

Career progression in small- and medium-sized law firms: experiences of a diverse workforce

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Abstract

This thesis investigates both career progression structures and diversity management practices in small- and medium-sized law firms: those with fewer than 25 partners (Law Society, 2012). Previous studies have explored career advancement, barriers to entry into law and managing diversity, yet, they have primarily focused on larger companies. As smaller law firms form the majority of the legal sector, a more diverse profession would more effectively meet the needs of its clientele. Moreover, lawyers, described as highly-skilled knowledge workers (Druker, 2003), may be more attracted to career advancement; given their professional orientation. The research questions ask:

1. How is career progression structured in small- and medium-sized law firms?
2. What are perceived as the factors (personal and organisational characteristics) influencing career progression in small- and medium-sized law firms?
3. What diversity management practices exist in these law firms and how effective are they?

To answer these questions, data collection comprises 44 semi-structured interviews within case study firms. Findings suggest that while the smaller law firms followed a structural career progression route, both genders acknowledge encountering career obstacles. These tend to be gendered and racialised, as well as shaped by socio-economic status. Using an intersectional multi-level analysis model, three distinct themes emerge as relevant to the experience of working in the small- and medium-sized law firms; covering the importance of educational attainment, networks, and law specialism chosen. While all the organisations recognise increasing workplace diversity as significant and beneficial, diversity management and equal opportunities practices were primarily utilised during the recruitment process.

The contributions of this thesis are two-fold. Firstly, offering a new conceptualisation of diversity and diversity management within the smaller-firm context: ‘aesthetic diversity’. Secondly, examining career enablers and obstacles using intersectionality theory to better understand how its usage as a framework can generate beneficial smaller firm HR policies.

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Chapter 1: Introduction to the debates and concepts central to the thesis

Bolstered by increasing workforce diversity, this thesis considers how career progression is experienced by a diverse range of employees within the legal profession and the factors perceived to influence career progression in this context. More specifically, this research also investigates attitudes towards changing workforce demographics and evaluates the significance assigned by small- and medium-sized legal law firms to diversity management practices. The rationale for a study on career progression of individuals in the legal profession, as well as organisational diversity management initiatives, is founded upon a contribution to the existing literature on careers and diversity; additionally, supported by the scarcity of this type of research within the smaller business context. Akin to previous studies, this thesis acknowledges the growing importance of professions – both economically and occupationally – within the global economy (Muzio and Tomlinson, 2012).

Previous scholarship has primarily focused on larger law companies when exploring issues of career advancement and managing diversity. Advancing research in this area is important as the legal profession has grown by 34.8% between 2004 and 2014 (Law Society, 2016d) – almost triple the figure of real growth in the UK economy overall during this period (Law Society, 2016c). Despite increasing numbers of female lawyers entering professional service firms (PSFs) in recent decades, Pinnington and Sandberg (2013) observe that the ratio of women at the level of partner has not advanced as quickly. Within the legal profession, Nicolson (2005) categorically states that women continue to encounter discriminatory practices; a stark example of which is the enduring glass ceiling preventing career progression. “Gender is clearly a significant category of disadvantage, and the subordination of women within legal practice has been well documented” (Francis 2006:476). Nonetheless, given the context of the small- and medium-sized law firms investigated in this thesis, factors perceived by lawyers as influencing career progression (personal and organisational characteristics) may differ from larger law practices: answering the second research question of this thesis.

More specifically to this research focus, much scholarship also focuses upon the obstacles to entry to the legal profession – (for instance, Muzio and Ackroyd, 2005; Francis and Sommerlad, 2009; Sullivan, 2010; Ashley and Empson, 2013) – otherwise known as ‘occupational closure’ – and the difficulties faced by women and minority-

ethnic lawyers with regards to career progression within law firms (for example, Sommerlad, 2002; 2016; Nicolson, 2005; Ackroyd and Muzio, 2007; Pringle *et al.*, 2017). Taken together, while much has been written about the contexts and careers within these larger PSFs, fewer studies exist which have a similar smaller-size focus. This research thereby makes an important contribution to scholarship in this field via investigation of career structures and diversity management practices within small- and medium-sized law firms. As these firms comprise 98% of the legal sector (Aulakh and Kirkpatrick, 2016), they make for an interesting and valuable setting for research.

The work is framed using intersectionality. The emergence of intersectionality (Crenshaw, 1989), with its main interest founded in the intersection between race and gender, has been proposed as an innovative paradigm to investigate connections between marginalised groups and to examine discriminatory practices in diversity management studies. The term intersectionality references the critical insight that race, class, gender, sexuality, ethnicity, nation, ability, and age operate not as unitary, mutually-exclusive entities, but rather as “the reciprocally constructing phenomena that in turn shape complex social inequalities” (Hill Collins, 2015:2). Using Bourdieu’s (2005) terms, the law firms are conceptualised as *fields* of power (hierarchical social spaces in which agents compete over valued resources to improve their position, and dominate the direction of the *field*). As conflict and power struggle between simultaneously-interacting identities form the underlying components of intersectionality (Symington, 2004; Davis, 2008; Nash, 2008), this research offers a new frame from which to assess the existence of career progression obstacles. I aim to use intersectionality as a theoretical and analytical framework (Cho *et al.*, 2013) to better understand the data collected. I ask, firstly, whether intersectionality is a useful theoretical framework for better understanding the structure and impact of career progression obstacles within the smaller law firm *field*, and, secondly, whether this enhanced knowledge will augment the importance assigned by these small- and medium-sized firms to diversity management policies. Embracing the call to advance its methodological use (McCall, 2005), this research employs an intersectional analysis to scrutinise the composition of career advancement enablers and obstacles within the small law firm context.

This thesis examines three principal research questions. Firstly; how is career progression structured in small- and medium-sized law firms? Secondly, what are perceived as the factors influencing career progression in small- and medium-sized law firms? Thirdly and finally, what diversity management practices exist in the small- and medium-sized law firms and how effective are they? This thesis addresses these questions through qualitative research within 4 small and medium-sized law practices in England and Wales: those with fewer than 25 partners (Law Society, 2012). Two firms in this study are classed as ‘small’ (1-4 partners) and two are ‘medium’, headed by 5-25 partners (ibid.). As ‘small’ law firms constitute 85% of all legal practices in England and Wales (Law Society, 2015), they are worthy of study.

Following analysis of the interviews, career enablers were: connections and networks and advantageous environmental factors; whereas career obstacles were: financial barriers; the impact of the recession; family planning; the choice of law specialism; that law remains male-dominated at senior level; and, institutional barriers. However, the application of intersectionality, facilitated by the computer software NVivo, provided a nuanced insight of the structure and impact of career progression enablers and obstacles during the coding process. To further immerse myself in these findings, I analysed the interview data using the model of intersectional analysis proposed by Winker and Degele (2011) which explores intersectionality in a three-dimensional way: social structures, symbolic representations and identity constructions. In sum, the findings from this model resulted in the emergence of three key themes: (1) *Calibre, credentials and character*; (2) *Who you know than what you know is more important*; and (3) *Where you stand determines where you sit*. These groups/themes reveal new insights to advance knowledge on careers in small- and medium-sized law firms.

