock (2007, p.146), for example, states that archetype "researchers seldom dwell on managerial issues because the intriguing characteristics of the P^2 relate to professional ethos and partnership governance". Management issues are certainly not ignored in defining a particular archetype and characterising how archetypes change from traditional to more managerial modes, but management practices, per se, have not been used in prior research as the defining attributes to classify firms. This thesis has demonstrated the potential for a new classification system to emerge. HRM practices and performance-oriented management practices associated with other 'corporate' management disciplines are now well established as relevant to the professional services sector, and there is now suitable maturity in the practices used by firms for these practices to form the basis of a classification system.

The research connects and extends existing scholarship on professional services across different fields by providing an empirical evidence base to measure the state of current management practice in what is a high-profile part of the knowledge services economy. The ground broken here will allow future researchers to more accurately measure and predict the direction and impact of ongoing change across professional services firms. The thesis also contains an important methodological contribution. The research methods developed herein provide a clear pathway for future researchers to be able to test these configurations in different jurisdictions over time, and provide a method to enable the search for new configurations. Future research will become a critical test for the utility of the findings

presented in this thesis. Finally, as the survey instrument was developed inductively, it has rich descriptive validity and the scales that have been developed here are also highly reliable. This contribution will help future researchers begin to more easily answer a wide range of research questions about the links between HR and management practices and organisational performance in the law and in other branches of the professional services. This research verifies that HRM is now well established in the management of law firms and that a clear HR and management configuration exists among Australasian firms. The call to future researchers will be to explore the evolution of these configurations and broader applications of the method and to continue to develop the parent theories employed in this research.

The research here proves that a multidimensional strategic configurational approach applies to professional services firms and can inform organisational change and help identify the direction of professional services firms. The research conducted here has verified the presence and raised the profile of HR and management practices and characteristics in professional services firms elevating the importance of coherent human capital and human resource management systems as pathways to superior performance and competitive advantage.

References

Abbott, A 1988, *The system of professions: an essay on the division of expert labor*, University of Chicago Press, Chicago.

Ackroyd, S & Muzio, D 2007, 'The reconstructed professional firm: explaining change in English legal practices', *Organization Studies*, vol. 28, no. 2007, pp. 729-46.

Merritt, C 2009, 'Partners culled in slow market', *The Australian*, 14 December, p.34.

Alvesson, M 2000, 'Social identity and the problem of loyalty in knowledge-intensive companies', *Journal of Management Studies*, vol. 37, no. 8, pp. 0022-2380.

—— 2004, *Knowledge work and knowledge-intensive firms*, Oxford University Press, Oxford.

Alvesson, M & Sveningsson, S 2003, 'Good visions, bad micro-management and ugly ambiguity: Contradictions of (non)-leadership in a knowledge-intensive organization', *Organization Studies* vol. 24, no. 6, pp. 961-88.

Armstrong, C & Shimizu, K 2007, 'A review of approaches to empirical research on the resource-based view of the firm', *Journal of Management*, vol. 33, no. 6, pp. 959-86.

Arthur, J 1994, 'Effects of human resource systems on manufacturing performance and turnover', *Academy of Management*, vol. 37, no. 3, pp. 670-87.

Australian Bureau of Statistics, 2009, *Legal Services Australia*, Australian Government, Canberra, Australia.

Bacharach, S 1989, 'Organizational theories: Some criteria for evaluation', *Academy of Management Review*, vol. 14, pp. 496-515.

Bae, J & Lawler, J 2000, 'Organizational performance and HRM in Korea: impact on firm performance in an emerging economy', *Academy of Management Journal*, vol. 43, no. 3, pp. 502-17.

Barney, J 1991, 'Firm resources and sustained competitive advantage', *Journal of Management*, vol. 17, no. 1, pp. 99-120.

Barney, J & Hoskisson, R 1990, 'Strategic groups: Untested assertions and research proposals', *Managerial and Decision Economics*, vol. 11, pp. 187-98.

Barney, J & Wright, P 1998, 'On becoming a strategic partner: The role of human resources in gaining competitive advantage', *Human Resource Management*, vol. 37, no. 1, pp. 31-46.

Baron, R & Kreps, D 1999, *Strategic human resources: frameworks for general managers*, Wiley, New York.

Bartram, T 2011, 'Employee management systems and organizational contexts: a population ecology approach', *Management Research Review*, vol. 34, no. 6, pp. 663-77.

Bartram, T, Stanton, P, Leggat, Casimir, G & Fraser, B 2007, 'Lost in translation: exploring the link between HRM and performance in healthcare', *Human Resource Management Journal*, vol. 17, no. 1, pp. 21-41.

Baruch, Y & Hotom, B 2008, 'Survey response rate levels and trends in organizational research', *Human Relations*, vol. 61, no. 8, pp. 1139-60.

Beaton, G 2007, 'We'll all be rooned, but not just yet', *The Australian*, December 14., p. 34.

Becker, B & Huselid, M 1998, 'High performance work systems and firm performance: A synthesis of research and managerial implications', *Research in Personnel and Human Resource Management*, vol. 16, no. 1998, pp. 53-101.

Becker, W, Herman, M, Samuelson, P & Webb, A 2001, 'Lawyers get down to business', *McKinsey Quarterly*, no. 2, pp. 45-55.

Blau, P & Scott, R 1962, *Formal Organizations: A Comparative Approach*, Chandler, San Francisco.

Boxall, P 2003, 'HR strategy and competitive advantage in the service sector', *Human Resource Management Journal*, vol. 13, no. 3, pp. 5-20.

Boxall, P & Purcell, J 2008, *Strategy and Human Resource Management*, 2nd edn, Palgrave MacMillan, Houndmills, Basingstoke, Hampshire.

Boxall, P & Steeneveld, M 1999, 'Human resource strategy and competitive advantage: A longitudinal study of engineering consultancies', *Journal of Management Studies*, vol. 36, no. 4, pp. 443-63.

Brock, D 2007, 'The reconstructed professional firm: A reappraisal of Ackroyd and Muzio', *Organization Studies*, vol. 29, pp. 145-8.

Brock, D, Powell, M & Hinings, CR 2007, 'Archetypal change and the professional service firm', *Research in Organizational Change and Development*, vol. 16, pp. 221 -51.

Byrne, M 2011, 'Revealed: lateral partner hiring doesn't work', *The Lawyer*, 14 Feburary, viewed 14 August 2012, <http://www.thelawyer.com>.

Campbell, I, Malone, J & Charlesworth, S 2008, *The elephant in the room: Working-time patterns of solicitors in private practice in Melbourne*, viewed 1 June 2012, <http://celrl.law.unimelb.edu.au/files/>

Camps, J & Luna-Arocas, R 2009, 'High involvement work practices and firm performance', *International Journal of HRM*, vol. 20, no. 5, pp. 1056-77.

Cappelli, P 2008, *Talent on demand. Managing talent in an age of uncertainty*, Harvard Business Press, Boston Massachusetts.

Cappelli, P & Crocker-Hefter, A 1996, 'Distinctive human resources are firms' core competencies', *Organizational Dynamics*, vol. 24, no. 1996, pp. 7-22.

Cho, J & Trent, A 2006, 'Validity in qualitative research revisited', *Qualitative Research*, vol. 6, pp. 319-40.

Cliff, J, Devereaux Jennings, P & Greenwood, R 2006, 'New to the game and questioning the rules: the experiences and beliefs of founders who start imitative versus innovative firms', *Journal of Business Venturing*, vol. 21, pp. 633-63.

Coff, R 1997, 'Human assets and management dilemmas: Coping with hazards on the road to resource-based theory', *The Academy of Management Review*, vol. 22, no. 2, pp. 374-402.

Colbert, B 2004, 'The complex resource-based view: Implications for theory and practice in strategic human resource management', *Academy of Management Review*, vol. 29, no. 3, pp. 341-58.

Conca, F, Llopis, J & Tari, J 2003, 'Development of a measure to assess quality management in certified firms', *European Journal of Operational Research*, vol. 156, pp. 683-97.

Cooper, D, Hinings, CR, Greenwood, R & Brown, J 1996, 'Sedimentation and transformation in organizational change: The case of Canadian law firms', *Organization Studies*, vol. 17, no. 4, pp. 623-47.

Cooper, D & Schindler, P 2003, *Business Research Methods*, 8th edn, McGraw Hill, New York.

Cresswell, J 2009, *Research design. Qualitative, quantitative and mixed methods approaches 3e*, Sage, Los Angeles.

Crook, T, Todd, S, Combs, J, Woehr, D, David, J & Ketchen, D 2011, 'Does human capital matter? A meta analysis of the relationship between human capital and firm performance', *Journal of Applied Psychology*, vol. 96, no. 3, pp. 443-56.

Daily, C & Thompson, S 1994, 'Ownership structure, strategic posture and firm growth: an empirical investigation', *Journal of Family Business*, vol. 7, no. 3, pp. 237-49.

Davenport, T & Klahr, P 1998, 'Managing Customer Support Knowledge', *California Management Review*, vol. 40, no. 3, pp. 195-208.

Deephouse, D 1999, 'To be different or to be the same? It's a question (and theory) of strategic balance', *Strategic Management Journal*, vol. 20, pp. 147-66.

Delaney, J & Huselid, M 1996, 'The impact of human resource management practices on perceptions of organizational performance', *Academy of Management*, vol. 39, no. 4, pp. 949-69.

Delery, J 1998, 'Issues of fit in strategic human resource management: Implications for research', *Human Resource Management Review*, vol. 8, no. 3, pp. 289-309.

Delery, J & Doty, H 1996, 'Modes of theorizing in strategic human resource management: Tests of universalistic, contingency, and configurational performance predictions', *The Academy of Management*, vol. 39, no. 4, pp. 802-35.

Dent, G 2008, 'Order in the firm', *Business Review Weekly*, November 6-12, pp. 56-57.

Denzin, N 1978, *The research act: a theoretical introduction to sociological methods*, New York.

Denzin, N & Lincoln, Y 2005, 'Introduction', in N Denzin & Y Lincoln (eds), *Qualitative research*, 3rd edn, Sage Publications, Thousand Oaks California.

Dess, G, Newport, S & Rasheed, A 1993, 'Configuration research in strategic management: Key issues and suggestions', *Journal of Management* vol. 19, no. 4, pp. 775-95.

Dess, G & Robinson, R 1984, 'Measuring organizational performance in the absence of objective measures: The case of the privately-held firm and conglomerate business unit', *Strategic Management Journal*, vol. 5, no. 3, pp. 265-73.

Dick, B 1990, *Convergent interviewing*, Interchange, patent, Chapel Hill.

DiMaggio, P & Powell, W 1983, 'The iron cage revisited: Institutional isomorphism and collective rationality in organizational fields', *American Sociological Review*, vol. 48, no. 2, pp. 147-60.

Doty, H, Glick, W & Huber, G 1993, 'Fit, equifinality, and organizational effectiveness: A test of two configurational theories', *Academy of Management*, vol. 36, no. 6, pp. 1196-250.

Dufour, Y & Steane, P 2006, 'Competitive paradigms on strategic change: mapping the field and further research development', *Strategic Change*, vol. 15, pp. 129-44.

Dunford, R 2000, 'Key challenges in the search for the effective management of knowledge in management consulting firms ', *Journal of Knowledge Management*, vol. 4, no. 4, pp. 295-302.

Dunks, R 2010, 'The Top 5 HR Pitfalls When Managing People', *Australasian Law Management Journal*., accessed on 1 May, 2012, < http://www.lawcouncil.asn.au/lca>

Easterby-Smith, M, Thorpe, R & Lowe, A 1991, *Management research: an introduction*, SAGE Publications, London.

Gabarro, J 2007, 'Prologue', in L Empson (ed.), *Managing the modern law firm. New challenges new perspectives*, Oxford University Press, Oxford, pp. xvii-xxiv.

Galanter, M & Palay, T 1991, *Tournament of lawyers: the transformation of the big law firm*, University of Chicago Press, Chicago.

Giddens, A 1976, *New rules of sociological method: a positive critique of interpretive sociologies*, Hutchison, London.

Gilson, R & Mnookin, R 1985, 'Sharing among the human capitalists: An economic inquiry into the corporate law firm and how partners split profits', *Stanford Law Review*, vol. 37, no. 2, pp. 313-92.

Godard, J 2004, 'A critical assessment of the high-performance paradigm', *British Journal of Industrial Relations*, vol. 42, no. 2, pp. 349-78.

Golden, B, Durkerich, J & Fabian, F 2000, 'The interpretation and resolution of resource allocation issues in professional organizations: A critical examination of the professional-manager dichotomy', *Journal of Management Studies*, vol. 37, no. 8, pp. 1157-87.

Grant, R 1996, 'Toward a knowledge-based theory of the firm', *Strategic Management Journal*, vol. 17, no. Winter Special Issue, pp. 109-22.

Gray, J 1998, 'Organising Modes of Law Firms', PhD thesis, University of Western Sydney, Sydney

—— 1999, 'Restructuring law firms. Reflexivity and emerging forms', in D Brock, M Powell & CR Hinings (eds), *Restructuring the professional organization*, Routledge, London.

Gray, J, McAllister, G & Adams 2008, *Qui bono? How will changes in business models for law firms affect organisation, governance and legal services? Report of a pilot study*, UNSW, Presented at the Challenging Institutions Workshop.

Greenwood, R & Empson, L 2003, 'The professional partnership: Relic or exemplary form of governance?', *Organization Studies*, vol. 24, no. 6, pp. 909-33.

Greenwood, R & Hinings, CR 1988, 'Organizational design types, tracks and the dynamics of strategic change', *Organization Studies*, vol. 9, no. 3, pp. 293-316.

Greenwood, R & Hinings, CR 1993, 'Understanding strategic change: The contribution of archetypes', *Academy of Management Journal*, vol. 36, pp. 1,052-1,81.

—— 1996, 'Understanding radical organizational change: Bringing together the old and the new insitutionalism', *Academy of Management Review*, vol. 21, no. 4.

Greenwood, R, Hinings, CR & Brown, J 1990, '"P2-form" strategic management: Corporate practices in professional partnerships ', *Academy of Management*, vol. 33, no. 4, pp. 725-55.

Greenwood, R, Li, S, Prakash, R & Deephouse, D 2005, 'Reputation, diversification, and organizational explanations of performance in professional service firms', *Organization Science*, vol. 16, no. 6, pp. 661-73.

Guest, D, Conway, N & Dewe, P 2004, 'Using sequential tree analysis to search for bundles of HR practices', *Human Resource Management Journal*, vol. 14, no. 1, pp. 79-96.

Guthrie, J 2001, 'High involvement work practices, turnover and productivity: Evidence from New Zealand', *Academy of Management*, vol. 44, no. 1, pp. 180-90.

Haanes, K & Lowendahl, B 1997, *The unit of activity: towards an alternative to the theories of the firm*, John Wiley and Sons Inc, Copenhagen.

Hair, J, Black, W, Babin, B & Anderson, R 2010 *Multivariate data analysis*, 7th edn., Prentice Hall, Englewood Cliffs:NJ.

Hambrick, D 1984, 'Taxonomic approaches to studying strategy: some conceptual and methodological issues', *Journal of Management*, vol. 10, no. 1, pp. 27-41.

Hambrick, D & Schecter, S 1983, 'Turnaround strategies for mature industrial product businessnes', *Academy of Management Journal*, vol. 26, pp. 231-48.

Harel, G & Tzafrir, S 1999, 'The effect of human resource management practices on the perceptions of organizational and market performance of the firm ', *Human Resource Management*, vol. 38, no. 3, pp. 185-200.

Harrigan, K 1985, 'An application of clustering for strategic group analysis', *Strategic Management Journal*, vol. 6, no. 1, pp. 55-73.

Hartog, D & Verburg, R 2004, 'High performance work systems, organisational culture and firm effectiveness', *Human Resource Management*, vol. 14, no. 1, pp. 55-78.

Hatch, M 2006, *Organization theory*, 2nd edn, Oxford University Press, USA.

Hatten, K & Schendel, D 1977, 'Heterogeneity within an industry: firm conduct in the U.S. brewing industry, 1952-1971', *The Journal of Industrial Economics*, vol. 26, no. 2, pp. 97-113.

Hatten, K, Schendel, D & Cooper, A 1978, 'A strategic model of the U.S. brewing industry', *The Academy of Management Journal*, vol. 21, no. 4, pp. 592-610.

Heinz, J, Nelson, R, Sandefur, R & Laumann, E 2005, *Urban lawyers. The new social structure of the bar*, The University of Chicago Press, Chicago.

Heys, A & Rodwell, J 2006, 'How a focus on managing intangible assets drives performance in Australian law firms', paper presented to Australian New Zealand Academy of Management ANZAM, Yeppon, Qld.

Hitt, M, Bierman, L & Collins, J 2007, 'The strategic evolution of large US law firms', *Business Horizons*, vol. 50, no. 1, pp. 17-28.

Hitt, M, Bierman, L, Shimizu, K & Kochhar, R 2001, 'Direct and moderating effects of human capital on strategy and performance in professional service firms: A resource-based perspective', *Academy of Management*, vol. 44, no. 1, pp. 13-28.

Hollander, E 1974, 'Processes of leadership emergence', *Journal of Contemporary Business*, no. Autumn, pp. 19-23.

Hoque, K 1999, 'Human Resouce management and performance in the UK hotel industry', *British Journal of Industrial Relations*, vol. 37, no. 3, pp. 419-43.

House, R, Schuler, R & Levanoni, E 1983, 'Role conflict and ambiguity scales: Reality or artifacts?', *Journal of Applied Psychology*, vol. 68, no. 2, pp. 334-7.

Howe, K 2004, 'A Critique of Experimentalism', *Qualitative Inquiry*, vol. 10, pp. 42-61.

Huber, G & Power, D 1985, 'Retrospective Reports of Strategic-Level Managers: Guidelines for Increasing Their Accuracy', *Strategic Management Journal*, vol. 6, no. 2, pp. 171-80.

Hunter, L, Beaumont, P & Lee, M 2002, 'Knowledge management practice in Scottish law firms', *Human Resource Management*, vol. 12, no. 2, pp. 4-21.

Huselid, M 1995, 'The impact of human resource management practices on turnover productivity, and corporate financial performance', *Academy of Management*, vol. 38, no. 3, pp. 635-72.

Huselid, M, Becker, B & Beatty, R 2005, *The workforce scorecard: Managing human Capital to execute strategy*, Harvard Business School Press, Boston, MA.

Itami, H 1987, *Mobilizing invisible assets*, Harvard University Press, Cambridge MA.

