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COPING WITH A TURBULENT ENVIRONMENT: DEVELOPMENT OF LAW FIRM TRAINING PROGRAMS

Edwin H. Greenebaum

In 1987 four London commercial law firms had appointed full-time directors of education and training. These individuals met informally to support each other in the development of this new role, and subsequently they formed the Legal Education and Training Group (LETG). By December, 1990, LETG had 96 member firms. The professional and organizational development of practitioners and firms, and how they relate to each other formed the basis of a study upon which this article was founded.

The development of law firms' in-house training programs is one aspect of organizational development. A goal in undertaking the study was to learn about the factors which facilitate and inhibit firms in using training to achieve their development objectives.

The article discusses:

- changes in law firms' external and internal environments,
- training agenda and their implementation, and
- the management of training programs and the role of training officers and directors of education and training.

Regarding the future of training programs, the writer explains how, in the bad and good economic times, the implementation of training programs and the role of directors of education and training will depend on the extent to which the programs progress beyond 'first-level,' cost-effectiveness goals to deeper 'management agenda' and, further, cope with 'submerged' agenda.

This paper was originally published in the Institute of Advanced Legal Studies (University of London) Legal Skills Working Papers Series in 1991. Their permission to republish it here is gratefully acknowledged. The study commenced here will continue over eight years, and developments since 1991 will be reflected in subsequent publications. A few notes have been added, however, to indicate developments in professional regulation in the last two years.

INTRODUCTION

Law firms are developing the competencies of their personnel resources as part of their strategies for coping with the very turbulent professional environment in which they have found themselves in recent years. Firms' actions which are designed to cope with their demographic, business, legal, and regulatory environments produce internal changes in size, structure of work and work groups, management structure, professional culture, and increased overheads. Firms, therefore, must cope with changed internal environments as well as external ones.

The initial goals in developing a training program were:

- to meet the Law Society's more demanding continuing education requirements,
to recruit and train larger cohorts of trainee solicitors, and

- to develop new competencies (for example, in marketing) to support practice development.

Degrees of investment and sophistication for these goals are possible, but significant cost containment and direction of training resources to firms’ needs may be achieved with modest investment in a training office.

On a management agenda, training may develop a firm’s capacities:

- to delegate authority more clearly and create the conditions for its effective exercise,
- to maintain quality standards,
- to manage people and their careers in a context where competencies may become obsolete and where salaried employees, vulnerable to downturns in business, are a larger portion of the firm,
- to overcome the technical and cultural obstacles to making the firm’s know-how available to its staff who need it for maximum productivity,
- to manage resources for the increased financial and time demands of new management overhead, and
- to support a culture which values management and investment of time in it.

Development of training is affected by submerged agenda which are acted on without participants being aware of them:

- In informal authority structures, firm members share information and goals not disclosed or recorded in official processes.
- Training programs, with responsibility to develop firms’ competencies and cultures, are inconsistently assigned the task of controlling change to keep it within tolerable limits, perhaps unconsciously to see that nothing important happens.
- Alongside firms’ rational work agenda submerged agenda may see firm members acting also according to mythical strategies for survival: to fight or flee from enemies, to be cared for by omnipotent leaders, or to witness the creation of saving visions of their futures. Fighting spirit, trust, and hopefulness each support aspects of solicitors’ work, but such myths may lead firms to act unrealistically.
- Firm managers, fee earners, and staff risk being placed in roles which satisfy the groups’ emotional needs. For example, in dependency cultures, revered leaders may be all powerful and members incompetent, or in fight/flight, members may be divided into those who are strong and weak, and the weak sacrificed.

Firms implement their training agenda in programs for trainee solicitors, for continuing education, and for practice development. On-the-job supervision remains the most valued form of training. In training events, firms typically begin with ‘technical’ legal training and move, first, into skills training and, then, to organizational management training. In method, the progression is from traditional, formal presentations to participatory formats which are more rewarding, but more demanding. Programs in many firms are still too new to have settled into a stable pattern or level of ambition. The current recession is challenging firms’ ambivalent commitments to training.
In recent years many larger firms, or groups of firms, have allocated a portion of the responsibility for the training function to a training office with a specialist director of education and training. With or without a training director, responsibility for managing aspects of the training function are allocated in many different patterns: to a firm-wide executive partner and/or committee, to a firm-wide training partner and/or training committee, to departments (and to department heads, training partners, training fee earners, and/or committees within departments), to a trainee solicitor partner and/or committee, to principals and supervising lawyers, and to a variety of non-fee earning managers including personnel officers, librarians, marketing directors, and practice managers/finance officers.

Training offices operate as in-house service providers, marketing their services and responding to demands for training from the firm’s diverse departments and the trainee solicitor program. To a varying extent, training offices also act as part of a firm’s central management, as an instrument for strategic development of firm resources and for quality maintenance. Reflecting this, some directors of training are closely connected to the managing partner or the executive committee, while others are situated as more or less independent institutions within the firm.

Many current directors of education and training are still the first to occupy that office in their firms. The roles they are creating for themselves are not limited by the job descriptions the firms first had in mind, and the dimensions of the role vary among firms, sometimes including non-training work in marketing, recruitment, personnel, information technology, research consulting in areas of substantive expertise, and fee earning. Many firms have found their training directors more valuable as educational consultants and program designers rather than for any particular substantive expertise they might have. How this position fits into the life programs of those coming to this role is uncertain. The marriages between directors of training and their firms will depend on the development of a firm’s training agenda to levels at which the work will continue to be challenging and satisfying, and at which the firm will continue to feel its substantial investment in its training directors justified.

While firms will continue to maintain training offices sufficient to achieve cost control, the degree of firms’ commitments to training at deeper levels is still emerging, and, therefore, the who and what of training offices in the future is unclear. Under current economic pressures, some firms are diminishing their commitments to training (and related services), while others view training as critical to their ability to respond to change, maintain quality, and, therefore, flourish. In a few years, we may be able to judge which strategy is most successful.

I RESEARCH PROGRAM

Three commercial law firms based in London agreed in August, 1990, to my looking closely at their training programs during the course of a year. The firms had recently increased in size ranging from approximately sixty lawyers (including 20 partners) to 450 lawyers (with 100 partners). One of the firms was established in the early 1980s in the merger of two older firms and has since grown primarily through individual hiring ('organically'). Another firm had principally grown organically, but had recently acquired a substantial legal department of another organization. The third firm, having grown organically, had spun off a portion of its practice which no longer fit well with the firm's development. Each firm had
benefitted from external consultations on aspects of their strategic development. These firms considered themselves to be taking seriously the role of training in the firms' strategies. Two of the firms had hired full-time directors of education and training within the prior two years, while the smallest of the firms was developing its training program without that resource. These firms, then, are a diverse, though not 'representative,' sample of commercial firms of solicitors.

At each of these firms I interviewed partners and senior staff with significant managerial responsibilities, followed the experience of a sample of trainee solicitors over the course of the year, observed a diverse sample of training events, and followed the decision making processes regarding training. I have not had opportunity to tally the number of interviews conducted and events observed, but they have been very substantial. In addition to examining the training programs at these firms in depth, I interviewed training managers at other firms, outside providers of education and training, law firm consultants, and representatives of the Law Society and the Lord Chancellor's Advisory Committee on Legal Education and Conduct to put my three firms in the broader context. Because I have interviewed representatives of other firms, comments regarding law firms which I make in this article cannot be understood to refer to the three firms I am studying closely, to whom I have promised confidentiality. All my interviews have been confidential. My few specific references, to give credit for particular contributions, are made with explicit permission.

My approach to gathering data is open textured and interactive. In my interview protocol, after promising confidentiality and explaining the nature of my research, I first enquire in an entirely open-ended way what my informants, with their understanding of my goals, feel I should know about the firm and training. My more focused (but still open-ended) inquiries are directed at the firm (its developments in size, work and work groups, and management/governance structures); the training program (developments in agenda, structure, and content); the allocation of training management responsibilities; the role of the training manager and the process of its negotiation; and how the current work roles of my informants fit into their career and life plans. I participate (modestly) in the training events and committee meetings. I observe that reactions to my contributions provide useful data, and participants feel my presence to be more natural and less obtrusive if they have some evidence of what is in my mind.

My working relations with my three firms were negotiated in August. During the autumn, my interviewing and observation focused entirely on my principal firms. (I was also occupied in the autumn with a separate program of teaching for American law students in London.) In January, while continuing my interviewing and observation programs with my principal firms, I began interviewing training managers at other firms and external trainer/consultants. My four months' work with the three firms had prepared me well for this wider interviewing. After March I received comment on my first public presentation to the Legal Education and Training Group, of my developing analysis. Towards the end of the year I offered my particular observations and analysis to representatives of my three firms for their comments, and I conducted exit interviews with my principal informants. Follow-up visits are proposed for summer 1992 and 1993. I will be in a position to benefit from comment, criticism, and new information for some time.

At the time of writing, the processing of my interviews and observations for inclusion in reports of my research is not yet completed. Citations and bibliography included in this working paper are limited to prior work in which I
have written on related topics and to authorities who have most influenced my approach to this work. While the argument in this working paper is complete, the formal publication will include fuller bibliography and substantiation of factual assertions.

