

Red paper

Cutting through, winning big:

Business development best practice in hard times

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About Jures

Jures (pronounced 'JOOR-REZ') is a new independent research company dedicated to the legal services market. It combines expertise from a number of different disciplines: journalism; research; PR and communications; as well as publishing in both traditional and new media. The people behind Jures are Jon Robins as well as Gus Sellitto and Richard Elsen, directors of the legal PR specialists the Byfield Consultancy.

Our aim is to be a leading source of considered, independent-minded and thought-provoking commentary on the law in a way that informs and influences debate within the profession and beyond.

Jures brings law and research together.

About the author

Jon Robins is director of the legal research company Jures, freelance journalist and author. He has been writing about the law for the national and specialist legal press for over a decade. Jon was the author of the Big Bang Report: Opportunities and threats in the new legal services market (Jures, November 2009) and edited Closing the Justice Gap: Some new thinking about an old problem (Jures, March 2010). Both are available at www.jures.co.uk. Jon also wrote The Justice Gap: Whatever happened to legal aid (Legal Action Group, May 2009 with Steve Hynes).

LexisNexis

LexisNexis® provides information, practice management and CRM solutions for professionals in law, tax & accounting, corporations, public sector and academic institutions in the UK.

Our Lexis® Legal Intelligence suite ensures lawyers can easily find practical, up-to-date guidance and information, training and client-facing documents in one place. Designed to mirror the way lawyers work, it reduces the time it takes to get to the answers and documents on clients' behalf, helping to make practice more profitable.

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Prompted by changes in the legal services marketplace ahead of the Legal Services Act, LexisNexis commissioned Jures to conduct this research study of 100 UK private client and commercial law firms to gain a further insight into business development best practice across the sector. Sharing this insight will inform our future development to support lawyers yet further and, we hope, help our customers as they position themselves for success in this evolving environment.

Headline findings:

- Exactly half of respondent law firms had made redundancies as a result of the economic downturn (50%);
- Just over one in five of respondents (21%) anticipated merger or a major restructuring in response to changes in the legal services market;
- Almost three out of ten respondents (29%) were contemplating (or at least had yet to rule out) the possibility of external investment under the Legal Services Act 2007;
- Almost half of all respondents (48%) had changed their business development strategy in the last 12 months as a result of the LSA, and just under one third (30%) anticipated that they would do so over the coming six months;
- Two-thirds of respondents (66%) intended to spend less than 5% of total fee income on business development strategies over the coming year;
- More than half of respondents identified 'word-of-mouth' recommendations as top or second in a list of 11 activities as being the most effective factor in terms of attracting both new commercial clients and private clients (56% and 58% respectively). 'Referrals' scored highest for commercial clients (62%) and second for private clients (57%);
- For all the talk of the marketing potential of 'social media', it was ranked lowest for attracting both private and commercial clients (2%);
- Whilst collective solicitor-led marketing schemes (most notably QualitySolicitors.com) have made significant progress in the last 12 months, only 8% of respondents scored such schemes as first or second.
- Almost half of all firms (47%) had increased their spending on business development over the last year and more (56%) intended to do so over the next year; and
- More than one in four firms (26%) did not know or did not measure their client retention rate; and
- The two 'business development initiatives' that have had the most impact over the last 12 months are both related to the involvement of business development expertise, namely, the investment in employed non-lawyer business development specialists (18%) and the use of external consultants (15 %).

Methodology:

The research is based upon a survey of managing partners, senior partners and marketing partners at 101 mid-market private client and commercial law firms conducted in May and June 2011¹. A number of respondents were then interviewed in-depth about the themes that emerged which form the basis of the analysis below.

Introduction

These are uncertain times for the legal services market. This report draws on a survey of mid-sized law firms and looks at how these firms are responding in terms of business development and marketing strategies to an increasingly competitive and precarious environment.

The ongoing liberalisation of the law under the Legal Services Act 2007, often likened to the City's 'Big Bang', the mass deregulation of the financial services markets and the banking system of 1986, starts in earnest on October 6th 2011. We are in the latter stages of the countdown to the implementation of the most radical part of the legislation, the licensing of alternative business structures (or ABSs). Deregulation of legal services will introduce increased competition for most of the firms that have taken part in this survey. Retailers like the Co-Op, banks including the Halifax and Royal Bank of Scotland, as well as membership organisations such as Saga, the AA and Which? have all been moving into or increasing their presence in the legal services market. Concerns about the presence of high street names offering legal services are amongst a number of themes coming from the interviews conducted for this research. There are opportunities as well as threats in this new landscape, not least the prospect of external investment through legislation.

At the time of writing, the justice secretary Kenneth Clarke is expected to introduce legislation to implement the main tenets of Lord Justice Jackson's civil justice review which will radically overhaul legal costs. Ministers are also putting their final touches to a legal aid Bill that, if the proposals go through as anticipated, will cut £350 million from £2.2 billion budget by removing from scope entire areas of legal advice. Many of the firms profiled in this report are still recovering from an economic downturn that has crippled the staple activities of high street practice (namely conveyancing), slowed down commercial activity and dried up vital lines of credit from banks.

¹ The firms were defined by reference to the Legal 500 outside its top 100.

Feeling the squeeze

The findings suggest a correlation between economic conditions and spend on business development activities. Almost half of all firms (47%) had increased their spend on business development either 'significantly' or 'moderately' over the last year. Only a very small minority had cut back on spending (6%). A theme that came out strongly in the interviews was that the respondent firms were reacting proactively and investing in business development strategies in response to challenging market conditions. 'The one thing that you don't cut, especially when times are tough, is business development and marketing spend,' commented John Durkan, of the legal aid Yorkshire firm Switalskis. 'I'm a great believer in that.'

Unsurprisingly, many of the law firms polled in this survey had already made significant cutbacks as a result of the economic downturn. Exactly half of all respondents have made redundancies in the last two years for that reason. Of those respondent firms that had let staff go, almost half (51%) had either frozen or cut spend on business development and a significant proportion (45%) intended to freeze or cut again over the coming year (45%).

'Inevitably, we will lose much of our business to "Tesco Law" and we need to spend to replace it and to ensure we get the right work at the appropriate fees,' reflected Kerry Underwood, senior partner at Law Abroad (formerly, Underwood Solicitors). His firm spent 10% of its total fee income on business development. By contrast, two-thirds of the firms polled (66%) spent less than 5% of their turnover on business development (and only a very small proportion (6%) spent more than 10%). Unsurprisingly, it was the commercial-orientated firms that spent a higher proportion of their fee income on business development; despite the threat of increased competition from brands entering the legal services market being directed at the core areas of high street legal practice. So for example, those firms with a significant commercial clients base (i.e., where 40% plus of fee income came from commercial clients) spent at least 5% of their turnover on business development.

Why did Kerry Underwood regard this as such an important investment? 'A failure to spend significantly on business development will mean that at best we will wither on the vine,' he replied; adding 'of course the Legal Services Act may see us go bust in any event'. He described the last few years as 'the grimmest years in the 37 years that I have been in the law'.

Not everyone took such a bleak view. Richard Barnett, senior partner of the Southport-based volume conveyancing firm Barnetts said that 'the great thing about the Legal Services Act is that it gives you the ability to go for external investment. That is one avenue we are looking down.' The firm has had a tough couple of years as a result of the collapse in the housing market, nonetheless Richard Barnett said he was 'very confident' that the firm would grow 'significantly' over the next two years. He also said that his firm was interested in an injection of external capital. 'We are probably the ideal potential target for anyone wanting to come into this market,' he continued. 'We have to be an attractive proposition for entrants coming into the legal services market wanting to cover off conveyancing and looking to use bulk suppliers rather than setting up in-house.'

John Durkan, of Switalskis, said that his firm was contemplating a merger in response to the changing environment, mainly the legal aid cuts. 'In the past, we have never been inclined to [merge] but now everything is on the table. We need to work out how the legal aid cuts are going to impact on our effectiveness and whether there is any merit in merging. I have an open mind.'

Less than one third of respondents (29%) were contemplating (or at least had yet to rule out) the possibility of external investment under the Legal Services Act. But how excited was the investment community in the legal profession? 'They are interested, but there is always a degree of nervousness about people businesses,' commented Tony Williams, founder of the Jomati consultancy. The former senior partner at Clifford Chance was hired by Lyceum Capital, one of a small number of private equity funds known to be interested in the legal services market, as an adviser. Earlier this year Irwin Mitchell was reported to be 'gearing up to become the first British law firm to float on the Stock Exchange under new rules that will allow non-lawyers to own shares in legal practices' (The Times, April 20th 2011). The 'message from the market' is that, 'if you're going to float, you need to be of £100m revenue', reports Williams.

