

A business optimisation framework for improving service excellence
and commercial outcomes in a UK legal practice

Case: National Firm of Solicitors

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ABSTRACT



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This research sets out to develop a sustainable business optimisation framework to improve service excellence and commercial outcomes in a Case Company. It also sets out to assist Case Company in optimising its management and business activities in the time of regulatory and economic change.

In order to investigate and achieve this aim, the study's main objective is to explore the current regulatory changes in conjunction with the UK government policies on Legal Aid. And to determine the level of effect these policies have on the business of Case Company.

The study provides an understanding on how Case Company can develop, enhance and sustain its organisational performance as well as retain its competitive edge in the current and future economic liberal legal service business market. The study looks at strategic management, operational management and conceptual theoretical approaches that should be employed as informative tools to help Case Company in meeting the business objectives.

The research methodology chosen for this is a qualitative case study approach. The data collection and analysis methods are designed to bring out the details from the viewpoint of the participants by using multiple sources of data. The sources used are articles by reliable legal experts providing information about professional issues, solicitors' business performance information and university library research. The research also includes audio recorded face-to-face semi-structured interviews, telephone interviews and the researcher's direct observation.

The researcher adopted the Balanced Scorecard framework for use in developing a strategic practice management at Case Company. The applicability of the framework was tested by the managers and partners of the firm through an expert trainer to ensure its usefulness and effectiveness.

Key words Regulatory Changes, Legal Aid, Strategic Management, Business Expansion, Performance Management, Balanced Scorecard

TABLES

Table 1. Strategy process

FIGURES

Figure 1. The result of regulatory reforms in legal profession (Office of Fair Trading 2013)

Figure 2. The two opposing forces of regulation (Stewart 2010, 3)

Figure 3. Potential benefits for consumers of ABS structures (Office of Fair Trading, 2013)

Figure 4. Strategic Thinking and Strategic Planning (Heracleous, 1998)

Figure 5. Translating strategy into operational terms in the BSC framework (adapted from Kaplan & Norton 1996b, 76).

Figure 6. The relevance of the Balanced Scorecard in legal firms (Sterling 2009)

Figure 7. The strategic paradox (Nair 2004, 10)

Figure 8. Possible level of use The Balanced Scorecard (Nair 2004)

Figure 9. Translation of the mission into objectives and measures via The Balanced Scorecard (Niven 2003)

Figure 10. Creation of The Balanced Scorecard in a Legal practice (Nair 2004)

Figure 11. The framework of the SMART system (Lynch & Cross 1991)

Figure 12. The Relationship between Strategy and Assessing Advantage Requirements (Barney 2010)

CONTENTS

ACKNOWLEDGEMENTS	2
ABSTRACT	3
1 INTRODUCTION	7
1.1 Background	7
1.2 Motivation and Research Problem	8
1.3 Research Objectives, Questions and Expected Outcome	10
1.4 Structure of Thesis	13
2 METHODOLOGY	14
2.1 Methodological Choices	14
2.2 Qualitative Case Study and Case Design	14
2.3 Case Study Design	15
2.4 Data Collection Method	16
2.5 Data Analysis	17
2.6 Validity and Reliability	18
3 REGULATORY FRAMEWORK FOR LEGAL SERVICES IN THE UK	20
3.1 Regulatory Framework for Legal Services	20
3.2 Regulatory Change in the Legal Service Industry	21
Figure 1. The result of regulatory reforms in legal profession	22
3.3 The Interplay between Regulation, Economy and Innovation	22
3.4 Key Changes and the Case Company	24
3.4.1 The Alternative Business Structure (ABS)	25
3.4.2 The Outcome Focused Regulation (OFR)	26
3.4.3 Legal Aid Reform	28
3.5 Strategic Management – A Theoretical Perspective	29
3.6 Balanced Scorecard Concept	32

3.7 Translation process via the BSC	38
3.8 Performance Measurement	41
4 FINDING AND ANAYSIS	45
4.1 Case Company Profile	45
4.2 Vision, Strategy and Company Business Module.....	45
5 IMPLICATIONS AND CHALLENGES OF CHANGES ON THE FIRM	46
5.1 Operation and Management Capabilities	72
5.2 Factors Affecting Success or Failure of Chosen Strategy.....	72
6 A FRAMEWORK FOR DEVELOPING AN EFFICIENT LEGAL BUSINESS PRACTICE	47
6.2 Test of the BSC Applicability at Case Company.....	48
6.3 Recommendation and Use of Balance Scorecard at Case Company	50
7 CONCLUSIONS.....	53
APPENDICES	66

1 INTRODUCTION

1.1 Background

The changes in the legal profession in the past decade have strongly shown that the industry is no longer shielded from commercial market forces and competition as traditionally believed. The regulatory changes, past recession and changing social needs, demands and the agile behaviour of clients as customers have caused management leadership of most law firms in the United Kingdom to take a totally different direction in terms of delivering high service quality and value for money to their customers.

The most significant change in the United Kingdom (hereinafter the UK) legal industry is the introduction of the Legal Services Act 2007. This Act which has not only set the stage for wholesale, sweeping legal reform but it came into force at the end of over a decade of creeping liberalisation of legal services in some areas of law (Lexis Nexis 2009). For example, based on this Act, there is now the right for non-lawyers and external investors to share management and control of law firms, known as The Alternative Business Structure (hereinafter ABS). There is also a more client-focused regulation of law firms called the Outcome Focused Regulation (hereinafter OFR). This particular regulation put emphasis on high level principles and outcomes that should drive the provision of services for clients.

While these regulatory changes are intended by the regulators to improve the ways in which law firms perform, their impact on these firms, particularly the small and medium size firms, are not always positive. In fact, these radical changes could not have come at a worse time for many law firms who have to adjust to the new regulations and at the same time are expected to satisfy clients' high expectations in the difficult economic circumstances.

A national firm of solicitors (hereinafter Case Company) is a medium sized firm which has constant business challenges of the recent economic crises leading to legal aid cuts and regulatory changes. The firm was established in 1996 and has since grown to become one of the leading legal aid providers in the UK. Having identified its niche market in mental health law since its establishment, it has successfully broadened its services and revenues to include

other areas of law such as providing commercial law services for businesses and increasing number of privately paying individuals. Prior to and during the economic recession which started in 2008, Case Company made significant financial successes and has continued to innovate in order to continue to grow. However, with the slow recovery in the national economy and the changes in the regulations, the pressure on the firm to address these challenges has widened. This view is supported in the UK Legal Services Market report which shows annual growth of only 1.6% in the market value in 2012 (IRN Research 2013).

For Case Company these changes have led to some strategic and management challenges which would make the firm's position in the marketplace stronger when effectively addressed. Although it could equally weaken the business activities, productivity and profitability if not strategically and effectively addressed.

1.2 Motivation and Research Problem

The research topic arose as a result of the researcher's experience of working as part of the management team for small to medium size successful law firm for six years. It was during this time that the major changes in the UK Legal sector, as discussed above, became effective. This includes the deep cost cutting of the state legal aid funds, the main funding stream for the firm by the Legal Services Commission (hereinafter LSC), now renamed Legal Aid Agency (hereinafter LAA). It is in the light of this experience and continued challenges facing the case company that it becomes important to conduct this study with the intention of developing a management framework that would assist Case Company to steer through challenging times and continue to thrive in its business activities.

Whilst Case Company have enjoyed a successive healthy growth in the past years, the current situation in the legal services has thrown some challenges and uncertainties to the business. Firstly, over 70% of its current income or revenue stream is mainly derived from servicing clients/customers who are publicly funded through Legal Aid. It is imperative, with cuts in Legal Aid, that the firm quickly diversifies its sources of revenue through maximising its value in legal aid contracts and creating a healthier economic balance between its publicly funded (Legal Aid) and privately paying client base. With the introduction of Alternative

Business Structure (ABS) law, Case Company now requires, more than ever, a new business strategy framework to deal with steep competition from the current legal market developments. Particularly, due to the shrinking demands and an increasing supply, competition from non-legal sources, and a lack of full experience to guide Case Company in this rapidly changing reality.

Secondly, previously the business risk owner (the Senior Partner) used to be the overall expert. However, with the current change in the legal profession and other multi-variate factors (PEST), the business process in which legal services are delivered in the UK now require a multi-disciplinary approach to resolving legal issues effectively and economically to satisfy the company's ever demanding clients. This requires a holistic approach to designing the business process and delivery of excellent service and value for money for customers. As a result, there is pressure on the business structure adopted by Case Company to be flexible and allow for the involvement of other professionals with disparate and valuable expertise to influence decision making.

The third issue is that the current corporate strategy which was designed before the recession, although effective, is no longer ideal for business development purposes due to the two above problems. These have been exacerbated by the difficulties the rampant changes have had on the management processes of Case Company at the same time as it undergoes some internal change.

Case Company began its business expansion prior to the regulatory and economic changes with the intention of increasing its presence and its market share in the legal services but Case Company was not able to predict the effects of the lingered recent global financial crisis. With the subsequent cuts in the legal fees, the resources of Case Company became overstretched making it difficult to fully implement the necessary management tools required for an expansion of that scale.

For example, Case Company has to address the following challenges that come with business expansion:

- Setting up and managing twelve new offices across the country,

- Lateral hiring of high profile solicitors
- Hiring the right administration team
- Training
- Supervising all new staff
- Organising information flow within and across all branches of the firm.

At the same time, they also have to address the challenges of the regulatory demand. One example is hiring of compliant officers whose role is to ensure that the company is fully compliant with all the regulations.

Organisational alignment must be supported by change management activities. However, in the case of Case Company there is still a gap between the overall strategic objective and the day to day business activities. Such gap is making alignment process more challenging.

On the above set out issues, it is very important that in-depth studies as opposed to surface case studies are conducted. Such approach will provide coherent results that help the firm to optimise business management processes in order to steer through its future.

1.3 Research Objectives, Questions and Expected Outcome

This research sets out to develop a sustainable business optimisation framework for improving service excellence and commercial outcomes in Case Company. This management process framework will assist Case Company in optimising its management and business activities in the time of regulatory and economic change.

In order to investigate and achieve this aim, the study seeks to address the following the objectives:

1. Exploring the current regulatory changes in conjunction with the UK government policies on Legal Aid to determine the level of effect these policies have on the business of Case Company. It will analyse the advantages and disadvantages of the

ABS, a new business structure introduced by the regulators, which allows non-lawyer companies to provide legal advice.

2. Identifying and understanding the relationship that exists between Case Company, the regulators and the support, resources, thought leadership development, governance and business risk management that enables Case Company to determine the prospect, viability and survival of the business in the long term.

The study also examined the significant changes to the business model and management leadership process of Case Company. From these findings the researcher will develop a predictive framework for effectively managing strategic change to focus on sustainable and commercial viability. It will explore the Balanced Scorecard approach also endorsed in the response of the Legal Complaints Service to Legal Services Board: (Legal Services Board 2011, 1).

With regards to research questions, there are four key questions designed in order to fully explore the research aim and objectives. These questions need to be answered in order to facilitate the development of an effective business decision support system or framework for improving business performance for this study.

These questions are listed as follows:

1. What is the general perception of Case Company's senior leadership and their employees of the relationship between the SME law firms and the SRA, and how does this perception of the relationship impact on the cost effective delivery of legal services i.e. cost of doing business to the entire continuum of their customers and stakeholders?

It is important to fully understand the relationship between Case Company and the SRA. Such knowledge informs whether the relationship that exists between the regulator and the regulated is balanced for mutual understanding and service delivery.

Answer to this research question requires a navigation into the historical journey of the development and changes in the way that law firms have been regulated and also functioned in providing general and specialist/professional legal counsel to their customers in the UK. Specifically it will inquire about new Outcome Focused Regulation (hereinafter OFR) introduced in 2011.

2. What are the proposed new business process improvements and service innovation activities within the firm in the current regulatory and economic environment nationally?