II THEORETICAL FRAME OF REFERENCE

I was a traditionally educated American lawyer, but went directly from my law schooling into legal education. My principal area for the first 15 years of my career was Civil Procedure, which in the United States has long been considered a fundamental part of the introductory law curriculum. From the beginning of my teaching career, I was interested in students’ inability to think effectively about certain aspects of legal issues and to understand issues from the viewpoint of lawyers’ roles, which led me to study the psychological aspects of professional development (Greenebaum 1984). Focusing on individual development proved inadequate, however, because individuals are so influenced by their membership in groups and organizations. For the last 15 years, then, my research and teaching has examined the functioning of professionals and the institutions in which they work (Greenebaum 1983). Within this field, much of my writing has focused on the institutions and processes of legal education. The present research is an extension of this work across the boundary of educational institutions to the processes of education and training in practice.

Law firms, like organizations generally, are ‘open systems’ which adopt technologies and organize themselves to do distinctive work and which must conduct transactions with constituents in their environments to obtain the resources necessary for their survival (Miller and Rice 1967; Rice 1963). ‘Management’ has the function of monitoring traffic across boundaries for productivity and quality control. ‘Open systems’ features are characteristic both of firms as a whole and of their component departments and offices, for which the encompassing organization is the environment. Change challenges firms’ internal organizations and their management of their relations with their environments. Because firms are managed by humans, their responses to change will be influenced by rational and irrational, conscious and unconscious processes (Hirschhorn 1988; Lawrence 1979). Turbulent environments evoke anxiety. Since work groups structure themselves and their work in ways which will minimize recurrent, pressing discomforts, the systems through which firms serve their clients should be understood in part as defences against the anxiety engendered by solicitors’ work situations (Menzies 1967).

III LAW FIRMS’ EXTERNAL AND INTERNAL ENVIRONMENTS

A. External Environment

The significant changes in the professional environment are many and interact complexly. While these changes impose new constraints, they also present new opportunities. Change is not always welcome, and firms will seek to influence the environment to control change. I will tell this story incompletely, dividing the external environment into general and regulatory components. While painting with a broad brush, I hope to convey the picture sufficiently for present purposes.
The General Environment: Demography, Business, Technology, and Law

Changes in the general environment include: changing demographics, the ups and downs of the business environment; increasing international trade, and developing technology. The changing financial environment is influenced by governmental participation: from actions with broad implications, like taxation and interest rates, to specific expenditures, like decreasing support for student grants. In the legal environment, changing and new areas of law, for example environmental and EC law, represent new expertise to be acquired and new opportunities for business. Deregulation in the U.K. and integration in Europe present constraints, competition, and opportunities for clients as well as for law firms.

Law firms are affected by changes in other institutions. Other law firms, the direct competition, have been growing, acquiring specialized expertise, and competing internationally. Other professions not only compete in new ways, but also work alongside solicitors in interdisciplinary teams. And, definitely not least of all, clients have more substantial in-house legal departments, make more insistent demands for value, and are more inclined to complain, sue, and change lawyers if dissatisfied. Changes in higher education (decreasing 'real' salaries, increased course loads and bureaucracy, and an increasingly entrepreneurial culture) have influenced those legal educators who have found positions in law firms attractive.

One of the factors which my informants most regularly cite to explain the expansion of firms' in-house training programs is the 'recruitment crises' which firms confronted in the mid '80s. Firms were then seeking to recruit increasing numbers of graduates to respond to expanding business opportunities, but the supply of students seeking the legal profession was constrained by demographics and decreasing governmental grants to finance students’ higher educations. Consultants informed firms that quality of training was one of recruits’ foremost concerns, and firms began to do things, including hiring directors of education and training, with which they could show recruits the firm was taking training seriously. One result of the competition for recruits was that trainee solicitors became considerably more expensive: salaries increased substantially, and firms subsidized graduates’ year of study for the Law Society Finals Examination (and even the additional year for the Common Professional Examination course for non-law graduates). While there is no longer an inadequate supply of recruits, the desire to attract the applicants with the best qualifications will limit firms retracting from these expenditures. In light of this increased investment, many firms thought that their traditionally haphazard approach to trainee solicitor development was inadequate. It was now more important that trainees be retained upon qualification and to be sufficiently 'qualified' to justify retention. The majority of firms seem to believe that the downturn in business, which has coincided with my year of study here, is only a temporary embarrassment to this strategy, but some are considering whether, in light of their particular circumstances, their recruitment emphasis should shift away from trainees to qualified solicitors.

Firms’ responses to technological developments demonstrate their ambivalent response to the opportunities implicit in change. Because a substantial aspect of legal practice is the processing of information in preparation for decision making, the revolution in computerized information technology has presented firms with significant challenges, in competing with each other and in interfacing with clients and the government who process information in new ways. Many firms state in their marketing brochures that they utilize state-of-the-art information technology, but for some this is limited to word processing, fax, and photocopier. Many go no
further than a Lexis terminal in their otherwise conventional libraries and some not that far. A few are developing databases of their own or are exploring litigation support and ‘expert systems.’

Regulatory Environment

Developments in governmental and Law Society regulation of the professions have affected firms through: changing requirements for qualification and continuing education; deregulation, which will result in new rights of audience for solicitors and new competition from other professions; and progressive European integration. ‘Deregulation’ may mean more competition, but ironically tends to bring regulation of new kinds.

The factor which most motivated firms to develop their in-house training was the Law Society’s increasing requirements of continuing education. The Law Society’s first requirement of continuing education (CE), introduced in 1985 applied only to newly qualified solicitors during their first 3 years of practice. With application from 1990, however, continuing education was substantially extended to require that all solicitors admitted since 1987 obtain 16 CE ‘points’ each year for the remainder of their careers. The number of solicitors affected by this rule increases each year. Even more dramatically, by the mid-90s the Law Society will extend this requirement to all solicitors admitted since 1965. Significantly, the Law Society permits law firms to qualify in-house programs for CE points.

The Law Society has also been reworking the legal education curriculum at the qualification stage. There is now a specified curriculum required of newly-qualified solicitors during their first three years, a new (under development) curriculum for a Legal Practice course and examination (replacing the Law Society Finals) to take effect in 1993, and a new Professional Skills course (four weeks or part-time equivalent) which will be required during articles (contemplated to be in effect in 1993). The largest portions of the new curricula are in the areas of practice (especially communications) and management skills. Substantial commercial firms are inclined to feel ill-served by these developments because this training will be more expensive, which these firms subsidize by paying their future trainees’ and newly-qualified solicitors’ course fees, and because the content and timing is viewed as inappropriate to the career development patterns of lawyers in those firms. Firms influence curricular developments through their partners who are members of the Law Society Council and relevant committees and through the officers of the Legal Education and Training Group, who are mostly training managers from these firms and who meet with the Society’s education directorate from time to time to offer constructive suggestions.

Several regulatory changes, present and developing, are affecting the recruitment and deployment of legal staff. The Bar Council now permits lawyers who have qualified at the bar to work as employed barristers without terminating their ability to reactivate their right to act as counsel should they choose to revert to that career. Further, the Law Society has recently adopted rules making it easier for barristers and foreign qualified lawyers to requalify as solicitors and rules which somewhat ease the way for legal executives, who are supported by a professional association which has upgraded their qualifications, to qualify as solicitors. Barristers and legal executives working as fee earners in firms can advance far in status and salary without qualifying as solicitors. Finally, in 1992 each EC state faces the agenda of sanctioning appropriate practice in its jurisdiction of lawyers qualified in other EC states.
On the front of restrictive trade policies: The Courts and Legal Services Act will subject solicitors to competition in work historically reserved to them (first in conveyancing, but more to come elsewhere). Solicitors already have rights to conduct trials before Magistrates and in other lower courts, and the limit on the amount in dispute within Magistrates' jurisdiction is about to increase significantly. Solicitors appear in preliminary and post-trial hearings in the higher courts. The Law Society was quick to present its petition to the Lord Chancellor's Advisory Committee for full rights of audience in the higher courts. The other matter the Advisory Committee took up immediately is rights of audience for employed barristers. While the motivating concern was with barristers employed in the Crown Prosecution Service and other governmental departments, the Advisory Committee is considering the issue generally, with implications for barristers employed in solicitors' firms and legal departments of commercial institutions. The authority of the Lord Chancellor's Advisory Committee regarding education and qualification in legal services is very broad, and the directions and scope of its work will take due consideration. Clearly, these aspects of the professional environment will remain fluid and uncertain for some time. The expectation that in the foreseeable future there will be a common pre-qualification curriculum for solicitors and barristers is among the future tidings. With rights of audience, solicitors may take business from the bar, but then, the bar in the future may enter contracts directly with clients, cutting out solicitors. As the divided legal professions of England and Wales compete and interact with the unified professions of other EC states, adjustments seem inevitable. Requirements of sole practice and the 'cab rank' principle are the lines on which the bar is organizing its defences.