'We've already restructured. We have become a PLC,' said Kerry Underwood, of Law Abroad. 'We don't regard ourselves as a law firm anymore.' The solicitor described the reorganisation as 'a major step forward as it means that we can sell shares to the public'. The solicitor explains that 'the vast majority of the work' from his firm would be done through that company which will be 'a ready-made ABS which can come into effect on the day that the Legal Services Act is implemented'. For the first time his firm has ceased to be a full-service law firm. 'We have stopped doing residential conveyancing. The profits simply aren't good enough but we are becoming an estate agency. We will just pass the work on. The legal element just isn't worth it. The estate agency is.' The solicitor reckons that the advent of ABS 'spells the end of the road for many firms' ('and realistically that may include my own'). 'I am not saying that we will disappear but we face the same risk as everyone else of being crushed by big business,' he says.

Cutting through: business development

The report moved on to consider those business development and marketing strategies that were considered to have most impact in this difficult environment. In particular, respondents were asked to rank from one to 10 the following two lists - the first relates to commercial clients, the second to private clients. The figures below indicate how often the individual activity was scored first or second on the ranking.

TABLE A: Please rank from 1 to 10 the following activities, starting with the most effective, in your experience, in terms of attracting new commercial clients and ending with the least important?

The figures below indicate how often the activity was scored '1' or '2' (as a percentage)

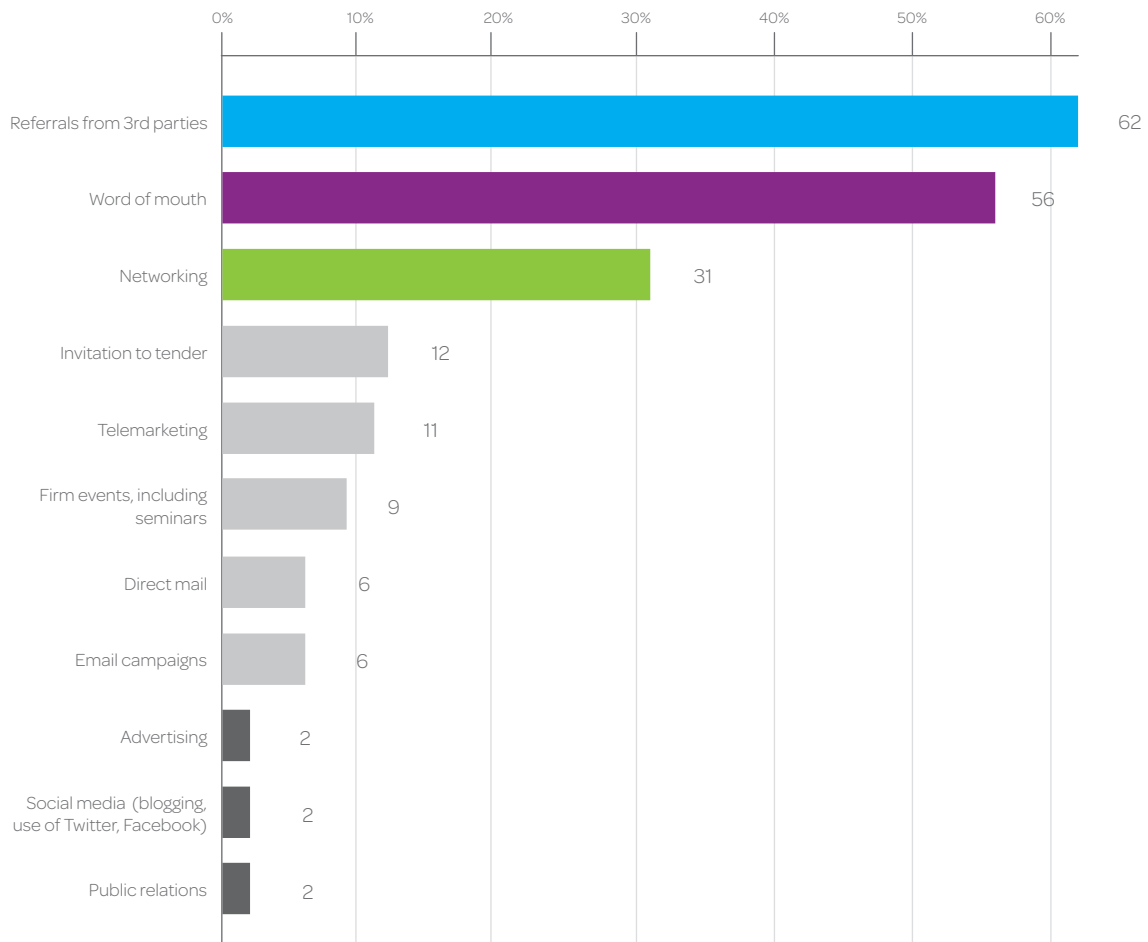
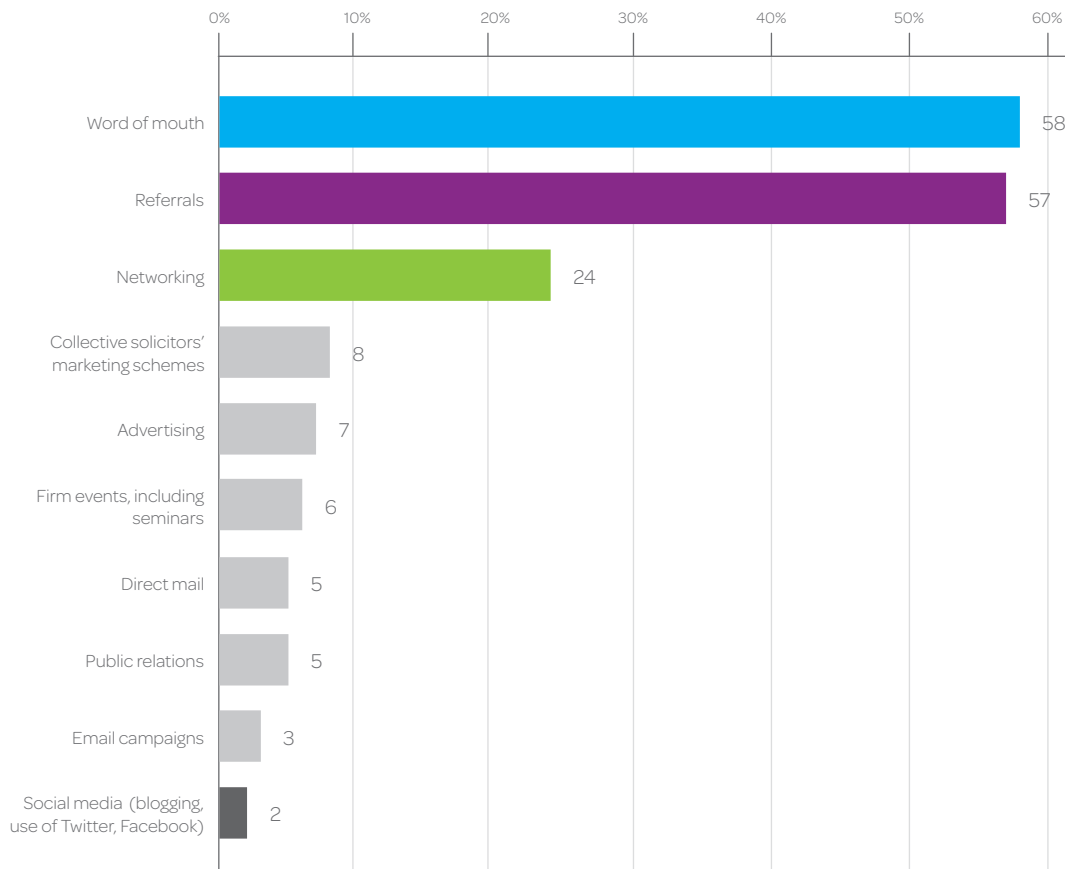


TABLE B: Please rank from 1 to 10 the following activities, starting with the most effective, in your experience, in terms of attracting new private clients and ending with the least important?