Jennings, J, Devereaux Jennings, P & Greenwood, R 2009, 'Novelty and new firm performance: The case of employment systems and knowledge intensive service organizations', *Journal of Business Venturing*, vol. 24, pp. 338-59.

Jepsen, D & Rodwell, J 2008, 'Convergent interviewing: a qualitative diagnostic technique for researchers', *Management Research News*, vol. 31, no. 9, pp. 650-8.

Johns, G 2006, 'The essential impact of context on organizational behavior', *Academy of Management Review*, vol. 31, no. 2, pp. 386-408.

Kaufman, B 2001, 'The theory and practice of strategic HRM and participative management. Antecedents in early industrial relations', *Human Resource Management Review*, vol. 11, no. 4, pp. 505-33.

Kelly, M 2007, *Lives of lawyers revisited*, The University of Michigan Press, Michigan.

Ketchen, D & Shook, C 1996, 'The application of cluster analysis in strategic management research: An analysis and critique', *Strategic Management Journal*, vol. 17, no. 6, pp. 441-58.

Khandelwal, V & Gottschalk, P 2003, 'A Knowledge Management Survey of Australian Law Firms', School of Computing and Information Technology, Technical Report No. CIT/5/2003University of Western Sydney, no. 5, pp. 2-20.

Lado, A & Wilson, M 1994, 'Human resource systems and sustained competitive advantage: A competency-based perspective', *The Academy of Management Review*, vol. 19, no. 4, pp. 699-727.

Lawrence, T & Suddaby, R 2006, *Institutions and institutional work*, Sage, London.

The Lawyer 2011, 'The AM Law 100 How the firms stack up' viewed 2 August 2012, <http://www.americanlawyer.com>

Lebleblici, H 2007, 'Determining the value of legal knowledge: billing and compensation practices in law firms', in L Empson (ed.), *Managing the modern law firm. New challenges new perspectives*, Oxford University Press, Oxford, pp. 117-40.

Leicht, K & Fennell, M 2008, 'Institutionalism and the professions', in R Greenwood, C Oliver, K Sahlin & R Suddaby (eds), *Organizational institutionalism*, SAGE, London, pp. 431-48.

Lepak, D & Snell, S 1999, 'The human resource architecture: toward a theory of human capital allocation and development', *Academy of Management Review*, vol. 24, no. 1, pp. 31-48.

—— 2002, 'Examining the human resource architecture: the relationships among human capital, employment and human resource configurations', *Journal of Management*, vol. 28, pp. 517-43.

Li, T & Calantone, R 1998, 'The impact of market knowledge competence on new product advantage: conceptualization and empirical examination', *Journal of Marketing*, vol. 62, no. 1998, pp. 13-29.

Lincoln, Y & Guba, E 1985, *Naturalistic enquiry*, Sage, Beverly Hills.

Lippman, S & Rumelt, R 1982, 'Uncertain Inimitability: An Analysis of Interfirm Differences in Efficiency under Competition', *Bell Journal of Economics*, vol. 13, pp. 418-38.

Lockett, A, O'Shea, R & Wright, M 2008, 'The Development of the Resource-based View: Reflections from Birger Wernerfelt 1', *Organization Studies*, vol. 29, pp. 1125-41.

Lowendahl, B 2005, *Strategic Management of Professional Services Firms*, 3rd edn, Copenhagen Business School Press, Copenhagen.

MacDuffie, J 1995, 'Human Resource Bundles and Manufacturing Performance: Organizational Logic and Flexible Production Systems in the World Auto Industry', *Industrial and Labor Relations Review*, vol. 48, no. 2, pp. 197-221.

Maister, D 1993, *Managing the Professional Services Firm*, MacMillan, New York.

—— 1997, *True Professionalism*, Touchstone New York.

Malhotra, N, Hinings, CR, Gray, J & McAllister, G 2003, 'The Distribution and Stability of Archetypes in Law Firms', paper presented to European Group for Organizational Studies.

Malhotra, N, Morris, T & Hinings, CR 2006, 'Variation in organizational form among professional service organizations', in R Greenwood & R Suddaby (eds), *Research in the Sociology of Organizations*, Emerald Group, Bingley UK.

Malos, S & Campion, M 2000, 'Human resource strategy and career mobility in professional services firms: a test of an options-based model ', *The Academy of Management Journal*, vol. 43, no. 4, pp. 749-60.

Marshall, C & Rossman, G 1995, *Design qualitative research*, Sage, Thousand Oaks.

Mayson, S 1997, *Making sense of law firms, strategy, structure and ownership*, Blackstone Press Ltd, London.

Mayson, S 2007, *Building sustainable value: a capital idea*, Oxford University Press, Oxford.

McClean, E & Collins, C 2010, 'High-commitment HR practices, employee effort and firm performance: investigating the effects of HR practices across employee groups within professional services firms', *Human Resource Management*, vol. 50, no. 3, pp. 341-63.

McKelvey, B 1975, 'Guidlines for the empirical classification of organization', *Administrative Science Quarterly*, vol. 20, pp. 509-25.

Meyer, A, Tsui, A & Hinings, CR 1993, 'Configurational approaches to organizational analysis.', *Academy of Management*, vol. 36, no. 6, pp. 1175-95.

Meyer, J & Rowan, B 1977, 'Insititutionalized organizations: formal structure as myth and ceremony', *American Journal of Sociology*, vol. 83, no. 2, pp. 340-63.

Middlehurst, R & Kenny, T 1997, 'Leading professionals: Towards new concepts of professionalism', in J Broadbent, M Dietrich & J Roberts (eds), *The end of the professions? The restructuring of professional work*, Routledge, London.

Miles, R & Snow, C 1978, *Organizational strategy, structure and process*, McGraw-Hill, New York.

—— 1984, 'Designing strategic human resource systems', *Organization Dynamics*, vol. 13, no. 1.

Miller, D 1987, 'The Genesis of configuration', *The Academy of Management Review*, vol. 12, no. 4, pp. 686-701.

Miller, D & Friesen, P 1984, *Organizations: A quantum view*, Prentice Hall, New Jersey.

Miller, D & Whitney, J 1999, 'Beyond strategy: configuration as a pillar of competitive advantage', *Business Horizons*, vol. May- June, no. 17, pp. 505-12.

Mills, K & Tidd, J 2009, 'Lords of the realm', *Business Review Weekly*, October 22-29, pp. 45-7.

Mintzberg, H 1979, *The structuring of organizations: A synthesis of the research*, Prentice-Hall, Englewood Cliffs:NJ.

—— 1980, 'Structure in 5's:A synthesis of the research on organizational design', *Management Science*, vol. 26, no. 3, pp. 322-41.

Morris, T & Malhotra, N 2009, 'Heterogeneity in professional service firms', *Journal of Management Studies*, vol. 46, no. 6, pp. 895-922.

Morris, T & Pinnington, A 1998, 'Promotion to partner in professional services firms', *Human Relations*, vol. 51, no. 1, pp. 3-24.

Morrison, E & Robinson, S 1997, 'When employees feel betrayed: a model of how psychological contract violation develops', *Academy of Management Review*, vol. 22, no. 1, pp. 226-56.

Mueller, F 1996, 'Human resources as strategic assets: An evolutionary resource-based theory', *Journal of Management Studies*, vol. 33, no. 6, pp. 757-85.

Nesbit, P 2004, ' ICT and the growing labour cost-value contradiction within the employment relationship: development of a conceptual model and research agenda', *International Journal of Employment Studies*, vol. 12, no. 2, pp. 27-52.

New Zealand Law Society, 2011, *A Snapshot of the New Zealand Legal Profession* Report of the New Zealand Law Society,. Viewed, 2 February, 2011, <http://www.lawyrs.net/news/show/4990>

Oakes, N 2008, 'The future for fees.', *Australasian Law Management*, vol. Spring, no. 2008, p. 32.

Oakes, N 2012, 'Lockstep versus performance-based sharing: a comparative study of how large Australian law firms share profits', unpublished DBA thesis, Macquarie University, Sydney.

Olson, A 2008, 'Cultural due diligence for lateral hires', *Legal Management*, vol. May, pp. 3-4, 12.

Osterman, P 1994, 'How common is workplace transformation and who adopts it?', *Industrial and Labor Relations Review*, vol. 47, no. 1994, pp. 173-88.

Pallant, J 2009, *SPSS survival manual*, 3rd edn, Allen & Unwin, Crows Nest, NSW Australia.

Parsons, T 1960, *Structure and Process in Modern Societies*, The Free Press, New York.

Peteraf, M 1997, 'The cornerstones of competitive advantage', in NJ Foss (ed.), *Resources, firms and strategies - A reader in the resource based perspective*, Oxford University Press, Oxford, pp. 187-203.

Pettigrew, A 1992, 'The character and significance of strategy process research', *Strategic Management Journal*, vol. 13, pp. 5-16.

Peugh, J & Enders, C 2004, 'Missing data in educational research: A review of reporting practices and suggestions for improvement', *Review of Educational Research*, vol. Winter, no. 4, pp. 525-56.

Pfeffer, J & Veiga, J 1999, 'Putting people first for organizational success', *Academy of Management Executive*, vol. 13, no. 2, pp. 37-48.

Pinnington, A & Gray, J 2007, 'The global restructuring of legal services work? A study of the internationalisation of Australian law firms', *International Journal of the Legal Profession* vol. 14, no. 2, pp. 147-72.

Pinnington, A & Morris, T 2003, 'Archetype change in professional organizations: Survey evidence from large law firms', *British Journal of Management*, vol. 14, pp. 85-99.

Podsakoff, P, MacKenzie, S, Moorman, R & Fetter, R 1990, 'Transformational leader behaviors and their effects on followers' trust in leader, satisfaction, and organizational citizenship behaviors', *The Leadership Quarterly*, vol. 1, no. 2, pp. 107-42.

Porter, M 1980, *Competitive strategy*, Free Press, New York.

Powell, C 1992, 'Strategic planning as competitive advantage', *Strategic Management Journal*, vol. 13, no. 7, pp. 551-8.

Powell, T & Dent-Mitcallef, A 1997, 'Information technology as competitive advantage: The role of human business and technology resources', *Strategic Management Journal*, vol. 18, no. 5, pp. 375-405.

Prahalad, C & Hamel, G 1990, 'The core competence of the corporation', *Harvard Business Review*, vol. 68, no. 3, pp. 79-91.

Purcell, J 1999, 'Best practice and best fit: chimera or cul-de-sac?', *Human Resource Management Journal*, vol. 9, no. 3, pp. 26-41.

Ranson, S, Hinings, CR & Greenwood, R 1980, 'The structuring of organizational structures', *Administrative Science Quarterly*, vol. 25, no. 1, pp. 1-17.

Rich, P 1992, 'The organizational taxonomy: Definition and design', *Academy of Management Review*, vol. 17, no. 4, pp. 758-81.

Richter, A, Dickmann, M & Graubner, M 2008, 'Patterns of human resource management in consulting firms', *Personnel Review*, vol. 37, no. 2, pp. 184-202.

Rodwell, J & Shadur, M 2007, 'Strategy as a configuration of activities: evidence that strategy absence exists', *Strategic Change*, vol. 16, pp. 43-55.

Sallmann, N 2012, *Legal services in Australia*. IBIS World Industry Report, L7841

Savaya, R & Cohen, O 1998, 'A qualitative cum quantitative approach to construct definition in a minority population: Reasons for divorce among Israeli Arab women', *Journal of Sociology and Social Welfare*, vol. 25, pp. 157-79.

Senge, P. 1992, *The Fifth Discipline, The art and practice of the learning organization*, Random House, Australia

Schmidt, L 2006, 'Too many fee earners spoil the relationship', *Australian Financial Review*, 14 July, 2006.

Schuler, R & Jackson, S 1987, 'Linking competitive strategies with HRM management strategies', *Academy of Management Executive*, vol. 1, no. 1987, pp. 207-19.

Shah, N 2005, 'Change in institutions: The decline of the 'no-lateral-hiring' norm among large law firms, 1974-1990', paper presented to Academy of Management, Orgaizations and Management Theory Division – Best Paper Based on a Dissertation Award.

Sharma, A 1997, 'Professional as agent: knowledge assymetry in agency exchange', *Academy of Management Review*, vol. 22, no. 3, pp. 758-98.

Sherer, P 1995, 'Leveraging Human Assets in Law Firms: Human Capital Structures and Organizational Capabilities', *Industrial and Labor Relations Review*, vol. 48, no. 4, pp. 671-91.

—— 2007, 'Mapping the competitive space of large US law firms: a strategic group perspective', in L Empson (ed.), *Managing the modern law firm. New challenges new perspectives*, Oxford University Press, Oxford, pp. 162-85.

Short, J, Payne, T & Ketchen, D 2008, 'Research on organizational configurations: Past accomplishments and future challenges', *Journal of Management*, vol. 34, no. 6, pp. 1053-79.

Siegel, S & Castellan, N 1988, *Nonparametric Statistics for the behavioral sciences* 2nd edn, McGraw-Hill, New York.

Slater, S & Narver, J 1994, 'Market orientation, customer value, and superior performance', *Business Horizons*, pp. 22-8.

Snell, S & Dean, J 1992, 'Integrated manufacturing and human resource management: A human capital perspective', *Academy of Management*, vol. 35, no. 3, pp. 467- 504.

Spector, P 2006, 'Method variance in organizational research', *Organizational Research Methods*, vol. 9, no. 2, pp. 221-32.

Starbuck, W 1992, 'Learning by knowledge intensive firms', *Journal of Management Studies*, vol. 29, no. 6, pp. 713-40.

Subramony, M 2009, 'A meta-analytic investigation of the relationship between HRM bundles and firm performance', *Human Resource Management*, vol. 48, no. 5, pp. 745-68.

Sun, L, Aryee, S & Law, K 2007, 'High performance human resource practices, citizenship behaviour and organisational performance: a relational perspective', *Academy of Management*, vol. 50, no. 3, pp. 558-77.

Sveiby, K 1997, *The new organizational wealth* Berrett-Koehler, San Francisco.

Teece, D, Pisano, G & Shuen, A 1997, 'Dynamic capabilities and strategic management', *Strategic Management Journal*, vol. 18, no. 7, pp. 509-33.

Teo, S, Lakhani, B, Brown, D & Malmi, T 2008, 'Strategic human resource management and knowledge workers', *Management Research News*, vol. 31, no. 9, pp. 683-94.

Tushman, M & O'Reilly, C 2002, *Winning through innovation*, Harvard Business School Press, Boston: MA.

Ulrich, D 1997a, *Human resource champions: The next agenda for adding value and delivering results*, Harvard Business School Press, Boston.

—— 1997b, 'Measuring human resources: An overview of practice and a prescription for results', *Human Resource Management*, vol. 36, no. 3, pp. 303-20.

Ulrich, D & Beatty, D 2001, 'From partners to players: Extending the HR playing field', *Human Resource Management*, vol. 40, no. 4, pp. 293-307.

Ulrich, D & Brockbank, W 2005, *The HR value proposition*, Harvard Business School Publishing, Boston.

Ulrich, D & McKelvey, B 1990, 'General organizational classifications: an empirical test using the United States and Japanese electronics industries', *Organization Science*, vol. 1, no. 1, pp. 99-118.

Vedder, J 1992, 'How much can we learn from success?', *Academy of Management Executive*, vol. 6, no. 1, pp. 57-66.

Venkatraman, N & Ramanujam, V 1987, 'Measurement of business performance: An examination of method convergence', *Journal of Management*, vol. 13, no. 1, pp. 109-22.

Verburg, R, Hartog, D & Koopman, P 2007, 'Configurations of human resource management practices: a model and test of internal fit', *International Journal of Human Resource Management*, vol. 18, no. 2, pp. 184-208.

Von Nordenflycht, A 2010, 'What is a professional services firm?', *Academy of Management Review*, vol. 35, no. 1, pp. 155-74.

Wall, T & Wood, S 2005, 'The romance of human resource management and business performance and the case for big science', *Human Relations*, vol. 58, no. 2005, pp. 429-62.

Wallace, J 1995, 'Organizational and professional commitment in professional and nonprofessional organizations', *Administrative Science Quarterly*, vol. 40, no. 2, pp. 228-55.

Walton, R 1985, 'From control to commitment in the workplace', *Harvard Business Review.*, vol. 63, no. 2, pp. 77-84.

Weber, M 1947, *The theory of social and economic organization*, The Free Press, New York.

Wernerfelt, B 1984, 'A resource based view of the firm', *Strategic Management Journal*, vol. 5, no. 2, pp. 171-80.

Wilkins, D 2007, 'Valuing diversity: some cautionary lessons from the American experience', in L Empson (ed.), *Managing the modern law firm. New challenges, new perspectives*, Oxford University Press, Oxford, pp. 37-63.

Wood, S 1999, 'Human resource management and performance', *International Journal of Management Reviews*, vol. 1, no. 4, pp. 367-413.

Wood, S & Albanese, M 1995, 'Can we speak of human resource management on the shop floor?', *Journal of Management Studies*, vol. 32, no. 2, pp. 215-47.

Wood, S & Wall, T 2007, 'Work enrichment and employee voice in human resource management-performance studies', *International Journal of Human Resource Management*, vol. 18, no. 7, pp. 1335-72.

Wright, M, Gardner, T, Moynihan, L & Allen, M 2005, 'The relationship between HR practices and firm performance: Examining causal order', *Personnel Psychology*, vol. 58, pp. 409-46.

Wright, P, Dunford, B & Snell, S 2001, 'Human resources and the resource based view of the firm', *Journal of Management*, no. 27, pp. 710-21.

Wright, P & McMahan, G 1992, 'Theoretical perspectives for strategic human resource management', *Journal of Management*, vol. 18, no. 2, pp. 295-320.

Wright, P, McMahan, G & McWilliams, A 1994, 'Human resources and sustained competitive advantage: a resource-based perspective', *International Journal of Human Resource Management*, vol. 5, no. 2, pp. 301-26.

Youndt, M, Snell, S, Dean, J & Lepak, D 1996, 'Human resource management, manufacturing strategy, and firm performance', *Academy of Management*, vol. 39, no. 4, pp. 836-66.

Appendices

Appendix 1. Pilot survey

Code No._____.

Environmental uncertainty

Please circle 1 if the statement on the left applied very strongly for your organisation, circle 5 if the statement on the right applies very strongly, circle 3 if neither statement applies or if both apply equally, and circle 2 or 4 to indicate some tendency towards the statements on the left or right, respectively.