This question is helpful as it enables full understanding of the opportunities and challenges within Case Company. It explores the ways to adapt to a new business strategy and how it will be able to sustain this strategic shift. This question also helps in finding out the general view of the management and employees about the effectiveness and competitive efficiency of current business activities and processes within the firm. Based on the outcome of these findings, this question will also address specifically the financial and non-financial situation of the case company based on a balanced scorecard approach. Also, by using certain comparisons and best practices the researcher will make it possible to identify what is considered as emulative innovation that strengthens the argument that current SMEs law firms in the UK, as businesses, should be managed differently compared to two decades ago.

3. What business strategy must be changed by Case Company to enable it to be sustainably commercially viable in ever changing UK legal business environment, and how will current and future staff respond to this change?

By answering this question, it allows full understanding of the internal capabilities and management structure, including change management of Case Company. This approach also gives good insight into the sustainability of the proposed corporate strategy to be implemented by current management leadership and their ability to communicate effectively their firm's vision and values to employees.

4. What is the level of impact of these changes on the overall business strategy, goal and vision of the firm and can the case company optimize the benefits of these changes to improve future business performance?

This question helps analyze the core business strategies of the firm and whether these strategies are designed to be able to adjust and cope with future business challenges. It will also assess the strength and weakness of the Case Company as well as consider whether the current framework is competitive and emulative to other successful SMEs law firms.

1.4 Structure of Thesis

This thesis starts with a background introduction chapter, which discusses the aims and objectives of the study. It then outlines the research problem and poses the research questions. The second chapter discusses the research method, the approach to data collection and analysis, while the third chapter evaluates the regulation and key procurement as well as consumption changes in the legal services market in the UK. This chapter also discusses theoretical perspective of strategic management as well as the concept of the balanced scorecard which is a key concept in the research.

The fourth chapter analyses the research findings. The approach used for the analysis of the interviews transcripts was identification of terms, comments and emerging themes which are related to the research question. These were then used to determine the themes in the chapter. While chapter five examines the implications of these findings on the case company, especially the challenges on service innovation, balance scorecard framework is discussed in chapter six as proposed useful business management framework for the firm. Chapter seven concludes the study.

2 METHODOLOGY

2.1 Methodological Choices

The research methodology chosen for this is a qualitative case study approach. Generally, qualitative research has become increasingly popular in social sciences over the years and has been developed from various disciplines such as anthropology, sociology, psychology, history, biology, and education (Boeiji 2010, 11). Grummeson (2000 & 2004) notes that the development of the qualitative research in business research, with emphasis on how interest in qualitative business research is increasing. It is no longer in question whether qualitative research is used in business research, but how it is used and the degree at which it is accepted (Greener 2008, 15; Johansson 2003, 15).

2.2 Qualitative Case Study and Case Design

Yin (2009, 18) gives a technical definition of case study as “an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident”. Qualitative case study is defined as “an approach to research that facilitates exploration of a phenomenon within its context using a variety of data sources” (Baxter & Jack 2008). This approach allows a wide view of issues and for “multiple facets of the phenomenon to be revealed and understood during the study” (Baxter & Jack 2008).

The qualitative case study approach was chosen for this thesis because the focus of the study is to answer the “how and “why” questions as stipulated in the thesis research questions and proposition (Yin 2003, 5). It is also because the study is about improving the business process of the company, and proposing a business strategy framework that can be used to influence future business operations within the context of economic and regulatory change and needs, to cover contextual conditions which are relevant to the phenomenon under study (Baxter & Jack 2008, 545). Lastly, it is important that the research approach is open-minded and exploratory in nature (Robert et al. 2005, 149).

The case company, both the owner and employees, individually and collectively have experienced changes in the legal industry. Finding out what these experiences are and how they address them requires among others, listening, understanding and pursuing effectively their business imperatives. This business approach has been adopted successfully by a number of learning SME organisations in the B2B, retail and financial sectors in the UK (Chong et al. 2009, 185; Critten 2009). These organisations were in a similar business situation as the case company a few years ago and decided to implement a more customer centric and diversification business strategy which paid off in terms of commercial and shareholder value (Robert et al. 2005, 25; Bolton et al. 2007, 10). This research method involves conducting interviews to elicit key information required to improve business performance in an environment that is relaxed and less formal. Gombera (2003, 157) recommends using the Repertory Grid Technique (RGT) as qualitative research tool for eliciting important business knowledge from key senior managers as part of data mining. For example interviewing the senior partner, partners or fee earners to gain expert knowledge required in the coffee room immediately after the weekly diary meetings enables them to be more at ease to continue with some of the discussions at the diary meeting with staff and also provides them with the opportunity to reflect on some of the key business issues discussed at the meeting. Conducting at this time allows all participants to be more eager to open up for in-depth interviews compared to days where their diaries are fully booked with court hearings. It is also important that this approach is interpretative and does not adopt a rigid rule of logic and measurement as with positivist paradigm (Halcomb & Andrew, 2005; Cole, 2006; Weaver & Olson, 2006). Greener (2008, 17), equally notes that aim of an interpretative researcher is to see the world through the eyes of the people being studied, allowing them multiple perspectives of reality, rather than the one reality of positivism.

2.3 Case Study Design

Single-case design is considered useful in the research design because it is an evaluation case in which the researcher has opportunity to observe and analyse a phenomenon not yet clearly studied (Yin 2009, 48). Secondly, case design in contrast to multiple case studies is less expensive and less time-consuming to conduct taking into account the time frame for the study. The third reason why case design is useful is because it offers much more flexibility in

the implementation and evaluation of interventions than large-sample designs (Nock et al. 2009, 348).

2.4 Data Collection Method

Before data collection, it is recommended by Stakes (1995, 51) that the researcher know what leads to significant understanding and recognition of good sources of data. This is possible when propositions and research questions are specified. The method for data collection for this business management research is connected to the research questions where “what” “why” and “how” questions are answered (Yin 2003, 2). For example, in finding “what” the general perceptions of the law firms are to their relationships with the regulators and “how” it impacts on the case company’s service delivery.

The research uses articles by reliable legal experts that provide information about professional issues affecting solicitors’ business performance, practice management update reports in the Law Society’s magazine, the legal aid contract matters in the Legal Aid Agency newsletter. It also uses research publications on economic and regulation change within the legal framework. Other data sources are online discussion forums and Blogs for law firms.

The main aim of using these diverse business and legal management literature sources was to gather useful secondary data for the research. In addition, other sources such as The Solicitors Regulation Authority Code of Conduct including tracks of changes in the document, SRA consultation documents and consultations outcome reports leading to the recent regulatory changes, previous research/report on UK small and medium size firms both by the regulators other organizations were used to investigate the key research problem. Additional sources are Opinion research on Law firms in conjunction with the regulatory change, and Government economic policy framework on legal aid funding. It is important that these data sources were carefully utilised as there are limited books on this research subject.

Audio recorded face-to-face semi-structured interview and a telephone interview involving 20 respondents (Senior Partner, Practice Director, 4 Partners, 1 associate partner, 2 supervisors, 5 solicitors, 2 trainee solicitors 2 paralegals and 1 administration assistant) are

the key techniques of gathering primary data for the research (see Appendix 1). The decision for this selection is based on the order of importance of respondents and their ability to directly provide information that is required for this research. Also the selection has considered all sections of the personnel have different ways of evaluating the firm's activities, for example, not all Partners would agree with the view of the Senior Partner or Practice Director, and not all fee earners agree with the views of the Partners and Practice Director. This scenario gives researcher the opportunity to gather wide range of information that reflects diverse views on the employees. Critical and objective analysis of such information is able to produce a reliable result.

A list of questions was developed in advance to explore the current management issues as well as the perspectives of the managers, partners, fee earners and administrative assistants to how the firm is managed. This is also to determine their attitudes and commitment towards expansion, innovation and competitiveness required in a rapidly changing industry. Furthermore, the questions attempted to find out the barriers to the implementation of sustainable business management practices and the potential support needed to increase motivation and steer productivity. A schedule of the interview questions is included in the thesis (see Appendix 1&2).

This technique gives the opportunity to ask open ended questions to the employer and employees of the firm. It also enables finding answers to key research questions, for example, "how" is the case company updating its business model and structure to cope with the current changes and "how" are they positioning their business for the future challenges. A participant observation technique is also helpful to further understand the day to day business activities of the firm, and to evaluate the team dynamics, particularly how processes and procedures are followed by staff. The review of the company's office manual, newsletters, website contents, and other marketing and promotional material enhances wide range of secondary data selections.

2.5 Data Analysis

The data collection and analysis happens concurrently in this research as it is common in qualitative research (Baxter & Jack 2008, 554). To be able to make this approach very

effective, care is taken not to fall into the ‘trap’ of over-collecting data from many sources. Keeping good records of data by using a simple computer system such as excel enables control of the data collected and avoids data loss during the analysis.

There are five techniques for analysis of qualitative data: pattern matching, linking data to propositions, explaining building, time-series analysis, logic models, and cross-case synthesis (Baxter & Jack 2008, 545). However, the application of any of these techniques will be determined by the nature of the case study. In this study, the propositions play significant roles in the formation of the research designs and data collection and the data analysis is linked to the propositions. This technique makes the analysis to be focused and keep it within scope of the research questions (Yin 2009, 15).

Raw data such as the interviews and observation notes are transcribed and written out in themes. They are reviewed interpretatively to identify patterns, particularly whether information given is in line with the issues set out to be discussed. From the review, the decision is reached as to whether there are linkages of the data to the propositions (Yin 2009, 27).

2.6 Validity and Reliability

Multiple methods were used to investigate the research problem from different directions, e.g. the participation observation and reviews of diary meeting notes to facilitate the validity of the findings. This is also done by having representative across the firm to cover most issues to do with the study and to enable probability of generalisation. Moreover, all the questions posed in the interviews were directly linked to the research’s aim and objectives and covered all aspects of the topic.

Data was also transcribed and analysed with a very high degree of accuracy, for instance some English native speakers assisted me to recognise the unclear taped conversations of some interviewees. Moreover, one of the transcriptions was validated and rechecked with the interviewee to ensure the correctness and the accuracy of the data. Finally, all secondary

sources of data used, like the management minutes, diary meeting notes, staff appraisal notes, were initially assessed to determine the validity of the information given.

Regarding reliability, Ritchie and Lewis (2003, 271) notes that reliability is known as to what extent the research findings can be replicated, if another study is undertaken using the same research methods. They asserted that *“the reliability of the findings depends on the likely recurrence of the original data and the way they are interpreted”* (Ritchie & Lewis 2003, 271). Although this may not be always easy in a qualitative research such as this because information which reflect realities at this time could later change, this can be enhanced through *“showing the audience of research studies as much as possible of the procedures that have led to a particular set of conclusions”* (Seale 1999,158).

In this research a number of measures were undertaken to enhance the reliability, including: all interviews were recorded to present more reliable evidence and avoid any bias which might happen if the researcher attempted to remember the conversation. Gray (2004, 345) asserts that *“in terms of reliability, it is fairly obvious that taped conversations will tend to present more reliable evidence than hastily written field notes”*. Also, all the questions were worded clearly and asked in researcher’s normal voice as used to communicate with management and employees. Time was taken to repeat questions or words that are not understood by interviewees. In addition, all interviewees were allowed the opportunity to reframe some questions and also to add some explanations, opinions or beliefs without researcher’s intervention. This is to ensure that the researcher who is also a manager at the firm is not seen as meddling with people’s views or showing bias to the responses from the interviewees. Interviewees were assured that their names will not be published in the report without their permission.

Another step to increase the probability of replicating this study was to ensure that the study provides detailed information about the aim and objectives of the research. It shows how the study was undertaken and the justifications of the adopted research strategy and methods.

3 REGULATORY FRAMEWORK FOR LEGAL SERVICES IN THE UK

This chapter looks at the regulatory framework for legal services in the UK. It reviews three sets of reforms in the past decade within the legal industry in England and Wales, and discusses the impact of these reforms on the business activities of the case company and other SME law firms.