The figures below indicate how often the activity was scored '1' or '2' (as a percentage)



'It was a very difficult question to answer,' said Abby Winkworth, marketing and business development partner at IBB solicitors in West London (referring to the question posed in TABLE A). 'I would use all these strategies at different points.' If the aim of the question was about 'converting prospective clients into new clients' then telemarketing might be 'the shortest route from A to B' because it is 'perfectly possible to pick up clients from ringing them up and saying: "Shall we come and see you?"'

Good old-fashioned 'word-of-mouth' recommendation was the activity identified by respondents as being the most significant in terms of attracting private clients with almost six out of 10 respondents (58%) scoring it '1' or '2' - narrowly ahead of 'referrals', 57%. 'Referrals' covered work that had come through a formal third party route, such as a claims management company in the context of personal injury work or estate agents for conveyancing; whereas 'word of mouth' recommendations came through less formal channels such as family, friends, work colleagues etc. For commercial clients, 'referrals' topped the list (62% scoring it '1' or '2') compared to word-of-mouth which came in second (56%). 'Networking' came in behind those two activities, scoring 31% for commercial and 24% for private clients.

"Word-of-mouth" is the single most effective form of marketing as it brings to you a warm lead that will convert well at a reasonable level of fees for both business and private clients', responded Nick Jervis, a solicitor who runs the law firm marketing specialists Samson Consulting. 'Sadly, despite this being the case, so few firms have an active client referral strategy and those that do fail to promote it as effectively as they should.' It is 'definitely one of the first places to start if you are looking to generate new instructions for very little cost', Jervis adds.

Spray and pray

'Business development strategies, as opposed to marketing, works for commercial clients,' reported Stephen Goddard, development director at Kester Cunningham John. 'The general "marketing" approaches - in other words, e-mail shots or direct mail that just bombard people - tend to be less effective. When I've been away for a day and turn on my PC, I just delete them. The same with direct mail, which can be poorly targeted.' 'Spray and pray e-mail', was how Fergus Ross, business development director at Warners solicitors in Kent, described direct mail and email campaigns. 'Frankly, they are most people's time-stealing bugbears,' he added.

'Done well, with a good quality target list, an engaging telephone technique and a compelling story, telemarketing can open doors,' commented Sue Miller, head of business and development at the Cardiff-based claimant firm Hugh James. 'It is a numbers game though and you have to be prepared to make a lot of phone calls.' More than one in 10 (11%) of respondents ranked 'telemarketing' at '1' or '2'.

Abby Winkworth, of IBB, scored firm events highly, particularly for high net worth private clients. 'We have a large old manor house set in its own grounds with a pond at the end of the garden and overlooked by church. It allows us to assume the persona of a country manor with the family opening its doors letting people in for drinks and canapés.'

Sue Miller, of Hugh James, listed 'invitation to tender' as top of the ranking order. 'We've had a lot of successes with tenders recently, and picked up some major public sector contracts as well as a number of national contacts with major banks through tenders,' she says. 'As far as the tender goes it's clear-cut. You know you have the business - or not.' As for PR and advertising, Miller ranked them towards bottom of the list for active client winning. 'Whilst it adds to the general noise about the firm, it is unlikely anyone is going to ring you up and instruct on the strength of having seen your name in the papers unless it relates to a very particular activity,' she added.

As for advertising, Abby Winkworth said: 'People in our community do read the local newspapers and the monthly free glossies. They just need that reminder that they have seen our name around and we are everything that we say we are.'

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Collective approaches

Respondents were also asked to rank 'collective solicitors' marketing schemes' but less than one in 10 respondents scored it either first or second (8%). For the purposes of this study, it was a broad term which covered a diverse range of solicitor-led networks such as QualitySolicitors.com or Face2face solicitors as well as personal injury schemes including InjuryLawyers 4U. QualitySolicitors.com is now represented by 200 offices and has attracted much publicity for its 'game-changing' (as it has been described in the legal press²) tie-up with the retailer WH Smiths. Fergus Ross questioned how the network, which styles itself as the 'first legal superbrand', could adequately reflect the values of such a diverse collection of individual firms under the label of QualitySolicitors. 'It is a delaying tactic before the inevitable sourcing of the wheat from the chaff,' he said.

Abby Winkworth, of IBB, recognised that the tie-up with WH Smith might be 'a bit downmarket' but said 'it effectively removes some of the barriers that the industry puts around itself also'. 'We act for high net worth individuals. In the same way that most of our high net individuals aren't going to go to WH Smiths to buy their stationery, it isn't something that is part of our strategy.' However Winkworth didn't rule the concept out either. 'It depends on wherever the industry decides to go in the next few years but any move has to suit both the strategy and brand.'

² Legal Week, April 7 2011; Legal Futures, April 7, 2011

Online presence

For all the talk of the marketing potential of 'social media', it was ranked at the bottom for both private and commercial client categories. 'We are involved in Twitter, Facebook and LinkedIn but we're not sure where it is going at the moment,' commented Stephen Goddard, development director at Kester Cunningham John. 'Marketing people will tell you they can launch a new product like a drink online, but how that works for the service industry is less tangible.'

'We are getting better,' admitted Sue Miller, of Hugh James. She reported that one lawyer was a regular tweeter 'but we are not letting everyone have a go until we have a proper policy and a strategy in place. I think it can be powerful if used properly but it has the potential to go very wrong.'

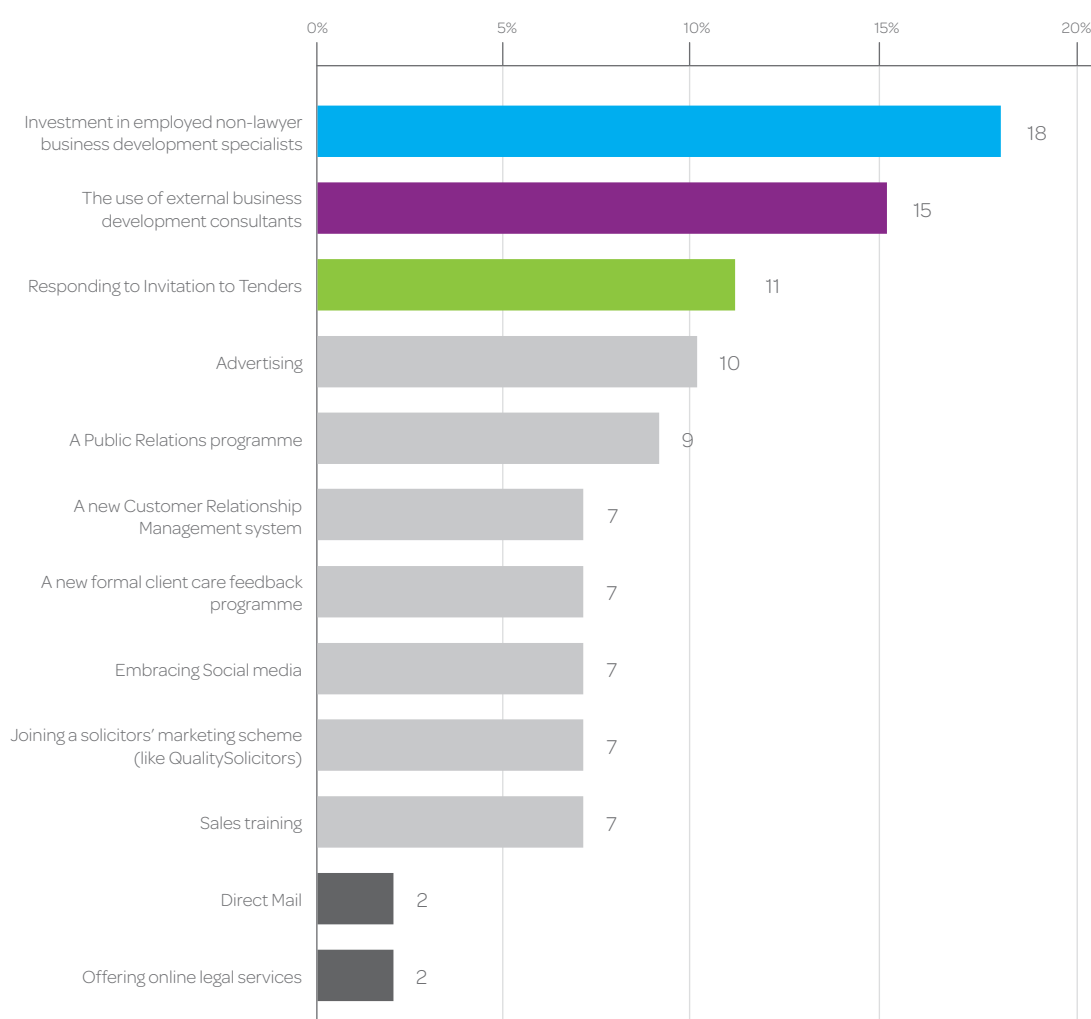
What came out more clearly in the subsequent interviews was the recognition of an online presence for attracting prospective clients. 'There is a definite growing trend for picking up instructions through Internet,' commented Simon Craddock, a partner at Brethertons solicitors. 'This isn't entirely empirical but I would say that five years' ago one in 10 new clients came from the Internet and now it's three or four in 10. That's purely from good Google ranking.' John Durkan, of Switalskis, agreed that search engine optimisation was increasingly important. 'We're particularly interested in raising our online presence for private family, Wills, probate, clinical negligence, mediation. We use outside consultants to ensure our ranking is really high. It works and compared to other forms of marketing is very cheap.'