1. We must rarely change our marketing practices to keep up with the market and competitors	1	2	3	4	5	We must change our marketing practices extremely frequently (e.g. semi-annually)
2. The rate at which products/services are becoming obsolete in the industry is very slow	1	2	3	4	5	The rate of obsolescence is quite high
3. Actions of competitors are quite easy to predict	1	2	3	4	5	Actions of competitors are unpredictable
4. Demand and consumer tastes are fairly easy to forecast	1	2	3	4	5	Demand and tastes are almost unpredictable
5. The production/service technology is not subject to much change and is well established	1	2	3	4	5	The production/service technology often changes in a major way

Decentralisation

Please indicate the level in your firm at which someone has the authority to make decisions about the following issues.

Who *actually* makes the *final* decision about:	>CEO (Board)	CEO	Dept head	Sub-dept head	line manager	operative
1. ... the number of people employed here?	0	1	2	3	4	5
2. ... which new employees to hire?	0	1	2	3	4	5
3. ... using subcontractors or temporary employees?	0	1	2	3	4	5
4. ... evaluating worker performance?	0	1	2	3	4	5
5. ... worker promotions?	0	1	2	3	4	5
6. ... wage rates or salary levels?	0	1	2	3	4	5
7. ... discharging or laying off employees?	0	1	2	3	4	5
8. ... work scheduling and overtime?	0	1	2	3	4	5

In our new product design program:	Strongly disagree		Neutral		Strongly agree
9. We regularly search and collect information about our competitors' products and strategies	1	2	3	4	5
10. We systematically analyse information about competitors	1	2	3	4	5

11. Information about competitors' products is fully integrated as a benchmark in our product design	1	2	3	4	5
12. Our knowledge of our competitors' strengths and weaknesses is thorough	1	2	3	4	5
13. We rarely study our competitors' products/services	1	2	3	4	5
In our product/service development program:	Strongly disagree		Neutral		Strongly agree
14. We regularly meet customers to learn their current and potential needs for new products	1	2	3	4	5
15. Our knowledge of customer needs is thorough	1	2	3	4	5
16. We rarely use research procedures (e.g. personal interviews, focus groups, and surveys) to gather customer information	1	2	3	4	5
17. We systematically process and analyse customer information	1	2	3	4	5
18. Customer information is fully integrated in new product/service design	1	2	3	4	5
19. We seldom use customers to test and evaluate new products	1	2	3	4	5
20. We fully understand our customers' business	1	2	3	4	5
21. We rarely study customers' operations for new product/service development	1	2	3	4	5
How would you compare your customers with other customers in the same industry? Our customers are:	Strongly disagree		Neutral		Strongly agree
22. More demanding for product/service quality and reliability	1	2	3	4	5
23. More sophisticated in terms of our products'/services' technical specifications	1	2	3	4	5
24. More sensitive to product cost	1	2	3	4	5
25. Less demanding for product service and support	1	2	3	4	5
26. Less concerned with the effectiveness of our product/service	1	2	3	4	5
27. More concerned with a good fit between their needs and the service/product offering	1	2	3	4	5

Human Resource Management Practices

Please indicate the extent to which you agree that each of the below activities has been attempted for all relevant employees:	Strongly disagree		Neutral		Strongly agree
1. Match the characteristics of managers to the strategic plan of the firm	1	2	3	4	5
2. Identify managerial characteristics necessary to run the firm in the long term	1	2	3	4	5
3. Modify the compensation system to encourage managers to achieve long-term strategic objectives	1	2	3	4	5
4. Change staffing patterns to help implement business or corporate strategies	1	2	3	4	5
5. Evaluate key personnel based on their potential for carrying out strategic goals	1	2	3	4	5
6. Conduct job analyses based on what the job may entail in the future	1	2	3	4	5
7. Conduct development programs designed to support strategic changes	1	2	3	4	5

Compared to your principal competitors:	Much less		Same		Much more
8. How much do you invest in education and competence development for your employees?	1	2	3	4	5
9. How much do you invest in total employee compensation (including all benefits and pensions)?	1	2	3	4	5

Please indicate the extent to which you agree with the following statements:	Strongly disagree		Neutral		Strongly agree
10. The organisation really cares about its employees' well-being	1	2	3	4	5
11. The firm is really concerned about paying everyone what they deserve	1	2	3	4	5
12. The firm cares about workers' overall satisfaction at work	1	2	3	4	5
13. If the firm earned more profit, it would consider increasing salaries or giving larger bonuses	1	2	3	4	5

14. How extensive are the employee selection processes for a job in your organisation? (e.g. use of tests, interviews, etc.)	not extensive			moderate			very extensive
	1	2	3	4	5	6	7
15. How important is it to select the *best* person for a given job?	not important			important			very important
	1	2	3	4	5	6	7
16. In general, how long does it take to select someone for a position in your firm once the job becomes open?	short time						long time
	1	2	3	4	5	6	7
17. How many people are involved in the selection decision?	1 person						7 or more
	1	2	3	4	5	6	7
18. How much money is generally spent in selecting people for a job?	very little			moderate amount			great deal
	1	2	3	4	5	6	7
19. How many applicants are screened for each person hired for a job?	1						20+
	1	2	3	4	5	6	7
20. How much importance is placed on the staffing process in this firm?	very little			moderate amount			great deal
	1	2	3	4	5	6	7
21. How extensive is the training process for members of your firm	not extensive			moderate			very extensive
	1	2	3	4	5	6	7
22. How much priority is placed on training employees in your firm?	very little			moderate amount			great deal
	1	2	3	4	5	6	7
23. How formal or structured is the training process?	very unstructured						very structured
	1	2	3	4	5	6	7
24. Approximately what percentage of people have received training this past year?	0%						100%
	1	2	3	4	5	6	7
25. On average how many hours of formal training does a typical member of your firm receive per year?	0 hours						>60 hours
	1	2	3	4	5	6	7
26. How many different kinds of training programs are available for members of your organisation to attend?	very few						wide variety
	1	2	3	4	5	6	7
27. How much money is spent on training individuals in your organisation?	almost none						great deal
	1	2	3	4	5	6	7
28. Do you feel training is viewed as a cost or as an investment?	as a cost						as an investment
	1	2	3	4	5	6	7
29. How would you rate pay levels in this firm relative to other firms?	low			same			high
	1	2	3	4	5	6	7

30. How would you rate the pay levels in this firm relative to past years?	lower than past			same			higher than past
	1	2	3	4	5	6	7
31. The wages in this firm are *not* very competitive for this industry	completely true						completely false
	1	2	3	4	5	6	7
32. How much emphasis is placed on paying people in this firm what they would be paid in similar jobs in other companies?	very little			moderate			great deal
	1	2	3	4	5	6	7
33. How closely is pay tied to individual performance?	not closely			somewhat			very closely
	1	2	3	4	5	6	7
34. How wide is the range in pay across members in this work unit?	narrow			moderate			very wide
	1	2	3	4	5	6	7
35. To what extent do differences in pay across members of this work unit represent differences in their contribution?	very little			moderate amount			great deal
	1	2	3	4	5	6	7
36. To what extent are people paid what they are worth compared to others in their work unit?	very little			moderately			great deal
	1	2	3	4	5	6	7

Performance Appraisal

1. How much effort is given to measuring employee performance?	very little			moderate			great deal
	1	2	3	4	5	6	7
2. How would you describe the performance standards in your unit?	fixed						flexible
	1	2	3	4	5	6	7
3. How much do employees participate in goal setting and appraisal?	very little			moderate			great deal
	1	2	3	4	5	6	7
4. How often is performance discussed with employees?	rarely			occasionally			daily
	1	2	3	4	5	6	7
5. Do discussions focus on present performance or future performance?	present						future
	1	2	3	4	5	6	7
6. When performance is discussed, how much emphasis is placed on finding avenues of personal development for an employee?	very little			moderate			great deal
	1	2	3	4	5	6	7
7. How closely are raises, promotions, etc., tied to performance appraisal?	not closely			moderately			very closely
	1	2	3	4	5	6	7
8. How would you describe the approach used to discuss performance?	tell/sell			tell/listen			problem solving
	1	2	3	4	5	6	7
9. How many people provide input to the performance evaluation of each employee?	1						7 or more
	1	2	3	4	5	6	7

10. Which of the following employee promotion decision rules does your firm use *most* often?	Merit or performance rating alone	Seniority, only if merit is equal	Seniority among employees who meet a minimum merit requirement	Seniority
	1	2	3	4

Performance

Compared to other organisations that do the same kind of work, how would you compare your organisation's performance over the last *3 years* in terms of...

	Worse			Much better
1. Quality of products, services or programs?	1	2	3	4
2. Development of new products, services or programs?	1	2	3	4
3. Ability to attract essential employees?	1	2	3	4
4. Ability to retain essential employees?	1	2	3	4
5. Satisfaction of customers or clients?	1	2	3	4
6. Relations between management and other employees?	1	2	3	4
7. Relations among employees in general?	1	2	3	4

8. Marketing?	1	2	3	4
9. Growth in sales?	1	2	3	4
10. Profitability?	1	2	3	4
11. Market share?	1	2	3	4

Demographics of your organisation

1. Approximately how many levels are there between the lowest and highest positions at the organisation, including both the lowest and highest levels? _____.

2. Approximately how many full-time equivalent employees are there in your organisation? _____.

3. Across all of your employees, what would be their average number of years of experience in similar work to their current job? (approx.) _____years

4. Approximately what percentage of your employees are members of a union? _____%

5. Please estimate your organisation's absenteeism rate (due to illness or without notice) for the last 12 months? _____%

6. Please estimate your organisation's voluntary labour turnover rate for the last 12 months. _____%

7. Please estimate your organisation's *in*voluntary labour turnover rate for the last 12 months. _____%

8. Please estimate the number of staff that work directly with customers in projects, including top management _____.

9. For those staff that work directly with customers (incl. top management), what would be their average number of years of professional experience? (approx.) _____.

10. Please estimate your share of revenues from your five largest customers _____%

11. Please estimate the number of your employees with less than 2 years tenure at your organisation _____.

12. Approximately what percentage of your current customers were also your customers a year ago? _____%

13. What proportion of the workforce receives formal performance appraisals? _____%

14. What proportion of your workforce have performance appraisals that directly determine a component of their compensation? _____%

15. For the five positions that your firm hires most frequently, how many qualified applicants do you have per position (on average)? _____.

16. To describe your current customers, please allocate 100 points across the 4 types of customers below:

Image-enhancing customers, that help attract new business	Challenging, with a wide educational impact in your firm	Limited challenge, yet interesting	Routine
%	%	%	%

17. Please estimate your total revenue for the last 12 months AU$_____.

18. Approximately what percentage of your revenue comes from exports? _____%19. What is the country of your company's headquarters? (please circle one)

Australia
USA Great
Britain
Other, please specify: _

Thank you very much for your participation.

Appendix 2. Cover sheet – Survey 2

MGSM
MACQUARIE GRADUATE SCHOOL OF MANAGEMENT

INFORMATION SHEET

Patterns of HR and Organisational Performance in Australasian Law Firms

Purpose of this research: You are invited to participate in a research study in to the impact of people management practices in the legal services industry (i.e. solicitor practices) in Australasia. The study will investigate the presence of different Human Resources systems and measure the *impact* of these systems on both perceptions of organisational performance and on actual organisational performance. The study will contribute to the management theory evidence base and may help the legal services sector by informing management decisions.

How will the results be used? The research is being conducted by Andrew Heys as part of research for a PhD in Management, under the supervision of Professor Robin Kramar of Macquarie (University) Graduate School of Management (MGSM) and Professor John Rodwell of Deakin Business School, Deakin University. Data gathered for this research will be de-identified and will be submitted for publication in scholarly journal(s). Data may also be used in future research by the principal researcher, Andrew Heys.

What are you being asked to do? You are being asked to respond to a survey of short questions. The survey will take around 25-30 minutes. The survey ends with some demographic and performance related questions that will help us compare HR practices with organisational performance. You are under no obligation to respond to the survey and may leave questions blank if you do not understand the question or do not wish to answer.

What's in it for you? In addition to contributing to original knowledge on management in the legal services industry, participating organisations will also benefit by receiving a de-identified feedback report on the survey results. This will enable you to review your firm's people practices in the light of scholarly evidence. You will also be sent a copy of the scholarly article resulting from the research.

Who is the right person in your firm to respond to this survey? The ideal person is someone with an overview of how the firm is run, how people are managed, how the firm is performing and an opinion on how it compares to its nearest competitors. A Managing Partner or GM/CEO would be ideal but equally an HR Director or CFO/Finance Manager may also have the necessary overview of the organisation to respond. Only one survey per firm is being sent out initially. If no response is received from a firm a second respondent, such as an HR Director, may be sent the survey and asked to respond. If this person does not respond no further surveys will be sent.

Why is there an identification code on the survey? There is a number on the survey. This is common practice in academic research and allows the researchers to identify which firms have responded to prevent multiple responses from the same organisation. Only the university research team outlined above will have access to the code so that confidentiality is assured.

How will the data remain confidential? At no time will the individual practices within firms or any one firm's organisational performance data be identified or disclosed. Only summary information in the form of statistical analysis and broad conclusions will be reported in the scholarly literature. The responses will be locked in a secure environment and all data on computer files will be password protected. Access to the data will be restricted to the university researcher team outlined above.

Who can you talk with about this project? The researcher, Andrew Heys may be contacted on +61(0)29850 9024 or email andrew.heys@mgsm.edu.au. Inquiries, comments, compliments or complaints about the project may be directed to the supervisor of this research project, Professor Robin Kramar, MGSM, Macquarie University on (02) 9850 9984.

Ethics of this survey: The ethical aspects of this study have been approved by the Macquarie University Ethics Review Committee (Human Research). If you have any complaints or reservations about any ethical aspect of your participation in this research, you may contact the Committee through the Director of Research Ethics (telephone (02) 9850 7854; ethics@mq.edu.au). Any complaint you make will be treated in confidence and investigated, and you will be informed of the outcome.

Please return this survey to the researcher by mailing it back using the reply paid envelope.

Your answers are confidential.
Thank you for your time and effort helping my PhD research and advancing original knowledge into the impact of people management in law firms.

Appendix 3. Survey 2

MGSM
MACQUARIE GRADUATE SCHOOL OF MANAGEMENT

Patterns of HR and Organisational Performance in Australasian Law Firms

As detailed in the information sheet, this survey focuses on the management of fee-earning legal professionals, including partners and paralegals, rather than support personnel, contractors or other service providers. [**Instructions**: Circle your response on the rating scale. Note, "professionals", "lawyers" and "employees" are used interchangeably.]

A: In relation to Leadership in your firm. Leaders in this firm…	Strongly disagree		Neutral		Strongly agree
1. Have a clear idea of where the firm is heading	1	2	3	4	5
2. Paint an interesting picture of the future for the firm	1	2	3	4	5
3. Are able to inspire others with their plans for the future	1	2	3	4	5
4. Are able to get others committed to the firm's dream	1	2	3	4	5
B: Mission/Vision To what extent do you agree that:	**Strongly disagree**		**Neutral**		**Strongly agree**
5. This firm has a clearly defined mission and/or vision	1	2	3	4	5
6. The firm's vision/mission is communicated well to clients	1	2	3	4	5
7. Our firm's vision/mission effectively conveys our areas of strength and specialisation	1	2	3	4	5
8. Our staff know what we stand for	1	2	3	4	5
9. Our clients know what we stand for	1	2	3	4	5
C: Client Focus	**Strongly disagree**		**Neutral**		**Strongly agree**
10. We regularly meet clients to learn their current and potential needs for new services	1	2	3	4	5
11. Our knowledge of client needs is thorough	1	2	3	4	5
12. We regularly use client knowledge processes (e.g. interviews, focus groups and surveys) to gather client information so as to provide targeted services	1	2	3	4	5
13. We systematically process and analyse client information	1	2	3	4	5
14. Client information is fully integrated in new service design	1	2	3	4	5
15. We regularly use clients to test and evaluate new services	1	2	3	4	5
16. We fully understand our clients' businesses	1	2	3	4	5
17. We regularly study clients' operations for potential new services	1	2	3	4	5
18. We balance client needs with the firm's needs	1	2	3	4	5
19. We sometimes say "no" to clients to protect the well-being of our staff	1	2	3	4	5
20. We place equal importance on our staff needs as well as our client needs	1	2	3	4	5
21. We manage the "billable hours syndrome" to prevent overwork or burn-out	1	2	3	4	5
D: Participation and decision making	**Strongly disagree**		**Neutral**		**Strongly agree**
22. Our lawyers are often asked by their supervising partner to participate in decisions	1	2	3	4	5
23. Our lawyers are allowed to make decisions	1	2	3	4	5
24. Our lawyers are able to suggest improvements in the way things are done	1	2	3	4	5
25. Our partners are able to directly influence how the firm is run	1	2	3	4	5
26. Supervising partners keep open communications with lawyers in this firm	1	2	3	4	5
27. The firm has frequent formal information sharing meetings	1	2	3	4	5
E: Work flow processes	**Strongly disagree**		**Neutral**		**Strongly agree**
28. Our processes enable us to effectively deploy professionals where and when needed	1	2	3	4	5

29. Work flow is actively managed to ensure work is shared appropriately	1	2	3	4	5
30. Professional work is delegated in a way that prevents write-offs	1	2	3	4	5
31. The reward system in this firm supports the appropriate delegation of work	1	2	3	4	5
32. Financial discipline is actively managed in this firm	1	2	3	4	5
33. Our firm translates work in progress into cash in a timely fashion	1	2	3	4	5
F: Accountability					
34. Raises, promotions and/or bonuses are very closely tied to performance appraisal	1 Strongly disagree	2	3	4	5 Strongly agree
35. To what extent does your performance management system look at non-financial measures of performance?	1 Not at all	2	3	4	5 To a large extent
36. To what extent are non-financial measures linked to remuneration decisions?	1 Not at all	2	3	4	5 To a large extent
37. With regard to equity holding partners… What proportion of remuneration decisions is based on non-financial indicators?	<10%	11-25%	26-50%	>50%	
38. With regard to non-equity holding professionals… What proportion of variable pay is based on non-financial indicators?	<10%	11-25%	26-50%	>50%	
G: Employee Value Proposition	Strongly disagree		Neutral		Strongly agree
39. To differentiate ourselves in the employment market, we have developed compelling reasons to join our firm	1	2	3	4	5
40. We have deliberately developed a coherent set of HR policies designed to attract talent to our firm	1	2	3	4	5
41. We actively seek opportunities to promote ourselves as an Employer of Choice	1	2	3	4	5
H: Lateral hiring (hiring professionals at the middle and senior ranks, not as graduates)	Strongly disagree		Neutral		Strongly agree
42. The benefits of lateral hiring outweigh the risks	1	2	3	4	5
43. We make lateral hires when we have work that needs to be done	1	2	3	4	5
44. We make lateral hires when the opportunity presents itself	1	2	3	4	5
45. We see lateral hires as more likely to leave our firm than long term employees	1	2	3	4	5
46. Some partners in this firm are reluctant to introduce lateral hires to their clients	1	2	3	4	5
47. Some partners in this firm have a poor impression of lateral hires	1	2	3	4	5
48. We pay great attention to cultural fit when making a lateral hiring decision	1	2	3	4	5
49. We have a deliberate lateral hiring strategy in this firm	1	2	3	4	5
50. Lateral hiring has a negative effect on morale	1	2	3	4	5
51. Lateral hiring affects the career prospects of existing internal candidates	1	2	3	4	5
I: Diversity	Strongly disagree		Neutral		Strongly agree
52. We Our firm has practices designed to promote diversity among our professionals	1	2	3	4	5
53. Women are encouraged to fully participate in the organization	1	2	3	4	5
54. Our recruitment and promotion policies are successful in promoting diversity	1	2	3	4	5
55. The contribution of older professionals is valued in our organisation	1	2	3	4	5
56. Non-partners are treated and respected the same as partners in this firm	1	2	3	4	5
57. Non-fee-earning staff are treated and respected the same as fee earning staff	1	2	3	4	5
58. To encourage internal promotion to partner, we have strategies to encourage natural attrition or retirement for long-tenured partners (e.g., de-equitising, Special Counsel status, enforced superannuation, consultancy agreements with former partners, mandatory retirement age)	1	2	3	4	5
J: Training	Strongly disagree		Neutral		Strongly agree