Implementing intersectionality in this way helps better comprehend how its usage as a framework can inform HR policies; especially, for the requirements of smaller firms. This thesis thus urges the designing of HR policies with an intersectional approach; the simplest of which to implement is widening the scope and reach of flexible-working arrangements (Özbilgin *et al.*, 2011). These policies would be designed to: familiarise owner-managers with the positive outcomes that a diverse workforce provides; demonstrate the importance of HR within the law practices; and, re-orientate the

organisations, using intersectionality, into more inclusive management of diversity and equal opportunities policies.

To answer the research questions, the findings portray career advancement within small- and medium-sized law firms as continuing to favour white males, who are solely committed and attached to their work and careers (Acker, 2006). While adopting a similar career progression structure to those found in larger firms, the findings demonstrate that career obstacles within these smaller law firms are also informed by gender, race and socio-economic status and thus, more likely to be experienced by women and minority-ethnic lawyers. Answering the third research question, due to the lack of HR professionals employed within the law firms in this study, this thesis recommends that small- and medium-sized law firms implement diversity training. While diversity training is noted to encounter resistance and hostile, negative responses from employees – unique reactions, usually undirected towards other training areas – organisations implementing diversity training which stresses a moral importance may enhance the effectiveness of diversity management discourse by conveying a genuine dedication to inclusion (Jones *et al*, 2013). This thesis makes an important contribution to research in this field by conducting an intersectional analysis of career progression within small- and medium-sized law firms in England and Wales.

Structure of the thesis

The thesis is organised in the following manner. The following chapter – chapter 2 – provides an overview of the social construction of the professions and details how Bourdieusian concepts help to frame career structures within the legal profession more generally. This structure presents an outline of professionalism and creation of specific social identities (Ashcraft, 2013). Thereafter, demographic information on the structure of the UK legal profession is presented and analysed and the role of intersectionality is delineated. Finally, this chapter examines career progression within the legal profession and considers career enablers and obstacles to advancement as a lawyer in small- and medium-sized law firms. Chapter 2 concludes by highlighting the great importance bestowed to social and cultural capital (Francis and Sommerlad, 2009; Cook *et al.*, 2012) for career progression; noting that female and minority-ethnic lawyers may be negatively-affected. These capitals are also key in maintaining the prestigious image of the legal profession (Ashley and Empson, 2013).

Chapter 3 then reviews the literature relating to diversity and diversity management and the increasing use of intersectionality as an analytical framework in business and management research. Firstly, the chapter investigates the manifold conceptualisations of diversity attributed over time; noting how researchers generally separate studies into diversity into three main groupings: task-related; traits and value; and demographic diversity (Riaz Hamdani and Buckley, 2011). Subsequently, the evolution of diversity management from equal opportunities legislation is described. The two rationales, commonly represented as the ‘business case’ and ‘moral case’ – the former often associated with managing diversity; and the latter regularly articulated in Equal Opportunities legislation (Urwin *et al.*, 2013) – are also evaluated. The first point that is noted in the thesis is that when measuring diversity via general demographic classifications (gender, ethnicity, age, etc.), the terminology used for the same or similar aspects of diversity in the literature is not identical; further complicating its study. Moreover, the umbrella terms used to embrace such demographic characteristics do not adequately address the intersectional aspects of individual differences. The language of ‘visible’, ‘invisible’ or ‘less-visible’ and ‘surface-level’ and ‘deep-level’ does not best account for the fluidity of differences and identities emphasises by intersectionality. It is partly due to this technical turmoil in the literature which inspired me to question participants about their own definitions of diversity. Following analysis of these range of definitions, the ‘aesthetic diversity’ concept – one of the contributions of this thesis – was conceived. The second part of chapter 3 provides a literature review of intersectionality; from its origins to the challenges surrounding its study and also its theoretical and practical contributions. The link to diversity management and to this research is also highlighted. Chapter 3 concludes by asking about the very application of diversity management in practice; setting up the thesis to explore the third research question: to discover whether and how diversity management practices are applied in small- and medium-sized law firms in England and Wales.

Following the literature review, chapter 4 describes the research design and methodological approach. Firstly, the conceptualisation of intersectionality used in this thesis as intracategorical – the study of individuals at the intersections of categories (McCall, 2005) – is explicated. Its use is justified in terms of best synchronising with the case study methodology and the intersectional multi-level analysis model (Winker

and Degele, 2011) used as part of data analysis. Thereafter, the philosophical position of interpretivism used within this thesis is explained; in terms of the need to investigate social phenomena and its focus upon the investigation of contexts and social setting for intersectional research, with its heart in the study of power relations.

The case study methodology is then detailed, as well as justifications provided for the use of semi-structured interviews as the optimal means to answer the research questions. The context of the research is described: four small-and medium-sized law firms in England and Wales; with the case study organisations and research participants within each case being charted. Issues regarding the quality and trustworthiness of qualitative data (Lincoln and Guba, 1985) are attended to and defended, considering the need to discover new data; specific to the experiences of employees in small- and medium-sized law firms in England and Wales. Before ethical considerations of the research project are outlined, the chapter offers a reflexive account into the research, before concluding with the advantages of the intracategorical approach and use of Winker and Degele's (2011) model for this research project in terms of seeking depth and quality of data to best explain the complexity in constructing the modern lived experience (Hill Collins and Bilge, 2016).

Chapter 5 forms the start of two empirical chapters and presents responses from interviewees in addressing the first two research questions: firstly, how is career progression structured and secondly, what are perceived as the factors influencing this career progression within the small- and medium-sized law firms? The chapter is then separated into two halves; with each half dedicated to answering each research questions. The first section delineates the career progression structure within the organisations, exploring the promotion criteria perceived as necessarily for successful advancement within the businesses. Formalised promotion processes were not in place in any of the four organisations, yet all were keen on internal recruitment: 'organic growth'. Promotion within all four firms, while seemingly-dependent upon levels of experience, appeared to revert to gender stereotypes: with more masculine-related skills and competencies (Brivot *et al.*, 2014) prized and required for progression. The second half discusses the perceived career progression enablers and obstacles; examining both personal and organisational factors. These are akin to those found in larger law firms.

Data analysis highlighted the factors perceived to facilitate career progression in the small- and medium-sized law firms: connections and networks and advantageous environmental factors. Conversely, the factors perceived to hinder career progression (particularly for female employees) were: financial barriers; the impact of the recession; family planning; the choice of law specialism; the fact that the legal profession remains male-dominated at senior level; and institutional barriers. The chapter concludes by arguing that (perceived) career progression enablers and obstacles should be understood through consideration of the implications of intersectionality; detailed further in chapter 7 and in the Discussion chapter.

Chapter 6 forms the second empirical chapter and firstly documents the difficulties in defining diversity: the explanations from participants, which covered issues of ‘difference’; and the ‘business case’. This approach allowed for an important discovery – a theoretical contribution of this thesis – to be made: the concept which I term ‘aesthetic diversity’; further explicated in this chapter. Following discussion of definitions, this chapter uncovers findings related to the third research question: whether diversity management practices exist within the small- and medium sized law firms and, if so, how effective they are. This section examines whether and how HR policies are implemented in the law firms, and explores the operational side of the businesses: the policies and procedures in place for employees and new applicants to the profession; covering recruitment, performance appraisals and training and flexible-working. While the importance assigned to increasing workplace diversity was seen across all organisations, as interviews progressed, it became apparent that there were no standardised HR policies supporting diversity management initiatives in any of the firms. Diversity management practices in the law firms were mainly viewed as synonymous to equal opportunities policies. The chapter concludes that legal compliance and monitoring by the Solicitors Regulation Authority (SRA) may be still required, to ensure implementation of equal opportunities and diversity management policies across the legal profession.