In recent years, and increasingly, the Law Society's traditional, 'hard' regulation focusing on individual lawyers has been supplemented by a more 'flexible' regulatory approach focusing, systemically, on law practices. In general, the direction is to delegate to law firms authority and responsibility to develop goals and strategies for developing and maintaining practice quality and client care and to prompt firms to take collective responsibility for a firm's effective and responsible practice. This approach would permit firms to adapt general principles of responsible management to the circumstances of diverse practice areas, leaving to the Law Society the maintenance of baseline standards and requiring the Society's complaints mechanisms to step in only in instances of system breakdown. Evidence of this approach may be found in the Society's authorizing firms to maintain in-house continuing education programs and maintain records of solicitors' compliance with CE requirements; in the Society's new Client Care rule (with supporting advice) requiring firms to establish systems of complaint handling of which clients must be appropriately informed; in the intended licensing scheme for firms taking trainee solicitors in articles; and in the Society's encouraging firms to establish systems of quality maintenance. Succeeding in the 90s: The Law Society Strategy for the Decade (April 1991) demonstrates the significant role the Society is continuing to play as an agent for change.

B. Internal Environment

As law firms adapt to their external environments, they change internally, which means they must cope with new internal environments as well as with external ones. This is a matter which I will emphasize in discussion of training program agenda, below.
Size

Many firms have doubled in size in the last decade, some even in the last three or four years. Much growth has been through recruiting of individuals, but there have also been mergers and acquisition of groups from other firms. Occasionally, segments of firms which are no longer productive together have spun off. Whatever the motivation and dynamics of growth, it was a fact of life by the time I came to the scene. Growth had meant that some, but not all of these commercial firms had become more highly leveraged in ratio of equity partners to salaried legal staff. Expectations of future growth varied considerably among the firms I interviewed.

Restructuring of Work and Work Groups

As the nature and focus of work has changed, commercial firms’ traditional departments have been complemented by forming new specialty groups, sometimes within a department, but frequently by drawing members from across the firm. Also, lawyers increasingly work as members of teams instead of as Lone Rangers, or at least that is an expressed aspiration. Another restructuring feature has been establishment of offices in foreign states and associations with foreign firms. Firms have associated themselves in groups for mutual support of management functions and to achieve economies of scale without merger. Firms have closed or spun-off departments if they are not sufficiently productive in the context of the firm. The goal in restructuring is to mobilize and target resources to market opportunities.

Increased in-house specialized expertise in both litigation and substantive areas has made available within commercial firms services that formerly had to be obtained from the bar. Firms are less inclined to seek counsel’s opinion, and the boundaries between solicitors and counsel in managing litigation are more fluid. With solicitors’ increasing rights of audience and litigation experience (including the experience of requalified barristers), the opportunity costs of lost fee earning time may be the greatest incentive to employ counsel. (That is, it is more profitable for solicitors in commercial firms to earn fees at their desks and employ counsel to wait and appear in court.)

Management Structure

Firms have made changes in management structures, in diverse ways and directions. Commonly, firms have increased management from the centre, with the institution of service departments and officers in areas such as finance, marketing, personnel, library, information technology, and, of course, training. Most of the firms at which I interviewed have altered their management structures in recent years, but the diversity of their solutions to their management problems is complete and extreme. For example, while one firm has located firm management in an executive partner and compact management committee, with only an annual partnership meeting to ratify their actions and recommendations, another firm has weekly partnership meetings. At that firm, all the partners receive reports of the work of all committees and take a collective view on the career development of all employed legal staff.
Firm Cultures

It is commonly said that firms are more corporate, more specialist, more competitively aware, and more oriented to economic productivity. It is also frequently said that firm cultures are strongly resistant to change (of which more below). Certainly, some firms in the current economic climate have a vulnerable and anxious air about them. The increased readiness of firms to make lawyers redundant and of lawyers to move laterally to firms which provide greater opportunities have made loyalty less compelling. Firm cultures are as diverse as their management structures. Some firms are very closed regarding their governance structures and processes (even with their own staff), while at a few firms I was shown manuals in which the firms' structure and governing procedures were fully-detailed. Integrating diverse cultures can be the most difficult aspect of firm mergers. In general, firms tend to be insular, and transactions representing clients tend to be the only occasions on which firms’ diverse cultures meet.

While firms have grown substantially, even the largest (more than 1,000 lawyers and 2,000 total staff) are not ‘large’ institutions by commercial standards. Especially, viewing the number of owners in firms who have ultimate control, we are looking at ‘small business’ organizations where there is significant scope for management through informal processes. Further, the responsibility of solicitors to their clients must remain a significant source of authority, and firms tend to persist as collections of practices. Even within firms, there is significant diversity in governance and culture among departments and groups within firms. While firms no doubt have much to learn regarding management principles and practice, they will not be able to simply import models of management from commercial institutions.

Increased Overhead

As a function of other changes, firms are confronted with increased overhead in capital and services, making demands on both fiscal and time resources. This is a factor to which firms’ resistant cultures have very great difficulty adjusting. Management consultants commented to me that solicitors seem to be doers rather than planners. The problem has been less dramatic for firms already ‘large.’ I will discuss, below, how some groups of firms have overcome their insularity and joined together to obtain economies of scale and learn from diversity, while maintaining their separate firm identities.

Regarding both external and internal environments, lawyers may wish the current turbulence to be a transition from an old steady state to a new one. But the realistic expectation is that rapid change will be a continuing feature of firms’ environments, and this is itself the environmental factor to which firms may find it most difficult to adjust.

IV TRAINING PROGRAM AGENDA

In prior work I have sorted the goals of professional education into the areas of:

- conveying knowledge,
- skills training (acquiring effective behaviour to accomplish chosen goals), and
- exploring the value implications of those choices. (Greenebaum 1987).
In the course of my study I have heard training managers discuss their work under the heads of technical, skills, and management training. Because ‘technical’ training refers to acquiring legal information, the first two of these areas correspond to my trilogy. Management training, however, is not equivalent to education in ‘professionalism,’ which tends to be neglected throughout professional education. Nevertheless, while management training starts with knowledge and skills, the need to cope with changing internal environments is drawing management training into the professionalism area.

A. First-Level (Cost-Effectiveness) Agenda

Firms have initially been motivated to organize and develop their training programs to pursue, what I am calling, first-level training goals, in which the easiest pay-offs in cost effectiveness are available. A number of these first-level goals relate to meeting the requirements of external regulation.

The Law Society’s continuing education requirements have increased the number of occasions on which qualified solicitors attend continuing education programs. Attendance at external courses is expensive both in terms of fees and in time away from the office. Attendance may frequently involve whole or half-days away, although only a portion of the program may be beneficial to the needs of the attender or the firm. The inconvenience of programs and a low perception of their value results in lawyers delaying their pursuit of continuing education until the deadline for obtaining CE points is pressing, at which time beneficial programs are often unavailable. There may be little likelihood that an external course will benefit the competencies or culture of the firm beyond its impact on an individual attender. And the firm may have no institutional memory of the quality of the offerings of different providers. Happily, the Law Society has permitted firms to qualify in-house programs to meet continuing education requirements. Firms can organize in-house resources to provide convenient, topic-relevant in-house programs; can evaluate outside providers for in-house programs where that is cost effective or where outside expertise is required, can negotiate with the outside provider to shape the program to meet the firm’s needs, and can undertake program administration. Currently, the Law Society permits only one of the three courses specifically required of newly-qualified solicitors to be offered in-house, but firms will offer that course in-house (‘Best Practice,’ required for third-year qualified solicitors), preferably tailored to their specifications, and will seek to influence the Law Society to permit the other required courses to come in-house as well. Once firms provide in-house programs meeting many of their continuing education needs, they can manage attendance at external programs more actively and use training offices to gather data on their quality.

In addition to meeting training needs in traditional areas (transferring knowledge to junior staff or updating those more senior), continuing education can help firms in areas in which their competencies are less established. These may be newly developing legal (‘technical’) matters, such as environmental law, EC law, and alternative dispute resolution, or may support business development, such as presentation skills for effective marketing or foreign languages to facilitate European or Asian connections. With increased rights of audience, advocacy training is likely to be another area for new competencies.

The savings of bringing training in-house are very substantial. The expense of a single solicitor obtaining the required yearly 16 CE points from external,
commercial providers can easily exceed £500. Even ‘small’ commercial firms have several assistant solicitors subject to the requirement, with the number increasing each year. For larger firms, investments in dedicated training facilities will be recovered quickly, but existing meeting rooms can also be used in hours they would otherwise be vacant. Putting aside the case of training directors presenting programs in areas of their expertise, the expense of presenting in-house programs (irrespective of the number of attendees) will range from barristers, who may offer courses on a courtesy basis (no doubt to market their expertise), to academic law faculty, to presenters furnished by commercial providers (fees ranging from £800 per day to £250 per hour, an hour and a half program giving each attendee 2 CE points). The most expensive presenters are the firms’ own fee earners, for whom the cost is the lost opportunity for fee earning for the time required for preparation and presentation. While this cost is very substantial, using in-house presenters may achieve collateral benefits, such as developing the offeror’s presentation skills, cross-marketing of services, and developing uniform firm practices. There are some bargains in external programs, for example those presented on a non-profit basis by local law societies and free tickets to commercial programs provided as a courtesy to solicitors who make presentations at them, and the training office can direct attention to these opportunities.