59. This firm invests heavily in training people for their managerial responsibilities	1	2	3	4	5
60. We prepare our potential future leaders for the challenges of leadership from an early stage of their careers	1	2	3	4	5
61. We place equal emphasis on soft (managerial) skills as we do on ongoing technical and legal education for our professional staff	1	2	3	4	5
62. Potential future partners are prepared from an early stage of their career for their role as a leader	1	2	3	4	5
63. Our future leaders are exposed to a diverse range of leadership styles throughout their career	1	2	3	4	5
K: To what extent does your performance management system account for:	Not at all		Partly	To a strong degree	
64. Business development activity (new client acquisition)	1	2	3	4	5
65. Account retention and development activity (organic growth)	1	2	3	4	5
66. Institution building (e.g., cross-practice referrals)	1	2	3	4	5
67. Voluntary or pro-bono activity	1	2	3	4	5
68. Thought leadership activity	1	2	3	4	5
69. Team work	1	2	3	4	5
70. Executive management and administration activity	1	2	3	4	5
71. Deviant behaviour or breaches of organisational ethics, values, codes, or rules	1	2	3	4	5
72. Mentoring (of jnr. staff)	1	2	3	4	5
73. Debriefing	1	2	3	4	5
74. Record keeping, archiving	1	2	3	4	5
75. Financial discipline, write-offs	1	2	3	4	5
L: Client Strategy: please assess the accuracy of the statements below:	Not at all accurate				Very accurate
76. We have broad, long-range goals known to all lawyer managers and professionals	1	2	3	4	5
77. We have specific, short-term goals known to all lawyer managers and professionals	1	2	3	4	5
78. Our firm's actions are based more on formal plans than on intuition	1	2	3	4	5
79. We have a written business plan for the next 12 months	1	2	3	4	5
With respect to decisions about who this firm will – or will not – act for…	Not at all accurate				Very accurate
80. Our strategic client decisions are strongly enforced	1	2	3	4	5
81. If needed, we will hire or exit partners to match our strategy	1	2	3	4	5
82. We are committed to our strategic client decisions	1	2	3	4	5

Section B

M: Thought leadership (firm specialisations)	Disagree strongly	Disagree	Disagree slightly	Neutral	Agree slightly	Agree	Agree strongly
1. Thought leadership is strategically important for our firm	1	2	3	4	5	6	7
2. It is important for us to be seen to have the "leading lights" in our specialist area(s)	1	2	3	4	5	6	7
3. Our firm invests considerable resources into being seen as thought leaders	1	2	3	4	5	6	7
4. We encourage our professional staff to teach and write on contemporary legal issues	1	2	3	4	5	6	7
5. The ability to contribute to thought leadership is an important consideration in recruitment decisions	1	2	3	4	5	6	7
N: Selective Staffing							
6. We have rigorous selection processes for professional roles (e.g. tests, interviews)	1	2	3	4	5	6	7
7. We believe it is important to select the best person for a professional role	1	2	3	4	5	6	7
8. All the right people are involved in important selection decisions	1	2	3	4	5	6	7
9. Recruitment costs are a minor consideration in selecting people	1	2	3	4	5	6	7
10. We usually have a large pool of suitable candidates for our professional vacancies	1	2	3	4	5	6	7
11. A great deal of importance is placed on the staffing process in this firm	1	2	3	4	5	6	7
O: Role Ambiguity							
12. Professional staff in this firm know what is expected of them	1	2	3	4	5	6	7

13. All the responsibilities inherent to professional jobs are clearly defined	1	2	3	4	5	6	7
14. Professional staff feel certain about how much authority they have	1	2	3	4	5	6	7
15. Professional staff have clearly defined goals and objectives for their job	1	2	3	4	5	6	7
16. Our partners are clear on what is expected in their role	1	2	3	4	5	6	7
17. Our senior associates are clear on what is expected in their role	1	2	3	4	5	6	7
18. Our junior lawyers are clear on what is expected in their role	1	2	3	4	5	6	7
P: Regarding accountability and performance of our professionals and partners							
19. A great deal of effort is given to measuring professional's performance	1	2	3	4	5	6	7
20. Performance is discussed frequently	1	2	3	4	5	6	7
21. A great deal of emphasis is placed on finding avenues of personal development when performance is discussed	1	2	3	4	5	6	7
Q: Please indicate your firm's level of implementation of each of the following	Not implemented						Fully implemented
22. Programs aimed at finding time and cost losses in all internal processes	1	2	3	4	5	6	7
23. Reinforcing continuing monitoring and improvement of services and processes	1	2	3	4	5	6	7
24. Specific structures to support quality improvement(quality committee, work teams)	1	2	3	4	5	6	7
25. Information management aimed at supporting quality management (analysis of data regarding business performance, cost and financial aspects to support priorities)	1	2	3	4	5	6	7
R: Please indicate the extent to which you agree or disagree with each statement.	Not at all						To a large extent
26. Are HR managers or other non lawyer managers (e.g. General Managers) throughout the firm viewed by those outside HR as partners in the management of the business and agents for change?	1	2	3	4	5	6	7
27. Does your firm make an explicit effort to align business and HR Strategies?	1	2	3	4	5	6	7
28. Is the HR department involved in your firm's strategic planning process?	1	2	3	4	5	6	7
29. Is HR seen primarily by senior management as a cost to be minimized versus a source of value creation?	1	2	3	4	5	6	7

S: Please indicate the level in your firm at which someone has the authority to make decisions about the following issues. Who actually makes the final decision about:	Executive Committee	Managing Partner	Equity Partner	Salaried Partner	Senior Associate
30. The number of people employed in your firm?	0	1	2	3	4
31. Which new employees to hire?	0	1	2	3	4
32. Using subcontractors or temporary employees?	0	1	2	3	4
33. Evaluating worker performance?	0	1	2	3	4
34. Worker promotions?	0	1	2	3	4
35. Wage rates or salary levels?	0	1	2	3	4
36. Discharging or laying off employees?	0	1	2	3	4
37. Work scheduling and overtime?	0	1	2	3	4

T: Estimated Organizational Performance					
38. Do professionals in your firm do more than is typically required in their contract or job description		1 No	2	3	4 To a High Degree
39. Attrition rate: Estimated Voluntary annual turnover among professionals Or actual: %	<5%	5-10%	10- 15%	15-20	20%
40. Estimated level of employee engagement	Very low	Low	Moderate	High	Very high

Section C

U: Compared to your competitors, how would you compare your organisation's performance over the last 3 years in terms of...	Worse			Much better
57. Quality of services or programs?	1	2	3	4
58. Development of new services or programs?	1	2	3	4
59. Ability to attract essential employees?	1	2	3	4
60. Ability to retain essential employees?	1	2	3	4
61. Satisfaction of clients or clients?	1	2	3	4
62. Relations between management and other employees?	1	2	3	4

63. Relations among employees in general?	1	2	3	4
64. Marketing?	1	2	3	4
65. Growth in sales?	1	2	3	4
66. Profitability?	1	2	3	4
67. Market share?	1	2	3	4
68. Top management team's leadership performance	1	2	3	4

Demographics

69. Number of equity partners in Aust/NZ: _____

70. Number of full time equivalent fee-earning employees in Aust/NZ: _____

71. How many years have you worked in your firm? _____

72. How many months have you been in your current role? _____

73. Your role? 1: HR Manager 2: Paid Executive 3: Salaried or Equity Partner 4: Managing Partner

Optional financial performance indicators

Note: We understand that financial information can be sensitive. However, rigorous research embraces both subjective and objective measures of firm performance. We reassure you that the survey is confidential. No individual firm's performance will be identified or disclosed to third parties under any circumstances. You are under no obligation to reveal this information but it will greatly help the research if you do.

74. Estimated gross fee revenue in Aust/NZ practice in the last year Or actual: $_____	<$20m	$20m to $50m	$50m to $100m	$100m to $200m	$200+
75. Estimate annual profit per profit-sharing principal in Aust/NZ practice Or actual: $_____	<$500K	$501-$700K	$701K-$900K	$901K-$1.2m	>$1.2m
76. Blended hourly billing rate (estimated average charge out rate per professional) Or actual: $_____	<$150	$150 to $250	$250 to $400	$400 to $700	$700+
77. Profit margin Or actual: _____%	<10%	10% to 30%	30% to 40%	40% to 50%	50%+

Thank you, sincerely. Please return the completed survey in the reply paid envelope. Or post to

Andrew Heys
Macquarie Graduate School of Management
Macquarie University, NSW 2109
Australia

Appendix 4. Conference Paper 1 (from Pilot Study)

High Performing Professional Service Firms Build Relational and Structural Capital and Strategically Harness HR.

Mr Andrew Heys
Macquarie University
Email: andrew.heys@gsm.mq.edu.au
and
Associate Professor John J. Rodwell
Macquarie University
Email: john.rodwell@gsm.mq.edu.au

PAPER BEING PRESENTED AT INTERNATIONAL ACADEMY OF MANAGEMENT AND BUSINESS CONFERENCE, LAS VEGAS, NOVEMBER 8-11, 2004, NOT FOR CITATION WITHOUT WRITTEN PERMISSION OF THE AUTHORS.

Stream: Human Resource Management

ABSTRACT

This paper investigates the extent to which practices and policies reflecting human, relational and structural capital distinguish high- from low-performing specialist professional services firms. A survey of managers of large legal and engineering consultancy firms highlighted the need for these firms to pay more attention to their intangible assets. In particular, these firms should develop a market orientation, develop a strategic approach to HRM and set up a decentralized environment. Further, the value of managing intangible assets is highlighted by the overall pattern of substantial significant differences between high- and low-performing professional services firms.

INTRODUCTION

The intellectual capital (IC) or intangible assets (IA) of a firm will encompass assets such as the firm's market knowledge and competitor information, its intellectual property, (patents and trademarks), its databases and all its proprietary business processes. Importantly, when people talk about intangible capital they are also often referring to the knowledge and competencies that a firm possesses by virtue of its employees' individual and collective knowledge, their skills and experience, and the core competencies that an organisation disperses amongst its staff through various knowledge sharing activities.

This paper investigates the relationship between human and relational capital in terms of their impact on firm performance. The research focuses on the knowledge intensive sector of professional services, with an emphasis on legal and engineering services. Professional services firms offer an ideal environment in which to test the currency of models in the knowledge management literature. Indeed the Sveiby model to be examined here; is geared toward such firms. Sveiby's approach is that it is knowledge intensive organisations in particular who should learn to quantify the intangible assets that they develop in order to better assess their competitive position and gain a more holistic perspective on their own performance. Sveiby has developed an IC reporting model, the Intangible Assets Monitor (IAM).

Professional services firms offer an ideal environment in which to test the currency of models in the knowledge management (KM) literature. Although professional services firms have huge profit

margins, often their only real assets are intangible. In some types of professional services firms, most notably management consulting, knowledge management is well developed (Dunford, 2000). In others, such as the legal profession, the development of knowledge management is not as apparent and many law firms indicate that partners do not take the time to share the insights gained from each assignment (Kandelwahl & Gottschalk, 2003). This may be a function of inherent conservatism in the field or it may be a function of the "billable hours" syndrome, where professionals are so consumed by meeting strict billable hours targets that they are unwilling or unable to focus on very much else. Other arguments include that professionals are prone to protect their knowledge, they tend to work in a semi-autonomous fashion or as a discreet unit and often they will have insights and methods that they alone possess. The professionals may see this knowledge as their own; some may even regard it as the source of their worth or even their power, or an insurance policy against redundancy (Davenport and Prusak 1998). Consequently getting professionals to "buy in" to KM efforts is often difficult.

Management of Human, Relational and Structural Capital and Firm Performance

The level of a firm's IC can be measured firstly by an assessment of the firm's employee competence or human capital (including the ratio of customer facing to support staff, experience level of employees etc.); second, internal structure (intellectual property, patents, databases) and third; external structure or relational capital (including market orientation, CRM systems, competitive intelligence etc.). HRM scholars working in this field now focus on evaluating how a raft of high performance human resource management practices can contribute toward building human capital and hence how such policies contribute to the competitiveness of the firm. Further proving and quantifying the extent of this link is the location of this current research.

In advocating high performance HR practices, proponents of human capital theories have shown a link between a firm's investment in human capital and its market performance (Youndt et.al 1996). In the so called "best practice" HRM literature a positive link has been found between certain key HRM practices and firm performance (Huselid, 1995).

The "best practice" approach is mirrored in later work on relational capital where marketing scholars have shown a link between the processes of market knowledge competence and new product performance (Li and Calantone 1998). Even more recently a comprehensive study, set in the financial services industry, was able to further build on this link offering a holistic conceptual model to help researchers gauge the effectiveness of an organisations' human capital capabilities (Bontis et al. 2002).

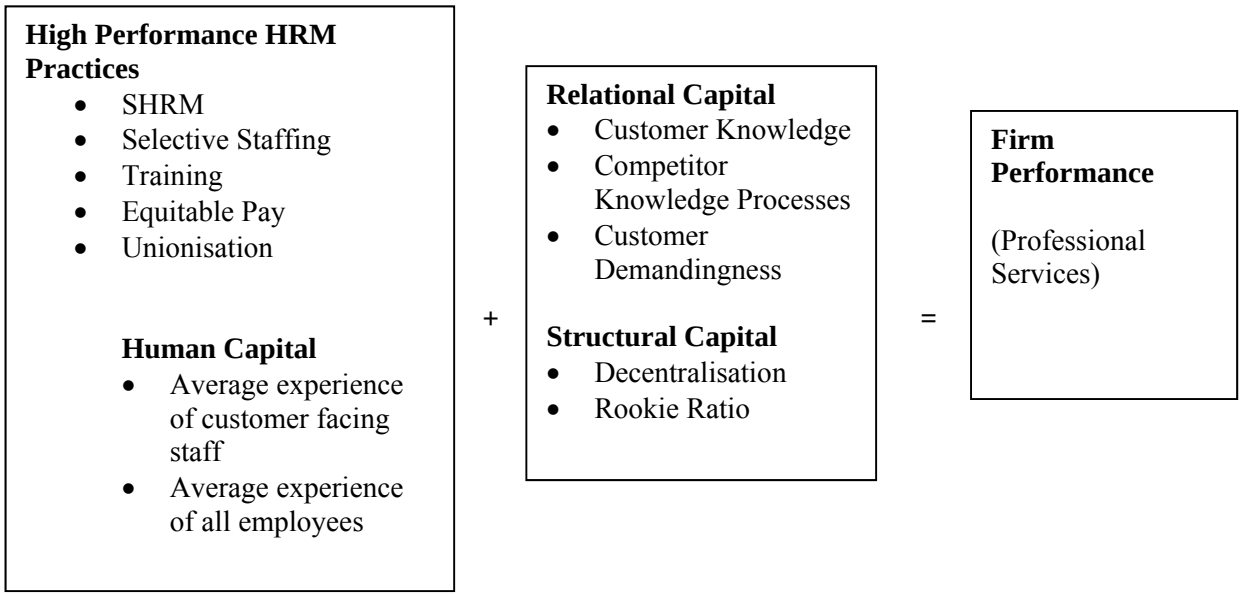
Human capital is a key concept in the area of human resource management. The human capital concept melds current thinking on strategic human resource management and high performance HR practices with economic principles of capital accumulation, investment, deployment and value creation, concepts that underlie much of strategic management thinking (Snell, 2000). In recent times a key area of focus in the human capital literature has been the search for an effective way to measure the link between a firm's level of human capital and its level of performance.

This study goes beyond human capital to also include relational capital (RC) and structural capital. Companies that embody RC often emphasize their strong relationship with the market the company serves, this market orientation has been shown to contribute positively to new product market performance (Li & Calantone 1998). Key components of a market orientation are the firm's customer orientation and competitor focus (Slater & Narver, 1994). A further key component of RC is the impact of demanding customers, especially given this focus on the customer, which involves companies developing a comprehensive understanding of their customer's business and how they perceive value. Companies with this emphasis spend a lot of time on before and after sales service and also place great emphasis on training their staff. Similarly, competitor focus involves inculcating practices and cultures which encourage people in all parts of a company to track competitor's market moves and also their potential weaknesses. A market focus stresses that all members of the company will need to perceive their key competitor's strengths and weaknesses. In the early 1990's for example the Marriott hotel chain sent a team of employees around the USA staying in budget accommodation collecting information and from this intelligence the company decided to launch a budget hotel chain,

Fairfield Inn, which achieved occupancy rates 10 point higher than the industry average in its first year (Slater & Narver, 1994).

Prior research examining the impact of different forms of structural capital on lawyer's attitudes to knowledge management has been conducted recently in a survey of Australian firms. This research found a significant relationship between the types of information technology (I.T.) deployed in law firms – those firms with structural capital (SC) infrastructure designed to merely capture information from lawyers, than those firms with more of a focus on infrastructure set up to help share and disseminate information and consequent attitudes toward KM (Kandelwahl & Gottschalk, 2003). Subsequently, there is a need to examine the aspects of IC that are less I.T.-centered.

The model tested here is that there are certain HR practices that will lead to the development or acquisition of measurable representations of human capital and that these practices, along with certain relational and structural capital variables, will distinguish high performing organisations from low performing organisations in a professional services context.