Chapter 7 is a conceptual chapter, which studies the findings of chapters 5 and 6 in more detail. It provides the scaffolding upon which the Discussion chapter builds when employing the intersectional multi-level analysis advocated by Winker and Degele (2011) to answer the second research question more fully. Chapter 7 explains how using

intersectionality provides a richer understanding into discrimination surrounding entry to, and progression within, the legal profession; given that research shows that the profession remains structured in accordance with gender, race and class (Feenan *et al.*, 2016). Using data from chapter 5, the chapter applies intersectionality to understand how participants have constructed their own identities – either consciously or unconsciously reflecting upon the (male) occupational identity (Ashcraft, 2013) of the legal profession - covering gender; socio-economic background; ethnicity; religion; and, age. The chapter then examines unequal treatment in more detail, concluding by providing more detailed examples, using an intracategorical complexity stance (McCall, 2005), to depict three employees at the intersections of categories in a case study format.

Having presented the empirical and conceptual chapters, chapter 8 unites the findings into the Discussion; fully explicating the answers to the research questions and presents the central argument of the thesis. Relating to the first research question, concluding remarks for the small- and medium-sized law firms in this study were to continue to offer flexible-working opportunities; given their flexibility, and thus, facilitating a satisfactory work-life balance, for working-parents and other employees, alike. The initial findings of the second research question were analysed in greater depth in the Discussion chapter, using the intersectional multi-level analysis model created by Winker and Degele (2011). Concluding analysis detailed that the career progression enablers and obstacles in the small- and medium-sized law firms related to professionalism and a male occupational identity (Ashcraft, 2103). The findings of the third research question, while acknowledging that the legal profession had made progress in its aim to increase the diversity of its workforce by making entry to the legal profession more accessible – which should be applauded – argued that there is a need for the small- and medium-sized law firms to recognise the benefits that employing a HR professional would make to the success of their firms, as well as urging the firms in this study to implement diversity training.

The thesis concludes with chapter 9. This chapter briefly reconsiders the empirical findings – the perceived career progression enablers and obstacles within the firms and the diversity management practices implemented within the organisations. The principle theoretical contribution of the thesis – a reframing of diversity management via the

‘aesthetic diversity’ concept – is presented, as well as the case made urging research within the professions to employ an intersectional approach, to better understand the complexities underpinning the professional services sector. Implications for policy and practice are suggested, which include, firstly, urging the SRA to make diversity training mandatory as part of the (ongoing) education of lawyers; secondly, strongly advising governmental policy makers to enforce section 14 of the Equality Act 2010, which covers dual discrimination and for this measure to include both direct and indirect forms of discrimination; and, thirdly, to appeal to small- and medium-sized law firms in implementing diversity management policies, as they are central for their continuing organisational success. The chapter concludes by considering the limitations of the thesis, and identifying potential avenues for future research.

Research reflections

The personal motivation for this study was inspired by the scope of intersectionality. What was the most fascinating was how an intersectional framework could analyse different dimensions of inequality simultaneously. This is due to intersectionality appreciating the richness of multiple identities unique to every individual (Hill Collins and Bilge, 2016). As smaller-sized law firms are of increasing importance to the UK economy (Aulakh and Kirkpatrick, 2016), I hope, given the law firm context, that as advocates of fairness and justice, this is also grounded in their own working practices.

Chapter 2: Careers in small- and medium-sized professional service firms (PSFs)

2.1 Introduction

This chapter begins by reviewing the business environment: the legal profession in England and Wales. An overview is provided detailing the concepts central to the construction of professional service firms (PSFs) by drawing upon Bourdieusian theory. Thereafter, the demographic composition of the legal profession in England and Wales will be illustrated; with a specific focus on the small- and medium-sized law firms. The latter sections examine the meaning of career within the legal profession and considers career enablers and obstacles to advancement as a lawyer. This chapter concludes by addressing a gap in the literature and sets out the aim of this thesis: to conduct a study of career progression within small- and medium-sized law firms.

2.2 Defining the business environment: the legal profession in England and Wales

The legal profession forms the context for this research. The legal profession in England and Wales is typically formed of two branches: barristers and solicitors; both represented by professional bodies – the former by the General Council of the Bar for England and Wales and latter, by the Law Society (Boon and Webb, 2010). Solicitor numbers have grown by over a third between 2004 and 2014 – with more than 130,000 practising solicitors in 2014 – of which the percentage of women practitioners have grown from 40% to nearly 50% in the space of these ten years (Law Society, 2016d). Figures from July 2017 show that the UK Solicitors Regulation Authority (SRA) regulated 10,471 solicitor firms; with 2,549 (24%) being sole practitioner firms (SRA, 2017d). Additionally, legal sector growth of nearly £2 billion in 2014-15, and year on year increases of 3.3% since 2006 – compared to normative UK economic growth of 1.2% since 2006 (Law Society, 2016c) – show that this industry is of great strength and significance to the UK economy.

In their review, Aulakh and Kirkpatrick (2016) present statistics categorising the landscape of the legal profession; differentiating between the law firms included in the ‘top 200’ list and the remaining legal practices. The ‘top 200’ firms (the elite ‘silver circle’, ‘magic circle’ and ‘city law firms’) usually generate a minimum of £11.5 million revenue, and are classed as ‘large’: having either a high partner count (more than 26); or hiring more than 41 solicitors (Law Society, 2012). These larger firms predominantly provide services to businesses and conduct ‘business work’, such as

commercial property law, corporate/commercial work and intellectual property (Law Society, 2016d). Much literature (for instance, Bolton and Muzio, 2007; Francis and Sommerlad, 2009; Sommerlad *et al.*, 2010; Ashley and Empson, 2013; 2017) has indeed investigated the contexts of large commercial firms within the UK legal profession. The other firms, often alluded to as ‘high street’ or ‘retail’ practices, are classed as ‘small- and medium-sized’ due to the numbers of partners or solicitors (Aulakh and Kirkpatrick, 2016). Recent UK statistics have recorded 4,049 ‘small’ law firms (those with 1-4 partners); with ‘small’ law firms and sole practices comprising 85% of all legal practices in England and Wales (Law Society, 2015). Given the abundance of small- and medium-sized legal practices – comprising 98% of the legal sector (Aulakh and Kirkpatrick, 2016) – the lack of attention afforded to studying the smaller law firm context is surprising. This research concentrates on these smaller law firms located within England and Wales, which form interesting and worthy settings for research. These small- and medium-sized businesses usually provide services related to ‘retail market work’, such as family law, personal injury, wills and probate and conveyancing (Law Society, 2016d). Approximately 50% of the turnover of small and medium firms is generated from the combined services of ‘retail market work’; compared to roughly 12% for ‘top 200’ law firms (Law Society, 2012). As these are less profitable law specialisms, (Bolton and Muzio, 2007; Sommerlad, 2016), this may affect the availability of career opportunities in the small- and medium-sized firms.