3.1 Regulatory Framework for Legal Services

Over the years, market competition has been increased gradually through regulatory intervention in the UK (Bichta 2003, 52). According to Bichta (2003), “competition led to improvements in the economic efficiency of the regulated companies, reductions in price and increased consumer choice, particularly in terms of new available products and services.”

The Office of Fair Trading UK (hereafter referred to as the OFT) has the view that effective competition in properly regulated markets can deliver lower prices, better quality goods and services as well as greater choice for consumers (Office of Fair Trading 2009, 5). While regulatory interventions have been evidenced in industries such as gas, electricity, telecoms, water supply and accounting for the past twenty years, the legal industry has been subject to limited interventions (Cowan 2001, 3). The main reason is that legal services are not perceived as heavily entrepreneurial in comparison to other industries and therefore require limited regulatory intervention for the purpose of competition and better choices for users. The traditional and historic restriction imposed by legal professional associations was to limit the ability of their members to advertise their services (Decker & Yarrow 2010, 49; Stephen & Love 1999, 2). This restriction has taken various forms: from total bans on advertising to more specific restrictions on comparative advertising, or to advertising related to fees (Decker & Yarrow 2010, 49). Only within the past decade has the Government intervened with changes in the regulatory framework of legal services made on the basis that increased competition and a wider range of choices for clients were needed in the industry.

In this Chapter and in the context of this thesis, the changes in the past decade and particularly the change leading to the implementations of Alternative Business Structure are discussed. The rationale for such changes in the legal sector of England and Wales and the interplay between regulation, economy and innovation are discussed accordingly. Discussion of these enables an understanding of the legal services framework and provides a platform for the subsequent discussions as well as analysis in this thesis.

3.2 Regulatory Change in the Legal Service Industry

Sir David Clementi's 2004 report, *Review of the Regulatory Framework for Legal Services* (Rigby 2011), led to changes in the legal climate. Clementi was appointed by the British Government in July 2003 to review the Regulatory Framework for Legal Services in England and Wales partly because of some issues raised in the Office of Fair Trading report in 2001 which called for more competition in the legal services market (ICB 2011, 153). The Office of Fair Trading concluded in its report that the regulatory framework for the provision of legal services in England and Wales was 'outdated, inflexible, over-complex and insufficiently accountable or transparent' (Tilly 2010, 1).

It was in light of the OFT report that Clementi was tasked "to consider what regulatory framework would best promote competition, innovation and the public and consumer interest in an efficient, effective and independent legal sector". In his consultation paper titled 'Competition and Regulation in the Legal Services Market', he highlighted concerns about the regulatory framework, the complaints systems and the restrictive nature of business structures. Drawn from these concerns, a full review of the regulatory framework for legal services in England and Wales was undertaken, leading to the Government's response with a White Paper called 'The Future of Legal Services, in 2005' (Rigby 2011). This White Paper was the first step in the development of the Legal Services Act 2007, and consequently the establishment of the Legal Service Board (hereafter referred to as the LSB) as the single independent regulator of the legal profession and sector in England and Wales. This proposed change was also intended to reorganize the ways in which the legal profession is regulated, by simplifying the proliferation and complexity of different regulatory bodies in the legal sector (Hobart 2003, 1). Crucially, it proposed to separate the functions of The Law Society,

which is the representative body, from the Solicitors Regulation Authority which is the regulator (Hobart 2003, 1). It is this reform, which the case company and other small and medium-size law firms are now facing, which resulted in Alternative Business Structure and Outcome Focused Regulation. The results of these reforms are illustrated in Figure 1. These changes are discussed in subsequent chapters and referred to throughout this thesis.

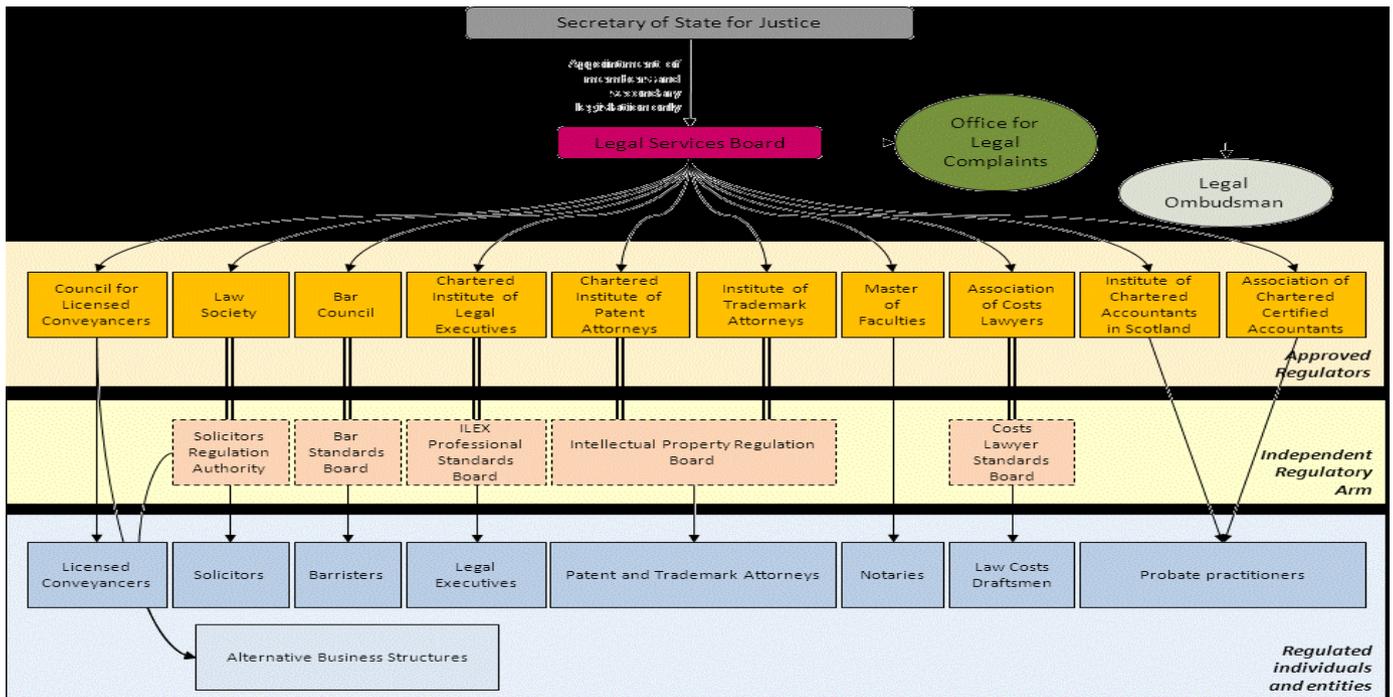


Figure 1. The result of regulatory reforms in legal profession

3.3 The Interplay between Regulation, Economy and Innovation

Research shows that there is a relationship between regulation and innovation, although this relationship is often complex and dynamic (OECD 2002; Berr Economics 2008). Regulation generally would refer to policies where the government acts as a referee to oversee market activity and the behaviour of private actors in the economy. However, according to OECD (2002) government regulation can have both negative and positive effects on the nature and direction of innovation as well as the ways in which businesses innovate (OECD 2002). It is the recommendation of OECD (2002) that reforms should help ensure that regulation in all

spheres of activity is fully responsive to changes in the economic, social and technical conditions surrounding them (OECD 2002).

The regulatory changes within legal services, as already discussed above, are underpinned by the need to allow wider competition in the industry and to afford the service users additional choices in their matters. Under these changes, law firms are presented with complex ways of managing their business and activities in relation to clients' needs. Interestingly, under this new regulation, law firms are given the opportunity to find ways related to these changes in order to provide the best possible outcome. This is in contrast to the typically rigorous scrutiny of firms where repeated audits are carried out to ensure full compliance with the rules.

Although this change is intended to make law firms run confidently, efficiently and competitively, there are concerns that the ongoing global economic difficulties are hindering these intentions. Particularly at risk are those SMEs who are most vulnerable to the adverse economic conditions and who do not have the necessary resources needed to ensure that they are fully compliant with these regulations. For example, it is believed that investment in innovation allows firms to improve the quality of their existing services and/or develop new services to better suit the changing needs and preferences of consumers (Office of Fair Trade 2019, 6). However, this requires a stronger and more stable economic environment where firms invest in technology and/or new techniques and processes, including high quality managers to increase their competitiveness.

For these SME law firms, including the case company, it may mean that regulation is not directly favourable to them and therefore has the potential to affect or disrupt the innovation process. The case company, for example, is faced with the challenge of whether to invest its limited resources in compliance matters, like hiring a compliance manager, or in technology and/or marketing techniques that would accelerate innovation in the business. While this burden is very high on the case company, the process of addressing these challenges in order to continue to maintain their leading position in the legal industry is of particular interest to this study. The challenge of the interplay between regulatory changes, economic difficulties and innovation activity is not an easy one for the case company or SME law firms as a whole.

Figure 2 illustrates inter-relationship between compliance and innovation. The subsequent chapters of this thesis discuss these challenges in detail.

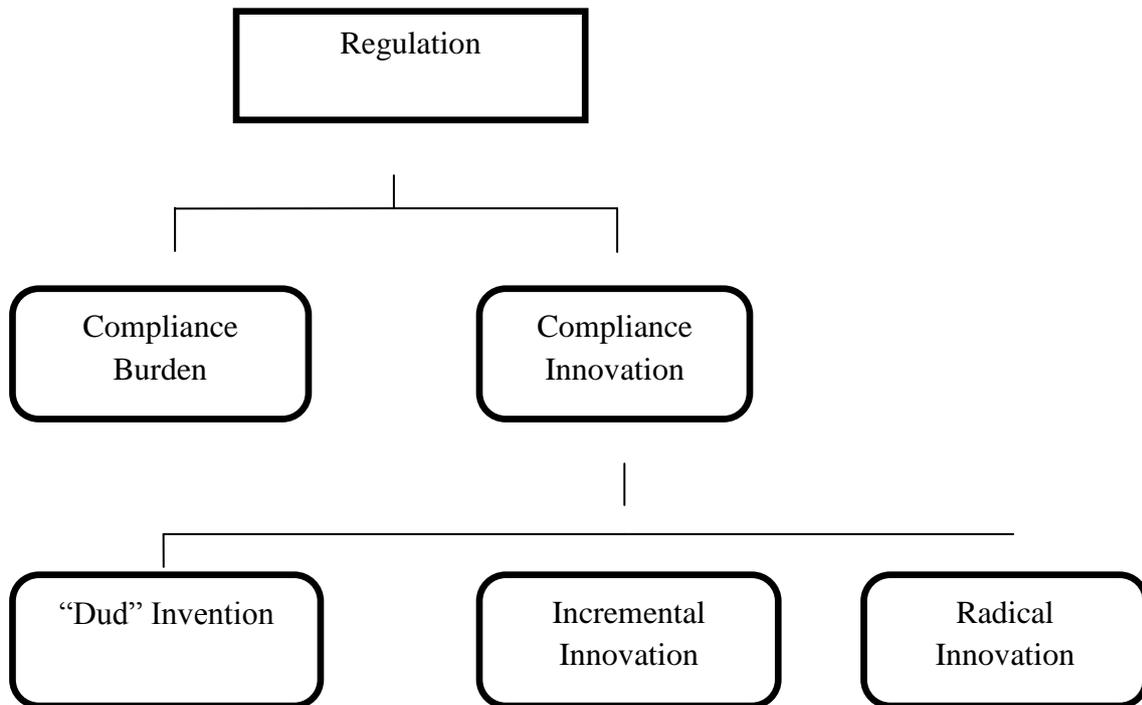


Figure 2. The two opposing forces of regulation (Stewart 2010, 3)

3.4 Key Changes and the Case Company

This section discusses the major regulatory change in the Legal Services Act 2007 in which it sets out a new framework for the corporate incorporation and governance of legal service providers and how they will be regulated. ABS, which started in October 2011, has been seen by many in the legal industry as the catalyst that could eventually re-shape the legal landscape by making law firms more competitive, efficient and consumer focused. This change is expected to allow future market testing and the accessibility of legal services to all, in the most ethical way possible.