Other substantial first-level training benefits arise from firms having grown, in significant part, through recruiting larger cohorts of trainee solicitors. Firms have thought that some of the trainees’ education needs might be met more efficiently through group activities, with less reliance on instruction by the individual solicitors with whom the trainees sit, especially as fee earners feel increasing pressure to focus on their contributions to firm income. Thus, firms may undertake induction programs to make basic firm and practice information available to trainees and to train them in generic skills relevant across the range of the firm’s practice, and departmental induction programs may be organized for trainees as they change seats. Being able to advertise high-quality training programs was felt necessary in recent years to compete for the better qualified candidates in a limited pool of trainee recruits. And it was felt that a more structured program for trainees might better assure the competence of the pool from which a significant portion of the firm’s future lawyers would be selected. Looking to the future, when the Law Society undertakes to license firms to take trainees, a trainee solicitor program supported by a training office may facilitate the firm meeting the qualifying criteria.

Firms that cannot economically provide some of these continuing education and trainee solicitor training services on their own may chose to collaborate with other firms similarly situated. (See further, below.)

Medium and larger firms have found full or part-time training managers a good investment, even though they will themselves be able to present only a few of the range of desirable in-house programs. Those who were conventional law lecturers have their areas of substantive expertise. Some trainers have skills-training competencies from courses on interviewing, negotiation, or advocacy, and others have developed competencies in these areas on-the-job. (And non-lawyer training managers usually have interpersonal skills-training competencies developed in their prior employments.) Communications and interpersonal skills expertise have also been adapted to presentation skills-training for marketing. As well particular trainers have other collateral competencies which firms exploit. For example, those who come to firms from positions in legal education frequently have connections with law faculties and experience working with undergraduate students which make them useful in recruitment. Academic expertise may make the training manager
valuable for research and publications (and the cost of their time for this may be less than it is for fee earners). Or, in firms that have been blind in adapting to the kingdom of computers, a one-eyed academic may help lead the way in information technology.

These are the areas in which the pay-off to firms for having in-house training programs is most evident. Firms seem certain to maintain training programs perceived to be sufficient to meet such first-level goals. As I explain in my discussion of program implementation, below, degrees of sophistication and investment in first-level training are possible. Cost containment, however, is possible with a modest training office. While educational expertise is useful for program development, and continuing change will present continuing challenges, when training programs acquire established patterns and content which can be reused from year to year, the temptation will exist to limit further investment in program development.

B. Management Agenda

A deeper level of training goals is oriented to development of the practice management needed to support practice development. Training on this agenda develops competencies to meet the challenges of changes in firms’ internal environments, prompted and supported by the Law Society’s new regulation focusing on firms (discussed above). The solutions which firms adopt to cope with external change create new problems in managing the organization, in quality control, in managing people and their careers, in transmitting know-how, in managing increased overhead, and in developing appropriate culture and attitudes.

While firms were smaller and more intimate, they managed themselves largely through informal processes. Consequently, most lawyers have had little management experience beyond managing their own work. Firms’ new management burdens may be imposed on middle generation, or even younger lawyers, while senior equity partners are left to get on with their familiar, fee-earning work, having the power to make policy without the responsibility for, or their own first-hand experience in, executing it. Thus, the relation between firms’ formal and informal leadership may be awkward, especially while there remain groups of senior lawyers who know each other well from days when firms were smaller. Larger, more bureaucratized firms must delegate authority more clearly and create the institutional arrangements in which delegated authority can be effectively exercised.

The rapid growth of firms has implications, also, for managing people and careers. Not only may the size of the group have grown beyond the point where everyone can be familiar with most members’ work, but a very large proportion of the firm will have been with the firm only a few years. Those who are salaried employees and feel vulnerable to downturns in business constitute a much larger portion of the organization. Firms are beginning to develop and rely on formal appraisal programs to maintain quality and manage careers. A director of legal personnel, in office only two or three years (and probably not a lawyer), may well have recruited half the firm’s lawyers and be the only one in the firm with information on the development of all their careers. Developing appraisal systems, and training those who administer them, is an important, but sensitive challenge. Because informal methods of quality control may no longer be adequate, the Law Society is prompting firms to adopt systems of client care and complaint handling and to explore systems for maintaining quality standards. Responding to these issues
requires firms to re-examine their professional roles and relationships, both within the firm and with clients.

Know-how ranges from craft skills and practical knowledge acquired by most lawyers to unique expertise amounting to trade secrets. In professional work, productivity and ability to compete depend on know-how, such as the ability to apply the abstract to the practical, the recognition of indicators which guide judgment, and knowledge of effective instrumentalities. When firms were smaller and expertise was less esoteric, lawyers in a firm experienced and understood each others' work, and know-how was transmitted gradually, but effectively. In current circumstances, transmission of know-how among firm sectors and between generations of lawyers does not occur easily or automatically. Transmitting know-how through a 'know-how system' involves identification and classification of know-how, translation of the craft skill to communicable form, and information technology (possibly, but not necessarily, using computer systems) capable of transmitting know-how from lawyer to lawyer. Systems for transmitting know-how may be a more valuable trade secret than the know-how itself.

Systems and technology, however, will not ensure achieving the firm's goal that the firm's know-how should be available to all of its staff who require it for maximum productivity. The firm must have, as well, a culture in which sharing know-how is safe and rewarded in the face of competitive relations within the firm. Individuals may feel that it is their know-how that makes them uniquely valuable, and once their know-how is effectively shared, their value will be diminished. More drastically, while know-how technology will never fully replace lawyers' reliance on subtle judgments based in long experience with reliance on readily accessible 'expert systems,' particular special skills may actually become obsolete. Even when lawyers willingly share know-how with new generations, as they regularly do, they may want the satisfaction of communicating it in a personal relationship and of guiding the neophyte in its proper use.

Management overhead now makes significant demands on firms' time as well as financial resources. Significant training issues include:

- what matters can be handled by employed staff and what matters implicate senior professional expertise and responsibility,
- what responsibilities can be delegated to junior partners or assistant solicitors,
- what support is required to permit lawyers and staff to fulfil delegated responsibilities effectively and efficiently, and
- how can the firm's culture and reward structure be altered to reward time invested in management.

Managing increased overhead is especially difficult for firms seeking to grow and compete at a higher level in the league tables because investment is made in management infrastructure before increased returns are realized.

Developing firms' capacities to manage themselves productively, then, is a many faceted challenge, involving sophisticated understanding of organizations and individuals' roles within them, communications and other management skills, pursuit of 'corporate' goals while maintaining appropriate loyalty to individuals, and a culture which values management and investment of time in it. These are aspects of education and training which were not usually part of firms' initial education and training agenda, but which have been discovered by some firms,
frequently with the help of directors of training and other service professionals with new roles in firm management. Many firms, however, have not progressed very far in developing a management agenda for their training programs.

C. Submerged Agenda

Submerged agenda are those functions of training programs which are acted on without open acknowledgment or without participants being aware of them. In psychological terms, training programs are part of the social systems through which law firms defend themselves against anxiety, including the anxieties engendered by change.

While my training manager informants respond with great interest to this part of my analysis, they frequently change the articulation from ‘submerged agenda’ to ‘hidden agenda’, evidencing their recognition that they are working amidst informal authority structures in which firm members share information and goals not disclosed or recorded in official processes. A non-lawyer training manager whose previous work had been in a large accountancy firm told me the biggest, and most distressing, surprise in working in a law firm was how ‘political’ the job is. The training manager is not simply delegated the responsibility to do the job, and provided the circumstances to get on with it, but has to fight for authorization and resources at every step. The suspicion is always that those with real power in a firm will exercise it in ways which will meet their personal needs. But all who work in the firm must manage their conflicting interests which are rooted in the personal agenda of their life programs and in their defences against anxiety (Greenebaum 1990). I hypothesize that firms’ insularity is determined less by caution to avoid giving away competitive secrets than it is a fear of exposure to others’ judgment.

Training programs are one arena in which firms negotiate their agenda for their futures. This occurs most obviously as investment is made in the content of training programs, but the negotiation is also acted out in training events, where images of the firm’s work are displayed and diverse expertise is marketed within the firm. To a degree, this negotiation is conscious and explicitly part of the ‘management agenda’ discussed above, but frequently training participants will focus on the narrow matter before them without open acknowledgement, sometimes without conscious awareness, of broader implications for ‘what kind of firm this will be,’ in content and in style. Especially as training events go beyond ‘talking heads’ presenting technical material, to give and take discussion and role playing in skills and management training, this process becomes more active. It is very interesting to observe experienced lawyers participating in discussions of interviewing and negotiation. Whatever agenda trainers may have intended, there is more than skills training, narrowly conceived, going on. Resistance to change and contagious emotional moods will tend to keep this agenda submerged.