Stephen Goddard, business development manager at Kester Cunningham John Solicitors, flagged up offering online services, especially automated documents, as being the single most effective innovation introduced by the firm over the last 12 months. The firm offers a range of online services and documents (including divorces, Wills, lasting powers of attorney and business contracts). 'As consumers we expect to buy our groceries at 10 o'clock at night and we want to book our flights online,' says Goddard. The firm heavily promotes its online services. 'We'll continue to offer personal services in just the same way that banks offer personal services. We see the online service as a way that we can reach out to more people.'

The hunter and the hunted

The 'business development initiatives' that have had the most impact over the last 12 months both related to the involvement of specialist business development expertise: notably, the investment in employed non-lawyer business development specialists (18%) and the use of external consultants (15%). Also, when respondents were asked whether the business development function was best handled by a lawyer or a dedicated business development/marketing specialist, more than two thirds opted for the latter (69%). Almost six out of our respondents' firms employed both (51%).

Table C: Which, if any, of the following business development initiatives has (i) been implemented over last 12 months; and (ii) has had the most positive impact on the firm from a business development perspective. Please tick one option only: (%)



Just over half of our respondents employed both marketing and business development specialists and the larger the firm, the more likely they were to have dedicated non-lawyer specialists. So, for example, out of respondent firms that employed 70 or more fee earners the majority (85%) employed both and only 3% employed none at all. Only a third (33%) of smaller firms had both and four out of 10 (41%) employed neither. Not everyone agreed with the premise behind the question 'whether the business development function was best handled by a lawyer or dedicated business development/marketing specialist'. 'A non-question,' responded Kerry Underwood, of Law Abroad. 'Lawyers are just lawyers. Some of them can do it, some of them can't.'

‘I am a professional marketer and non-lawyer partner,’ began Abby Winkworth, of IBB. ‘Lawyers have an equal ability to do these tasks as anyone else in the general population but they get trained out of that ability through their legal schooling.’ ‘You can’t be both,’ argued Fergus Ross, of Warners Solicitors (a non-lawyer with a background in advertising). ‘How can you possibly be the hunter and hunted? A lawyer is conditioned to interpret the law as determined by their clients’ needs and a business development specialist is about marketing and communications and sales. Those skills simply aren’t innate in all lawyers.’

In transition

This report vividly illustrates a profession reacting to a changing market. Over one third of respondents (37%) had changed their business development strategy in the last 12 months as a result of the LSA and one in four (25%) signalled their indication to do so over the coming six months. More than half of firms (56%) anticipated increasing spend over the next year.

‘If firms aren’t spending regular time, effort and energy on business development then they are missing significant opportunities,’ observed Nick Jervis, of Samson consulting. ‘Whilst it used to be the case that you could keep on doing what you have always done and expect the same results, now you can expect diminishing results and, more likely than not, to be out of business.’ Jervis reported ‘increases in marketing activity by many firms because they realise that it is a tough market out there’. ‘Clients will still spend their money on legal services but now you must persuade them that when they do so you are the right firm, preferably the only firm, to help them.’

Looking to the future

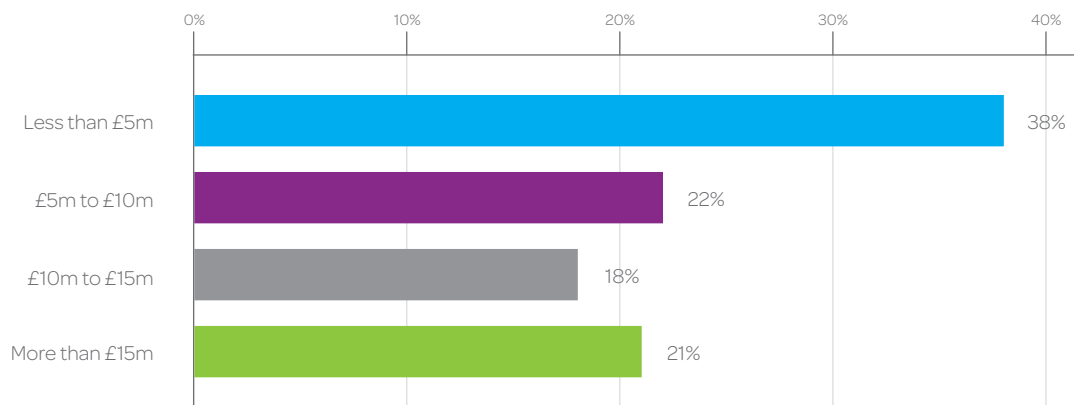
It is clear that the market will never return to the way it was. As in many other industries, Business Development and Marketing will need to be a fundamental part of a successful legal business in the future. Even with an improving economic environment - not a certainty just yet - deregulation and changes in market behaviour are going to increase competition and downward price pressure in the legal services industry.

As contributors in this report have suggested law firms will have to focus much harder on visibility and differentiation in their marketing and the evolution and broadening of their offerings in business development. To succeed in this, firms will have to do more than make incremental improvements; they will need to reinvent themselves.

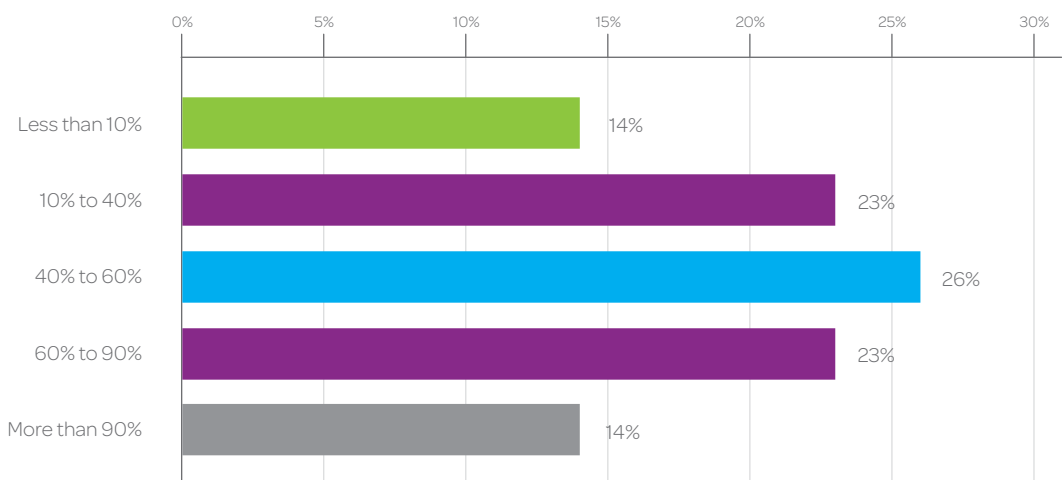
Appendix – full results

All results are confidential

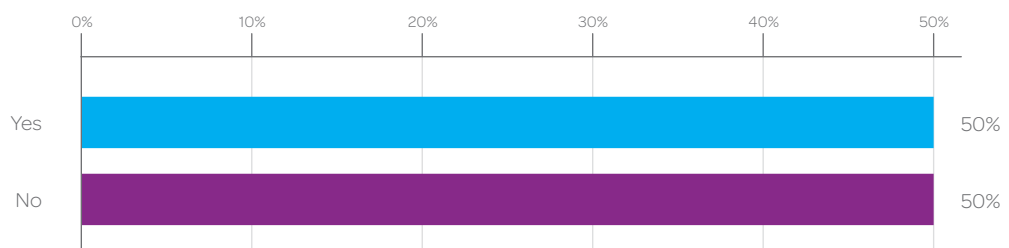
What is the turnover of your firm? (%)