3.4.1 The Alternative Business Structure (ABS)

The concept of ABS means that lawyers of all types including solicitors, barristers, licensed conveyancers and legal executives, will be able to share ownership, management and control with non-lawyers in organisations such as insurance companies, banks and estate agents. It is also expected that, over time, more law firms will merge or “offer services in partnership with other professionals and new entrants will offer legal services as part of a wider ‘one stop shop’ to the consumer” (Legal Services Board 2009). More radically, the new regime also allows people from other countries to invest and have ownership in law firms.

To make the administration of this change possible, the Legal Services Board separated the Law Society, which is the lawyer’s representative body, from the SRA who is the regulatory body. The close administrative tie between the Law Society and SRA was seen as a potential conflict of interest in enforcing the new rules as there needed to be one body that regulates the licensing of the ABS. By separating the two, the SRA is now formally nominated as the body which approves the licenses for ABS to any lawyer or non-lawyer firm that applies for it.

For obvious reasons, most law firms are resentful of the new changes, especially as the impact has not been fully assessed and the outcomes remain unknown. With ABS being a new structure, there are many speculations about its effects on the legal industry. These speculations are based on fear rather than thorough assessments. However, with the increasing number of non-lawyer firms entering the legal market, it is understandable that there will be pressure on SMEs and high street law firms. The biggest concern is the vulnerability of some of these firms facing heavy competition, particularly as some of them have limited capacity and resources to improve the expected quality of services and management structures to meet those challenges. While these challenges are being met by some law firms, it will be the customers who will continue to benefit from the improved and efficient services brought about by the new structure. This is illustrated in figure 3. For a better understanding of the impact of ABS on SME law firms, day-to-day management and innovation activities of the case company is critically reviewed further in this thesis.

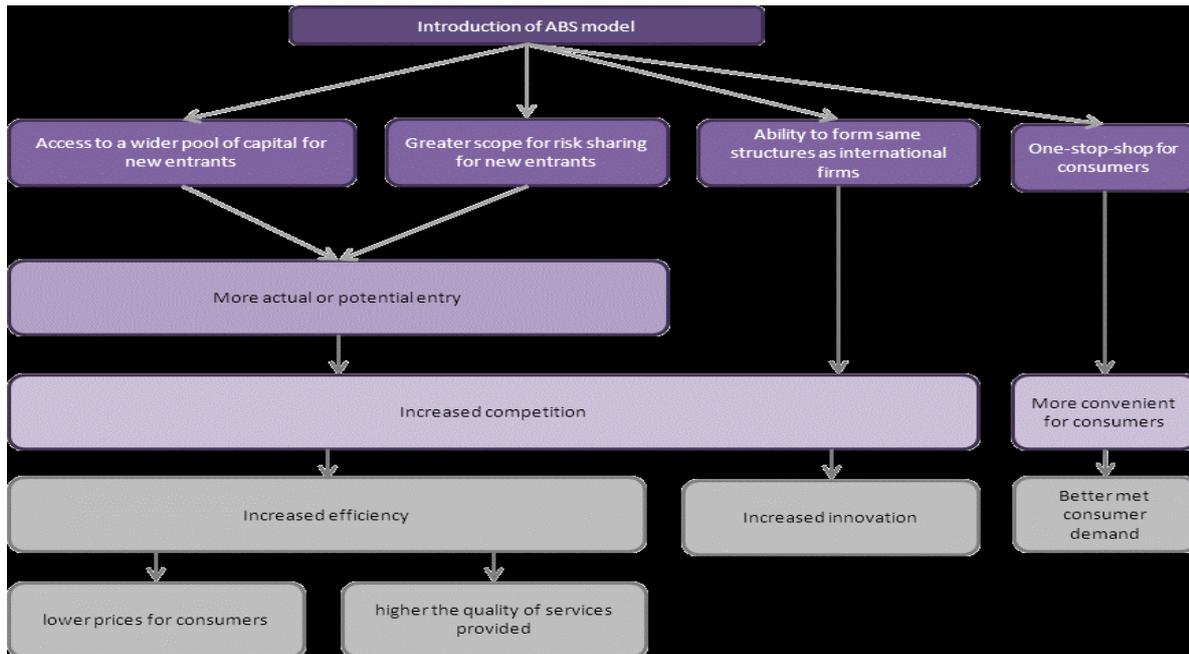


Figure 3. Potential benefits for consumers of ABS structures (Office of Fair Trading, 2013)

3.4.2 The Outcome Focused Regulation (OFR)

Outcome Focused Regulation is another regulatory change in legal services which came into effect October 2011, the same year as the ABS. As soon as the Legal Services Act 2007 introduced the ABS, the SRA had to create a new Code of Conduct for solicitors to replace the existing one. The purpose of the new 2011 code is to create a 'level playing field' between the traditional profession and new entrants warranted by the ABS (WEBLAW 2013). The clear difference between the new Code and the old one is that rather than containing prescriptive rules, supported by guidance, the new Code comprises mandatory Outcomes and non-mandatory Indicative Behaviours (SRA 2011).

What this means is that the regulated firms are given a free hand to decide how best to achieve the Outcomes but are expected to act in accordance with the Principles in everything they do; for example, when dealing with clients or the SRA (SRA 2011). On one hand firms are provided with more flexibility on how to achieve these Outcomes, and on the other hand there seem to be uncertainties as to how these Outcomes should be achieved.

To make the situation even more complicated for law firms, particularly the small- and medium-sized firms, these new regulations make it mandatory that each law firm, irrespective of size and turnover, must nominate a Compliance Officer for Legal Practice and a

Compliance Officer for Finance and Administration. These officers must be staff of a very senior level and where the firm has no such individuals or the capacity to recruit them, the Senior Partner or the Sole Principal, in the case of a sole practitioner, is automatically nominated for the position. The rationale for these positions is to have only one or two individuals who communicate with the regulators on all compliance-related matters. These individuals are the first to be held to account if there is any evidence of breaches.

In whichever way we look at OFR, this is a regulatory regime that focuses on high-level Principles, for example, maintaining accounting rules, assuring client protection, and disciplinary and costs recovery. All Outcomes are to drive the provision of services for clients. The client becomes the central focus of the regulations, and the regulated bodies should steer towards full compliance and avoid every possible risk that may lead to non-compliance.

On the surface, the OFR appears professional and ethical as it focuses on achieving good results for clients. However, the practicalities of implementing the structure to enable them to achieve, manage and sustain the Outcomes, is where many firms, particularly the SMEs, are having difficulties. For example, law firms who have not been able to nominate compliance officers by the end of March 2013 were forced to close down because without fulfilling this requirement, a firm will not be able to secure Professional Indemnity Insurance (PIP) or a licence from the SRA to practice.

As with the ABS, the OFR, which is meant to be making law firms more competitive, efficient and consumer-focused, is seen to be causing uncertainties in the legal market because hundreds of firms, particularly the SMEs, either downsize or cease to trade as a result. The simultaneous introduction of these rules during a global recession is seen to be having a negative impact on the growth of some law firms. However, many SME law firms, such as the case company, have remained resilient and continue to engage in various business activities which will prepare them for the post-recession period.

This is considered further in the discussion and analysis chapter, where the activities of the case company, in answer to the regulatory changes, are critically examined. This chapter also

reflects on the level at which the regulatory changes have influenced competition and innovation in the legal market at this time.

3.4.3 Legal Aid Reform

Legal Aid reform in England and Wales occurred at the same time as the introduction of ABS and OFR, although the process of changing Legal Aid provision, including the granting of new contracts, has been ongoing for some time. Like ABS and OFR there are reasons for the reform. From the Government's point of view, there is the need to reduce the Legal Aid budget, which will only be done through savings. The best way for them to achieve this, without being seen as ruthless to those who have greatest need, is to discourage cases from coming to court when they might better be resolved by other means, such as other forms of advice or mediation (Grimmwood 2013, 1). Some lawyers and other critics see that the poor and the vulnerable will be seriously affected as there will not be any other place for them to turn to for legal help. This is also a bad news for Legal Aid firms like the case company, who rely on court and tribunal advocacy to generate income to sustain the firm. It is important to discuss Legal Aid reform in this chapter due to its connection to ABS and OFR. Also, Legal Aid reform, ABS and OFR are linked in that they impact on the business of the case company and other small- and medium-sized law firms. It is also important because the case company is the second-biggest holder of Legal Aid contracts in England and Wales.

Although the Legal Aid Agency, the administrator of Legal Aid, works independently from the Legal Services Board, any legal reforms by the Government consider the views of both agencies. This is because policy change in one of these agencies will in some way impact on the activities of the other. For example, the introduction of ABS and OFR has affected the way that the Legal Aid Agency audits Legal Aid law firms. Legal Aid law firms who do not have Compliance Officers or who have not followed the Principles of the OFR will find it difficult to be awarded a Legal Aid contract. The other issue is that both agencies have in the past three years consolidated their rules to make clients the focus for all legal activities. There is also shared information between these agencies about clients' difficulties with providers and measures to ensure that complaints by clients are taken very seriously. These new reforms and the pressure for the case company to continue to be a profit-making business

mean that they have to intensify their business activities. Without analysing the changes and reforms within these agencies, we will not be able to understand the ways the case company is responding to the challenges created by these changes.

3.5 Strategic Management – A Theoretical Perspective

In order to understand how the Case Company can develop, enhance and sustain its organisational performance and competitive edge in the current and future legal services market, this chapter looks at strategic- and operational management; conceptual theoretical ideas and the approach that should be employed. This is because there is a business need to take a longer view of current operations so as to ensure that available resources are purposely harnessed for the optimal direction of the affairs of the Case Company.

Drucker (1964, 61) was the first researcher to ask the important question, 'what is our business strategy' and defined strategy as “understanding the particular business’ situation”. Abell (1980, 170) tried to answer Drucker's (1964) question by considering the concept of a product-market to be inadequate for the purpose of business definition. He argued that 'business definition is the pivotal act in the setting of business strategy'. Following Abell (1980), Thomson and Strickland (1990) considered that business definition comes from three factors:

1. customers' needs;
2. customers’ group;
3. the technology used, and what functions are performed.

A series of articles from the mid-1980s to mid-1990s by Hamel and Prahalad (1993 & 1994) widen traditional conceptual strategy in terms of showing the importance of strategic intent and the importance of leveraging and stretching core competencies to provide competitive advantages. Hayes and Wheelwright (1984, 102-103) and Mintzberg (1999, 25) plunge straight into the semantic minefield by showing in practice that, the word "strategy" has been used in many different ways and implicitly accepting any number of definitions, whilst tending to reserve just one for individual formal purposes. Heracleous (1998, 481) summarised Strategic Management as the process of integrating strategic thinking and strategic planning, as illustrated in Figure 4.



Figure 4. Strategic Thinking and Strategic Planning (Heracleous, 1998)

According to Figure 4, literature on strategic management and strategy definition, it can be concluded that strategy is a management discipline and can be a unique positioning of a company for different markets. It enables key decision makers at all levels of an organisation resulting in the formulation and implementation by considering of own practical experience, business, market and environmental requirements. In addition strategy can be long and short term and provide the basis for trading-off and selecting options (e.g. equipment, people, resource allocation, etc.) According to Johnson and Scholes (1999, 10) strategy is the direction and scope of an organization over the long term which achieves advantage for the organization through its configuration of resources within a changing environment, to meet the needs of markets and to fulfill stakeholder expectations.