2.3 The social construction of the professions: key concepts

There has been much debate in the literature as to what constitutes a professional services firm (PSF). Historic notions of a PSF are in line with the distinctive characteristics proposed by von Nordenflycht (2010): knowledge intensity, low capital intensity, and professionalised workforce. Haynes (2013) states that knowledge intensity – often supposed to be the central trait of PSFs – should be specified as either stemming from human capital or from organisational equipment and routines. Low capital intensity denotes that substantial quantities of “nonhuman assets, such as inventory, factories and equipment, and even intangible nonhuman assets like patents and copyrights” are not involved within a company’s production process (von Nordenflycht, 2010:162). The professionalised workforce emerges following demanding and thorough professional qualifications to achieve the set high standards (Haynes, 2013). As Mintzberg (1979:96) notes, “training is a key design parameter in

all work we call professional”. Of interest to this research, a business possessing all three of the above characteristics, such as an accountancy, law firm or architects, is classified as a ‘Classic PSF’ (von Nordenflycht, 2010).

The legal profession, the context of this research, has made sole claims to specific knowledge areas and has continued to control their fields of work – known as a ‘jurisdiction’ – which is a vital component of professional power (Malhotra and Morris, 2009). In other words, PSFs have established the ‘professional mobility project’ (Larson, 1977). The Law Society (2016a) requires all lawyers to have solid technical skills, from completion of the law degree and the Legal Practice Course (LPC) or CILex qualifications, yet also to develop their business-, risk- and project-management abilities – (indirectly) benefitting corporate lawyers who employ these aptitudes in their everyday practice. PSFs have traditionally underlined the importance of this human capital (Ashley and Empson, 2013). Over time, the professions seem to have been socially constructed in such a way to reject those who do not possess – nor are able to control ownership over – the relevant levels of specialist knowledge; and thereby, further distinguish themselves by their ability to persuade others of the unique qualities of their skills (Grey, 1998; Freidson, 2001). This neo-Weberian informed ‘occupational closure’ (Sommerlad, 2007) secures social stratification, which preserves the self-interests of professionals: their salary, status, power and control of their jurisdiction (Larson, 1977).

As owners of this customised, specialist knowledge (Empson, 2001), ‘knowledge workers’ essentially own the means of production, in that they hold these valued skills and knowledge in their minds and will subsequently remove this from the organisation when they leave (Druker, 2003). Nevertheless, this knowledge is deemed to be ambiguous in nature in that the quality of this ‘knowledge work’ is “very difficult to evaluate, at least for those outside the sphere of the experts concerned” (Alvesson, 2001: 867). Image has thus become a proxy for this ambiguity: a type of cultural capital (Cook *et al.*, 2012). For instance, an exclusionary practice performed by the larger firms to maintain their elite brand image (Ashley and Empson, 2013) is preferring to recruit from the traditional, and predominantly, the elite universities; on the belief that this highest stipulated entry criteria will deliver the best graduates (Rolfe and Anderson, 2003) most suited for the profession (Hanlon, 2004). Bourdieu’s (1986) work has since

been employed by many scholars to explain the enduring social exclusivity present in elite law firms in England and Wales (Cook *et al.*, 2012; Ashley and Empson, 2013; 2017).

Bourdieu (1972:179) differentiates the different forms of capital: economic (income, wealth and possessions), cultural (knowledge in the forms of embodied, institutional and objectified capitals), social (connections and relationships) and symbolic capital (prestige or reputation), which prove advantageous in structured social spaces. These hierarchically-organised social spaces, termed *fields* (Bourdieu, 2005) allow for these capitals, principally cultural, to obtain their value (Ashley and Empson, 2013). This results in the unequal distribution of the different types of capital. Bourdieu (1993:72, italics in original) states that:

“In order for a field to function, there have to be stakes and people prepared to play the game, endowed with the habitus that implies knowledge and recognition of the immanent laws of the field, the stakes and so on”.

Unpacking this definition, *habitus* is described as the embodiment by social agents (in the case of this thesis, of lawyers) of values, social rules and dispositions. As a “structuring structure, which organizes practices and the perception of practices, but also a structured structure” (Bourdieu, 1984:170), the *habitus* is learned through and ‘structured by experiences over time; notably upbringing and education, which condition perceptions of present experiences (ibid.). The *habitus* is therefore an outcome of internalising the social world (structured structure) which affects the shape and perception of current structures and practices (structuring structure). The *habitus*, over time, becomes embodied in individuals via social and cultural experiences. This then equates to forms of capital, which translate into power and forms of and social currency for those individuals who possess the legitimised forms of capital within designated *fields* (Bourdieu, 1986).

In the context of this research, the *field* is the legal profession and the *habitus* incorporates patterns of thinking, acting and behaving (Bourdieu and Wacquant, 1992); i.e. the sense of what it means to be a ‘professional’. Relating these terms to this thesis, career progression is dependent upon lawyers adhering to the *doxa*: following the

‘rules’. Social and cultural capital remain especially important in obtaining entry into, and career success within, the legal profession (Francis and Sommerlad, 2009). These result in symbolic capital, defined by Bourdieu (1989:17) as the “form that the various species of capital assume when they are perceived and recognised as legitimate” within the field. When the *habitus* gained by a lawyer provides them with the ability to grasp “a feel for the game” (Bourdieu, 1990:66) and matches their social *field* (law firm), their career progression is facilitated.

The literature on careers has increasingly highlighted the usefulness of social structures for the development of human capital (Seibert *et al.*, 2011). These valuable social resources, embedded in networks, are those which will provide actionable benefits to individuals within that social structure: a key tenant of social capital (Coleman, 1990). For instance, Kay and Hagan (1999:532) argue that social capital, defined as “the sum of the actual and potential resources that a lawyer can mobilize through membership in social networks of colleagues, family, and clientele”, is essential for progression in large law firms. Ashley and Empson (2017:214-15, italics in original) describe three forms of cultural capital:

“*embodied capital* refers to both consciously and passively inherited properties of the self which are typically acquired through socialization and tradition; *institutional capital* refers to institutional recognition of the cultural capital held by an individual, most commonly academic credentials and qualifications; and *objectified capital* refers to physical objects that are owned”.

The ownership and influence of these various forms of capital has garnered considerable interest within the literature on the legal sector (Rolfe and Anderson, 2003; Sommerlad, 2007; Cook *et al.*, 2012). The “exclusionary norms and practices” adopted by large law firms operate as “subtle and institutionalised constraints” (Sanderson and Sommerlad, 2000:165); resulting in disadvantaging the entry and progression of women and minority-ethnic lawyers. In Bourdieusian terms, “individuals with less career capital [mix of economic, social and cultural capital] may be confronted with the situation of being in a field which does not fit their habitus, and in which their career capital is undervalued” (Iellatchitch *et al.*, 2003:731).