Hypothesis 1: The levels of investment and activity in human capital will be higher in high performing than low performing professional services firms.

Hypothesis 2: Relational capital will be differentiator between high and low performance in a professional services context.

Hypothesis 3: (Non-I.T.) Structural capital will be differentiator between high and low performance in a professional services context.

METHOD

Sample

Data was collected from a sample of 38 Australian law and engineering services firms using the Dunn and Bradstreet database to source the organisations. A questionnaire asked respondents, managing partners or general managers, for data on firm performance and IC practices across established indicators of IC. Given the diversity of the sample, its size was considered to be sufficient to answer the principle research question. There was representation from firms in several Australian states and the sample varied in size. Despite the small sample size, the individuals who responded were the most senior partners/managers in the firms. All firms in the sample were greater than 50 employees. The response rate was 21% (although the survey had a large, approximately 35%, return to sender rate due to inaccurate data in the list).

Measures

Human Capital Measures

HR practices that support and develop a firm's human capital were assessed using indicators of human capital as developed by Snell and Dean (1992). The human capital investment measures used were all human resource management practices commonly found in professional services firms, they included: *selective staffing*; this was measured using a 7-item scale measuring the extensiveness of a firm's selection process, as demonstrated for example by the time and money spent and the number of people involved in staffing decisions; the second, *comprehensive training* was measured using an 8-item scale which measured the extensiveness of training and development opportunities, such as the frequency and variety of training, money spent and the percentage of employees trained; *performance appraisal* was a 9-item scale measuring whether performance appraisal was used for developing employees, as exemplified by diagnosing training needs, frequent feedback, problem solving, and discussing future issues; *equitable rewards* was an 8-item scale measuring the degree to which pay was competitive for the industry (external equity) and based on individual performance (individual rewards). *Strategic HRM orientation* was derived from the degree of strategic HRM in the firm (Huselid, 1995). *Unionisation* was assessed by asking: "approximately what percentage of your staff are members of a union?" The next variable was *average experience of employees*; this measure is seen as a level of stability, as more senior professionals are less likely to leave an organisation. The next measure, *average experience of all customer facing staff*, was based on the presupposition that the more experienced your customer facing staff, the better the service and hence customer satisfaction; a higher score is a higher measure of human capital. All these latter measures were established using straightforward and intuitive calculations as explained in the Intangible Assets Monitor (Sveiby, 1997).

Relational Capital Measures

The first of these categories, *customer knowledge processes*, was measured using eight items on a seven-point scale, these items assessed the intensity of three key aspects of customer knowledge generation: information acquisition, interpretation and integration. Next, the *competitor knowledge process* was measured using a five-item scale which similarly measured the intensity of three aspects of behavioral activities of competitor knowledge generation: competitor information acquisition, interpretation and integration. Finally, we tested, c*ustomer demandingness*, that is, the level of specification that customers require. This is a measure shown by Wheelwright and Clark (1992) to be a catalyst for firms to implement processes of market knowledge competence, was measured by six items; respondents were asked to evaluate their customers' demandingness for product (service) quality, productivity, reliability, cost, service and technical specifications in comparison with other customers in the same industry (Li & Calantone, 1998).

Structural Capital Measures

The first measure, *rookie ratio*, was determined by the proportion of employees with less than two years employment (Sveiby, 1997); while the second, *decentralization*, was based on an eight-item scale adopted from Delaney and Huselid (1996).

Perceived Organisational Performance

Perceptual measures have been used to measure firm performance (Becker & Huselid, 1998) and have been shown to be strongly correlated with objective measures (Venkatraman & Ramanujam, 1987). We operationalized organisational performance by asking respondents to answer questions evaluating their organization's performance relative to similar organisations over the past three years, employing the seven-item scale of Delaney and Huselid (1996).

RESULTS

The extent to which human, structural and relational capital measures varied across perceived organisational variables was tested using one-way analysis of variance (ANOVA) in SPSS. The performance data was coded into three distinct categories of low (n=14), medium (n=8) and high (n=16) performance with the intent of an equal number of cases in each category, although the scoring lead to slightly uneven groupings. When an ANOVA was significant, the specific categories of performance that were different from each other was determined using Bonferroni post hoc tests.

Table 1. The Human Capital Variables Across Performance.

Human Capital Variables	**Perceived Organisational Performance**		
	Low	**Medium**	**High**
Strategic HRM	22.86 * (5.71)	24.89 (5.57)	27.44 * (3.30)
Comprehensive Training	33.08 (8.55)	35.62 (9.16)	39.60 (6.3)
Equitable Reward Systems	35.00 (3.65)	33.75 (3.10)	35.25 (5.93)
Selective Staffing	30.86 (3.13)	31.12 (5.87)	33.16 (3.81)
Unionisation	1% (3%)	8% (17%)	7% (15%)
Average experience of all employees	7.50 (2.74)	8.43 (2.50)	9.06 (4.62)
Average of customer facing staff	11.31 (6.08)	9.79 (5.16)	12.19 (5.76)

Note: * $p \leq 0.05$ is statistically significant, and the categories that were different from each other in the post-hoc tests are delineated.

Table 1 demonstrates that, among the human capital characteristics examined, a strategic human resource management orientation is the only statistically significant distinguisher between high and low performing organisations.

Table 2. The Relational Capital Variables Across Performance.

Relational Capital Variables	**Perceived Organisational Performance**		
	Low	**Medium**	**High**
Competitor Knowledge Processes	13.65* (4.38)	16.00 (5.20)	17.56* (2.92)
Customer Knowledge Processes	22.62* (6.33)	26.62 (6.02)	28.88* (5.21)
Customer Demandingness	20.23* (2.98)	21.25 (3.41)	23.19* (2.97)

Note: * $p \leq 0.05$ is statistically significant, and the categories that were different from each other in the post-hoc tests are delineated.

However, Table 2 shows significant results for all of the relational capital variables. That is, high- and low-performing firms were significantly different in terms of their demandingness of their customer, their customer knowledge processes and their competitor knowledge processes. Table 3 demonstrates a statistically significant result for decentralization.

Table 3. The (non-I.T.) Structural Capital Variables Across Performance.

Structural Capital Variables	Perceived Organisational Performance		
	Low	**Medium**	**High**
Decentralization	11.50* (7.42)	11.14 (3.02)	15.44* (5.00)
Rookie Ratio	17.98 (10.64)	27.04 (13.39)	17.50 (9.13)

Note: * $p \leq 0.05$ is statistically significant, and the categories that were different from each other in the post-hoc tests are delineated.

DISCUSSION

For Hypothesis 1, many professional services firms adopt relatively homogenous HR practices. A strategic orientation whereby the firm incorporates human resource management considerations into its strategic decision-making is however a differentiator. For Hypothesis 2, all of the relational capital variables significantly distinguished between high and low performing firms. Finally, hypothesis 3 was partly confirmed with decentralization distinguishing high-performing firms.

Strategic HRM helps professional services firms harness their human capital potential and thereby improve their performance. In some respects this is not a surprising result, given that both law and engineering firms are well resourced and managed by well informed and well educated professional staff. It could have been expected, although was unproven until now, that their practice management would be informed by "best practice" human resource management and IC policies. The level of strategic HRM is a differentiator, where those firms that integrate HRM considerations into their strategic process appear to perform better than their peers who do not adopt such a processes. These results affirm the hypothesis that a strong relationship exists between professional service firm performance and the levels of investment (activity) in human capital acquisition. This appears to be particularly so in terms of strategic human resource management approach.

High-performing specialist professional services firms are distinguished from low performers due to their emphasis on relational and structural capital policies that develop a market orientation in their firms. Many professional services are more effective when they are tailored in some way to the specific client's sector or business. Hence the more market focused a firm is, the more focused on client satisfaction and on ensuring they adopt a market leading position in service quality and delivery.

Further, many of the above human and relational capital systems could be so effective due to their operating in a decentralized context. Professional services firms should be paying more attention to their intangible assets and harnessing their human capital through strategic HRM and, in particular, adopting a market orientation. This research offers support for the theoretical model of Sveiby (1997) and helps to validate firms in this sector developing policies and practices to build their intangible, especially human and relational, capital.

This research has some limitations due to its basis on a cross-sectional survey and is therefore somewhat constrained in terms of determining causality. However this paper represents the first step toward a longitudinal study, further work is currently being conducted in the same arena. Further, we have only included two measures of structural capital purposefully excluding a review of the so called "harder" elements of structural capital, specifically in relation to I.T. Future work will encapsulate a more comprehensive review of these harder elements of structural capital.

What is clear however is that there are strong links in the more specialist professional services firms and their levels of investment in their intangible assets. Further research in this field should seek to expand Sveiby (1997) building on related mainstream fields such as the contemporary trends in human resource management.

REFERENCES

Becker, B.E. & Huselid, M.A., (1998), High Performance Work Systems and Firm Performance: A Synthesis of Research and Managerial Implications, *Research in Personnel and Human Resources Management*, 16, pp.53-101.

Bontis, N., Fitz-enz, (2002), Intellectual Capital ROI: A Causal Map of Human Capital Antecedents and Consequents, *Journal of Intellectual Capital*, 3,(3)., pp 223 – 247.

Delaney, J.T. & Huselid, M.A., (1996), The Impact of Human Resource Management Practices on Perceptions of Organizational Performance, *Academy of Management Journal*, 39 (4), 949-969.

Davenport. T.H., & Prusak, L.P., (1998), *Working Knowledge: How Organizations Manage What They Know*, Harvard Business School Press, Boston, MA

Dunford, R. (2000), Key Challenges in the Search for the Effective Management of Knowledge in Management Consulting Firms, *Journal of Knowledge Management*, 4, (4), pp.295 -302.

Huselid, M. A., (1995), The Impact of Human Resource Management Practices on Turnover, Productivity and Corporate Financial Performance, *Academy of Management Journal*, 38, 635-672.

Kandelwahl, V. K., & Gottschalk, P, (2003), A Knowledge Management Survey of Australian Law Firms, Technical Report No.CIT/5/2003, March 2003

Lee, J. & Miller, D., (1995) People Matter: Commitment to Employees, Strategy and Performance in Korean Firms, *Strategic Management Journal*, 20, 579-593.

Li, T. & Calantone, R. J., (1998), The Impact of Market Knowledge Competence on New Product Advantage: Conceptualization and Empirical Examination, *Journal of Marketing*,62, (October 1998), 13-29.

Rodwell, J.J & Teo, S.T.,(2003), The Need to Accumulate Human Capital Across Level of Export Intensity: Activating Resources that are Increasingly Difficult to Mobilise, *Research and Practice in Human Resource Management*, 11, (2), December 2003.

Slater, S. F. & Narver, J. C., (1994), Market Orientation, Customer Value and Superior Performance, *Business Horizons*, March-April.

Snell, S. A & Dean, J. W.,Jr. (1992), Integrated Manufacturing and Human Resource Management: A Human Capital Perspective', *The Academy of Management Journal*, 35, (3) Aug., 1992, 467 – 504.

Snell, S (2000), 'Social Capital and Strategic HRM: It's Who You Know', *Human Resource Planning*, 23 (4), 48-.

Sveiby, K. E., (1997), *The New Organizational Wealth*, Berrett-Koehler, San Francisco.

Venkatraman, N. & Ramanujam, V., (1987), Measurement of Business Economic Performance: An Examination of Method Convergence, *Journal of Management*, 13 (1), pp.109-122.

Wheelwright, S.C. & Clark, K.B., (1992) *Revolutionizing Product Development*, The Free Press, New York.

Youndt, A.M., Snell, S. Dean, J.W. Jr & Lepak, P.D. (1996), Human Resource Management Manufacturing Strategy and Firm Performance, *Academy of Management Journal*, 39(4), 836-866.

Appendix 5. Conference Paper 2 (from Study 1)

How a Focus on Managing Intangible Assets Drives Performance in Australian Law Firms

Andrew A. Heys
Macquarie Graduate School of Management, Macquarie University, North Ryde NSW 2109, Australia
Email: andrew.heys@mgsm.edu.au

Associate Professor John J. Rodwell
Macquarie Graduate School of Management, Macquarie University, North Ryde NSW 2109, Australia
Email: John.Rodwell@mgsm.edu.au

ABSTRACT

This paper looks at the determinants of performance in medium to large Australian law firms in Sydney and Melbourne. The focus is on determining the specific I.C. and human resource management practices that contribute to a law firm's performance. The opinions of a select sample of some of the most prominent and informed consultants, managers and managing partners in these markets, is used. Decisions to invest in human capital building programs are not taken lightly in these contexts; partners are spending their own money, thus their beliefs around 'what works and why' are of great interest to management research. We find that there is convergence in the perceptions of this sample around fourteen key practices. We outline the qualitative method, (convergent interviewing), and directions for future research.

Keywords: Qualitative, convergent interviews, Law firms, legal industry, resources

How a Focus on Managing Intangible Assets Drives Performance in Australian Law Firms

INTRODUCTION

The legal services industry in Australia is very dynamic and has experienced massive structural and cultural change over the past 20 years – this is especially so in terms or the organisational design and management practices of the middle to larger firms in the Australian cities of Sydney and Melbourne (Gray, 1998). The growth in this sector has been fueled by a number of factors such as the massive growth in the financial services sector and the sustained period of growth in the Australian economy, the massive changes in legislation such as through the reforms to the Tax Act and the Corporations Act under the Howard Government and the expansion of the market for legal services to offshore locales in Asia. Further the growth has been driven through the provision of domestic legal services to inbound international companies setting up regional offices in Australia. The economic success and growing competitiveness of legal services in Australia has stimulated a concern with the business/management side of running a legal practice. Some of the top firms in Australia have annual revenue of hundreds of millions of dollars. Clearly, law firms are much more commercial than in the past and the partners of these firms are focused on improving their performance across a number of measures, both financial and non financial. Some large firms are even looking at the issue of incorporation and seriously questioning the future financial wisdom of the partnership model (Schmidt, 2004). Further, law firms in Australia are facing a war for talent, they are acutely aware that to fuel ongoing growth and success they need to attract and retain talented staff and create effective systems for the production of legal advice.

This paper looks at the determinants of law firm performance and reports on the findings from a pilot study into this issue conducted in mid 2006. The key determinants of performance as identified in the research are discussed in the context of the resource based view of the firm. This work gives greater texture and richness to earlier findings and provides momentum to a larger study of law firm performance in Australia.

LITERATURE REVIEW

The following section briefly describes the various approaches to performance through management in the literature which are germane to this study and from which the larger research questions are currently being developed. Our focus here is on intangible assets and strategic human resource management. Much of this work is framed around the search for competitive advantage and thus a unifying concept is the resource based view of the firm and the link between HRM and human capital practices and a firm's performance (Barney, 1991; Wright et al, 2001). Since its arrival was announced with the publication of Barney's seminal work 15 years ago the resource based view of the firm has had an important impact upon the fields of strategic management and helped move human resource management onto a stronger conceptual footing. Barney's view was that organisations should foster assets which are valuable, inimitable rare and non substitutable and that it is these resources which help to form the basis of an organisation's competitive advantage. This idea has helped give rise to viewing human resource management as a strategic more than administrative/policing function in organisations and created a view of people as assets not costs – thus the now familiar term human capital is now in common use (Wright et. al, 2001). The resource based view has in turn given rise to the knowledge-based view of the firm a view which has in part arisen as many advanced economies have become more orientated toward service industries. The focus of management researchers on the services sector is appropriate given the various estimates which put the number of people employed in the services sector in Australia at around 80% and new approaches to accounting which seek to value the intangible assets of organisations namely their people, organisational structures, intellectual capital, brand and customer relationships (Grant, 1996, Sveiby, 1997). The key idea here is that by identifying measuring and managing intangible assets knowledge intensive firms can leverage their intangible assets to create sustainable competitive advantage (Sanchez et al 2000, Sherer, 1995).

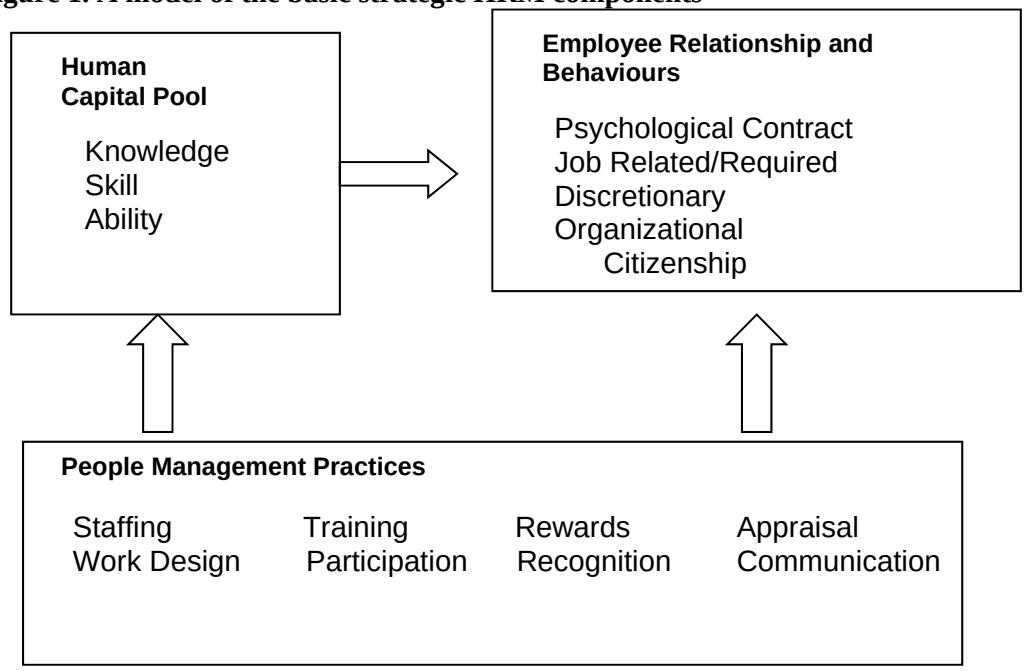
Concomitantly, the field of strategic human resource management has evolved over the past 15 years and as part of this evolution extensive theoretical and empirical work has brought scholars to the conclusion that certain human resource management practices and policies can be linked to improved firm performance. The focus on performance effects provides a 'business case' for expensive and time consuming HR practices such as training, performance management, selective staffing, mentoring and career planning.