The model of strategic management outlined by Johnson and Scholes (1999, 10) contains three elements - strategic analysis, strategic choice and strategy implementation. However Johnson and Scholes (1999) admit that their model does not describe how organizational strategies actually come about in practice. Preedy et al. (2003, 142) as well as Johnson & Scholes (2005, 9) developed the concept of strategy, using three perspectives to explore how strategies develop in practice and put forward various models of the strategy process. These three strategy 'lenses' or ways of seeing things are strategy as design, as experience and as ideas and is summarized below in table 1.

	Strategy		
	Design	Experience	Ideas
Overview Summary	Deliberate positioning through rational analytic, structured and directive processes	Incremental development as the outcome of individual and collective experience and the taken for granted	Emergence of order and innovation through variety and diversity in and around the organisation
Assumptions about organisations	Mechanistic hierarchical, logical	Cultures based on history, legitimacy and past success	Complex systems of variety and diversity
Role of top management	Strategic decision makers	Enactors of their experience	'Coaches', creators of context and 'champions' of ideas
Implications for change	Change = Implementation of planned strategy	Change incremental with resistance to major change	Change incremental but occasionally sudden
Underpinning theories	Economics; decision sciences	Institutional theory; theories of culture; psychology	Complexity and evolutionary theories

Table 1. Strategy process (Preedy et al. 2003)

Johnson and Scholes (2002, 10) claim that the design lens is the orthodox approach to strategy development most often written about in literature. However they emphasise the importance of the other lenses in terms of the challenges they raise when thinking about and managing strategy. The experience lens "is rooted in evidence of how strategies develop incrementally based on experience and the historical and cultural legacy of the organisation; and suggests that it is much more difficult to make strategic changes than the design lens might imply" (Preedy et al. 2003, 143). The ideas lens "helps an understanding of where innovative strategies come from and how organisations cope with dynamic environments" and "poses questions about whether or not top management really has control over strategic direction to the extent the design lens suggests" (Preedy et al. 2003, 143).

3.6 Balanced Scorecard Concept

The Balanced Scorecard (hereinafter BSC) can be referred as the most influential and extensively used strategic planning and management systems in today's organisations (Wieserma 2009, 240). It is a framework that expresses an organisation's strategy as a set of measurable goals from the perspectives of its owners/investors, other external stakeholders, and the organisation itself (Kaplan & Norton 1996a, 55).

The BSC was first introduced by Robert Kaplan and David Norton in a paper published in 1992 by Harvard Business Review. It was immediately embraced by both academics and the corporate world (Denton 2005, de Wall 2003 & Bourne 2008). Later in 2003 the BSC was voted one of the most significant management ideas in 75 years by Harvard Business Review. The core reason for the recognition is its innovative performance measurement system which expanded on the traditional financial performance measures by including four linked perspectives. Each perspective posed a question and the answer to which a goal was translated into a performance measure. (Julyan 2011, 136.)

It was the intention of Robert Kaplan and David Norton that the BSC retained its traditional financial measures. However, they were of the view that "financial measures tell the story of past events." And that an adequate story stating industrial age companies for which investments in long-term capabilities and customers relationships were not critical for success. (Kaplan & Norton 1996b, 76).

They developed the BSC as measures that will "tell the story" of an organisation's strategy in actionable terms. These measures are based on four perspectives of an organization's performance. Specifically:

1. customer
2. finance
3. internal process
4. learning and growth.

These perspectives are illustrated in Figure 5 below.. The core content of the figure from the point of view of this research is to be discussed in the text to follow the figure.



Figure 5. Translating strategy into operational terms in the BSC framework (adapted from Kaplan & Norton 1996b, 76).

There were a series of developments that took place further to the implementation of the original version of the BSC. The first development was the realisation of linking measures to strategy (Kaplan & Norton 1992, 72). Obvious as this concept might be, most companies, at that time, were focusing on improving the performance of existing processes based on quality, cost and response times but were inconclusive on whether processes were strategic (Julyan 2011, 136).

The latest modification of this concept was developed from the experiences of companies implementing the BSC into their strategic management processes. Kaplan and Norton found that implementation of strategy is as important as the development of strategy. In their view, it was not just enough to have a strategy in an organisation, but there must also be strategic processes that perform exceptionally well to ensure the success of the organisation.

It is the aim of the BSC to look closely at strategic achievements, from which goals are established. Employees decide necessary actions to achieve these goals rather than the traditional system which puts the control at the centre of management. The BSC also facilitates the management of the conflict between the demand for building long-term competitive capabilities in an organisation and the entrenched historical financial measures commonly faced by organizations (Kaplan & Norton 1996b, 7).

In addition, the BSC sees that the trade-offs between short-term productivity improvements and long-term growth goals can be managed within organisations without necessarily creating a tension between leaders of organisations and their employees. These core foundations allow the BSC to retain historic financial performance measures as well as incorporating measures that create future value which constructs a comprehensive framework allowing all aspects to be integrated.

In developing the ‘balanced’ framework, Kaplan and Norton (1996a, 65-66) have continued to encourage its use by organizations. They argue that the framework enables a management team to arrange and execute measures in the following four step strategic management processes:

1. Clarify and translate vision and strategy
2. Communicate and link strategic objectives and measures
3. Plan, set targets, and align strategic initiatives
4. Enhance strategic feedback and learning

It was these four strategic management processes that became the keys to the Balanced Scorecard theory later developed in “The Strategy-Focused Organization” (Kaplan & Norton, 2001). In this book, they sought to present a high-level overview of this management theory, along with a description of its historical foundation and development. Their exposition of the ‘strategy-focused’ scorecard identified five ‘key principles’ to successful development and implementation of a strategic scorecard, outlined below (Kaplan & Norton 2001).

1. Translate the strategy to operational terms
2. Align the organization to the strategy
3. Make strategy everyone’s everyday job

4. Make strategy a continual process
5. Mobilize change through executive leadership

It was in the light of these developments that the BSC was embraced as a revolution of performance measured frameworks within strategic management. It also led to further development of the framework.

In 2004 “Strategy maps” by Kaplan & Norton were published focusing on how to translate strategy into operational terms. Here they implied that a logical and comprehensive architecture for describing the strategic framework needed to be achieved before management could claim to understand the key drivers behind organisational performance and view the business model through a single lens (Kaplan & Norton 2004). Further in 2006, they focused on aligning the organisation to the strategy, which is significant in the development and transition of organizations (Kaplan & Norton 2006, 9).

Following this gradual development and its applications, the BSC has had the endorsement of many authors. Drury (2008, 576) contended that the BSC concept was designed due to the need of an integrated framework which could promote transparency, communication and effective implementation of the strategy. Elsewhere it is argued that the BSC could measure the current position of the organisation providing balanced action plans covering both the financial and non-financial drivers that give direction in both good and bad economic times (Nair 2004, 2-5).

Surveys conducted to ascertain whether the BSC created value for organisations and improved organizational performances show that the BSC promotes integration of management processes, empowers employees and leads to improvement in performance (De Geuser et al. 2009, 114). The result of this survey indicates that performance derived from the use of the BSC had the following benefits:

- firstly, it makes strategy meaningful operationally
- secondly, it makes strategising an integral part of the business process and
- thirdly, it provides possibilities of good alignment between systems in the organisation (De Geuser et al. 2009, 93- 102).

Further research suggests that by converting the vision and strategy of an organisation into operational terms, the BSC enables better understanding of the strategy and stimulates performance against set goals (Ittner & Larcker 1998, 224). This research overwhelmingly endorses the BSC as a framework that provides a framework for connecting strategies with operational level actions and thereby narrowing the disparity between strategy formulation and execution, as is illustrated in Figure 6.

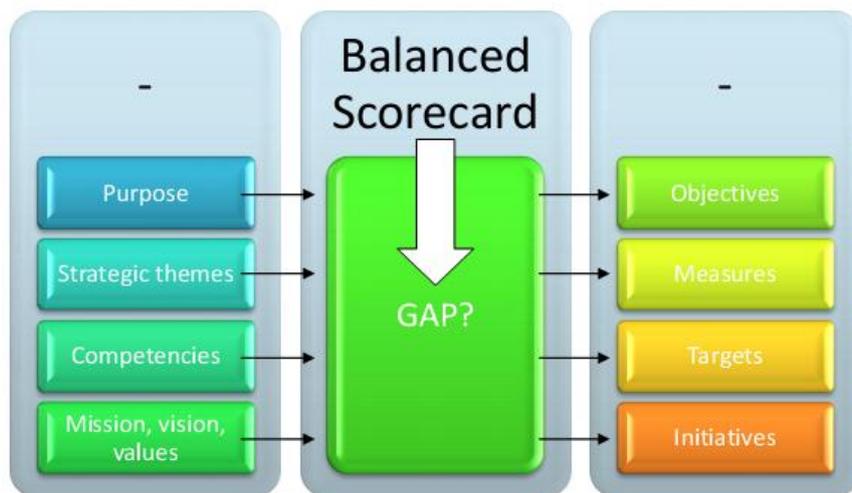


Figure 6. The relevance of the BSC in legal firms (Sterling 2009)

Nair's (2004, 10) diagram in Figure 7, illustrates the strategic paradox usually encountered in strategic formulation and implementations. The blue triangle represents the key actions required to execute the strategy. The peach triangle represents the actual key actions being performed. His argument is that often documented strategy by leaders does not always tally with the actual key actions being performed collectively by staff. He suggests that the BSC becomes important for effective implementation and measurement of the strategy to ensure those gaps are limited.

Sterling's view is that the BSC filters and removes the strategic paradox by ensuring that all actions taken on the ground are aligned to the strategy (Sterling 2009, 5). As already discussed in the beginning of this thesis, the main strength of the BSC is bringing the leaders and employees of the organisation to look collectively at the overall need of the firm and

participate in a long term solution process. Through the identification of clear performance targets at all levels in the organisation and the involvement of employees in the strategic formulation process, the BSC can harmonize operational goals with strategic objectives provided that the BSC can be integrated successfully into the management control systems (Atkinson 2006, 1453).

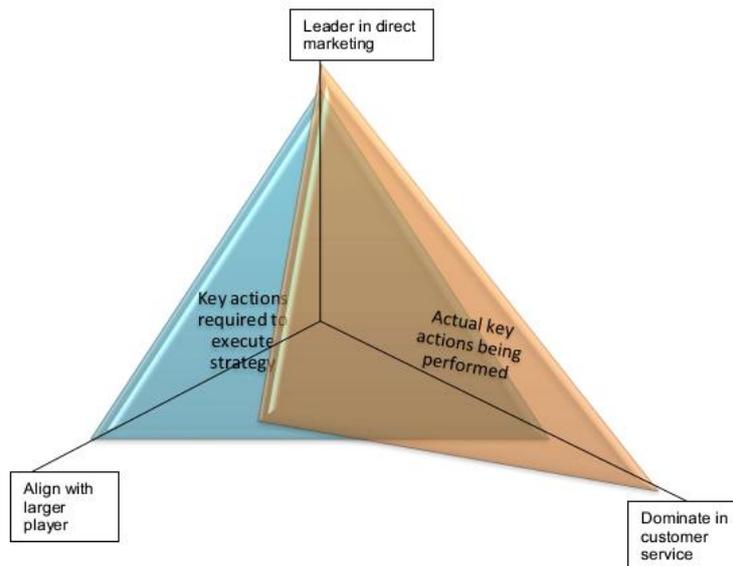


Figure 7. The strategic paradox (Nair 2004, 10).

While it is shown above that the BSC was initially created from the demand for a comprehensive performance measurement system, it has evolved into a management system. Carmona and Gronlund (2003, 14) suggested that the BSC attempts to move organisations from “monitoring” to “measurement” to “management” to “direction-setting”. The illustration of this movement is shown in Figure 8, which also defines the above terms.

In comparison to seventeen different performance measurement systems in the components and functions, the BSC is seen as one of only three systems that satisfy all the set criteria of being a performance measurement and management system (Srimai et al. 2011, 669).