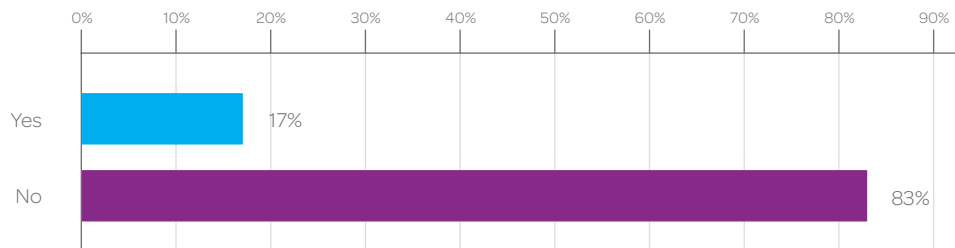
What proportion of your firm's fee income comes from commercial clients (i.e., not private/individual clients)? (%)



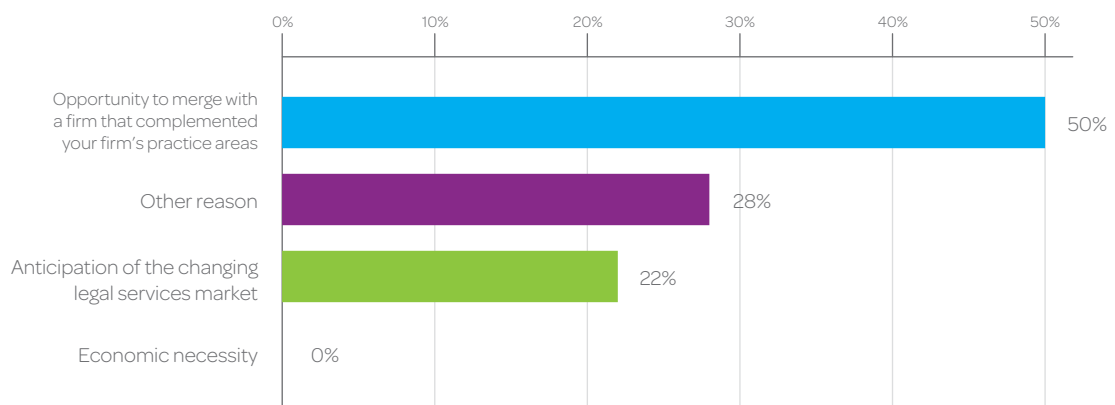
1. Has your firm had to make redundancies as a result of the economic downturn in the last two years? (%)



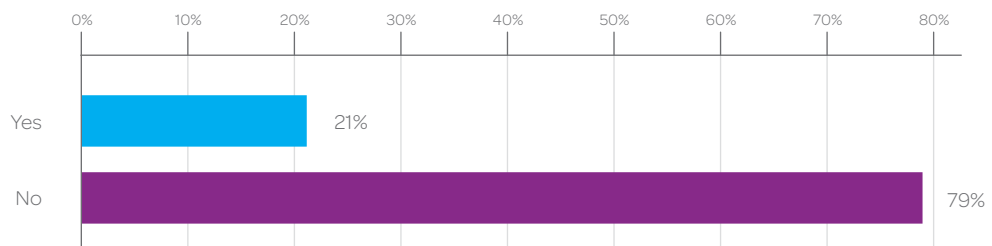
2. Has your firm merged or gone through a major restructuring over the last two years? (%)



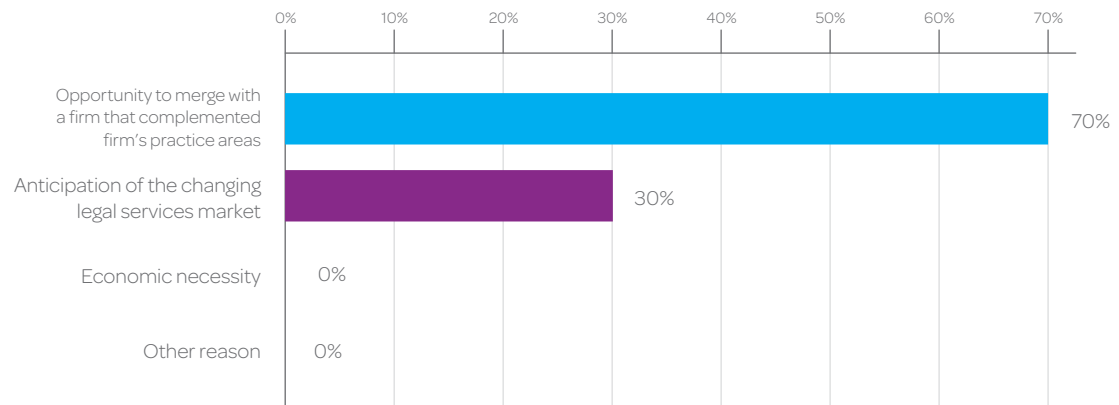
3. What drove the merger? (% of that number)



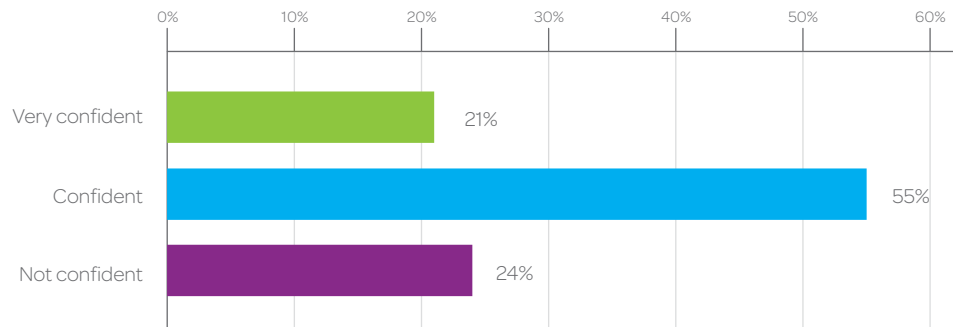
4. Do you anticipate that your firm will merge or go through a major restructuring in response to the changing legal services market in the next 12 months? (%)



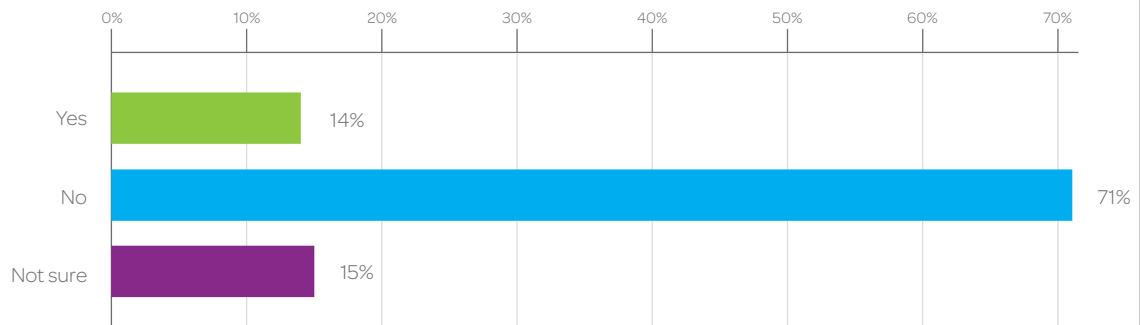
If yes, why?