According to Wright et. al (2001) consensus has been achieved in terms of how the people dimension contributes to competitive advantage; the elements of this contribution are represented in figure 1. This model reflects their view that no individual component of the system will produce competitive advantage rather; it is from the whole system that advantage is derived. Within this model there are three dimensions: firstly there is the human capital pool, which refers to the knowledge, skills and abilities of the work force which must either be superior or they should fit with the strategic intent of the organisation; second, there are employee relationships and behaviours, this part of the model refers to the simple fact that employees possess free will and may exercise discretion in the execution of their role that can have positive or negative effects on the firm and finally, the authors describe the concept of the people management system, the 'multiple practices that impact employees'. These are not necessarily driven by HR departments and they may have developed organically and contain path independencies that make them difficult to imitate and may thus be a source of competitive advantage (Wright, 2001, p.705).

Performance is another important concept in terms of our understanding. There have been many empirical studies in the management literature over the past 15 years which have shown linkages between the presence of high performance systems and HR practices and firm level performance. Performance may be purely measured in objective terms; annual revenues or rates of

new product innovation for example (Li & Calantone, 1998). It can also be determined in terms of perceptual criteria such as employee opinions. In public companies objective measures of performance are readily available in annual reports but law firms are more reserved about reporting on their performance to outsiders and thus accurate performance data is difficult to obtain. Perceptual measures are however widely used in studies that look at firm level performance effects of HRM practices and systems (Delaney and Huselid, 1996) and have been shown to be strongly correlated with objective measures (Venkatraman & Ramanujam, 1987). In this study we follow this precedent and are using perceptual measures of performance in the form of opinions derived from interviews. It should be noted that these opinions are from people who are privy to accurate performance data about their own and their clients' law firms.

Figure 1. A model of the basic strategic HRM components



Source: P. M. Wright et al./ Journal of Management 27 (2001), p.705

HUMAN CAPITAL AND PERFORMANCE IN THE LAW FIRM CONTEXT

Specific work has been done in the human capital, knowledge management arena as it relates to law firms and other professional services firms (Boxall & Steeneveld, 1999, Hitt et. al, 2001, Hunter et. al. 2002, Sherer, 1991). This industry specific work is particularly germane to this study. Sherer's study looked at leverage ratios (number of associates -non partners - working for each partner) as a measure of human capital and a pathway to competitive advantage[1] while Hitt et. al's study used two proxies for human capital - the prestige of the law school that the partners attended and the total experience (number of years of tenure) of partners at the focal firm – this was a proxy for tacit knowledge or 'know how'. Here the effect of human capital on the successful execution of service and geographical diversification was proven. In both these studies strong linkages were found between human capital and firm performance. This is somewhat different to the tests in other industries of human resource management systems and performance and according to the authors this provides a

[1] Sherer's method and hypotheses entailed had some industry specific nuances for example he demonstrated an awareness of the fact that some areas of the law lend themselves more readily to leveraging, for example litigation, whilst others such as tax law are far more specialised and require greater direct involvement of a senior lawyer or partner and hence are less profitable.

more direct test of the resource based view of the firm than studies which looked at the link between HRM practices and systems and firm performance (Hitt et. al, 2001). Another more recent study was undertaken in a small sample of Scottish firms surveying attitudes of partners and professional staff to knowledge sharing, human capital and human process advantage and in this study the findings suggested the firms were focused on attempts to ecomnomise on partner's professional time through I.T. solutions and the greatest focus on tacit learning was at the new recruit level. Partners were less consciously aware of the potential benefits of social capital in terms of cross practice group knowledge sharing or debriefing with the authors citing the technology focus and business drive (revenue focus) as explanations for this approach (Hunter et. al, 2002). Law firms and indeed many professional services environments are therefore proving to be an ideal environment in which to conduct research on the human capital performance link. This is particularly in Australia at present due to the great dynamism, soul searching and the gradual professionalisation of management which is taking place.

METHOD

This research employed an interviewing technique called convergent interviewing (Dick 1990). A sample of experts was identified through industry knowledge, networking, preliminary reading and by meeting with key informants who provided recommendations of and access (via referral) to suitable candidates. Of the candidates selected some, but not all, were currently (or had been until recently) actively involved in the day to day running of law firms, while the rest were consultants to the legal services industry, insiders with a balanced perspective on strategic formulation, management practice and drivers of performance. The sample was ranked in terms of their likely expertise from 'most expert' to next 'most expert' (but from a different perspective to the first) and then to the third 'most expert', but with an equally different perspective from the preceding two respondents. Each group of three to four respondents constituted a 'round' of interviews. There were four rounds (n=11). Respondents were asked an open ended question to start with which was 'what can you tell me about the performance of law firms and how it is achieved? The open-ended character of this question forestalled the researcher's bias on the topic and allowed respondents to determine the scope of issues which they considered key determinants of performance. It also allowed them to frame 'performance' in whatever terms they deemed appropriate. Following the first interview, each subsequent interview allowed the researcher to follow lines of enquiry which would either confirm previous respondent's views (and thus signal convergence) or suggest there was a divergence of opinion on the issues. Interviews continued until it was felt that further interviewing would not yield substantially new issues for consideration or shed new light on the topic of research.

RESULTS

There were two key elements to the respondents' approach; firstly there is how respondents' defined firm performance according to the respondents a firm's performance could be gauged by issues which included issues from outside the mainstream such as employee engagement or climate while others deferred to the perhaps more common definition of performance namely financial performance or return to shareholders. The issues in addition to financial performance included: the firm's reputation in the market (with clients) and in the profession among its peers; its capacity to create a good environment for its employees, reasonable work life balance and pay levels comparable to others; employee engagement, discretionary effort, propensity to recommend the organisation and business development performance or cost of sale Quality control; minimising write offs and timely collection of fees.were other issues included.

Next they looked the key determinants of performance and these have been classified into three clusters after Sveiby (1997) and Wright et al (2001) the determinants are:

Human capital – People management system – Employee relationship and behaviours

Leadership and fostering accountability was seen as critical. For several respondents this meant setting expectations of performance and standards of behaviour for partners and holding them to account for breaches of standards. This was also discussed in terms of being able to articulate a vision for the firm and to set high standards of achievement.

Retention – was discussed in general and specific terms. In general terms stable staffing was seen as critical as it creates intangible assets such as trust and 'know' how which translate into tangible value in terms of costs saved on recruitment and efficiency in client work. Retention also obviates the need for close supervision and also leads to less write offs. The second more specific need around retention was amongst the younger professionals, many of the especially larger firms are preoccupied with this issue as it is a major problem and a drain on profitability.

Management Ownership The majority of respondents argued that the current partnership model with a managing partner at the helm has great utility. One respondent described it as "resilient", it was seen as a mutually supportive model. Several felt that to lead a group of highly intelligent and cynical professionals that the leader needs to be a peer – this gives him or her credibility and ensures caution is exercised in decision making. An equal portion of the sample was as passionately against the concept of management by the owners, with one arguing "the intellectual and emotional drivers are incompatible to effectiveness". Several made note of the fact that managing partners have limited experience as managers of large companies there is a gap between the requirements of leading a company with revenue of 100's of millions and the sophistication that is needed. Another commented here that they have been exposed to a limited model of management or leadership with most having worked in the one organisation their whole careers. Certainly this is a critical issue with several large firms now being led by non-practicing and professional CEO's and some medium sized firms employing General Managers. This will be an important leadership decision in the future and an area of interest to researchers.

Performance management in the formal sense was widely agreed to be a critical determinant of performance in law firms, with great leverage felt from interventions at the partner level. Respondents felt that at this level PM focused them on collective goals and on behaviour orientated toward the company's strategies. One managing partner commented that the positive effects of partner performance management were felt "almost instantaneously".

Diversity was seen as important to several respondents this was noted in relation to the participation of women at senior levels in the profession (to partner) which meant flexibility in terms of work design. One prominent managing partner held the view that the male/female partner mix in large firms was currently around 80/20, that person's view was that the firms who move it to 70/30 in the next five years and aim for 50/50 will be approaching the right mix. Diversity was also seen as important in terms of selecting staff from outside of the traditional breeding grounds of elite schools and old brick universities and opening the doors to a wider ethnic mix with language skills and cross cultural flexibility.

Attracting Talent and Selective Staffing Naturally in a knowledge intensive industry such as the law the ability to attract good staff is critical and most law firms in our sample appear to place a heavy emphasis on recruitment particularly at the graduate level. Graduates are reviewed for legal expertise by virtue of their university grades and in terms of 'fit' when the firm sees them in action on a summer clerkship (intern program) at the end of their fourth year of law. Sherer (1995) has discussed the reticence of some traditional New York firms to hire lateral hires and the preference of law firms to inculcate and nurture their own lawyers to become partners. While this is a preference in our sample there appears not to be the same taboo around the issue in Australia. The issue is however very carefully managed, the main reason it doesn't work appears to be when the person does not fit in with the new culture.

Sustainability & Flexibility Managing motivation and sustaining people's enthusiasm over a long and arduous career is another major challenge that must be met according to the research. Some firms accept that professional burnout is inevitable and encourage partners to plan their lives around having a short and lucrative professional life that will end somewhere in their 40's or 50's, hence they make superannuation mandatory and ensure that partners are not forced to work into their 60's. Others take

an approach of setting realistic revenue targets for the firm and ensuring that daily billable hours are manageable and allow time for work life balance and also time to manage and develop staff. Other suggestions are that firms need to create options for career breaks for valued staff.

Structural capital

Collegial Culture The research affirmed the consensus based collegial culture of law firms with one respondent discussing the need for authority to be built on consensus and respect not absolute power (to dismiss an underperforming partner for example). This structure does however prevent the allocation of human capital to new markets for example in that a partner could not be forced to relocate to a new market to work on an important project, this may place some constraints on expansion.

Efficient Processes Clients it was felt 'buy' good processes from law firms they not only buy the individual lawyer's expertise but they are also buying efficiency and responsiveness and this is the product of good information and file management systems. Efficient process also helps minimize write offs.

Team Structures The research affirming the value of creating small teams which are structured around either client groups or practice groups with particular legal specialties. This it was felt creates engagement so that even though a junior may be working on a routine part of a larger litigation case, discovery for example, they would still feel 'part of' the project. This could be achieved with weekly project meetings and updates. Others talked about the value this created in terms of the quality of mentoring received and the opportunity it provides for senior associates to learn how to manage.

Managing the Billable Hours Syndrome – A common problem talked about in the literature of professional service firms is the often problematic issue of the billable hours syndrome (McKenna & Maister, 2002). This is an issue where an all consuming focus on client work and unreasonable targets create negligible time for managing, mentoring or business development. Two approaches have been seen as a way to manage this concern. One simple but novel approach is to abandon the idea of individual targets and create group budgets – this creates a self monitoring system within a practice group so that individuals may play to their strengths; good managers within the group do more managing than others and good business developers take an external focus on growing the client base. Another approach is to make billable hours targets reasonable with incentives for overachievement. Would the billable hours concept be worth reconsidering? The resounding answer was no in this research; the system is easy for clients to understand and it is easy to administer and build budgets around.

Vision & Clear Strategy – The research affirmed the commonly held view that a clear vision holds great value in terms of the direction it provides. There was consensus across the sample on this point with several firms demonstrating aspects of vision and the strategy to support it. One firm involved in labour law for example has a clear strategy that they only work for employers, another organisation has a no financial institutions or banks policy, still another is focused on internationalisation with a clear strategy to grow their offshore revenue. The presence of this discipline of planning is also valuable at the mid tier end of the legal service market with some eight partner firms affirming the value of processes such as quality audits such as Law 9000 providing discipline to their strategic planning and practice management.

Relational capital

Firm Reputation The firm's reputation for offering excellent client service and legal expertise is a critical element in how a firm is seen in the market. Clients are seen to highly value the turnaround of legal advice. The market determines the depth or extent of the advice required. In some areas of the law responsiveness is highly valued and legal problems need to be solved quickly with the client willing to accept some commercial risk. In others no risk is tolerable and thus the client accepts they

need to pay a premium for comprehensive advice. In commercial law the big profitable cases such as litigation or mergers and acquisitions, which attract high fees and allow for good leverage, are often the result of being seen as the best and this can be the culmination of doing smaller work with less leveragability but doing it well. Success leads to larger work Thus on the defendant side security of tenure in terms of the clients represents tangible value in terms of repeat business and the potential for the reuse of information.

Corporate citizenship/thought leadership These issues help define the organisation as a good place to work for potential employees; it positions the brand positively and also attracts clients, particularly well informed clients. This is more common now than in the past as General or Corporate counsels in corporate organisations are informed consumers of legal services and see thought leadership as an indicator of expertise.

These fourteen issues represent the dominant issues around which opinion has converged at this stage of the research. Some divergence (exceptions to the majority opinion) has been found and these areas will need to be explored in the next stage of the research. One issue of interest is the notion of resilience of the law firm as an institution. Several comments stand out here: one respondent said that because of the amount of work in the market at present that many law firms can survive "…without a lot of thought going into what they do" but not thrive. Another made the comment that law firms are "incredibly resilient" and another commented that some survive "in spite of themselves". None however positioned firms such as these as having a competitive advantage. Another issue of note is around the issue of ownership. The "proprietorial mindset" was a controversial issue that stood out in the research and acts as a double edged sword. With the partners at some firms characterized as loathe to invest in their people or to share the benefits of success with the employees in terms of investment or profit sharing. The professionalisation of management is a controversial issue with some affirming the critical role of non practicing managers from non legal corporate backgrounds can play in the success of firms. Having said that several respondents in the survey placed the role of HR Managers under something of a cloud: two comments stand out as telling of the standing of the human resource management function in law firms, one respondent commented that partners have been largely disappointed by the impact of HR interventions; another commented that HR 'rarely have a seat at the strategy table' but that 'HR managers are paid well in top tier law firms because the partners buy their subservience, they "pay them to be compliant' so while human capital is certainly seen as a strategic asset in the legal field "…the traditional HRM function has not been thought of as a strategic asset, and consequently is under pressure to reduce expenses and demonstrate efficiency in the delivery of their services" (Becker and Huselid:1998:54)

The performance management system that is built into a firm's structure is another critical element, yet performance is not always measured in holistic terms. One comment was that that the default measure of performance is in 99% of firms around a partner's financial performance. Despite this focus there are also major concerns at present for large to medium sized firms around the areas of people management and business development and firms which are widely regarded as successful have made these areas a priority in terms of the development and management of their partner's performance.

DISCUSSION

Some respondents in this study have a view that law firms have been rather slow to embrace the concept of a well developed plan of action around the management of intangible capital leading to more sustainable performance and this echoes recent findings (Hunter et al, 2002). We could develop a view that corporate law firms are machines which are driven by the principles of exploitation and conformity from pragmatic solicitors who aspire to make partner. This may be a function of inherent conservatism in the field or it may be a function of the "billable hours" syndrome, where professionals are so consumed by meeting strict billable hours targets that they are unwilling or unable to focus on very much else. Other arguments include that professionals are prone to protect their knowledge, they tend to work in a semi-autonomous fashion or as a discreet unit and often they will have insights and methods that they alone possess. The professionals may see this knowledge as their own; some may

even regard it as the source of their worth or even their power, or an insurance policy against redundancy (Davenport and Prusak 1998). In the study conducted to date, we have found that the focus of activity has been on structural, cultural and behavioural change with the latter particularly focused on the behaviour of partners and there is a clear understanding from all respondents in this research that a focus on intangibles is a critical determinant of success. The execution of policies around this challenge is however clearly mixed.

Retention is a major concern for larger (top tier) law firms particularly in relation to their well trained solicitors in the so called 'generation y' age bracket. These young lawyers are attracted away from the firms following an initial period of employment and are especially sought after in places like Hong Kong and London. The reasons for this exodus are many with some commentators claiming a specific retention and management plan is required for this generation due to their idiosyncratic characteristics but certainly one explanation for the trend is the issue of remuneration. Young lawyers in the markets of Hong Kong and London are paid exorbitant salaries. In the domestic market too there is a war for talent for young lawyers, with many young well trained lawyers attracted to the large salaries available in investment banks or to the more lifestyle or family friendly environments of corporate life outside of legal practice. Brand recognition is also a critical concern for large law firms with widespread participation in the profession in an annual customer satisfaction survey conducted by a private consulting group under the auspices of the Business Review Weekly. This annual edition of BRW breaks sales figures for the periodical annually and the firms that score well on the survey make sure their clients and staff are aware of how their firm ranks by prominently displaying their awards.

Mid and large law firms are also keen consumers of management consulting services (strategic planning, performance management systems and executive training), they have thought about the need to formulate organisational structures which foster cooperation and knowledge sharing. Profit, however, remains a driver and large potentially dehumanizing but highly leveraged areas of practice offer great profits. Law firms are also cognizant of demographic trends in Australia and are aware of the need to foster workplaces that are family friendly and which cater to the needs of working mothers and older professionals. There is even talk in the larger firms that it is reaching the time where they may take the final and more daring move to mirroring the corporate organisations they serve by opening their doors to private investment and even to an eventual public listing (Schmidt, 2004). Finally it is very clear that come of the firms covered in our survey are very conscious of their strategy and have clear criteria around who they will and will not work with and this is seen to be an important consideration in determining their success.

The summary presented so far has not yet mentioned a less positive reality of life for many lawyers working life in a large law firm that is often glossed over and that law firm managers must come to terms with as one respondent put it: "not all lawyers especially partners are easy to co-exist with let alone manage". Some respondents have characterized performance in some conventional law firms as driven by exploitation and that it is an environment that is structured along a conventional hierarchy and typified by the competitive behaviour of partners who are driven by their need to meet billable hour targets. In many 'top tier' law firms partners who are top fee earners 'get away with' inappropriate behaviour such as bullying junior staff. These firms may be profitable but there is a question mark in the current climate as to the sustainability of this approach.

This paper has presented a textured view of the management of middle to large law firms in Sydney and Melbourne and argued that the path to competitive advantage lies in the management of intangible assets and through the people management systems that are put in place. The research has identified the scope of issues that contribute to competitive advantage and these may now be investigated in further depth using quantitative surveys and in depth case studies. The resource based view of competitive advantage offers a compelling explanation for what makes a good firm great and in the law firm context these resources are intangible. The challenge lies in presenting compelling arguments for adopting the determinants of competitive advantage outlined in this research and on quantifying the contribution to competitive advantage.

REFERENCES

Barney, J (1991), Firm Resources and Sustained Competitive Advantage, *Journal of Management* (17)1, 99-120

Becker, B.E. & Huselid, M.A., (1998), High Performance Work Systems and Firm Performance: A Synthesis of Research and Managerial Implications, *Research in Personnel and Human Resources Management*,16,53-101.

Bontis, N., Fitz-enz, (2002), Intellectual Capital ROI: A Causal Map of Human Capital Antecedents and Consequents, *Journal of Intellectual Capital*, 3,(3), 223 – 247.