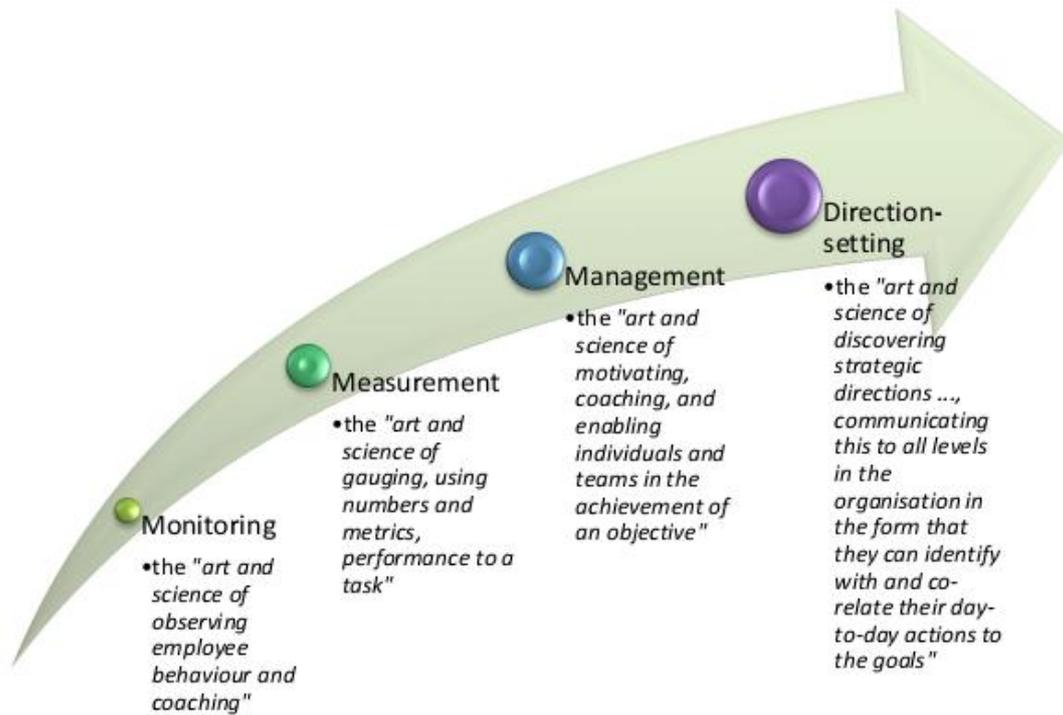


Figure 8. Possible level of use the BSC (Nair 2004)

3.7 Translation process via the BSC

Whilst the BSC itself is not a tool for strategic formulation, it is more of a description and interpretation of the strategy. The different interpretations of the strategy by different managers are often highlighted during the clarification and communication of the vision and strategy (Kaplan & Norton 1996b, 77). It is here that the BSC encounters some difficulties as managers do not often have a balanced interpretation and integration of the concept to fit the overall business objectives. Also, the balance between the top-down and the bottom-up approach, which are both necessary in the framework, are not always appropriately implemented. According to Paranjape et al. (2006, 4), the conversion of the BSC to specific actions is a problematic area and generally requires a top-down and a bottom-up approach as illustrated in Figure 9. With the top-down approach, "consensus is reached on the mission, core values, vision and strategy which is then translated into objectives and measures via the BSC" (Julyan 2011, 146). However, the bottom-up approach learning approach takes place through the use of the BSC.

Undoubtedly some organisations have been less than successful in using a balanced scorecard as a result of the above problems. Murby & Gould (2005) gives further explanation to the reasons for this problem from results of several surveys. The main reasons are poor assessment of the links between strategies and performance measures as well as the lack of use of non-financial measures to drive financial performance.

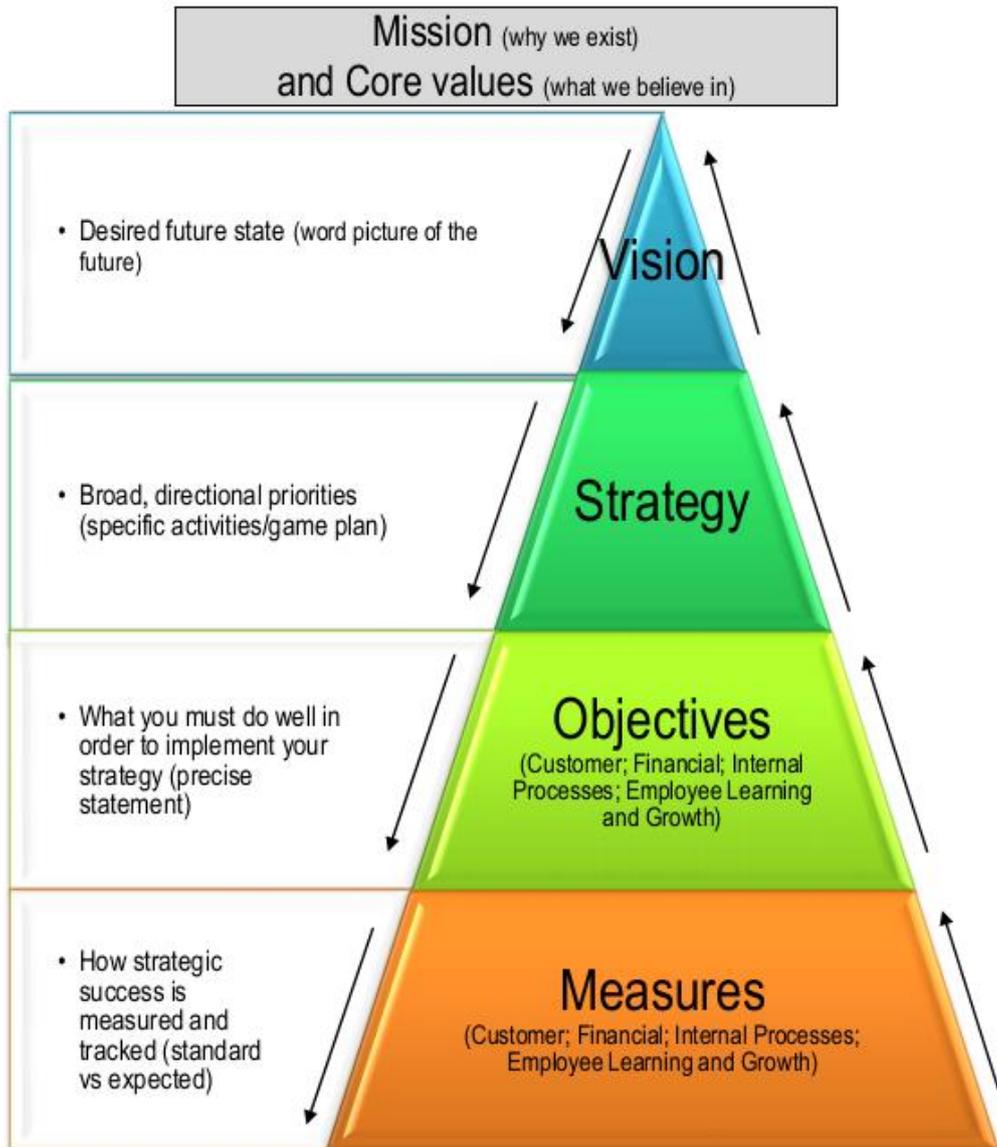


Figure 9. Translation of the mission into objectives and measures via the BSC. Adopted from (Niven 2003)

Nair (2004) applies the same BSC approach to public and private sector organisations. His approach to creating a BSC is similar, yet different from that of Niven, which is illustrated in Figure 10 below.



Figure 10. Creation of a BSC in a Legal practice. adopted from Nair (2004)

The application of the concept of the BSC in an organisation as discussed above, could improve future organisational performance through the realisation of the mission and the strategic goals of the organisation (Kaplan & Norton 1996a, 72).

This method is not without criticism. One main criticism of this method is the potential of it leading to unwillingness to encourage external competition and/or technological advance in an organisation (Murby & Gould 2005, 22). Where this situation arises, it may develop into uncertainty in terms of risk which could be a threat or disruption to the organisation's present strategy. Other criticism are that the BSC may not live up to its potential because of its reliance on controlled features (performance measure) that are not rooted in the organization but are formulated and distributed in a hierarchical order thus reducing the likelihood of organisational buy-in (Murby & Gould 2005, 22).

The benefit of this method outweighs its shortfalls. Even when many people consider measurement as a tool to control actions, measures of the BSC are shown to be useful in clarifying and communicating the strategy. This leads to an improvement in the alignment of individual, cross-departmental and organisational initiatives thus achieving a common goal (Kaplan & Norton 1996, 8). This is an essential tool to be considered by organisations, including law firms, who are going through some challenges as a result of recent rapid changes in the global market. The BSC framework has been demonstrated to possess the tools to measure the current position of the organisation and provide a balanced action plan covering both the financial and non-financial drivers that give direction in both good and poor economic times (Nair 2004, 2-5).

3.8 Performance Measurement

As described in previous sections, strategy formulation requires the availability of knowledge for defining objectives and determining cause-effect relationships between objectives and actions (Feurer & Chaharbaghi, 1995, 12). Because of the dynamic of a legal environment, defined objectives are changing constantly. Subsequently, there is a need to have feedback mechanisms. This for the Case Company is what has not been followed through as it should have been. It is in this context that performance measurement systems play an important role as they can provide feedback on the effect of actions before they are fully implemented (Feurer & Chaharbaghi, 1995, 12). Therefore, this section reviews recent emphasis on performance measurement.

Performance measurement is the process of determining how successful organisations or individuals have been in attaining their objectives (Evangelidis, 1992). Elsewhere, it is defined as the process of quantifying the efficiency and effectiveness of an action (Neely 1999, 222).

The above definitions see performance measurement as something that starts from vision and business strategy, such as the Balanced Scorecard (Kaplan & Norton, 1996, 2001) or SMART System (Lynch & Cross, 1991). Nowadays, as already discussed above, the Balanced Scorecard is the most popular framework of a new performance measurement system (Neely 1999, 1243).

In the Balanced Scorecard, business strategy is translated into four objectives and measures perspectives: financial, customers, internal business process, and learning and growth. The financial objectives serve as a focus for the objectives and measures in all the other scorecard perspectives. Every measure selected should link with the others to improve financial performance. The final perspective of the Balanced Scorecard develops objectives and measures to drive learning and growth of the organisations. This final perspective will sustain the long-term survival of the company.

The SMART (Strategic Measurement Analysis and Reporting Technique) System was developed by Lynch and Cross as illustrated in Figure 11. They used the Balanced Scorecard with both customer driven and financial measures to have a flexible system for operational feedback. The SMART system's main objective is continually self-adjusted to the future business requirements in terms of learning organisation.

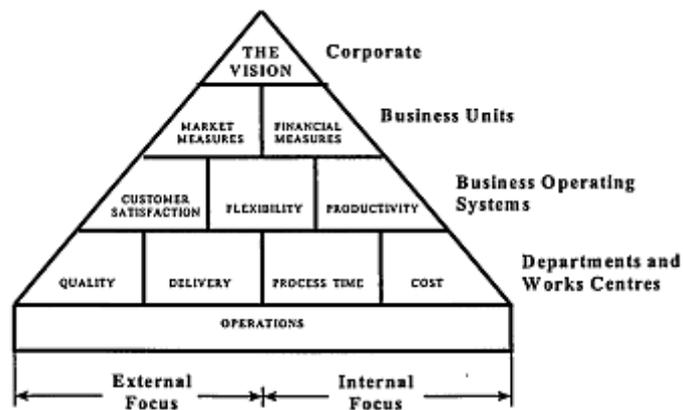


Figure 11. The framework of the SMART system (Lynch & Cross 1991)

Changes in the legal environment as argued in this study, subsequently affected three interconnected areas of many laws firms, including Case Company - strategy, actions and measures. Dixon et al. (1990, 53) argued that in the current context, strategy, actions and measures are interconnected. Actions are required to support strategy. Traditionally, strategy is always assumed to come first, followed by the required actions. Dixon et al. (1990, 53) considered the following actions:

- lead to changes in strategy
- improvement programme place a business in a better position to gain new competitive advantage
- results will be reflected in performance measurement data and these may lead to changes in strategy

From the above approaches, it can be concluded that performance measures are derived from strategy (e.g. Mintzberg, 1987, Dixon et al. 1990, Lynch & Cross, 1991, Bourne et al. 2000) and companies need measures of strategy progress for building into their control system. Where necessary, strategy can be changed to optimally exploit this new competitive advantage in the legal market.