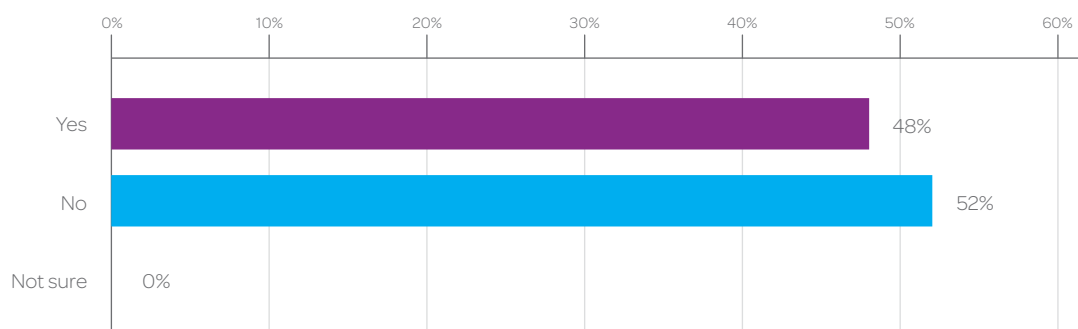
5. Are you confident that your firm will grow significantly over the next two years – i.e. achieve over a 10% increase in profits year-on-year? (%)



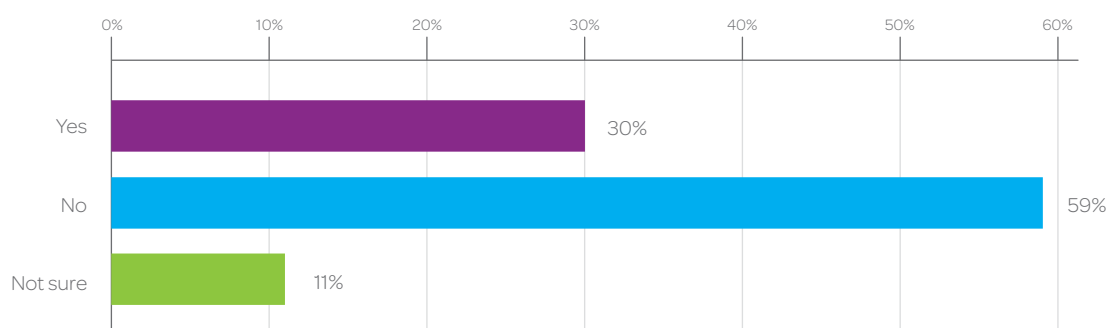
6. Is your firm considering the possibility of external investment in law firms through the introduction of alternative business structures under the Legal Services Act 2007? (%)



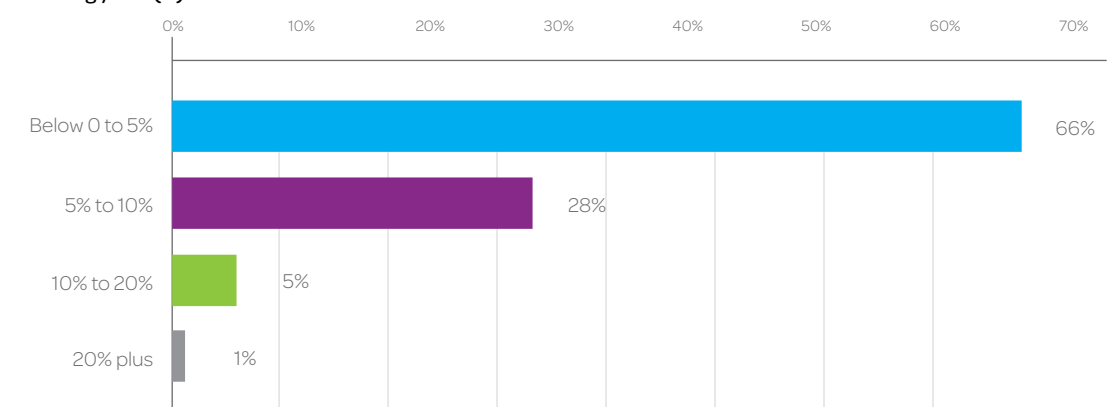
7. Has your firm changed its business development strategy in the last 12 months as a response to the changes anticipated as a result of the Legal Services Act? (%)



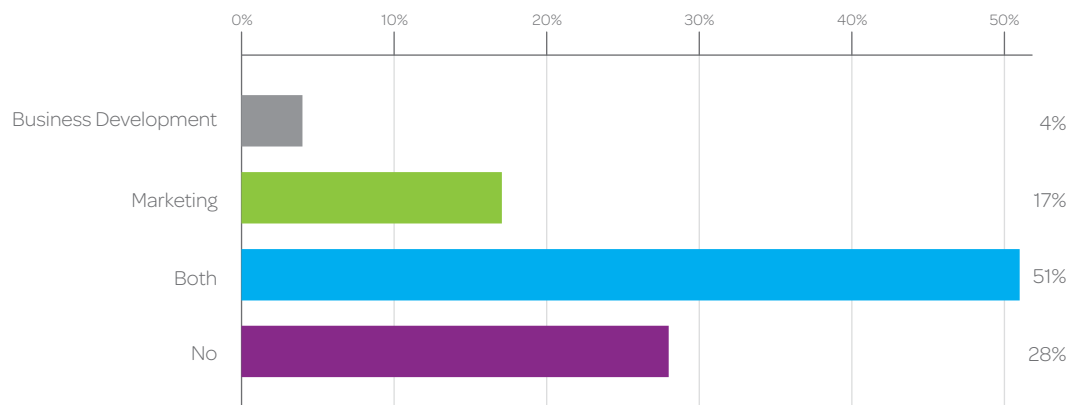
8. Does your firm intend to change its business development strategy in the next six months as a response to the changes anticipated as a result of the Legal Services Act? (%)



9. How much does your firm plan to spend on business development as a proportion of total fee income over the coming year? (%)



10. Do you employ the following staff? (%)



11. Is the business development function best handled by a lawyer or a dedicated business development / marketing specialist?

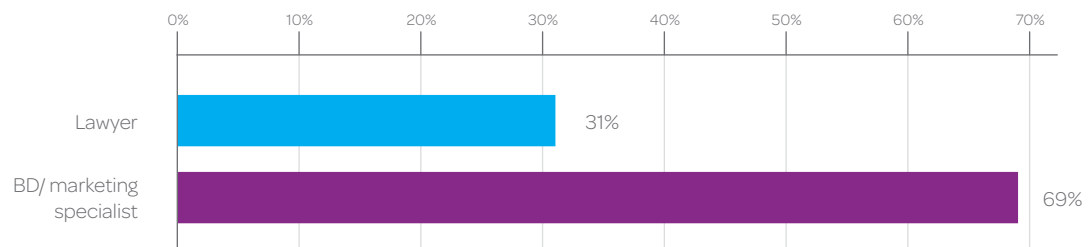


TABLE A: Please rank from 1 to 10 the following activities, starting with the most effective, in your experience, in terms of attracting new commercial clients and ending with the least important?

The figures below indicate how often the activity was scored '1' or '2' (as a percentage)