Boxall, P, Steeneveld, M, (1999) Human Resource Strategy and Competitive Advantage: A Longitudinal Study of Engineering Consultancies, *Journal of Management Studies*, (36)443-463

Cliff J. (2000) Following Versus Breaking With Tradition, Unpublished PhD Thesis, University of British Columbia

Davenport. T.H., & Prusak, L.P., (1998), *Working Knowledge: How Organizations Manage What They Know*, Harvard Business School Press, Boston, MA

Dick, B (1990) *Convergent Interviewing (v.3)*, Interchange. Chapel Hill, Queensland

Delaney, J.T. & Huselid, M.A., (1996), The Impact of Human Resource Management Practices on Perceptions of Organizational Performance, *Academy of Management Journal*, 39 (4), 949-969.

DiMaggio P. & Powell W. (1983), The Iron Cage Revisited: Institutional Isomorphism and Collective Reality in Organizational Fields, *American Sociological Review*, (48)2, 147-160

Doty, D, Harold, Glick, W, Huber, G (1993), Fit, Equifinality and Organizational Effectiveness: A Test of Two Configurational Theories, *Academy of Management Journal*, (36)6, 1196-1250

Ehigie, B & Ehingie, I (2005), Applying Qualitative Methods in Organizations: A Note for Industrial/Organizational Psychologists, *The Qualitative Report*, (10)3, 621-638

Grant, R. (1996) Toward a Knowledge-Based Theory of the Firm, *Strategic Management Journal*, (17), 109-122

Gray, J., (1998) Organising Modes of Law Firms, Unpublished PhD Thesis, University of Western Sydney, MacArthur

Greenwood, R. & Hinings C. (1996) Understanding Radical Organizational Change: Bringing Together the Old and the New Institutionalism, *Academy of Management Review*,

Hitt, M, Bierman, L, Shimizu, K, Kochlar, R, (2001), Direct and Moderating Effects of Human Capital on Strategy and Performance in Professional Service Firms: A Resource Based Perspective, *Academy of Management Journal*, (44)1 , 13-28

Hunter, L, Beaumont, P, Lee, M (2002) Knowledge Management Practice in Scottish Law Firms, *Human Resource Management Journal*, (12)2, 4-21

Huselid, M. A., (1995), The Impact of Human Resource Management Practices on Turnover, Productivity and Corporate Financial Performance, *Academy of Management Journal*, 38, 635-672.

Li, T. & Calantone, R. J., (1998), The Impact of Market Knowledge Competence on New Product Advantage: Conceptualization and Empirical Examination, *Journal of Marketing*,62, (October 1998), 13-29.

Miller, D & Friesen P, (1984) *Organizations: A Quantum View*, Englewood Cliffs NJ, Prentice Hall

McKenna P & Maister D., (2002) *First Among Equals – How to Manage a Group of Professionals*, The Free Press, New York.

Meyer A, Tsui, A, Hinings R, (1993), Configurational Approaches to Organizational Analysis, *Academy of Management Journal*, (36)6, 1175-1195

Roos, G, Fernstrom, L & Pike S, (2004) Human Resource Management and Business Performance Measurement, *Measuring Business Excellence*, (18)1, 28-37

Sanchez, Chaminade and Olea (2000)

Sherer, D, (1995), Leveraging Human Assets in Law Firms: Human Capital Structures and Organizational Capabilities, Industrial and Labor Relations Review, (48)4, 671-691

Scheppeck, M & Militello J. (2000) Strategic HR Configurations and Organizational Performance, *Human Resource Management*, 39(1), 5-16

Schmidt, L (2004) Lawyers Keep Unto Themselves, *Business Review Weekly*, August 5-11, 78-79

Snell, S. & Dean, J. (1992), Integrated Manufacturing and Human Resource Management: A Human Capital Perspective', *The Academy of Management Journal*, 35 (3), 467 – 504.

Snell, S (2000),'Social Capital and Strategic HRM: It's Who You Know', *Human Resource Planning*, 23 (4)

Sveiby, K. E., (1997), *The New Organizational Wealth*, Berrett-Koehler, San Francisco.

Venkatraman, N. & Ramanujam, V., (1987), Measurement of Business Economic Performance: An Examination of Method Convergence, *Journal of Management*, 13 (1), pp.109-122.

Wright P. & McMahan G. (1992) Theoretical Perspectives for Strategic Human Resource Management, *Journal of Management*, (18)2, 295-320

Wright P. A, Dunford B.B., Snell S. Human Resources and the Resource Based View of the Firm, *Journal of Management*, 27, 701-721

Youndt, A.M., Snell, S. Dean, J.W. Jr & Lepak, P.D. (1996), Human Resource Management Manufacturing Strategy and Firm Performance, *Academy of Management Journal*, 39(4), 836-866.

Appendix 6. Conference Paper 3 (from Study 2)

Configurations of Human Resource and Management Practices in Australasian Law Firms

Andrew Heys

Macquarie Graduate School of Management, Macquarie University, North Ryde, Australia

Email: andrew.heys@mgsm.edu.au

Professor John Rodwell

Faculty of Business, Australian Catholic University, Melbourne, Australia

Email: john.rodwell@acu.edu.au

Dr Denise Jepsen

Faculty of Business and Economics, Macquarie University, North Ryde, Australia

Email: denise.jepsen@mq.edu.au

ABSTRACT

This paper reports on a study that employs configuration theory to investigate whether there are noticeable differences in the HR and management 'bundles' used to drive performance in law firms. The survey explored the intensity of use by the firms of 16 performance oriented HR and management practices, identified earlier by a sample of influential industry actors as 'drivers of performance' in the industry. Cluster analysis was used to develop a taxonomy of the sample firms based on their patterns of use of the 16 practices. Three stable and one 'emerging' configuration were identified in the cluster analysis. This finding; that diverse management configurations do exist within the sector, is discussed in the light of contemporary theories about the evolution of professional archetypes.

Keywords: ANOVA; knowledge economy, strategic human resource management; multivariate statistics; organisational performance; performance management

Introduction

Law firms around the world have undergone considerable change and uncertainty over the past 20 years (Brock, Powell & Hinings 2007). Although the industry has changed significantly, work systems and management practices found in law firms are still thought exhibit many broadly consistent characteristics, particularly throughout the Anglo-Saxon world (Jennings, Jennings & Greenwood 2009). Management in law firms is shaped by several characteristics and traditions: partnership as the dominant ownership model; a predominantly professional workforce that includes both partners (equity holding and non-equity holding) and associates (employed solicitors); collegial forms of decision making resulting in peer monitoring over hierarchy; autonomy in work by professionals who are to a considerable extent self-contained (Greenwood, Hinings & Brown 1990) and an

apprenticeship form of recruitment and career development in which graduates are employed directly after graduation then supported and mentored in the early stages of their professionals careers.

For some observers, professional partnerships, the bedrock of this system, are an ownership structure that is thought to be a 'relic from the past' (Ackroyd & Muzio 2007; Brock 2007; Greenwood & Empson 2003). However, partnerships continue to be by far the dominant ownership form in legal services. In Australia, this continues, despite the fact that both incorporation and public ownership of law firms are now permissible in most jurisdictions (Gray, McAllister & Adams 2008).

The development of HR in law firms

As law firms have modernised and responded to the myriad competitive pressures that demand increased efficiency, their owners and managers have increasingly embraced the use of corporate HR and management practices that are geared toward organisational performance. This shift has largely been guided by both external consultants and functional managers often with broader corporate experience and frames of reference that have been gained outside the law (Brock, et al. 2007). HR managers working in law firms are also influenced by wider notions of what their program of work should entail. The HR literature for example counsels HR managers to transform their roles so that they can become partners with line managers who will then implement strategically aligned and centrally coordinated HR policies (Ulrich & Brockbank 2005). This is an approach consistent with ideas found in the field of strategic HRM. In mid-sized and large law firms, two points seem to reduce the likely success of this approach. First, the devolution of HR responsibility to line managers (in this context, partners and senior lawyers) is likely to face problems of consistency because many lawyers tend to see themselves first and foremost as professionals and many regard their managerial responsibilities as secondary to their client service responsibilities. Second, partner billings in many law firms, because of their higher charge out rates, often constitute a large proportion of a firm's *total* billings. To be financially secure, many firms need their partners to be doing a large proportion of the professional work of the firm. The importance of their own fees and the pressure of budgets or lure of higher individual bonuses naturally retard a partner's capacity to undertake mentoring with mid-ranking or junior staff (Schmidt 2006).

Talent management is a naturally a key focus of HR in the legal industry with firms often engaged in debates about whether they should 'make' or 'buy' talent. Such debates often focus on the lateral recruitment of new partners. The stereotypical 'cradle to grave' approach found in professional services firms is more in keeping with a 'make' system of talent management that was, and in some firms still is, a key feature of their employment systems (Jennings et al. 2009). Traditionally, this 'cradle to grave' employment model was thought to create coherence in an organisation allowing for the inculcation of firm values in rising lawyers over long qualifying periods (Pinnington & Morris 2003). In today's labour market, particularly in Australia, partner mobility and aggressive 'poaching' of partners is however commonplace. Hiring lawyers at these senior levels (called 'lateral hiring') is consistent with the more aggressive 'buy' approach to talent. Voluntary turnover among senior lawyers can pose serious risks to client retention. This dilemma explains the "up or out" management practices of New York law firms that have spread around the world and are still used in some firms.

Archetype and neo-institutional theory

Traditionally, law firms have been defined by two pillars – partnership and professionalism – that were said to define what has been called the 'p^2 archetype' (Greenwood, Hinings & Brown, 1990). The 'p^2 archetype' is thought to be an effective way of organising and motivating knowledge workers and occurs widely in a range of professional services firms. Although the 'p^2 archetype' is dominant, newer archetypes within the legal services sector have also been described (Brock et al. 2007). Other archetypes include the managed professional business (Cooper, Hinings, Greenwood & Brown 1996) an archetypes more in line with the 'Big 4' accounting firms in which firms adopt more corporate structures and managerial values (Brock et al. 2007), the small and elite 'star' form , more like a boutique investment bank specialising in niche practice areas (Gray 1999) and finally, the

reconstructed professional firm, an archetype described in a study of the English and Welsh legal services sector, that is said to resemble the 'p² archetype' but in which equity partners are said to have wrested power back from non-professionally trained managers through processes of professional closure (Ackroyd & Muzio 2007).

Accounts of the evolution of archetypes draw heavily on institutional and neo-institutional theories to explain why industry archetypes exist and why they evolve. DiMaggio and Powell's (1983) seminal 'normative, mimetic and coercive' forces for example are often referred to in explaining homogeneity within the professions. The work of Deephouse (1999) which describes how conformity with existing archetypes confers legitimacy on firms in the eyes of potential employees and clients, is also widely cited. More recently Lawrence and Suddaby (2006) have identified the role of 'heroic' 'institutional actors' who resist the pull toward conformity and break free of their Weberian 'iron cage' and so transform their organisations and industries due to their willingness to 'buck' institutional norms.

This paper explores management practices in Australasian law firms against the backdrop of a more globalised and dynamic competitive environment, in which effective talent management has become a key driver of success. This discussion is informed by dominant accounts of archetypes in law firms. The paper integrates human resource management and neo-institutional theory but extends this perspective by emphasising the importance of internal fit of management practices and the use of data driven classification to help verify the typologies and archetypes that are used to analyse the industry. The paper empirically tests whether there are stable 'bundles' of HR and management among law firms, what individual management practices comprise these bundles and how closely these bundles reflect dominant accounts of industry archetypes found in the literature. The paper also contributes to the HR literature by defining the performance oriented HR and management practices that enhance performance in this context. The HR literature is also limited in terms of its relevance to management practice in law firms. Some of the most widely-cited research on the performance effects of 'high performance' HR practices have been conducted in manufacturing (e.g., Snell & Dean 1992), a problem for scholars and practitioners in the legal services context, because lessons learned about competitive advantage through HR systems that foster a particular set of relationships between organisations and employees in one context may not readily apply, or may be counter-productive, in another (Godard 2004; Johns 2006; Vedder 1992; Wall & Wood 2005). This paper explores the internal fit of these law firm 'best practices' and how these practices may be configured to enhance organisational performance.

Configuration theory and HRM

The growing recognition of heterogeneity within an industry is exemplified by a stream of research that explored the evolution of strategic groups, organisations that pursue similar strategies with similar resources in terms of their characteristics, pattern and stability, known as the Purdue brewing studies (e.g., Hatten & Hatten 1985; Hatten & Schendel 1977). The identification of strategic groups challenged the long-held theoretical view of industrial economics that the firms within an industry are largely homogeneous (Harrigan 1985). The differences between the groupings of organisations are caused by a stable and complex form of *interdependency*, sometimes referred to as coherence, among characteristics (Pettigrew 1992). This study of patterns of characteristics of organisations became more widely recognised in analyses of organisational configurations. That is, each of the different forms of organisation "may be driven toward configuration in order to achieve consistency in its internal characteristics, synergy (or mutual complementarity) in its processes, and fit with its situation" (Miller & Friesen 1984: 21). The potential of this theoretical approach to add richness to HR and this type of research has been recently called for (Dufour & Steane 2006; Short, Payne & Ketchen 2008). However, the potential for the configurational approach to add to the literature on management practice, especially in the legal services industry, has not been widely realised.

METHOD

Previous related research employed convergent interviewing (Dick 1990) to generate a set of HR and

management practices that distinguish firms in the legal services industry (the process is detailed in Heys & Rodwell, 2006). Scales reflecting the issues from the qualitative study, along with some from the literature, were found or created for the survey. The survey was distributed to 250 Australasian law firms of varying sizes, addressed to staff with the title 'Managing Partner', 'Chief Executive Officer' or senior Human Resource Management professionals designated 'HR Director' or 'HR Manager' obtained from an industry database augmented with information from a commercial list vendor. After the first mail out, telephone calls were conducted to encourage responses, a second mail out with a refined mailing list was then sent and a further round of follow-up telephone calls conducted. Forty-five responses were received - a response rate of approximately 20% after removing invalid contacts or double counts of recently-merged organisations. The data was checked for outliers and missing data was addressed following the methods explained in Pallant (2009). Two firms were initially deemed to be outliers. Respondents averaged 21.3 equity partners and 125.7 fee earning employees. Thirty four firms indicated they had 'salaried partners' and the average of this group was nine salaried partners. Twelve respondents (27%) were managing partners, 13 (29%) were paid executives, 13 (29%) were HR manager or director and 4 (9%) were partners.

Measures

The survey items are detailed below. A five point Likert scale from 1 = Strongly Disagree to 5 = Strongly Agree was used for all of the scales unless otherwise specified.

Visionary leadership. The four item scale named transformational leadership from Podsakoff et al. (1990) was used to represent visionary leadership as used by the legal informants.

Clear vision or mission. A five item scale was developed to assess the extent to which firms have articulated a clear mission for their organisations, based on the qualitative study. Example items are; "the firm has a clearly defined mission or vision" and "our staff know what we stand for".

Balanced Client Focus. Eleven items were used to represent client focus, including eight items from Li and Calantone (1998) about the extent to which they are client centric. The original seven point response scale was adapted to five points with positive word anchors. Example items are 'we *regularly* use clients to test and evaluate new services' and 'we *systematically* process and analyse client information'. Three new items were added to fully capture the construct identified as a driver in the qualitative stage; respondents talked about the 'dark side' of being client focussed highlighting a need to ensure that client focus did not mean that lawyers were engaged in excessive and avoidable after-hours or weekend work preparing documents.

Voice mechanisms (making decisions about how work gets done) was measured with a six item scale that included four voice mechanisms items from Sun, Aryee and Law (2007), where the word 'employees' was changed to 'lawyers' to reflect the focus of the research on core employees (fee earners) in law firms rather than all employees (Osterman 1994). The item 'our partners are able to directly influence how the firm is run' to incorporate democratic nature of the partnership model and another item on participation (Hartog & Verburg 2004) were added to reflect the legal domain.

Accountability. Three new items referring to performance appraisal criteria, the remuneration and bonus consequences of performance ratings and how closely pay and profit sharing decisions were tied to non-financial indicators of performance were developed.

Employee Value Proposition. The idea of an employee value proposition identified in the qualitative research relates to the extent to which a firm actively markets itself in the labour market as a desirable place to work compared to its service market and labour market competitors. The construct was tested using a three item scale with an example item being 'we have deliberately developed a coherent set of HR policies designed to attract talent to our firm'.

Lateral Hiring Attitudes. The hiring of professionals at the middle and senior ranks, not as graduates, was identified in the qualitative research as an important issue to be managed carefully and was assessed using five items. Example items are 'we see lateral hires as more likely to leave' and 'some partners in this firm are reluctant to introduce lateral hires to their clients'.

Diversity. People management practices designed to create social inclusion and a sense of being accepted by the organisation were identified in the qualitative research. Six items were adapted from a University of Wisconsin (Stout) (2003) survey of employees evaluating the university's employment and inclusion policies and climate.

Managerial Training. Four original items, an example of which is 'this firm invests heavily in training people for their managerial responsibilities' represented managerial training.

Holistic Performance Management had 12 items from Snell and Dean (1992).

Decentralisation of Authority. The extent to which decision-making is decentralised was based on eight items adapted from Delaney and Huselid (1996).

Role Clarity. Four items adapted from House et al (1983)'s role ambiguity scale was adapted to suit the respondent perspective, with the 'I' wording changed to the phrasing 'professional staff'. Three new items were added to reflect an emphasis in the qualitative research around the ascension to partner as follows: 'our partners are clear on what is expected in their role', 'our senior associates are clear on what is expected in their role', 'our junior lawyers are clear on what is expected in their role'.

Client Strategy; Seven items from the conventional areas of strategic planning (Powell 1992) were used. The stem was, 'please assess the accuracy of the items below'. A five point Likert response ranged from 1 (not very accurate) to 5 (very accurate). The strategic enforcement-execution dimension of the construct had a different stem 'with respect to decisions about who this firm will or will not act for' and the same response set. Sample items included: 'our strategic decisions are strongly enforced' and 'if needed we will hire or exit partners to match our strategy'.

Thought Leadership. An original five item, seven-point scale ranging from 1(disagree strongly) to 7 (agree strongly) was used. Sample items included 'it is important for us to be seen to have the "leading lights" in our specialist areas' and 'our firm invests considerable resources into being seen as thought leaders'.

Selective Staffing. Six items from Snell and Dean (1992), with the same seven-point response as above was used. One item relating to the time devoted to recruiting was excluded and wording was adapted to match the single respondent, firm level analysis and the organisational context. For example, 'employees' was changed to 'professional staff'.