Following reflection of this Bourdieusian theory, firstly, it is important from both a career progression and intersectional viewpoint, to consider the evolution of the educational systems responsible for training aspiring lawyers. Within the legal profession – an occupation whose professional standards were characterised by the white, middle-class male paradigm – closure regimes unavoidably became gendered, racialised and affected by class dynamics (Muzio and Tomlinson, 2012). The legal sector has thus been under pressure for many years to educate a larger and more diverse student base, especially with regards to socio-economic background. This is evinced by the 1963 Robbins Report (Barr, 2014), and, more recently, through regulatory checks, such as Sir David Clementi’s review (Clementi, 2004). Burrage (1996) notes how over the years, the legal profession has had to tackle and adjust to the rival systems of formalised University education and of practice-based legal teaching. For instance, polytechnics were established to accommodate a diverse range of student groups – outside of traditional socially-privileged students – based upon teaching-directed, instead of research-directed, learning and was more vocational in nature; complimenting businesses and professional industries (Boon and Webb, 2010). Large numbers of students from formerly-rejected groups have thus since entered the profession (Sommerlad, 2008).

After the training process requiring five-year articles of clerkship ended in the 1980s (Burrage, 1996), the pathways to qualification as a solicitor consisted of: initially, studying for a law degree or Common Professional Examination, then completing a one-year Legal Practice Course (LPC) at an accredited institution, followed lastly by securing a training contract at a law firm (SRA, 2013). Moreover, after their Undergraduate law degree, students can instead opt to complete a CILEx course to become a chartered legal executive, and then choose to qualify as a solicitor later (Webley, 2015). Nevertheless, this expansion of higher education provisions has not been accompanied by a weakening of occupational closure (Sommerlad, 2007). Rather, law firm elites are able to capitalise upon their rewards by only legitimising certain types of cultural capital linked to middle-class status (Ashley and Empson, 2013). Empirical research on large law firms concludes that students from lower socio-economic backgrounds, from minority-ethnic groups and who studied at polytechnics tend to encounter larger obstacles to entry into the legal profession (Rolfe and Anderson, 2003; Sommerlad *et al.*, 2010; Sullivan, 2010; Ashley and Empson, 2013;

2017). “Advantage and disadvantage are therefore systemic factors in selection for the profession” (Boon *et al.*, 2001:567).

In sum, much scholarship (Bolton and Muzio, 2007; Sommerlad *et al.*, 2010; Ashley and Empson, 2013; 2017) has examined the social construction of the professions within the contexts of large commercial firms. One of the research gaps this thesis wishes to fill is in studying these phenomena (in addition to career progression) in small- and medium-sized law firms. Another gap this thesis tackles is in studying workforce diversity and the application of diversity management practices within these smaller law firms. This makes for valuable research, as it has become even more important following the 2008 financial crisis, for PSFs to provide suitable services and functions to meet the needs of the wider community (Muzio and Tomlinson, 2012).

2.4 Demographics of the legal profession in England and Wales

The UK legal profession presents an interesting context for this research in terms of its economic importance. Research by The Law Society (2016b) indicates that 8000 new positions are created and almost £400 million is added to the economy for every 1% increase in the growth of the UK legal services sector – a sector which contributes around £26 billion to the UK economy each year. The legal profession thus continues to be an attractive industry for new entrants. Recent data reports high numbers of students successfully completing the LPC: 70% in 2014/15 and 69% in 2013/14; with both male and female students performing equally well (SRA, 2017d). Reflecting upon career progression in law, Pringle *et al.*, (2017) refute the claim that women do not possess sufficient human capital for career advancement by reviewing statistics which show that higher numbers of women graduate and enter the legal profession than men; with many women achieving the level of ‘associate solicitor’ – the grade below ‘partner’.

Of interest to the intersectional analysis used in this research, Table 1 presents demographic information on the structure of the UK legal profession. While recent research using SRA data has been published on this topic (Aulakh *et al.*, 2017), the figures presented in Table 1 use two data sources and are thus able to provide additional information regarding diversity characteristics; allowing for a deeper intersectional analysis. The data presented in the Law Society (2016b) report is collected from both The Annual Statistics Report 2015 (published in 2016) – which shows figures on age,

gender and ethnicity – and The PC Holder Survey (2015) – a telephone survey with 1,502 randomly-chosen lawyers working in private practice, in-house and government – which records data on disability, religion, sexual orientation and caring responsibilities (ibid.)

There were 9,403 private practice firms registered in England and Wales in 2015, which employed 91,062 solicitors (68.3% of PC holders) (Law Society, 2016b). Looking at Table 1, the representation of practising certificate (PC) holders in terms of gender and ethnicity has remained fairly static from 2013 to 2015. Analysing the data more closely, one finds that in 2015, women comprised 48.8% of total solicitors with PCs; compared with 41.6% in 2005. Since 2005, female solicitors with PCs have increased by 55.2%; while the numbers of men only increased by 15.7% (ibid.). Considering ethnicity, while Black, Asian and minority-ethnic (BAME) solicitors with PCs accounted for 13.9% of solicitors in 2015 – with no great change from 13.7% recorded in 2014 – within the 2015 total, 16.1% were women, compared with 11.8% of men (Law Society, 2016a). These figures are not too divergent from the 2011 Census data for England and Wales, in which 14% of the population defined themselves as belonging to a BAME group (ONS, 2012). Taking the intersections of ethnicity and gender for the 2015 figures, female PC holders are better represented within the entire BAME solicitor population (56.7%) than those of White European origin (48.1%) (Law Society, 2016b).

Examining ethnicity data from the Annual Statistics Report 2015 (Law Society, 2016a), while one-third (33.3%) of white PC holders working in private practice were partners, the proportion was 22% for BAME groups. Those of ‘Asian’ origin (23.8%) and of ‘Other ethnic origin’ (19.7%) represented the highest proportion of BAME groups at partnership level in 2015; followed by African-Caribbean and African (19.4% and 19.1% respectively). Furthermore, BAME solicitors were more than twice as likely to be sole practitioners at 9.2% – with those of ‘African’ origin (15.2%) most likely to be sole practitioners – compared to 3.9% of white solicitors. Finally, 38.3% of all 752 Chinese solicitors working in private practice in 2015 were at associate level – the highest figure of all ethnicities in this status group (Law Society, 2016a).

Table 1: Law Society MI data, July 2015, PC Holder Survey 2015

Diversity strand		% of PC holders 2015 ¹	% of PC holders 2014	% of PC holders 2013
Gender	Male	51.2%	51.8%	52.3%
	Female	48.8%	48.2%	47.7%
Disability	Disabled	5.9%	4.9%	3.0%
	Not disabled	93.6%	94.4%	96.6%
Ethnicity	African Caribbean	0.7%	0.7%	0.7%
	African	1.4%	1.4%	1.4%
	Asian	8.0%	7.8%	7.5%
	Chinese	1.3%	1.3%	1.3%
	Other ethnic group	2.5%	2.5%	2.2%
	White/European	75.7%	77.3%	78.0%
Age	Under 25	0.3%	0.2%	0.6%
	26-30	11.5%	12.2%	14.2%
	31-35	18.9%	19.4%	19.8%
	36-40	17.2%	16.8%	16.0%
	41-45	14.3%	14.5%	14.5%
	46-50	12.5%	12.3%	11.7%
	51-55	9.6%	9.5%	9.1%
	56-60	7.4%	7.3%	7.1%
	61-65	4.7%	4.7%	4.4%
	66-70	2.4%	2.3%	1.9%
71+	1.0%	0.9%	0.8%	
Sexual orientation	Heterosexual/straight	94.6%	92%	92.7%
	Lesbian/gay/bisexual/other	2.6%	2.2%	2.5%
Religion or belief	Buddhist	0.9%	0.6%	0.2%
	Christian	48.7%	48.5%	55.0%
	Hindu	1.9%	1.7%	1.7%
	Jewish	2.3%	3.0%	2.5%
	Muslim	3.8%	2.4%	1.9%
	No religion	35.4%	35.3%	33.2%
	Sikhism	1.5%	1.2%	1.7%
	Other	1.9%	2.5%	1.1%
Socio-economic background	First generation in family to attend university	52.7%	50.5%	53.1%
	UK independent/fee-paying school	27.4%	26.6%	28.6%
	Eligibility for free school meals	11.2%	10.8%	NA
Caring responsibilities	For children	37.1%	29.4%	29.4%
	For adults	20.1%	19.8%	17.7%