Change implies loss. Individuals join a profession and develop their careers as part of their personal agenda of realizing the ‘Dream’ of their futures (Levinson et al. 1978). Too drastic a change in the premises of professional life, consequently, threatens a serious loss. Our ‘conservative instincts,’ based in our largely unexamined acquisition over a lifetime of an understanding of the world in which we live, permit us to accommodate change comfortably only as a gradual process and will prompt us to deny change if we can (Marris 1974). We are ambivalent about change, even when we think we are embracing it for new opportunities, because in making desired changes, one may have to give up pleasurable, happy,
important things. Even an addict giving up a habit admitted to be unhealthy leaves comforts behind. These factors operate in groups as well as in individuals. Investment in retraining would protect firms' investment in their personnel, but would require direct confrontation of the fact of change. Like individuals whose expertise becomes obsolete or unmarketable, groups attempting to maintain their identities and privileges experience change unwillingly and may have losses to grieve. I suspect that a 'submerged' agenda in discussion of quality and client care systems is to find means to pacify clients and the Law Society without requiring fundamental change in the qualities of professional relationships, between lawyer and client, between senior and subordinate, and between peer. Solicitors do not know how much change will be enough and may worry that important aspects of their professional selves are not safe. Training programs are caught in the middle: while they are the intended engines of change, they are also assigned the task of controlling change to keep it within tolerable limits, unconsciously to see that nothing important happens.

Firms' submerged agenda can also be based upon contagious emotional moods, of hostility and paranoia, of dependant trust, or of euphoric hopefulness. Alongside groups' rational and deliberate work agenda, submerged agenda may sometimes see groups seeming to act unconsciously as though the groups have come together according to mythical strategies for survival: to fight or flee from an enemy, to be cared for by an omnipotent leader, or to witness the creation of a saving vision of their future. The emotions generated by such group cultures have both benefits and costs. Fighting spirit, trust, and hopefulness provide appropriate emotional support for different aspects of solicitors' work. But when such ideas operate unconsciously, they may lead groups to act on false views of reality. For example, a litigation department too firmly caught in a fight/flight culture may have difficulty acquiring knowledge and skills of alternative dispute resolution methods which may benefit their clients.

Firm managers risk being caught up in submerged agenda, since these factors prompt groups to put members in roles which satisfy the groups' emotional needs. For example, in dependency cultures, revered leaders may be all powerful and members incompetent, or in fight/flight, members may be divided into those who are strong and weak, and the weak sacrificed. Because such roles occur in response to unconscious emotional needs, those most vulnerable, and therefore most anxious, are those most likely to appear irrational, while those in more secure positions, unaware of their own participation in the groups' emotional life, may feel comfortably in control of themselves. The group may depose or expel those fixed in negative roles in the fantasy that in doing so will eliminate the group's problem. Such actions, based on distorted perceptions, may be dysfunctional to work and leave an inheritance of guilt when members become aware of what they have done. The typical defence against groups' ability to victimize its members is to homogenize the membership, discouraging the recognition or utilization of diverse competencies and, therefore, undermining effective teamwork.

Of particular importance to this study are the implications of occupying a role in a firm as 'one who cares about training.' Firms will use those who care about training to fulfil functions that will pacify those constituencies that demand training. But the role may carry negative value connotations, not just because it is not fee earning, but because the role is viewed, as a result of unconscious ambivalence regarding training, as subversive and disloyal, and those who fill the role may not be benefiting their careers in their firms. I hypothesize that those who have been
most interested in the ‘submerged agenda’ aspect of my analysis tend to be those who care about training and feel insecure in their status in their firms.

Submerged agenda operate in firms as a whole and in subgroups and factions. I certainly do not suggest that law firms are dominated by mob psychology, certainly not the three firms I have been working with. But these are processes which occur in degrees in all groups, alongside the mature and rational aspects of their functioning, and law firms are not immune. We should not be surprised when newly established management systems are subverted by the persistence of informal ones.

Because submerged agenda are not fully conscious or rational, there is no clear boundary on this level between training agenda and other firm functions. Training is significantly involved in the process, however, because it is one of the functions which reaches all sectors of the firm. Training managers will be in mediating roles as they negotiate, conduct, and administer programs serving different firm units. Having training programs in-house has the function of making training subject to the firm’s submerged agenda.

Bringing submerged agenda into awareness and subject to rational examination should be an important benefit of management agenda training. Because dealing with submerged agenda is a ‘therapeutic’ matter, a firm ‘stuck’ in difficulties in its organizational development may need the help of an outside, disinterested consultant qualified to assist the firm manage group dynamics. However, care should be taken to obtain the services of a provider competent to consult without colluding in the firm’s ongoing fantasies. Pursuing this aspect of management agenda training will help individuals and the group make use of the positive elements inherent in the emotional aspects of work experience. The most effective and responsible practitioners are those who use their intellect and emotion without neglecting one for the other. On the other hand, there is a significant risk that submerged agenda, if ignored, will obstruct achieving firm goals.

V PROGRAM IMPLEMENTATION

Training is the function of developing the competencies of a firm’s personnel resources. Training is carried out:

- on the job and through training events,
- at the commencement of careers and through continuing update,
- through contemporaneous supervision and periodic appraisal,
- by formal and informal, tangible and intangible reward structures, and
- through changing environment and technology.

Law firms implement their training agenda in programs for trainee solicitors, for continuing education, and for practice development. On-the-job supervision remains the most pervasive and valued form of training. In training events, firms typically begin with ‘technical’ legal training and move first, into skills training and, then, to organizational management training. In method, the progression is from traditional, formal presentations to participatory formats which are more rewarding, but more demanding. Programs in many firms are still too new to have settled into a stable pattern or level of ambition. Management of the interaction between training programs, appraisal systems, reward structures, and information environments are, generally, in very early states of development, if deliberately
The current recession is challenging firms' ambivalent commitments to training.

A. Trainee Solicitor Programs

Trainees' viewpoints are heavily influenced by their status as marginal members of firms. Many feel naturally embarrassed by their inexperience and ignorance. And their experience as newcomers is repeated every time they change seats. Their insecurities in becoming lawyers resonate with uncertainties in other changes in their lives, the majority of them making the transition from adolescent to adult. And not long following their feeling comfortable in their trainee solicitor role, they become concerned with placement following qualification.

On-the-Job Training

Without question, the training which both trainees and firms consider most valuable is the traditional sitting with experienced solicitors. In this context, trainees witness and try out models of solicitors' work, exploring how one produces and survives, even flourishes, on the job. These are matters which cannot be learned in the presentation of technical legal materials typical of their prior legal education and of off-the-job training events. Trainees' initial 'practice' is supported by supervisors who provide guidance and keep trainees safe from making damaging mistakes. While these experiences are valuable for the routine aspects of legal work, of which there are many, they are critical for solicitors' more challenging and creative work, which goes beyond putting elements in set formulas or filling blanks in forms. In solving complex and subtle problems, tentative solutions prompt feedback on which practitioners reflect to find better solutions for the present matter and to educate the 'instincts' which permit more resourceful and efficient production in future work. Mentors are critical to this aspect of learning professional craft (Schon 1983).

While the quality of the sitting experience has always been a hit and miss proposition, depending on the qualities of the solicitors and the suitability of their work, it is under new pressure in the current environment. More fee earners specialize more narrowly in advanced, esoteric issues and feel more pressure to produce billable hours. Indeed, in those firms whose business strategies are to target work on a few niches, the work of the firm as a whole may not provide the level or range of work traditionally thought desirable for trainee solicitor development. When trainees more frequently get work from multiple fee earners, the continuity of their supervision and locating responsibility for it becomes a problem. Trainees in some firms are sitting more frequently with assistant solicitors rather than with partners, which has the advantage of trainees experiencing work in which they are more ready to participate, but at the cost of receiving supervision from less experienced lawyers and attenuating the knowledge and responsibility of the partnership for trainees' development. Firms are developing structures and techniques to cope with these issues, variously using trainee solicitor committees, training partners, personnel officers, and so forth, to monitor and manage the quality of trainees' sitting experiences, that is, to serve as a proxy for the 'principal' required by the Law Society to bear responsibility for these matters in articles. Still, the trainees best served are those who exercise initiative themselves to see they get the work and supervision they need.
Training Events

All firms at which I interviewed have induction programs for trainee solicitors when they commence their articles. These programs vary in scope, but are at least aimed at orienting trainees in an alien world, including introductions to the work, organization, and geography of the firm. Many trainees have had little or no experience of working in office environments, and introduction to the mechanics of the telephone and dictation and hints regarding working relations with lawyers and secretaries are very helpful. Also, introducing the trainees to each other as a mutual resource for practical and emotional support can make a significant difference, (although this may be most productive in smaller firms where trainees will naturally encounter each other regularly). In their anxiety over starting work, many trainees will not be able to hear or remember material they will not be using right away. A good office manual that trainees can refer to will be better used than first-week lectures on accounting procedures.