Bourne et al. (2000, 755) explained the performance measurement system requirements in terms of developing and reviewing at a number of different levels as the situation changes.

One of the requirements is, "The performance measurement system should include a process for periodically reviewing the complete set of measures in use. This should be done to coincide with changes in either the competitive environment or strategic direction "(Bourne et al. 2000, 755).

Platts, Mills, and Richards (2001) proposed four aspects of the strategy process: 4 Ps (point of entry, project management, procedure and participation). They especially mentioned the review and competitive profiling to provide a quick and easily completed task under the point of entry title.

They said that "It is necessary to:

- provide a method of entry into the company or business unit
- provide a platform to achieve the understanding and agreement of the managing people (Platts, Mills & Richards 2001)"

The conclusion reached here is that the use of the performance measurement systems is useful. First, they allow the transfer of clients' and internal stakeholder needs into objectives. Second, within the dynamic legal environment, they assign the relationships between strategy formulation, implementation and different control point within the strategy hierarchy.

The original concept of strategic management or strategy was that company leaders have, in their minds, a set of beliefs about how the business operates and how performances in different parts of the business interact within each other. Therefore, the following section will answer the question; how is the actual or proposed strategy to be judged?

4 FINDING AND ANALYSIS

4.1 Case Company Profile

Case Company is a medium size law firm with a total staff of 300, which includes qualified solicitors, in-house barristers, trainee solicitors, legal executives, paralegals and administrative and support staff. One significant trait of Case Company is its commitment and dedication to providing services that not only would produce immediate result for clients but also be able to provide such services that place the company in the leading position of such law firms in the country.

The Company is led by the founder and Senior Partner and has 17 Partners & Associate Partners who also are directors in the firm given its recent conversion from Limited Liability Partnership to a Limited Company. The day-to-day strategic and operational management of the firm is headed by the Senior Partner and the Practice Director in conjunction with the core management team comprising of company's heads of department and the Practice Manager.

4.2 Vision, Strategy and Company Business Module

The core vision of the firm is the growth, expansion and success in an ever-changing diverse and complex environment underpinned by its values. To understand and relate the vision and strategy of the firm to the analysis of this study; the section looks at the situation of the firm's critical issues and the reasons for these issues as well as the required capabilities.

In compliance with the Case Company's instructions, the finding and analysis section which contains company's strategy and business model is regarded as confidential information. Deriving from this requirement, the chapter 4 is written in Appendix 3 and it is not published through the Library databases of Lapland University of Applied Sciences.

5 IMPLICATIONS AND CHALLENGES OF CHANGES ON THE FIRM

In the preceding chapters, the changes experienced in the legal services market and the challenges it poses were highlighted. The views of both the management and the employees were taken with regard to the position of the firm today and also as to how its vision and strategies could be enhanced to improve management and growth of the business. This chapter addresses the implications and challenges of these changes to better understand the determinants of innovation in Case Company. In order to address these, the different types of internal capabilities of the company are examined.

In compliance with the Case Company's instructions, the implications and challenges of changes on the firm section which contains some interviews with the management and employees is regarded as confidential information. Deriving from this requirement, the chapter 5 is written in Appendix 3 and it is not published through the Library databases of Lapland University of Applied Sciences.

6 A FRAMEWORK FOR DEVELOPING AN EFFICIENT LEGAL BUSINESS PRACTICE

The aims of this chapter is to review challenging issues discussed in previous chapters and to support, guide and strengthen the case for developing and using an effective and efficient framework for sustainable business optimization that will enable management at Case Company to make smart business management decisions in times of change. The Balanced Scorecard framework as already discussed in the previous chapters is the researcher's considered framework and will be tested over a period of 6 months at Case Company to confirm its accuracy and its usefulness in improving legal practice management strategy together with continuous business improvement as well as client service delivery.

6.1 Strategic Management Models

The reason for strengthening the strategic management of Case Company's business is to increase its position in a constantly competitive and changing legal market environment. It is also to make the business systems grounded and viable to withstand the challenges that may come in the future. However, it is one thing to have a robust strategy in place, but another thing to fully apply those strategies in the day to day management process and in full operation of all aspects of the business. Part of the problem is that the firm does not consistently define measurements and milestones through which to assess progress. As a result, actual success rates in executing plans vary widely. To further complicate the situation, linking strategy to actionable plans in business development, efficiency, productivity, and staffing is complicated, requiring knowledgeable resources as well as actionable information and tools.

It is the function of manage processes to ensure that the operate processes and support processes function efficiently and effectively so that the overall business fulfils its stakeholders requirements (Bititci et al. 1999, 186). Bridging the gap between strategy formulation and implementation becomes absolutely necessary for the Case Company, particularly for business that is changing in a changing environment to the ways it meets client's requirements. It is similarly important to address a series of "essential" issues for strategy such as competitive criteria within the organisation markets, stakeholder requirements, defining critical business process and maintaining alignment of business

process capabilities with client needs (Edward & Peppard 1994, 7). Furthermore, in order to build future competitive success, it is necessary that the company starts clarifying and communicating strategy by asking questions such as: "Who are we? What is our mission, values etc.? "On which markets and service should we focus?" What are the immediate priorities? etc. (Talwar 1993, 25-26).

To develop the competencies and capabilities there is the need to ensure effective delivery of the strategy - e.g. product and service management, supplier management. There is also the need to create the key processes to support the development and exploitation of competencies. This may require implementing the architectural changes required. For example, re-appraisal of physical locations, changes in organizational structure, rewards and staffing, refinement of the technology infrastructure and assessing the risk in implementing these tasks. The other way to effect good strategic delivery is to create and implement a 'change management' plan which addresses those risks and ensures that the firm emerges with a motivated and committed workforce.

6.2 Test of the BSC Applicability at Case Company

In the course of this study and following the researcher's experience conducting literature review and interviews, the BSC became the likely framework to help the company to balance its strategic and operational functions. It then became part of the conversation between the Senior Partner and the Practice Director. They participated in the detailed interview surveys as well as one independent legal practice Consultant who was not party to the original survey carried out in this research.

The BSC was later introduced to the firm, but not only as a result of researcher's conversation with the Leaders, because the leaders had considered it. As an integral part of testing its applicability, the researcher monitored the training for the partners on the implementation of the proposed framework over a period of two months in order to provide a detailed commentary on the models usefulness, appropriateness and its applicability.

Based on the two months' trial the trainer and the team critically evaluated the proposed framework. They have identified several benefits of using the BSC which include the following:

1. Helps strategy execution;
2. Demonstrates accountability and generates results;
3. Attracts scarce resources, namely funding and employees;
4. Creates a focus on strategy;
5. Produces information, not data, by identifying critical drivers of success; the use of the 6.
6. The BSC drives change to reach desired outcomes and
7. Inspires trust by proving accountability.

As well as the associated benefits they have also suggested that some practical difficulties in the BSC implementation may arise generally due to the firm's management culture. The onus should be on the management to make adaptations to suit during implementation. Despite this, the experts as well as the team have found the BSC to be very influential and to have enabled them to make the strategy actionable and executable at all levels. This is done by translating strategy into day-to-day action plans and initiatives at all levels of the firm. They felt that the BSC also provides an exact view of what should be done to ensure successful operations.

In addition the researcher also tested the framework with a number of academic research fellows in the Business Schools at Brighton University and University of Surrey. They all found the application of the BSC framework as being a very "exciting and novel" way of applying the knowledge and business management concepts to a field of study. They also substantiated the fact that the proposed framework would help to provide a "clear best practice and practical" framework which managers in the legal sector can use to develop a clear business strategy which is fit for purpose in managing legal services.

In addition the researcher also took the proposed framework to three randomly selected fee earners who had earlier participated in the survey to give their verdict on the proposed framework. The response from these people was very positive in the sense that this

framework was very useful in a legal sector that is experiencing change and would help focus managers as business managers to deliver high value for money services that would put clients at the centre of service provision whilst managing resources effectively in the current challenging legal sector. Given the above testing and consultation done by the researcher, regarding the applicability of the framework, it is clear that this research forms a vital piece of new knowledge that will aid to advance the effective management of Case Company and their provision of quality legal services in the UK.

6.3 Recommendation and Use of Balance Scorecard at Case Company

There are many reasons to justify the use of the BSC at Case Company. The research identifies efficiency and strategic learning with the company, better communication and information flow, understanding between leaders and employees, and proficiency in implementing change that is required in the changing legal sector as main reasons. However, the researcher is aware that these will only be enhanced by how the management sees the framework in the work and how easy they can use it.

With the training on how to use this framework gradually being introduced in the firm, the design process would need to begin with the identification of priority areas of performance required to deliver the unique strategic goals selected by the whole management team and in conjunction with the employees. Also the facilitation of this activity needs to be undertaken using specialist external support which will help the firm's synergy in finding and continuously introducing new ways of working that actually makes use of the information generated by the Balanced Scorecard.

As noted in the research, there is the perception from majority of respondents that both management and employees do not have a full and collective vision for the company to fully implement its strategy. One of the reasons for this is lack of a clearly articulated statement of vision and strategy. This gap can be narrowed by the management's increased involvement of employees in building and strengthening a clear, collective, and convincing strategic goals for the firm. Also for a Balanced Scorecard to be successful in the company, there needs to be continued top management support of frontline managers and supervisors. This sometimes

requires leaders giving up power and control, as allowing managers to express what they think are the needed things to do within their remit gives them the strong belief of being given the freedom to implement their plans.

Balanced scorecard will also be a useful tool in making communication more effective in the firm, particularly in supporting two way communications of strategic priorities and organizational performance. This will significantly improve the alignment of goals and rewards behind common strategy across the company, which has been a challenge since the new expansion project.

By using the balanced scorecard as continuous learning about strategic “cause and effect” relationships affecting the company, the management team can identify things to do that will lead to important outcomes being achieved. The feed back within this process will be more encouraging and motivating, than the usual appraisal which is focused on setting financial performance targets which employees are not always achieving.

Furthermore, by using the balanced scorecard Case Company can seek to optimise its services through improving its differentiation to the competitors in the changing legal market. Although balanced scorecard is not purposed for cross-industry comparison, the use of it at Case Company will still help in creating meaningful differentiator which allows it to truly stand on its own, to create its own unique selling points, rather than simply repeating the already over-used industry clichés. With regular team meetings, dialogues within the management team and engagement of employees, the tendencies to ‘want to do more’ in the firm will be high.

On the financial aspect, the use of balance score card at Case Company will help the firm in streamlining the business processes around finance management. Currently with the combination of cuts in Legal Aid and expansion, the firm faces challenges of managing cash flow due to increases in the firm’s overheads. But where there is connectivity via balanced scorecard activities, it is more likely that the management team will generate a report that reflects the reality of the firm’s financial condition and consequently assist them in finding solutions. For example, it is common that fee earners send unrealistic reports of their billing,

not that they have intention to lie or to cheat, but because they are under the duress of showing a strong financial performance. However, when staff have been in a dialogue with the manager and have discussed a wider range of performance which indirectly leads to financial gains, their motivation level has been noticed to increase. Where this kind of forum is given to them on a systematic basis, the likelihood increasing firm's financial performance will be high.