Table 2: Ethnicity of partners, by firm size in 2015

Ethnicity	All in pp	% of partners						Total
		Sole	2-4 partners	5-10 partners	11-25 partners	26-80 partners	81+ partners	
African-Caribbean	144	1.2%	0.5%	0.3%	0.3%	0.3%	0.2%	0.4%
Asian	2,438	16.9%	12.5%	4.0%	3.5%	2.7%	2.7%	7.4%
Chinese	164	0.8%	0.8%	0.3%	0.2%	0.3%	0.4%	0.5%
African	384	4.1%	1.9%	0.1%	0.5%	0.2%	0.2%	1.2%
Other ethnic origin	501	2.7%	1.6%	1.3%	1.2%	1.0%	1.4%	1.5%
All BAME groups	3,631	25.6%	17.4%	5.9%	5.7%	4.4%	4.8%	11.1%
White European	26,261	65.6%	73.4%	87%	85.3%	86.7%	84.9%	79.9%
Unknown	2,959	8.7%	9.3%	7.1%	9.0%	8.8%	10.3%	9.0%
Total	32,851	100%	100%	100%	100%	100%	100%	100%

Several reports on career choice and ambitions of young people have demonstrated that students from all ethnic backgrounds have high aspirations (EOC Moving On Up report, 2007; Healy *et al.*, 2006). Table 2, however, depicts that BAME partners appear to be better represented in smaller firms – comprising 25.6% of sole practitioners and 17.4% of partners in 2-4 partner firms – contrasted with 4.8% of partners in the largest companies (81+ partners) (Law Society, 2016b). While the recruitment and selection process “distributes entrants according to crude measures of academic achievement, such as the educational establishment attended, it actually allocates individuals to firms according to characteristics such as class and ethnicity” (Boon *et al.*, 2001:591). Education and training within law, and indeed the profession itself, have faced cultural diversity issues due to the academic and recruitment systems (Webb and Fancourt, 2004). This lack of cultural diversity is most pronounced in London, ‘City’-based and commercial law firms, which seek graduates possessing a robust financial and commercial-based law background, in addition to a strong academic and research ethos (Boon and Webb, 2010). Related to all ethnicities, White European partners constitute the majority-ethnic proportion (87%) in firms with 5-10 partners (Law Society, 2016b). One must not overlook the fact that the ethnicity of 9% of individuals working in private practices – almost 3000 partners – and those of ‘Other ethnic origin’, forming 11.1% or 3631 partners, remains unknown (*ibid.*).

Table 3: Women partner equivalents, by ethnicity and size of firm (2015)

Ethnicity	All in pp	% of partners						Total
		Sole	2-4 partners	5-10 partners	11-25 partners	26-80 partners	81+ partners	
African-Caribbean	82	0.7%	0.3%	0.2%	0.2%	0.2%	0.0%	0.2%
Asian	834	5.8%	4.1%	1.4%	1.6%	1.1%	0.8%	2.5%
Chinese	80	0.4%	0.4%	0.1%	0.1%	0.1%	0.2%	0.2%
African	151	1.8%	0.7%	0.1%	0.3%	0.0%	0.0%	0.5%
Other ethnic origin	202	1.3%	0.7%	0.5%	0.4%	0.4%	0.4%	0.6%
All BAME groups	1,349	10.1%	6.1%	2.4%	2.5%	1.8%	1.5%	4.1%
White European	7,460	20.5%	22.7%	26.4%	24.9%	24.4%	19.4%	22.7%
Unknown	662	2.4%	2.3%	1.6%	1.8%	1.9%	1.9%	2.0%
Total	9,471	33.0%	31.1%	30.4%	29.2%	28.1%	22.8%	28.8%

Similarly, to the above, Table 3 shows that female partners were better represented within smaller firms; comprising 33% of sole practitioners and 31.1% of partners within firms with 2-4 partners, compared to 22.8% of partners within the largest companies (81+ partners) (Law Society, 2016b). BAME women made up 4.1% of all partners, 10.1% of all sole practices, but just 1.5% of all partners within the largest firms (81+ partners) (ibid.). Analysing the intersection between gender and ethnicity a little further, while White European women form the majority of partners across all firms, averaging 22.7%, across all firm sizes, White European men comprise 52.7% of partners. Moreover, 14.2% of the 9,471 female partners and 9.8% of 23,380 male partners were from BAME backgrounds in 2015; while BAME men made up 6.9% of all partners, 15.6% of all sole practices, but only 3.3% of all partners within the largest firms (81+ partners) (ibid.).

Looking at the data presented in the Law Society diversity report, there is an issue of specific interest to this thesis. While the report outlines the age distribution of solicitors (and, very briefly, caring responsibilities) by gender, only the characteristics of gender and ethnicity were charted in terms of firm size; with disability, sexual orientation, religion/belief and socio-economic status outlined only as a percentage of the total number of PC holders surveyed. With regards to disability, the proportion of workers who are classed as having a disability/impairment has almost doubled over the 2-year period, yet these figures do not total 100%. A probable explanation is that some

individuals may have selected the options of ‘do not know’ or ‘refuse to say’ on the surveys. Almost 6% of PC holders in the 2015 PC holder survey reported having a long-term illness, health problem or disability. This data suggests that disabled solicitors are under-represented, compared with the working-age population of England and Wales at large, at 16% (DWP, 2014). Solicitors with disabilities were more likely to work in the government sector (11.3%) than in private practice (5.5%) (Law Society, 2016a). Other diversity characteristics, such as age (almost two-fifths (62%) of PC holders were below the age of 45), sexual orientation and religion have remained relatively constant, with only several minor fluctuations, from 2013 to 2015. Solicitors identifying themselves as either gay, lesbian or bisexual totalled 2.6% in the PC Holder Survey 2015; compared to 1.7% of UK adults in general (ONS, 2015). Caring responsibilities, both for children and adults, have increased over the period 2013-2015. While 37.1% of PC holders acted as the primary carers for children, fairly evenly distributed between men (36.4%) and women (37.8%), within those 20.1% providing care to adults – family members, friends, neighbours or others – considerably more women (21.6%) performed this task; compared to 16.7% of men (Law Society, 2016a).