On ‘technical’ matters, trainees benefit from departmental induction and training more than from firm-wide lectures, especially those lectures generally for the firm’s lawyers which may be at too high a level for trainees. Even firm-wide programs designed especially for the trainees can be problematic, because the timing does not account for their present needs. Trainees feel a need to fill in the gaps in their substantive and practical knowledge, but at a time when they are in a position to use, and witness others use, the new information. They can follow-up departmental programs with informal discussion, application, and questions to those with whom they have a working relationship. But departmental induction for trainees is expensive. It is addressed to a relatively small group and needs to be repeated with each seat change. And only a portion of the trainees will return to the department as assistant solicitors. Strategies for cost effective departmental induction is (or should be) a pressing issue in many firms. (Videotapes, written or computerized aids to using precedents, and collaborative training with other firms are among the possibilities worth exploring.)

The firm-wide programs for trainee solicitors likely to be most valuable are those directed to generic skills relevant across departments. In such programs trainees can explore and experiment with fellow neophytes, away from the scrutiny of those on whose evaluations they depend. The most easily introduced skills exercises are those directed to functions trainees are doing in their current work, such as drafting letters, instructions to counsel, and attendance notes. While some firms’ programs for trainee solicitors include instruction in interpersonal skills such as interviewing and negotiation, many partners are inclined to think this work is not worthwhile for trainees in substantial commercial firms, because it will not be until later in their careers that they will undertake these functions. A similar view is expressed regarding management training. And most firms have yet to do much to extend skills training to personal development in such matters as being appropriately assertive, supportive, collaborative, respectful, or aggressive, according to the relationship and the work to be accomplished.

The rationale of introducing trainees to training in interpersonal skills is that it equips them to learn effectively from and be critical of the practices they observe and that, while they may not have responsibility for interviewing and negotiating in substantial set pieces, their work involves gathering information and working out arrangements in numerous transactions, and they will be developing habits which will shape their future practices. From a trainee’s viewpoint, since the firm and the trainee are not committed to each other beyond articles, the trainee is owed a
reasonably complete basic preparation for practice. Further, delay of training in this area may develop attitudes that skills and management training are not important. Finally, this is an area of training likely to use participatory methods, such as role playing, which develop attitudes in trainees to take responsibility for their learning.

A device used in the induction program of one firm illustrates how these issues can be integrated into matters of immediate concern. At Norton Rose, rather than have representatives of the firm's departments come to the induction program to speak to the new trainees about the work of their departments (which is the method at most firms), the training director, Joanna Minett, organizes the trainees into groups which are each assigned to learn about one of the firm's departments and report back to the group. Each group must:

- manage a meeting to organize itself to do its work,
- decide what information it wants to gather,
- allocate tasks to its members (considering their competencies) to gather information, including interviewing responsible partners,
- sift, collate, and structure the information for a report to the larger group, and
- delegate responsibility to make that report.

Thus, in the course of learning about the firm, its work, and its structure, the trainees commence their learning on a variety of interrelated skills and management issues and are prompted to take active responsibility for their learning. (As incidental benefits, partners see trainees in a different light and learn what issues are important to them.)

Firms say that their programs for trainee solicitors are investments in their futures. While recruitment was difficult, having an organized training program seemed necessary to compete for recruits. Firms' future lawyers should be well trained, and firms were not confident the traditional approach was in itself adequate to the task. Having invested heavily in trainees, it was important to make the most of them when they came and to hold on to them when they qualified. And even with trainees a firm could not retain, their training should be a good advertisement for the firm.

Trainees told me at the beginning of the year that they valued firms' investments in training and the impetus, organization, and expertise which directors of training bring to their firms. By the end of the year, however, some of the trainees, whose experiences I followed, were wondering whether the reality lived up to the rhetoric: in their experience, training programs sometimes conflicted with work they had to do for clients. Programs they were required to attend were sometimes inadequately designed or prepared to meet their current needs. Occasionally, they felt like guinea pigs for partners trying out material they were developing for the lecture circuit. And they received conflicting messages regarding which programs they were expected to attend. This may be part of firms' general problem of allocating time to non-fee earning activities, or it may evidence a low priority to training, in general, or trainee solicitor training, in particular. Or it may reflect firms' difficulties in managing their resources in this time of transition.

Will firms' more ambitious investments in trainee solicitor programs survive the economic downturn? Recruitment is no longer under pressure. Some firms are wondering whether their limited training resources are better invested in assistant
solicitors than in trainees who may not continue with the firm. And some firms may be concerned with the quality of the trainees recruited in the tight market, wondering whether these are trainees the firm will want to retain. In this environment, existing ambivalence regarding trainee solicitor programs may become more salient: does the value of the training really warrant the opportunity cost of taking trainees off the job (considering their current substantial salaries)? Trainees may represent unwanted growth. Some partners wonder if present trainees will be sufficiently tough and share identity with senior lawyers who got their training through hard knocks on the job. And one can easily envy the resources invested in trainees. This ambivalence is evidenced by competition for trainees' time between training programs and the fee earners for whom trainees work. The rate of trainee solicitors' attendance at training programs designed for them may, in fact, be a good indicator of a firm's commitment to training.

B. Continuing Education and Practice Development Programs

Continuing education maintains and updates knowledge and skills and transmits them from experienced to younger lawyers. Practice development training is intended to enable firms to move in new directions and acquire new competencies. Currently, continuing education is most frequently aimed at those assistant solicitors who are still being introduced to the fundamentals of a department's work (and, therefore, is often useful for the trainee solicitors in the department as well). At present this group coincides reasonably well with firms' solicitors admitted since 1987 of whom CE points are required. While all the firms I have examined provide sufficient opportunities to obtain CE points in-house, most firms still make substantial expenditure for attendance, especially by senior fee earners, at external programs, for special expertise and to facilitate making contact with solicitors from other firms.

Practice development training is motivated by a firm's strategic needs and is directed to lawyers across the firm according to the needs of their work roles. Practice development training in emerging areas, such as environmental and European Community law, is common. Foreign language training is increasingly supported to facilitate international practice. Practice development in new skills and roles, for example in alternative dispute resolution and firm management (including appraisal training), is appearing, though more slowly. Firms, especially those for whom managing growth has been difficult or whose growth has involved substantial discontinuities in work and structure, are discovering the importance of management competencies, such as supervision, appraisal, delegation, and team development. These competencies may come to be viewed as generic competencies expected of lawyers. A few firms are developing programs to target skills and management training directed at solicitors' needs as they make significant career transitions, that is, from newly qualified to trainee solicitors' supervisors, to team leaders or departments heads, and to senior management roles.

In method, training programs (for trainee solicitors, continuing education, and practice development) are still predominantly 'talking heads' for one to two hours. Even with skills training, it is possible to stand up and talk, and invite questions and discussion, without demonstration or practice. These are very passive learning experiences. Audience preparation is infrequently expected, and materials are usually distributed on the spot. Allocating only an hour or so to a topic is severely constraining. A frequently stated ambition of training managers is to introduce more participatory formats, including case studies, small group discussion, role plays and games. At present, the Law Society's standards for accrediting
programs assume traditional formats and inhibit use of participatory formats, but I expect these rules to be appropriately modified, or flexibly applied, to respond to this need.

Several factors prompt this adherence to traditional pedagogy. Most lawyers' experience has been limited to traditional educational models and they have found the format an effective way of acquiring information. Further, traditional training presented by in-house lawyers can have side benefits for building competencies in marketing and for cross-selling expertise throughout the firm. Probably the dominant factor, however, is that this is the most time-efficient way of satisfying the Law Society. Some firms provide programs of half or full days, protected from interruption; some support residential programs of a weekend or longer, which allow greater latitude in program design, not to mention more focused attention of participants. But many lawyers are reluctant to allocate this much time away from fee earning, either for themselves or for those they supervise, especially for training agenda and methods that are for them of unproven value.

'Talking shop' departmental and specialty group meetings, frequently during lunch hours, seem an increasingly frequent feature of lawyers' training, facilitated by the Law Society's more flexible criteria for one point programs. Some departments have a long tradition of this, while in others it is revolutionary and resisted. Because these events occur in smaller groups of colleagues, they are more likely to meet the level of the group, include give-and-take discussion, explore the practice implications of new developments, share know-how, share views on managing clients and pending matters, and promote shared responsibility and team building. These may be the occasions on which those who have attended external programs report their learning to their departments. 'Talking shops' are also used for cross-marketing within firms, both to promote the use of interdepartmental expertise and cross-selling a firm's services to clients. This is a flexible format which can respond to the needs of the group, and such events may become a significant laboratory for exploring new ways of training.

Firms are in the process of discovering the value of skills and management training, but for most firms it is still very early days. Surprisingly, to me, management training is in some respects more readily accepted than skills training. Lawyers conduct profitable practices with their existing skills in interviewing and negotiation. 'Experts' may criticise solicitors' practices in interviewing and negotiation, but those practices are experienced as 'working,' are deeply embedded in the professional culture, and will not be easily dislodged. In contrast, while solicitors have had similar confidence in their managerial abilities, those who have assumed new managerial roles in new environments and are frustrated by their difficulties in allocating time to management and obtaining cooperation from their colleagues, are now less certain.