Performance Management. Three items adapted from Snell (1992) on a seven-point scale were used. The stem was 'regarding accountability and performance of our professionals and partners'. Several appraisal oriented items were deemed too specific and not relevant and so removed.

Process Excellence. Four items from Conca, Llopis & Tori (2003) with the stem of 'please indicate your firm's level of implementation of each of the following' had a response set from 1 (not implemented) to 7 (fully implemented) were used.

Strategic HRM. SHRM was measured using four items from Becker and Huselid (1998), with the stem 'please indicate the extent to which you agree or disagree with each statement' and response set of 1 (not at all) to 7 (to a large extent). Sample items include 'Does you firm make an explicit effort to align business and HR strategies?'

RESULTS

Missing data was relatively minor, particularly considering the breadth of the research instrument and the challenges relating to privacy concerns among the population under investigation. In this research untreated missing data would hamper the statistical power within cluster sample sizes and thus Full Information Maximum Likelihood (FIML) was used in SPSS. FIML is a principled method of imputation of missing variables and is relatively free of distortion, especially relative to 'listwise' deletion and mean imputation (Peugh & Enders 2004).

Prior to conducting the cluster analysis, checks for collinearity among the clustering variables

identified three scales with collinearity – only one of which was used in the cluster analyses. The best cluster analysis solutions in this context may be those obtained using hierarchical (Ward's) and non-hierarchical methods in tandem (Ketchen & Shook 1996). The variables that discriminated between the clusters and therefore the variables that characterise the clusters were found by conducting one-way ANOVAs across the three cluster solution as shown in Table 1. These ANOVAs were only used to aid interpretation and not for inferential purposes. To ensure that only the key discriminating variables that defined the respective clusters were noted, Bonferroni adjustment was applied to the ANOVAs whereby for any test the adjusted alpha is equal to the target alpha (0.05) divided by the number of tests. Despite this conservative adjustment, all except one of the variables were significant, confirming the stability of the resultant solution. One of the clusters identified was too small (n = 3) to be further investigated, yet was clearly distinct from the remaining cases, thus these three cases were omitted from the later analyses. The cluster analysis also revealed a 'chaining' case - a case with unusual characteristics that does not fit with the other cases but distorts the cluster solutions and was subsequently excluded from the analyses.

Table 1. Means of Cluster Variables Showing Indicative Analyses to Aid Interpretation

Scales	Cluster 1	Cluster 2	Cluster 3	Cluster 4	Cronbach's alpha
Visionary Leadership†	14.68low	13.50low	16.94high	12.33	.91
Vision & Mission†	17.21low	17.17low	20.63high	14.00	.82
Client focus*	34.42low	30.83low	42.44high	26.00	.84
Decision making†	24.42high	20.83low	25.19high	23.00	.70
Accountability*	11.42high	9.00low	12.50high	11.00	.71
Employee Value Proposition†	11.42n.s	9.83low	12.81high	9.67	.74
Lateral Hiring Negativity†	14.42high	13.67n.s.	11.13low	10.33	.77
Diversity*	27.42med	24.50low	29.88high	22.00	.76
Managerial Training†	13.97high	10.83low	15.19high	10.00	.79
Holistic Perf Management*	41.21low	36.67low	46.50high	36.00	.84
Client Strategy*	23.20low	23.50low	29.50high	17.67	.87
Thought Leadership*	28.16high	24.67low	30.19high	14.67	.88
Selective Staffing†	26.32low	24.67low	29.81high	20.00	.77
Role Clarity*	38.84med	30.33low	43.13high	33.00	.94
Performance management - developmental appraisals*	16.11	13.67low	18.00high	13.00	.79
Process Excellence*	20.84high	15.33low	22.69high	14.33	.81
Strategic HR Management†	19.37low	22.83	23.50high	9.33	.81
Decentralisation (n.s.)	15.95	17.83	17	15.33	.78

Notes: *measures which clearly differentiate between the clusters in the clustering ANOVA
†measures which show a tendency to differentiate between the clusters at .001190
Low indicates the relationship between the variables in the post hoc checks of association between the three larger clusters, the clusters marked low are those with a low relative level of activity in the management practice
Med indicates the cluster shows a moderate relative level of activity in the management practice
High indicates the cluster shows a high relative level of activity in the management practice

DISCUSSION

The study found clear and coherent configurations of HR and management practices in the Australasian legal services industry. An HR and management bundle of practices consistent with the classic 'p² archetype' was found and was one of the two larger clusters. The substantial presence of the 'p² form' may be support for the argument that it continues to be an effective way of organising knowledge work, explaining its wide occurrence in professional services (Boxall & Steeneveld 1999; Greenwood et al. 1990). Subsequently, the management system defined by the cluster 1 cases (n = 19) has been labelled "P² Democratic Traditionalists". These firms seem to have evolved somewhat from the p^2 archetype and its associated employment systems to cope with competitive and labour market challenges but in the main remain quite faithful to the archetype. The lower intensity practices in these firms appear to aggregate around a theme of strategic management which seems to suggest they are only marginally interested in adopting practices which may lead to a market orientation and long term goals. The low level of strategic orientation in law firms is consistent with traditional accounts of the industry. It is notable that this formerly dominant archetype had relatively low levels of visionary leadership or vision orientation, whereas the relatively moderate levels of client focus and strategy may reflect the success of this archetype on countering overt commerciality by its rejection of practices by partners that may be seen as faddish or unnecessary in this context (Perkmann & Spicer 2008).

The cluster 2 cases (n = 6) may be labelled "The Federated Model" and interestingly are all Australian. The cluster 2 cases are a diverse group ranging from two of the larger, more prominent eastern 'home' state firms through to a smaller Australian regional firm and the rest being 'mid-sized' firms. These firms seem to have adopted what might be termed a Federation style model, where loose coordination rather than formal control from the centre is more important and self-reliance and autonomy (in practice areas or for individual professionals) is allowed. Employees in these firms appear to receive less support and guidance from management than in the other clusters and in a firm- wide sense are therefore not client centric. Internal 'pro-social' behaviour does not appear to be particularly supported through HR policies, nor is organisational behaviour, that may have a detrimental effect on climate, closely monitored through holistic performance management systems. These firms seem to operate in a somewhat 'laissez-faire' fashion and would be appear to be reliant on either screening of 'lateral hires' to ensure they can operate independently and fit with the culture of the organisation with only a modicum of support. Alternatively such firms would be well advised to remain faithful to the cradle to grave model so that partners can become used to the laissez faire and somewhat loose approach to management achieved through a long period of socialisation.

The cluster 3 cases (n = 16) labelled "Performance-oriented progressives", may be more a reflection of the managed professional business archetype (Greenwood & Empson 2003) first identified by Cooper et al (1996) and seen as a way to adapt to the growing pressures of commerciality in the industry (Faulconbridge & Muzio 2008). Membership in this cluster consists of a mix of the mid-sized and larger firms including some of the better known "name" firms. Relative to the other clusters, these firms have adopted the performance oriented management practices to the greatest extent and are in the 'high' category on all except one variable. Firms in this cluster have also adopted strategic management principles such as strategic planning and vision setting. They appear focussed on leadership training and seek to promote accountability for partners and other professionals through holistic performance measures. These firms seem to regard the HR department as strategic rather than a cost centre and use strategic HR practices such as selective staffing and diversity planning and they also market their HR practices through an 'employee value proposition'. They hire selectively and also ensure expectations are clear through their efforts to create role clarity. The one area that may be at odds with the overall approach to internal management is found in these firms' open attitude to lateral hiring. Although lateral hiring is not prima facie a deleterious management practice it can have unintended consequences and may potentially undermine other aspects of the employment system such as managerial training. Managerial training is typically geared toward internal hiring systems that raise expectations of future progression and thus the career prospects (and morale) of existing staff may be damaged by external or lateral hiring, particularly among equity partners. Lateral hiring in

these firms may therefore constitute a risk to the stability of the configuration.

The cluster 4 cases, labelled "The Regionals" with three cases is too small to interpret in depth, but is clearly distinct from the other clusters. Membership consists of all Australian single office regional practices outside of metropolitan Sydney and Melbourne. They have not been included in the one way analysis of variance however in an absolute sense their mean score is lower than the other clusters on almost all of the clustering variables. These regional firms are not focussed to any large extent on policies and practices oriented toward performance. One possible explanation for their apparent lack of adoption of the '16 drivers' is the stability of their markets and an absence of intense competition.

Overall, the results from this study appear to confirm the growing pervasiveness of the forces of commercialisation on law firms that has been debated in the literature in other common law countries such as Britain and Canada (Ackroyd & Muzio 2007; Cooper et al. 1996; Greenwood & Empson 2003). To some extent this study's results highlight an axis for the debate around who has the control in law firms, whether the professional partners whose behaviour is constrained by their membership of the profession and allegiance to their professional colleagues, or the non-practising managers of the firms who are less constrained by such professional concerns and thus, more performance oriented in the management practices they seek to employ.

More broadly and theoretically, the results confirm the heterogeneity of organisational forms within the Australasian legal services industry, building on the heritage of the strategic groups research (e.g., Hatten & Schendel 1977), challenging the dominance of the p^2 archetype and the institutional argument of homogeneity (DiMaggio & Powell 1983). The efficacy of the configurational approach (Miller & Friesen 1984) highlights the importance of thinking in terms of *patterns* of practices that reflect the interdependency of the practices and characteristics (per Pettigrew 1992), rather than the adoption of one-size-fits-all HR practices promulgated by the popular business literature.

Combining the practical implications for legal services industry managers and the academic bases of configuration theory suggests that organisations need to consider the characteristics of their organisation in terms of whether the practices and policies are mutually reinforcing and that if an organisation wishes to change from one configuration to another, that the change needs to be widespread. A further examination of the approach to change for configurations, sometimes referred to as quantum change (Miller & Friesen 1984), proposes that law firms would need to (a) change many characteristics together, where (b) piecemeal change might destroy a configuration without having the scope to erect a new configuration and (c) that the desired configuration needs to consist of many mutually-supportive elements that fit together and act as a structure of resistance against change.

CONCLUSION

Future researchers may wish to investigate the dynamics of the development of these configurations over time, since in a changing political or economic landscape or industry evolutionary factors could conceivably transform these organisational forms and thus the phenomena and relationships under investigation are well suited to longitudinal research. The links between competitive strategy and HRM strategy would be another area of potential research building on the findings of this study, following explorations of previous, more general research in the services sector (Boxall 2003), where competitive strategies and HR strategies tend to co-vary.

REFERENCES

Ackroyd S and Muzio D (2007) The reconstructed professional firm: Explaining change in english legal practices, *Organization Studies* 28: 729-46.

Alvesson, M (2004) Knowledge Work and Knowledge-Intensive Firms, Oxford University Press, Oxford

Becker B and Huselid M (1998) High performance work systems and firm performance: A synthesis of research and managerial implications, *Research in Personnel and Human Resource Management* 16: 53-101.

Boxall P (2003) HR strategy and competitive advantage in the service sector, *Human Resource Management Journal* 13 (3): 5-20.

Boxall P and Steeneveld M (1999) Human resource strategy and competitive advantage: A longitudinal study of engineering consultancies, *Journal of Management Studies*, 36 (4) 443-63.

Brock D (2007) The reconstructed professional firm: A reappraisal of Ackroyd and Muzio, *Organization Studies* 29: 145-8.

Brock D, Powell MJ and Hinings CR (2007) Archetypal change and the professional service firm, *Research in Organizational Change and Development* 16: 221 -51.

Conca F, Llopis J and Tari J (2003) Development of a measure to assess quality management in certified firms, *European Journal of Operational Research* 156: 683-97.

Cooper D, Hinings B, Greenwood R and Brown J (1996) Sedimentation and transformation in organizational change: The case of Canadian law firms, *Organization Studies* 17(4): 623-47.

Deephouse DL (1999) To be different or to be the same? It's a question and theory of strategic balance *Strategic Management Journal* 20, 147-166

Delaney JT and Huselid MA (1996) The impact of human resource management practices on perceptions of organizational performance, *Academy of Management* 39 (4): 949-69.

DiMaggio, PJ and Powell, WW (1983), The iron cage revisited: institutional isomorphism and collective rationality in organizational fields, *American Sociological Review* 48, 147-160

Dick B (1990) *Convergent Interviewing (v.3),* Interchange, Chapel Hill.

Dufour Y and Steane P (2006) Competitive paradigms on strategic change: Mapping the field and further research development, *Strategic Change* 15: 129-44.

Faulconbridge J and Muzio D (2008) Organizational professionalism and globalizing law firms, *Work Employment Society* 22: 7-25.

Gray J (1999) Restructuring law firms. Reflexivity and Emerging Forms, in Brock D, Powell M and Hinings CR (Eds) *Restructuring the Professional Organization*, pp87-104, Routledge, London.

Gray J, McAllister G and Adams M (2008) Qui bono? How will changes in business models for law firms affect organization, governance and regulation of legal services? Report of a pilot study. Presented at the *Challenging Institutions Workshop,* UNSW.

Godard J (2004) A Critical Assessment of the High-Performance Paradigm, *British Journal of*

Industrial Relations 42 (2): 349-78.

Greenwood R and Empson L (2003) The Professional Partnership: Relic or Exemplary Form of Governance?, *Organization Studies* 24 (6): 909-33.

Greenwood R and Hinings C (1996) Understanding Radical Organizational Change: Bringing together the old and the new institutionalism, *Academy of Management* 21(4):1022-1054

Greenwood R, Hinings CR and Brown J (1990) "P²-Form" Strategic management: Corporate practices in professional partnerships, *Academy of Management* 33 (4): 725-55.

Heys AA and Rodwell JJ (2006) How a focus on managing intangible assets drives performance in Australian law firms, paper presented at Australian and New Zealand Academy of Management ANZAM Conference Yeppon, Qld December 6-8, 2006

Hartog D and Verburg R (2004) High performance work systems, organisational culture and firm effectiveness, *Human Resource Management* 14 (1): 55-78.

House RJ, Schuler RS and Levanoni E (1983) Role conflict and ambiguity scales: Reality or artifacts?, *Journal of Applied Psychology* 68 (2): 334-337.

Jennings J, Jennings P and Greenwood R (2009) Novelty and new firm performance: The case of employment systems and knowledge intensive service organizations, *Journal of Business Venturing* 24: 338-59.

Johns G (2006) The Essential Impact of Context on Organizational Behavior, *Academy of Management Review* 31 (2): 386-408.

Lawrence T, Suddaby, R and Leica, B. (2006) Institutions and Institutional Work, in Clegg S, Lawrence C, Hardy T, Nord W (eds) *Handbook of Organization Studies*, pp215-254, Sage, London.

Lepak D and Snell S (2002) Examining the human resource architecture: the relationships among human capital, employment and human resource configurations, *Journal of Management* 28: 517-43.

Li T and Calantone R (1998) The impact of market knowledge competence on new product advantage: Conceptualization and empirical examination, *Journal of Marketing* 62: 13-29.

Miles RE and Snow CC (1978) *Organizational strategy, structure and process*, McGraw-Hill, New York.

Miller D and Friesen P (1984) *Organizations: A Quantum View*, Prentice Hall, New Jersey.

Mintzberg H (1979) *The Structuring of Organizations: A Synthesis of the Research*, Prentice-Hall, Englewood Cliffs:NJ.

Morris T and Pinnington A (1998) Promotion to Partner in Professional Services Firms, *Human Relations* 51 (1): 3-24.

Osterman P (1994) How common is workplace transformation and who adopts it?, *Industrial and Labor Relations Review* 47: 173-88.

Pallant J (2009) *SPSS Survival Manual* (3rd edn) Allen and Unwin, Crows Nest, NSW Australia.

Perkmann M and Spicer A (2008) How are management fashions institutionalised? The role of institutional work, *Human Relations* 61: 811-844

Peugh J and Enders C (2004) Missing data in educational research: A review of reporting practices and suggestions for improvement, *Review of Educational Research* 74 (4): 525-56.

Pinnington A and Morris T (2003) Archetype change in professional organizations: Survey evidence from large law firms, *British Journal of Management* 14: 85-99.

Powell C (1992) Strategic planning as competitive advantage, *Strategic Management Journal* 13 (7): 551-8.

Schmidt L (2006) Too many fee earners spoil the relationship, *Australian Financial Review* 14 July p. 67.

Short J, Payne T and Ketchen D (2008)'Research on organizational configurations: Past accomplishments and future challenges, *Journal of Management* 34 (6): 1053-79.

Snell S (1992) Control theory in strategic human resource management: the mediating effect of administrative information, *Academy of Management* 35 (2): 292-336.

Snell S and Dean J (1992) Integrated manufacturing and human resource management: A human capital perspective, *Academy of Management*, 35 (3): 467- 504.

Sun L, Aryee S and Law K (2007) High performance human resource practices, citizenship behaviour and organisational performance: a relational perspective, *Academy of Management* 50 (3): 558-77.

Ulrich D and Brockbank W (2005) *The HR Value Proposition*, Harvard Business School Publishing, Boston.

Vedder J (1992) How much can we learn from success?, *Academy of Management Executive* 6 (1): 57-66.

Wall T and Wood S (2005) The romance of human resource management and business performance and the case for big science, *Human Relations* 58: 429-62.

University of Wisconsin STOUT (2003) Staff Diversity survey accessed on 24 June 2011, at http://www2.uwstout.edu/content/bpa/ir/surveyinstruments/divsurv03.pdf

MACQUARIE UNIVERSITY

Andrew Heys <andrew.heys@mgsm.edu.au>

Ethics applications ref: HE24SEP2004-D03271 & HE24FEB2006-D04492

1 message

Ethics Secretariat <ethics.secretariat@mq.edu.au> Fri, Sep 7, 2012 at 2:37 PM
To: Andrew Heys <andrew.heys@mgsm.edu.au>

Dear Mr Heys

Re: "The impact of intangible capital management policies on the performance of Australian law firms" (ethics reference: HE24SEP2004-D03271) and "The impact of intangible capital management policies on the performance of Australian law firms" (ethics reference: HE24FEB2006-D04492)

Chief Investigator: Mr Andrew Heys

This email is to confirm that the ethics applications cited above received final approval from the Macquarie University Human Research Ethics Committee. Ethics application ref: HE24SEP2004-D03271 received final approval on 4th November 2005 and ethics application ref: HE24FEB2006-D04492 received final approval on 26 November 2009.

Please do not hesitate to contact me if you have any questions.

Yours sincerely

Dr Karolyn White

Director, Research Ethics

Chair, Macquarie University Human Research Ethics Committee

--
Office of the Deputy Vice Chancellor (Research)

Ethics Secretariat

Research Office
Level 3, Research HUB, Building C5C
Macquarie University