What is noteworthy from Table 1 is that, in terms of socio-economic background, over half of PC holders every year have been the first generation in their family to attend university (Law Society, 2016a). This seems to contradict the commonplace belief that recruitment of PSFs, such as campus visits, is generally targeted at the most prestigious universities; who are expected to house a high proportion of privately-educated students, and/or who are from rather privileged backgrounds (Rolfe and Anderson, 2003; Ashley *et al.*, 2015). Nonetheless, equity partners were most likely to have gone to a UK independent school (38%); compared with 24% of associate solicitors and salaried partners (26%) (Law Society, 2016a). However, recruitment processes differ depending upon firm size; with smaller firms preferring to utilise informal recruitment methods, such as hiring students after completing placements at firms, or exchanging information with other small local firms on paralegals who are searching for training contracts (Rolfe and Anderson, 2003). This not only reduces the opportunity to recruit from a broad socio-economic spectrum, yet also consequently generates different barriers to entering the profession; contingent on the firm students apply to (Sullivan, 2010).

Relaying these figures to the small- and medium-sized law firms – those with no more than 25 partners (Law Society, 2012) – researchers would expect to see women forming 30% of the partnership, with women from BAME backgrounds constituting a third of this figure; and almost 10% (9.6%) of all partners to be from BAME groups within these sizes of firms. While these statistics seem promising when compared to the larger ‘elite’ firms, it may be that although salaries usually increase with firm size, job satisfaction tends to decrease: larger firms feel the need to compensate extrinsically; given the greater range of law specialisms and more formal, detached atmosphere (Wallace and Kay, 2009). While small- and medium-sized law firms may be viewed as more pleasant places of work, they face greater challenges than their larger counterparts relating to: increasing competition (exacerbated by difficulties with legal compliance), securing bank finance and staff costs; with their livelihood dependent upon property market sales, real households’ disposable incomes and overall economic business activity – given their ‘retail work’ specialisms (Law Society, 2012). This research upon small- and medium-sized legal practices will shed light on the above assumptions; with opportunities for career progression in these firms discussed below.

2.5 Careers in the legal profession: concepts and definitions

Akin to the definition of career proposed by Arthur *et al.*, (1989), Hirsh (2007:2) sees careers as “the sequence of work experiences an employee may have over time”; involving the varying nature of work within a job, working on diverse projects, or changing jobs through, more commonly, a range of sideways transfers across departments or functions; rather than upwards moves. This is the meaning of career adopted in this thesis, as this definition acknowledges the importance of time above any potential constraints of workplace, varying notions of mobility (upward, downward, across workplaces or industries), working arrangements or specific depictions of career success (Arthur *et al.*, 2005).

Historically, scholarship has tended to conceptualised careers as operating within the limits of established hierarchical organisational structures (Sullivan and Baruch, 2009). Employing Bourdieusian concepts, Iellatchitch *et al.*, (2003:732) defines career fields, as:

“the social context within which individual members of the workforce, who are equipped with a specific portfolio of field-relevant capitals, try to maintain or improve their place in the given and unfolding network of work-related positions through a patterned set of practices which are enabled and constrained by the rules of the field and, in turn, contribute to the shaping of these rules”.

Thus, the hierarchical structure of Weberian bureaucratic organisations – embedded within the legal profession – acts not only as a control function, yet also presents “a potential career ladder and thus a reward mechanism for individuals” (Watson, 2017:159). Reflecting upon career theory to answer the research questions of this thesis, it is argued that professionals working in ‘Classic PSFs’ may benefit from higher job security relative to other sectors (Pinnington, 2011). Within the ‘Classic PSF’ the old-fashioned, ‘linear career’ remains the dominant structure in that professionals are socialised to adopt “more traditional career attitudes, behaviors, and expectations through such policies as reliance on promotion from within and benefits associated with increased seniority or firm-specific training” (Sullivan and Baruch, 2009:1562). In Bourdieusian terms, exclusion and social class are reproduced within the legal profession via one’s ability to ‘play the game’ (Bourdieu, 1993): the lawyers who succeed at this game-play and achieve career progression “anticipate the right move at the right time” (Dinovitzer and Garth, 2007:32). The career is thus conceptualised objectively, with success achieved in terms of “advancement along a hierarchy of power or prestige” (Barley, 1989: 48). This, however, is becoming more and more difficult, as Ackroyd and Muzio (2007:740) note that there is an ‘elongation of professional hierarchies’ – law firms now identify numerous hierarchical levels and a variety of graded-salary solicitors.

This linear, upward ‘career trajectory’ infers “a subtle determinism about choices made and that the pathways embarked upon are somehow set and predictable, at least to an extent” (Hodkinson and Sparkes, 1997:38). Nonetheless, Leong and Hartung (2000) note that much of this career scholarship fails to recognise that women face certain constraints – namely, the requirement to take career breaks to start families – which do not equally affect men (Höpfl and Hornby Atkinson, 2000). Certainly, career choice may be described from psychological standpoints (Hancock, 2012), which detail the process of choosing a career, career motivation and self-development within a career

(Derr and Laurent, 1989). However, the sociological literature on career choice explains the structural enablers and constraints affecting individual choice (Hancock, 2012) – such as the implications of social class, culture, social networks, parental involvement and group membership – which produce organisational career stages or create certain ‘characters’ to specific occupations (Derr and Laurent, 1989). In striving for promotion and pursuing a linear career, women may need to resist the traditional feminine ideologies of motherhood and family (Evetts, 2000). Akin to the structurational model of career (Barley, 1989), Iellatchitch *et al.*, (2003) acknowledge that structure and agency are interdependent, intertwined and co-reproducing entities: structure (career, societal and organisational forms) enable individual careers; while career decisions also simultaneously reproduce structures (via replication or modification). The authors surmise that, “careers are multi-level phenomena. Cutting across individual, group, organizational and societal levels, careers potentially influence all these levels and, in turn, are influenced by these levels” (*ibid.*:739). This conceptualisation of careers complements intersectionality in its recognition that the interconnected relations between many different factors are influential in a given context (Hill Collins and Bilge, 2016).

The linear career of the legal profession is observed none more clearly than via the ‘up-or-out’ promotional model, a type of promotion tournament, which appears to endure in elite professional service firms (Morris and Pinnington, 1998b; Malos and Campion, 2000; Malhotra *et al.*, 2010). This model developed in elite New York law firms during a period of economic stability, law firm expansions and supply-side growth; generating a contest for internal promotion to partner (Galanter and Palay, 1991). Lawyers seeking promotion fight for a restricted number of positions available at the next rank, and those who fail tend to be excluded from the subsequent promotion rounds and are expected to resign (Morris and Pinnington, 1998b). For example, in their review of the literature, Kay and Hagan (1999) found that women tended to be disadvantaged, as they lacked the types of social capital valued by law firms. Successful candidates are those who demonstrate *symbolic capital*: valued skills and competences beyond the more junior-level objective technical measures of ability (Kumra and Vinnicombe, 2008). When salaried associate solicitors pursue advancement to partner, as an individual who co-owns a share of the firm’s profits, a critical tournament is deemed to take place (Malhotra *et al.*, 2010). The up-or-out promotion model allows the firm to diminish the

risks associated with diluting profits by helping to control the number and quality of associates promoted to partner (Morris and Pinnington, 1998b).