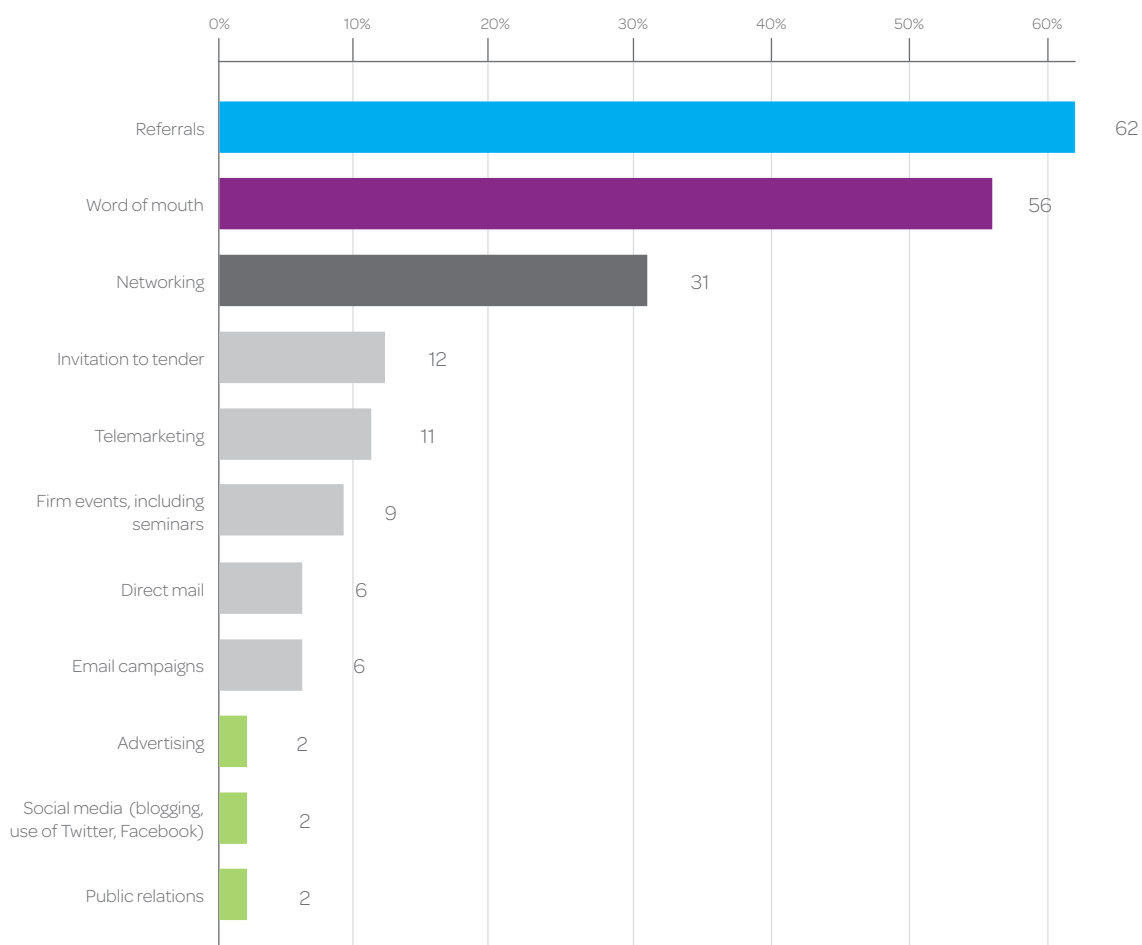
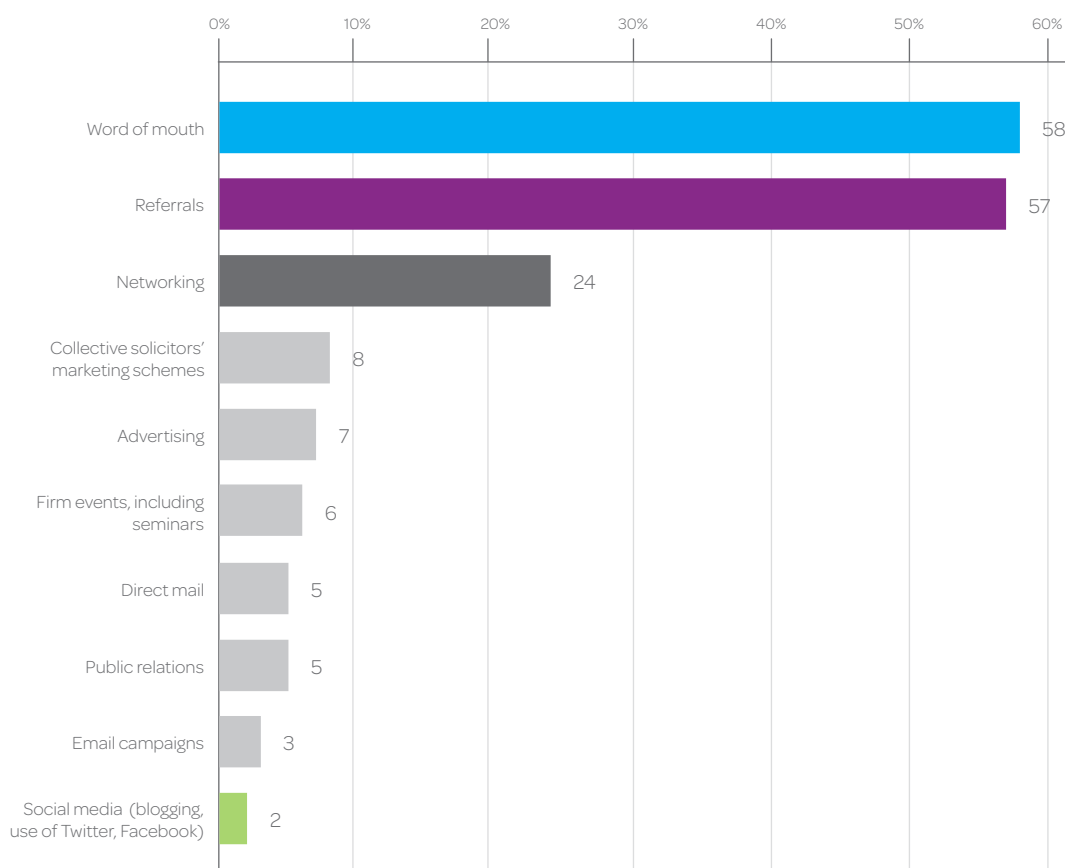
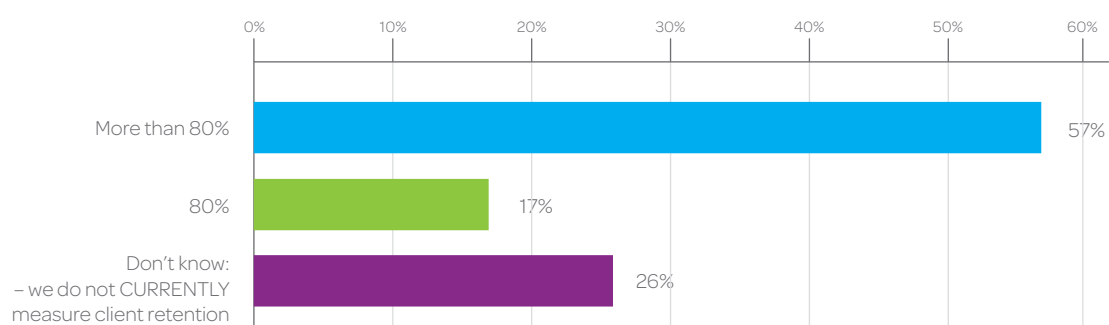


TABLE B: Please rank from 1 to 10 the following activities, starting with the most effective, in your experience, in terms of attracting new private clients and ending with the least important?

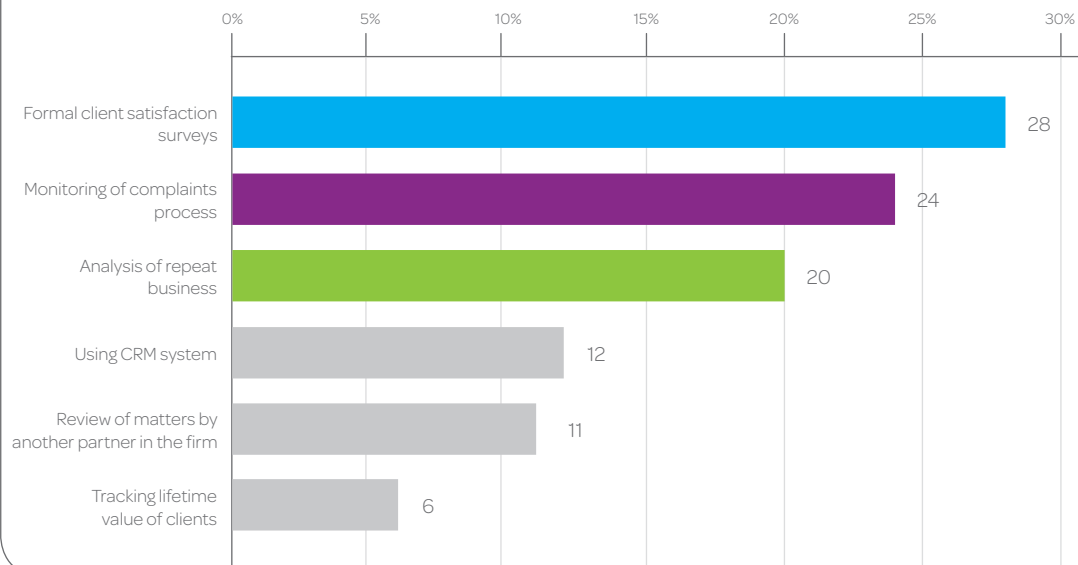
The figures below indicate how often the activity was scored '1' or '2' (as a percentage)