Management systems at department and team level cannot work without support from the larger management of the firm, and some firms are recognizing that management training should include, even start with, overall firm management. Effective management depends on the firm's structure which, in turn, depends on the firm's circumstances and goals. A firm's structure may need to be adjusted to make effective management possible. Because in-house training directors are part of the management systems and group dynamic being examined in management training, they are not in a position to do this aspect of management training themselves, even when they have the expertise.
External management training providers are experiencing increasing demand for their services. Some firms themselves perceive the need for management training with an organizational dimension. Others have been re-educated in the process of negotiating programs with providers. The productivity of skills and management training is very limited by traditional formats and by the time resources that solicitors are thought willing to allocate to the work. Trainers must cope with a mindset that training is a finite exercise, in which the job can be accomplished by conveying information in time-limited programs. With a concern that accepting work within traditional constraints is setting them up to fail, providers may decline work where the firm is unwilling to commit sufficient learning time. Because the aim of management training is to alter the behaviour of managers and the teams they lead, follow-up is as important as the initial training. ‘Action plans’ developed in management training need to be supported and re-examined in light of experience and the continually changing environment. In order for external management trainers to be effective, they must have trust and knowledge of the firm, and some consider a continuing relationship with firms would be productive. But thus far management training seems to be negotiated episode by episode rather than on long term contracts. I suspect that in-house and external trainers are in a marketing phase in this work, hoping that a taste of skills and management training will motivate fee earners to ask for more. Sometimes an in-house Best Practice course may be the initial introduction. As these training events can be very engaging, the strategy may work and solicitors are more likely to put themselves in trainers’ hands for training in unfamiliar competencies.

The scope of firms’ present continuing education and practice development programs range from those that are statically providing the minimum necessary to facilitate meeting the Law Society’s continuing education requirements to those that are extensive, experimental, and developing. As the group of lawyers required to obtain CE points ages, and then is drastically expanded when lawyers admitted since 1965 are subjected to the requirement, firms will be challenged to make the necessary additional investments in continuing education and practice development programs benefit productivity.

C. Appraisal, Reward, and Information Systems

Development of the competencies of firms’ personnel resources is supported and constrained by supervision and appraisal, by reward structures, and by the practice environment (including information systems). Training can educate managers regarding the inter-relations of these factors and help them shape managerial processes to support training. The elements of a firm’s service environments need to work in a coordinated way and be developed with their mutual needs in mind. Some firms manage this much better than others.

A number of the firms I examined were in the initial stages of developing appraisal systems. Only a few had appraisal systems of long standing or ones which appraised partners as well as salaried fee earners (although this was said to be the eventual ambition of most). Properly conceived, appraisal is a two-way process which reviews the development of the individual’s career in the context of the firm, resulting in action plans both for the individual and the firm to serve each other better. Action plans may include training, modification of the work context (including better supervision and management), and specific goals for improving job performance. Prior supervision is a source of information for appraisals, and appraisals provide guidance to future supervision. Appraisal should be a
collaboration for the mutual benefit of the individual and the firm, not the occasion for establishing the basis for salary reviews or promotions in status.

Proper appraisal requires interpersonal skills and an understanding of the roles and relationships involved and, therefore, is a significant agenda item for management training. Training is especially important while appraisal is new to firms, because without specific experience of models for appraisals, partners are likely to rely on models from other roles which may be inappropriate. Indeed, partners frequently have had no previous training designed for analogous roles, and there may be much to learn (or relearn) in communications and managing relationships. In one resourceful effort in launching an appraisal program, a firm provided training for the individuals whose progress was to be first reviewed, because the roles adopted by appraisers would be influenced (trained) by their interaction with the individuals appraised as much as by formal appraisal training.

Appraisal should have significant interaction with firms’ training programs. One subject of appraisal will be the individual’s prior use of and future needs for training. Cumulatively, this process will provide data for assessment of the firm’s existing training programs and future training needs.

Training programs and appraisal systems will be ineffective unless they are congruent with firms’ reward systems. Rewards include, of course, compensation (in its various forms) and advancement in status. Individuals are strongly motivated to behave in accordance with the pleasure (as perceived) of those who may have power to influence granting these rewards. One of firm managements’ biggest challenges is to see that training, appraisals, and reward systems communicate consistently in accordance with firms’ policies.

Individuals are also rewarded by their experiences of accomplishment and functioning with satisfaction on the job. These rewards, which may be the strongest of all, are functions of many facets of work environments. Firms’ information systems are very significant for this purpose, both the systems which manage the information which is processed in work on clients’ matters and information about the firm and its governance.

The materials of legal practice include legal authority and commentary, know-how, client information, and firm resources (including diverse expertise). The accessibility of these areas of information are not only a necessary condition for work productivity, but also for the satisfaction with which work is accomplished. Firms range from the primitive to the highly sophisticated in their development of data bases in different information areas and in their systems for gaining access to them. Computers can provided ease and speed in gaining access, but workable information systems are possible without hi-tech. Computers do not control the quality of the information stored in data bases (‘garbage in, garbage out’ they say) nor of the systems by which the information is classified. Reliance on a computer system that does not work is certainly one of the most frustrating work experiences there is. Inadequately developed information systems are a significant constraint on training, as well as on other firm functions. (Of course, staff require training in the use of information systems.)

The systems which provide access to information about firms’ practice managements are also significant features of work environments. Some firms have internally closed cultures about their managements and power structures, and anxieties associated with uncertainties about firms’ developments may induce
previously open firms to close up. In contrast, I have seen some firms whose practice manuals document in detail the firms’ structures and governance processes. (I am not in a position to judge the extent to which these manuals state fully the current operational processes.) The adoption of quality control processes (such as those that would comply with the standards of the British Standards Institute), as the Law Society is advocating, would require significant documentation of firm governance. Alongside the formal structure of responsibilities, however, every firm has an informal structure of authority which will correspond only more or less with the official one. The role of equity partners in firms where full ownership is not shared among the entire ‘partnership’ is often shrouded. The temptation is to retain admission to inner cores of firm information as a reward of increased status, finally of firm ownership. Closed cultures, however, tend not to support the trust and collaborative relationships which support the development of firms’ personnel resources.

Appraisal, reward, and information systems must ‘fit’ firms’ cultures. Attempts to introduce systems that are too open to be acceptable to a firm’s power holders will not be sustainable. The tensions inherent in these matters are pressing issues for management agenda training.

D. Collaboration Among Firms

Two constraints that inhibit training are the added overhead of training offices and programs and firm insularity which limits perspective and the availability of information. The effects of both constraints may be lessened by collaboration among firms. I have encountered inter-firm collaboration as follows: limited to shared training in multi-purpose groupings, and in the nature of consortia of firms instigated by a commercial provider.

For firms with similar practices, training at introductory levels for trainee and newly-qualified solicitors has been done on a multi-firm basis without risk to competitively sensitive information. Cost and quality can be controlled and programs shaped to meet mutually agreed goals. Three large city firms have shared a negotiation training program for their trainee solicitors. Since these firms have trainee cohorts large enough to permit cost effective training on their own, this collaboration must be motivated for the benefits of transcending firm insularity. Trainees confront the differences in their firms’ cultures, are trained in an ethic of professional cooperation, and are prepared to work for clients’ benefits with lawyers from other firms in spite of their differences. Another benefit of multi-firm training is the opportunity for trainers from diverse firms to learn from their collaboration and share support with training colleagues. Some training-focused collaborations have been repeated from year to year while others have been isolated events. There have been some false starts. For example, some firms participated in a shared residential weekend for trainee solicitors, but did not return a second time.

Multi-purpose associations of firms have usually started with informal contacts among partners of similar firms, geographically situated so that they did not compete directly with each other. While the firms benefitted from the informal exchange of practice information, it occurred to them that they could achieve significant benefits by sharing some other management functions. And shared training was among the first enterprises of each of these groups upon their formal association. (Bulk purchasing, data base development, marketing, and cross-referral are other functions which groups have undertaken.) By their nature, these
groups have benefitted from training away from the office (frequently on a residential basis). Sharing management and know-how information continues to be a highly valued feature of these groupings, and these group training programs have significant participation by senior solicitors. Group training programs appear well developed and supported by reliable commitment. Similar training benefits are achieved by firms joined in an international practice which has international conferences including training programs.

A recent development is a consortia of firms instigated by an external commercial concern which provides the training and administration. While these consortia have begun with a training focus, their extension to other economies of scale seems natural. These firms are competitors in aspects of their local practices, but share concerns regarding their more substantial clients being lured to larger practices in commercial centres. What will be possible for these firms to share in light of their competitive situations will be interesting to see. If my speculation is right that insularity is motivated as much by fear of being judged as it is to guard trade secrets, then these consortia may be a profitable laboratory for the development of the benefits of more open cultures (within the limits of obligations of client confidentiality and restrictive trade practices legislation.)