Finally, to adapt the balanced score card in the firm means that Case Company has the scope to continue to introduce business entrepreneurship skills in delivering legal services and making sure that fee earners are commercially and strategically focused. It will also inculcate on a continuous basis how learning and development impacts profitability and the importance of training lawyers to ensure they understand the effects their day to day activities have on profitability.

7 CONCLUSIONS

Legal services providers are faced with numerous challenges. These were highlighted in Chapter 2 and Case Company study in Chapter 5 enabled the research to be further refined and finally enabled the critical factors affecting the development of a holistic strategy to effectively manage and maintain the case company which is expanding. Business management performance measurement was discussed in Chapter 6.

Before any business organisation including Case Company is able to develop such an effective sustainable support system, it must have an understanding of what is involved. Also, it must chart their present position before determining a future direction. Case Company will consider that this research has utilised as well as adopted the BSC as a strategy tool to effectively manage performance measurement.

It was found that before the present position can be measured, Case Company must be aware of the business environment in which it operates. In the transition from usual/traditional to today's modern information-age law practice, dramatic changes have taken place in the business environment. In the industrial age, organisations that effectively managed assets and liabilities used new technology for mass production of products. This was successful.

In the information age, the emphasis has shifted to the way the organisation mobilised and managed its intangible assets e.g., employee knowledge, customer/supplier relationships and innovative cultures). Clients now have higher expectations than before, requiring everything to be done faster, better, cheaper, with service delivery, quality, and client care service and client satisfaction being key variables. Further, the reduced funding and demands for accountability and transparency have contributed to the shift of many law firms from publicly funded work to privately paying clients. The effect is that many publicly funded law firms, including Case Company is operating like a business than it did previously.

Traditional business performance measures were found to be out-dated because they tend to focus only on profit and cost management rather than total business process improvement. In

the public sector, the past practice of focusing on reporting on the capital expenditure on administrative costs was being faulted and the following questions were being asked:

- What difference is being made?
- What service performance results are being achieved?
- What progress is being made in achieving the mission of the organisation?

Lately, in the current agile business environment legal services are provided under the new Law Society regulation regime, and there is a realisation by both providers and clients that, if Case Company were to remain competitive, it had to cover various business and service improvement performance aspects, not just financial measures. Furthermore, Case Company has realised that having a good business strategy will not necessarily result in success; the execution of the strategy is also crucial to success. In legal services, numerous government agencies regulating and funding their services have been steering many Legal Aid law firms away from the failings of the legal sector which sometimes are perceived as been inefficient, ineffective, self-serving, unresponsive to public wants as well as needs and failure to deliver the quantity and quality of services deserved by the vulnerable public that needs their service. Such business failings demonstrates that some publicly funded law firms including Case Company lack strategic focus and there are far too many variables that need to be considered as often the wrong things are measured. Hence, such short comings can no longer be acceptable in today's regulatory and economic climate. The Law Society, the regulatory body, has been instigating change in the manner in which legal services are managed and shifting the emphasis in legal services providers to become entrepreneurs and adopting a service delivery legal services based on clients' needs and that is outcome-focus.

Kaplan and Norton developed the BSC for corporate businesses and published their findings in an article in 1992, followed by developments which they published in six subsequent articles between 1993 and 2001. Since then four books on the BSC have also been published by Kaplan and Norton between 1996 and 2006. The present-day BSC developed from there and is now widely used by many companies in Europe. The development of the BSC has slowly extended into the practice management sector in arena as diverse as the National Health Service and the police.

The use of the BSC was found to meet the performance measurement needs of organisations operating in the information age where communication and good information flow are paramount to any company seeking to succeed. These needs include a system that is integrated and ensures strategy execution by aligning current operations to strategic goals. It is also a system that creates a balance between intangible assets which are the drivers of success and the integrity of financial numbers.

The BSC framework can be adapted in legal sector, but the strategy remains at the core and the perspectives as follows: Client, Financial, Internal Processes and Employee Learning and Growth. These perspectives highlight the ways organisation creates and retains value for clients without necessarily affecting costs. Also in this process, organisation is still able to increase capabilities within, as well as invest in employees and systems required in the further development of the organisation.

There were different opinions on how the BSC is translated. But the key step in reaching this objective, is finding ways to get managers to understand and interpret their own internal strategy and processes. By having such clarity, managers are able to buy into the BSC and also to cascade the framework to all levels of the organisation through educating and setting goals for employees. Julyan Leoni rightly states that, “You cannot manage what you cannot measure”, and equally that, “You cannot measure what you cannot describe” (Julyan 2011, 185). To enable good application and measurement of the BSC in an organisation’s objective, Robert Norton and David Kaplan introduced a strategy mapping. Strategy mapping provides visual framework that highlights the cause-and-effect relationships between the objectives of the firm with the capabilities of employees and the desired financial outcome of the business (Kaplan & Norton 2004, 55).

Based upon the interview data analyzed in Chapter 5, the researcher adopted the BSC framework for use in developing a strategic practice management in legal services. The framework was tested by managers and partners through an expert trainer for validation purposes, i.e. for its usefulness, appropriateness and applicability. The proposed framework was also discussed with some senior academics and researchers at various Business Schools

in the UK such as University of Brighton and University of Surrey for comments and feedback.

Lastly, the framework was given to a domain expert Dr Peter Gombera, a Senior Lecturer and Business Consultant in strategic practice management for his critical comments. Dr Gombera's feedback was very encouraging and helped the researcher to revise his framework accordingly to make it relevant to both the industry and academia.

There is the requirement for a consistent process perspective which adopts a long-term perspective toward strategy development, problem solving and collective learning and growth between the leaders and employees at Case Company. This will have a clear 'cascade' framework of the strategy management process, where decision of a higher order, such as mission and current strategy of the firm, are first taken. However, they cascaded to lower levels, where they are translated into programmes, budgets, and actions in a clear communicative manner.

Moreover, this approach provides opportunities for increased idea sharing, innovation, and co-operation. It makes possible improvements to the performance of the whole organisation because of a shift from localised specialist knowledge to shared and integrated knowledge across the whole system. This approach, as argued by some authors, discussed in Chapter 3, provides optimal solutions across functions.

It is also discovered that strategy analysis of envisioning, objective setting, measurement and evaluation presents valuable lessons for the future. It is understandable that, because of financial pressures created by a dynamic environment, Case Company, similarly to many other law firms today, are forced to think in the short term. To tackle the dynamic environment, particularly the legal services' increasing demands and challenges, Case Company needs to continue to take a long-term view as well as a short-term view to ensure success in the future. In establishing an effective strategy that will sustain the company to the future, it is essential that cause-and-effect relationships be established between levels that are congruent to the strategic objectives and performance measures of the company.

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APPENDICES

APPENDIX 1. FACE TO FACE INTERVIEW QUESTIONS

APPENDIX 2. (CONFIDENTIAL) INTERVIEW TRANSCRIPT

APPENDIX 3. (CONFIDENTIAL) FINDING AND ANALYSIS

APPENDIX 1 FACE TO FACE INTERVIEW QUESTIONS

Appendix 1 1(3)

Questions for Senior Partner

As a Solicitor (These questions are also for the Practice Director)

1. What is your general view about the recent regulatory changes in the legal sector, namely the ABS and OFR?
2. Have these been of any particular significance to your day to day practice as a lawyer?
3. Do you think that the timing of these changes is good or bad and why do you think so?
4. How many other SME lawyers do you think share the same view as you?

As a Senior Partner and Managing Director of Case Company (These questions are also for the Practice Director)

1. Prior to the introduction of the ABS and OFR and given that all law firms were informed about the changes, what sorts of preparations did you think were necessary as an expanding business?
2. Were those preparations useful now that the changes are in place or do you think you could have managed without them?
3. Has there been any significant impact of these changes on your business and if yes what are they?
4. Could you talk about the interplay between regulatory change, economic recession and the recent Legal Aid cuts to your company?
5. How have you coped with these challenges?
6. Has there been any change to your vision and strategy?
7. Has your business model remained the same? Please talk me through those changes.
8. Would you say that the new changes have transformed the way you run your business as a law firm or do you think you were already on the pathway to success? Would you have continued on this way even with or without these changes?
9. What do you consider the most advantageous and the disadvantages of these changes to your business?
10. Currently which of these disadvantages represents the biggest obstacle to the success of your business?
11. Have you sought strategic advice in the last 12 months? Could you tell me what you sought the strategic advice about?
12. Could you please talk about innovation within your business i.e. new services and processes? What, if any, significantly improved services have been introduced in the past twelve months?

Appendix 1 2(3)

In relation to clients and firm's value proposition (these questions are also for the Practice Director)

1. What percentage of your clients do you think are aware of the recent changes?
2. Have you seen any significant change to the number of inquiries made of the firm and number of instructions taken from clients?
3. For your clients, is it always clear what the difference is between your approach and that of your competitors?
4. In which ways do you think that the recent changes have affected your market share in the industry?
5. Would you say that competition in the sector has become stiff compared to two years ago?
6. To what level have you improved your value proposition and marketing strategy as a result?
7. How are your clients benefitting/or would benefit from innovation in your company?

In relation to employee and management structure (These questions are also for the Practice Director)

1. How up to date are your employees about the recent changes in the industry and how is that ensured?
2. How do you ensure momentum is maintained across the firm in keeping up with the new challenges in the market?
3. What opportunities and challenges have arisen for solicitors, and non-lawyer employees of your firm as a result of the recent change?
4. In what ways are your employees informed of their development opportunities in your business? Is this done systematically?
5. Is the firm's vision of driving the firm forward clear to the employees and do they understand the strategic direction of the firm?
6. How does the firm know what are the requirements for its future employees?

Questions for Partners and other senior member of staff

1. What is your general view about the recent regulatory changes in the legal sector, namely the ABS and OFR?
2. Have these been of any particular significance to your day to day practice as a Lawyer?
3. Do you think these changes has come at a wrong time when there is a global recession and cuts in Legal Aid?
4. How many other SME lawyers do you think share the same view?

In relation to clients and firms value proposition

1. What percentage of your clients do you think are aware of the recent changes?
2. Have you seen any significant change to the number of inquiries made to the firm and number of instructions taken from clients?
3. For your clients is it always clear what the difference is between your approach and that of your competitors.
4. In which ways do you think the recent change has affected your market share in the industry?
5. Would you say that competition in the sector has become stiff compared to two years ago?
6. To what level have you improved your value proposition and marketing strategy as a result?
7. How do you feel about the future of the company? Are there opportunities for you in the company within these changes?
8. Compared to other SME law firms that you know of, do you think that your company is on the right tract to success? Tell me why you think so.

Questions for employees

Have you heard of the new regulatory changes (ABS & OFR) in Legal services?

1. Has there been any concern raised about these changes in the company?
2. Have these changes in any way that you have noticed, affected the ways that you normally work, including your caseload? In what ways?
3. Have you noticed any significant changes to the ways the company is managed in the past 12 months? What are those changes?
4. Do you feel you clearly understand the vision and strategy of the company?
5. How do you feel about the future of the company? Are there opportunities for you in the company with these changes?
6. Do you think that your development and training needs are met by the company?
7. Compared to other SME law firms that you know of, do you think that your company is on the right track to success? Tell me why you think so.
8. What are those things that you are most happy about in the ways that the company support their staff?
9. What percentage of fellow employees do you think would share similar views to yours?

APPENDIX 2 (CONFIDENTIAL) INTERVIEW TRANSCRIPT

APPENDIX 3 (CONFIDENTIAL) FINDING AND ANALYSIS

4.2 Vision, Strategy and Company Business Module

4.2.1 Case Company Strategic Model

4.3 Leadership and communication

4.3.1 Leadership, communication and information flow

4.3.2 Internal communication and flow of information

APPENDIX 4 (CONFIDENTIAL) IMPLICATIONS AND CHALLENGES OF CHANGES
ON THE FIRM

5.1 Operation and Management Capabilities

5.2 Factors Affecting Success or Failure of Chosen Strategy