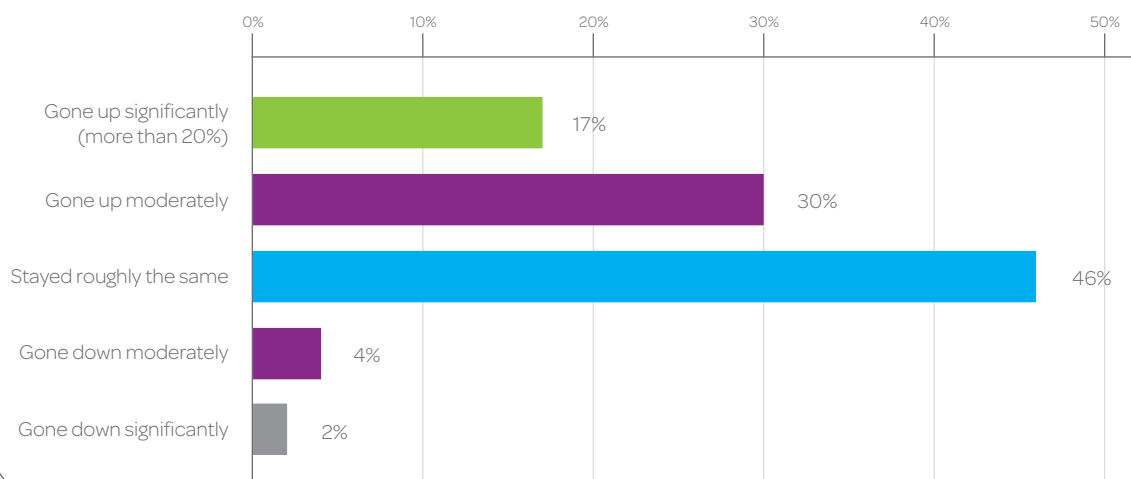
14. Is your client retention rate? (%)



15. How do you measure client retention and satisfaction? (Tick all that apply) (%)



16. Over the last year has your firm's spend on business development... (%)



17. Do you anticipate that over the next year your firm's spend on business development will...

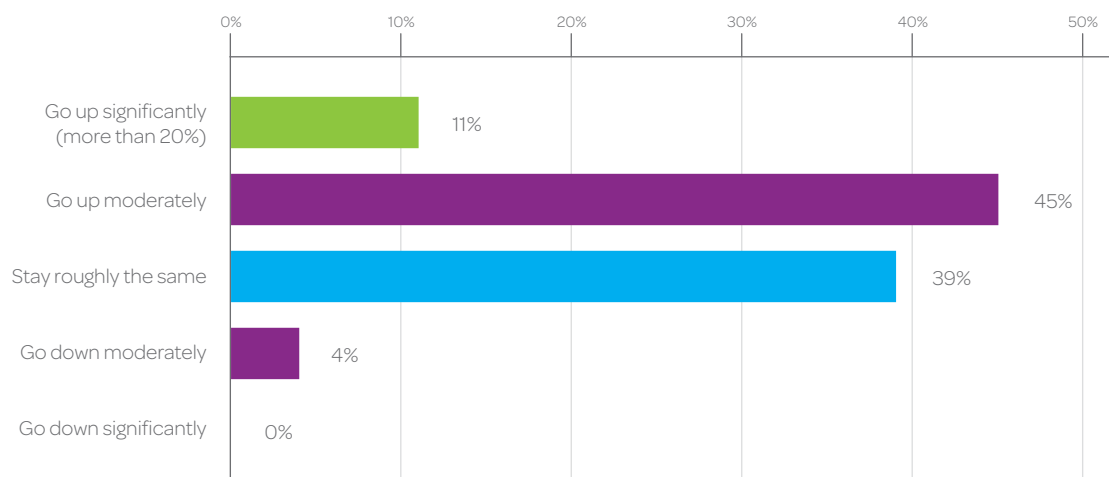
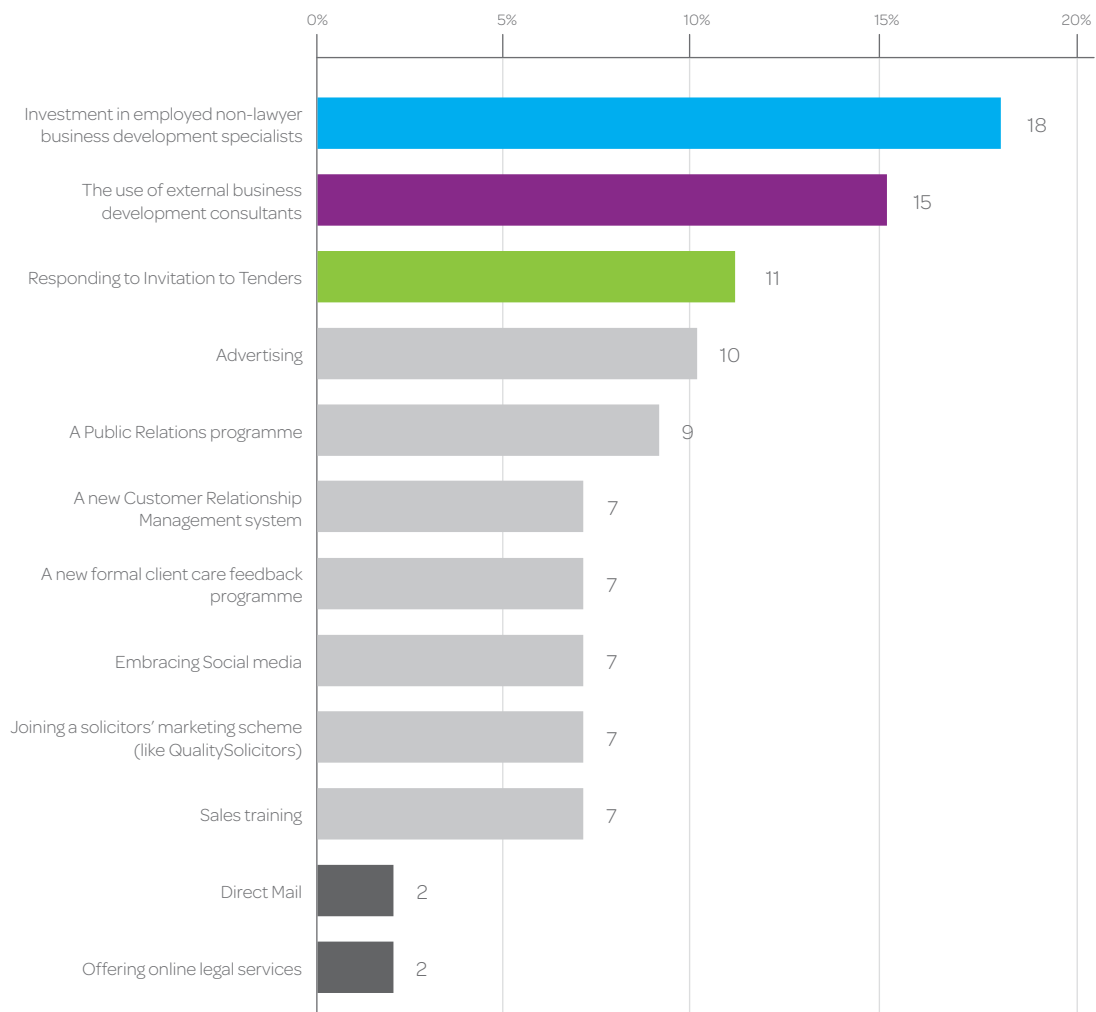
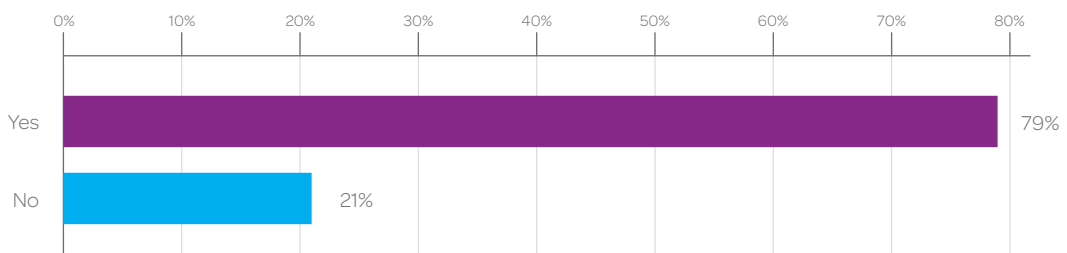


Table C: Which, if any, of the following business development initiatives has (i) been implemented over last 12 months; and (ii) has had the most positive impact on the firm from a business development perspective. Please tick one option only: (%)



20. Does your firm use technology to aid your business development initiatives? (%)



For more information

To find out more about [LexisNexis](#) and to discuss your firm's specific requirements, please visit www.lexislegalintelligence.co.uk, email info@lexisnexis.co.uk or call [020 7400 2984](tel:02074002984) to speak to LexisNexis.