VI TRAINING PROGRAM MANAGEMENT

In recent years many larger firms, or groups of firms, have allocated a portion of the responsibility for the training function to a training office with a specialist director of training. But with or without a training office (and with or without consultancy from outside providers), responsibility for managing aspects of the training function are allotted, in many different patterns, to a firm-wide executive partner and/or committee, to a firm-wide training partner and/or training committee, to departments (and to department heads, training partners, training fee earners, and/or committees within departments), to a trainee solicitor partner and/or committee, to principals and supervising lawyers, and to a variety of non-fee earning managers (in addition to training directors) including personnel officers, librarians, marketing directors, and practice managers/finance officers. The existence of such officers, the training responsibilities allocated to them, and their reporting relationships varies among firms. Of the several firms I have examined so far, no two have been similar in this respect.

Firms frequently delegate to departments responsibility to develop training programs which meet their needs. Substantial departments usually appoint training partners (and/or training assistant solicitors). The very largest firms may have specialist training directors in their main departments. Departmental training partners frequently form a firm training committee, which may be chaired by a firm training partner or by a director of training. Training committees or training offices may report to managing partners, or there may be a partner on a managing committee with responsibility for training. There is usually a trainee solicitor partner, sometimes with a committee, with responsibility for recruiting trainee solicitors, managing their sitting arrangements, and overseeing the review and recording of their progress. Trainee solicitor partners sometimes work with the support of a personnel office or of a training office. Where fee earner appraisal programs exist, a personnel office may support/direct that process. There seem to be infinite variations. The structural relations among elements of training management, and of training management to other areas of firm management, work to support training much better at some firms than at others.
The minimum functions of a training office include:

- registering in-house courses with the Law Society for continuing education credit,
- booking places on external courses (where approved and budgeted),
- booking outside presenters for in-house courses,
- providing administration for in-house programs, and
- keeping records of CE points earned by solicitors.

Where training offices are headed by specialist directors, training offices can, further:

- provide training in selected areas,
- give trusted, conveniently available training consultation that is informed by knowledge of the firms’ circumstances and strategies,
- develop training programs that meet firm-wide needs (for example, language training and the various aspects of management training),
- coordinate training with other management services and represent training in management teams, and
- provide central leadership for development of firms’ training.

Firms will have training offices of some kind. If not located with a specialist director, training office functions may be the responsibility of a training partner, a practice manager, or a librarian. The greatest cost in not having a director of training is that it will be at the lowest priority of the individual given training development responsibility.

In one aspect, all training offices operate as in-house service providers. That is, something like an in-house CLT or Cadmus, they market their services to and respond to demands for training from the firm’s diverse departments and the trainee solicitor program. To varying extents, training offices also act as part of firms’ central management, as an instrument for strategic development of firm resources and for quality maintenance. The service provider role is significant at all firms, but the connection to management ranges from tenuous to well-developed. Reflecting this, some directors of training are closely connected to the managing partner or the executive committee, while others are situated as more or less independent institutions within the firm (or just outside the firm in the case of associated groups of firms). Both situations have benefits and costs. In a partnership, where power and authority are widely distributed among ‘independent’ professionals, the most firmly established position for a director of training may be based on the successful marketing of training expertise, and reliance on central authority could be a crutch, providing immediate support but leading to weakness over time. Moreover, successful work as an educator in professional development requires an independent position to promote trust in one’s clients. On the other hand, if firms are to become more co-ordinated and develop more collaborative, corporate cultures, they will need to pursue a management agenda in training, and with the inhibitions of submerged agenda, this is unlikely to come by popular demand.

Many current directors of education and training are still the first to occupy that office in their firms, and the roles they are creating for themselves are not limited by the job descriptions the firms first had in mind. Many firms have found their training directors more valuable as educational consultants and program designers...
rather than for any particular substantive expertise they might have. The work dimensions of the role vary among firms in the extent to which the firms' training agenda go beyond first-level goals, in the particular training management responsibilities vested in the training director, and in the accumulation of non-training work undertaken in marketing, recruitment, personnel, information technology, research, consulting in areas of substantive expertise, and fee earning. "Full-time" directors of education and training are by no means always employed full-time on training. Being drawn in too many directions and having inadequate resources to accomplish work undertaken are prominent hazards. Some, whose contracts were too easily negotiated, may find difficulty in declining additional responsibilities.

Directors of training and education may be solicitors or barristers, legal educators, or non-lawyers with training backgrounds in other institutions such as accountancy firms. Some firms have hired "professors" for their substantive expertise and research and publication skills (and, some have said, for their prestige). Others have sought educators with experience and interests in non-traditional skills areas of legal education. I frequently heard the opinion that non-lawyers would not be sufficiently respected by solicitors and, thus, would not work with the necessary authority. I think the problem may be more that non-lawyers may be suspect as not understanding and valuing the legal culture and as not being subject to the known social controls of the legal community. The non-lawyer directors of training I interviewed appeared to be doing an effective job. Their independence of the profession is a source of strength as well as a problem, but they may feel isolated and uncomfortable. Some firms more than others have continued as male clubs, and in that context being a non-lawyer and a woman may be especially difficult.

No one coming new to the director of training role will have a complete background for the job, and professional development of trainers is an issue. Training directors have done much self-teaching on the job, but some trainers have attended external courses to expand their capacities, especially in skills and management training. One area in which directors of training have developmental needs is group dynamics and organizational consultation. In management training and in working with firm management, there is an organization-consultation aspect to the training director's role. While training directors are using their common sense and their experience of groups and organizations to good effect, this is an area in which deliberate study may be profitable.

Directors of education and training in law firms tend to have higher status (and salary) than do corresponding officers in commercial enterprises (where training offices tend to be part of personnel departments), especially where training directors are lawyers who have had leading positions in educational institutions. But the status of training directors, nevertheless, does vary. At some firms, they have "partnership status" and may be eligible for being made partners if they qualify as solicitors. At many firms, however, the position is clearly that of a professional, but inevitably salaried employee. It is a question, in any case, how this position fits into the life programs of those coming to this role. Many training directors' first interests drew them to careers in non-profit, public service institutions, and they might not have come to these entrepreneurial institutions had not higher education and other public institutions become such frustrating places to work in the 80s. I have speculated that some directors of training, while currently enjoying a challenging and well-rewarded job, may be working to reform the profession or society from a new position or obtaining credentials and developing competencies which will support them in later career changes. In any case, I believe the
marriages between directors of training and their firms will depend on their programs operating at the management agenda level. Only in those circumstances will the work continue to be challenging and satisfying, and only on that basis will firms continue to feel their substantial investments in training directors justified.

VII SUMMARY

How effectively do law firms use training as part of their strategies for coping with the dramatic changes in their external and internal environments which continue to challenge the capabilities of their personnel?

First-level training agenda, oriented to meeting the requirements of Law Society regulation and meeting the basic information and skills needs of practice development, yield easy pay-out and are not very threatening. Deeper levels of management agenda training are more challenging and more introspective and, therefore, more likely to come up against submerged agenda of emotional needs and group dynamics.

I found wide variation in the maturity and ambition of training agenda implementation. Many firms do not go very much further than conducting training designed to provide inexpensive CE points and meet their minimum obligations to their trainee solicitors. Some firms have made impressive progress in developing their training programs and seem firmly committed to continued development. Trainers, generally, continue subject to the frustrating constraints of format limitations and of fee earner time available for training.

Regarding the future of training offices and programs, continuation of first-level training is assured, but the degree of commitment beyond first-level goals is still emerging, and, therefore, the who and what of training offices is not clear. In the current economic recession, some firms are cutting back on their investments in training (and other recently developed offices) as less essential functions. A few directors of training and their firms are already parting. Other firms are determined to maintain their investments in training (and in marketing, information systems, and so forth) as essential to their flourishing in continuously changing environments. We cannot know, whatever we may believe, which strategy will better assure firms' survival.

I have optimistic and pessimistic views of the future of law firm training. The optimistic view is that training will evolve and develop over time, since:

- while the Law Society does not get everything right, it has been a positive force for change, seems to learn from experience and its developing approach in regulating practices is very constructive (an American may be permitted some envy);
- the medium of training has its own compelling logic and satisfied customers will ask for more and contribute their own inventions;
- some firms' commitments to training are very strong, and they will demonstrate the benefit to others.

The pessimistic view is that:

- in the environment of increasingly deregulated and internationalized professions, the Law Society will be unable to maintain its influence;
the professions (domestic and international) will collude to maintain their justifying habits;

- the anxieties generated by an increasingly complex and uncertain world will cause the less constructive aspects of firms' submerged agenda to obstruct firms using training to help them manage change.

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NOTES

1 Law Society regulations actually adopted have changed the requirement to a number of hours over a three year period (rather than 16 'points' per year) and to apply eventually to all solicitors (those admitted prior to 1965 will not be exempted). The requirement is now referred to as Continuing Professional Development (CPD).

2 The new professional skills course will begin in 1994 for those who have completed the new Legal Practice Course.
3 Currently, while rights of audience issues remain to be resolved (especially
with regard to employed solicitors and barristers), the LCAC is seeking
consultation on the academic stage of qualification.

4 The new scheme of training contracts with firms, rather than articles
contracted with individual principals, will come into effect in 1993, although
the Law Society’s licensing and monitoring scheme will not be as aggressive
as originally contemplated.

5 See note 1, above.

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