Nevertheless, although associate solicitors amass valuable human capital (prized in the external labour market should their attempt fail) while preparing for the tournament (Malhotra *et al.*, 2010), restricted opportunities for career progression in law firms may also be problematic in terms of the organisational commitment of employees (Pinnington and Sandberg, 2014). Thus, rather than receiving promotion to partnership, the tournament becomes everlasting, as associates work longer, accept diverse forms of remuneration, and partners are fearful of ‘de-equitization’ or being forced to retire early (Galanter and Henderson, 2008). However, some work–life balance oriented lawyers from the ‘Millennial generation’ – usually depicted as born between 1980 and 2000 – are starting to revoke the traditionally-perceived ambition of reaching partner and/or the aspiration of remaining within the same law firm for their entire career (Malhotra *et al.*, 2016). This rationale may also be justified given that, “the growing economic rewards of equity partnership are being substantially offset by its lack of permanence” (Galanter and Henderson, 2008:1922).

However, while it has been argued that the authority structure (control via joint professional ownership (partnership)) present in professional firms is what differentiates these organisations from other corporations (Hinings *et al.*, 1991), the current volatile business environment may affect the definitions and functional boundaries of PSFs (Empson *et al.*, 2015). At present, the partners, in the case of law firms, are categorised into ‘equity’ and ‘non-equity’ – the former owning a share of the business (von Nordenflycht, 2010). Strengthened by The Legal Services Act 2007 (LSA), which removed restrictions concerning the ownership, financing and management of legal practices (Flood, 2012), Aulakh and Kirkpatrick (2016) note that the ‘partnership form’ is undergoing mounting pressure, due to fluctuating markets, growing competition and technological advances. This has subsequently caused many PSFs to shift towards “more corporate and managerial modes of operation” (Hinings, 2005:414). This shift is also considered highly probable in terms of the practical and efficacy skills managers possess – deemed superior to those within the partnership model and current organisational procedures (Muzio and Ackroyd, 2005). A key feature of this restructuring, noted by Francis and Sommerlad (2009), has been the introduction of

more formalised recruitment and training procedures – the purpose of which is to shift “from understandings about recruitment grounded in ‘family’ and ‘personal networks’ to those associated with certified educational merit” (Galanter and Roberts, 2008:154). Keeping these changes in mind for this research offers an interesting nuance while examining whether the lawyers working in the small- and medium-sized legal practices have felt any impact of these structural modifications upon their career ambitions (Cohen, 2015).

Reflecting upon this changing management structure, while traditional theories of careers in the legal profession were based as linear career structures within hierarchical organisations and as ‘geographically bounded’ (Dinovitzer and Hagan, 2006:119), innovative career concepts evolved from decreasing job stability and economic uncertainty (Sullivan and Baruch, 2009). Storey (2000) notes how numerous contextual factors, such as: globalisation, privatisation and deregulation of labour markets, technological advances, increasing need for work-life balance, changing labour market compositions and employment patterns, and increased job insecurity, have been frequently attributed to the transformation of careers. For instance, Arthur and Rousseau (1996) popularised the term ‘boundary-less career’, which is defined as “career opportunities beyond the boundary of a single employer. An individual is independent rather than dependent on a traditional organizational career arrangement” (Sullivan and Baruch, 2009:1545). In other words, workers cannot stay ‘bounded’ and cannot depend upon career advancement within one single company any longer (Arthur and Rousseau, 1996). It is argued that nowadays, careers may traverse numerous boundaries: employees may move between different workplaces, undertake varying job tasks, changing vocations and, potentially, experience alternative employment arrangements during their career trajectory (Bravo *et al.*, 2015). Nevertheless, while this career mobility concept originally emphasised permeability and travel across boundaries (Arthur, 1994), the metaphor does not consider widely-documented career boundaries, such as: geographical mobility, occupation, types of work contract and family responsibilities (Dinovitzer and Hagan, 2006; Rodrigues and Guest, 2010); which may affect certain groups more than others. Reflecting upon this argument from an intersectional standpoint – as used in this thesis – may better highlight the constraints individuals experience: careers are not always as agentic and individualised, as this metaphor would suggest.

Another concept is offered by Hall (1996), who argues that the new career will encompass a set of shorter learning stages by continuous training and changes in self-awareness. Measurement of career development via this ‘Protean’ career takes the form of markers of internal personal growth; instead of the commonly-employed external progress assessments (Collin, 2000). The key features of a ‘Protean career’ are realising inner success as the definitive career goal – the sense of pride and personal achievement (instead of ‘vertical success’ desired under the ‘old career contract’); self-development via continually learning through training and work relationships; with career success stemming from making oneself ‘employable’ through learning the skills of identity (self-awareness) and adaptability (able to adjust to different conditions) (Hall, 1996). “In the turbulent environment surrounding contemporary organizations and the changing nature of work, individuals need to take responsibility for managing their own careers” (Fernando and Cohen, 2014:149).

Reflecting on these new concepts, lawyers could be theorised as ‘Protean’ careerists, as they value intrinsic rewards and continuous training (Pinnington, 2011), and are motivated by high levels of work autonomy (Malhotra and Morris, 2009). However, this standpoint is mediated given that the professional *habitus* is structured around hierarchical *fields* of power. Lawyers are believed to only somewhat relate to boundary-less careerists (Arthur and Rousseau, 1996) in that, while they may move firms, lawyers remain dependent on traditional career structures and are restricted to practising law within their selected specialism(s) (Pinnington, 2011). It can therefore be concluded that the career path of lawyers remains “characterised by linear, upward progression across one or two firms with a focus on extrinsic rewards and organizational career management” (Sullivan and Baruch, 2009:1547).

2.6 Career progression (and potential obstacles) upon entry to the legal profession

Following both the ‘academic stage’ (qualifying law degree) and the ‘vocational stage’ (the LPC), students undergo a two-year period of recognised training with a firm of solicitors or other organisation authorised to take trainees (Taddia, 2015). This training contract covers all the necessary education, knowledge, skills and training that a student must complete to certify that those who are admitted as solicitors are fit to practice (SRA, 2014). This includes completing the Professional Skills Course (PSC) modules

and electives and successfully undertaking the PSC Financial and Business Skills exam (SRA, 2017b). Through various socialisation and integration processes (Sluss and Thompson, 2012), these employees become chameleons in learning how to adapt their identities to their professional roles to ‘best-fit’ their new business environment (Ibarra, 1999). During this paralegal training, Mintzberg (1979:98) notes that students receive ‘in-house indoctrination’, as this rotation programme “through various departments for periods too brief [is] to learn the work but not to sense the culture”. However, recent scholarship notes that paralegals and legal executives (otherwise classed as ‘non-solicitor-lawyers’ and thus hired at lower costs) are given increasing workloads; gradually set to complete tasks previously undertaken by solicitors (Law Society, 2016d).

Once a law student has obtained a training contract, promotion is generally offered in line with the levels of post-qualification experience (PQE) required for advancement. Post-qualification training falls into the remit of Continual Professional Development (CPD). With this additional training, Boon (2017) argues that this practice of ‘licensing’ in creating constant work standards is synonymous with professionalism – a protective tool for sustaining professional autonomy and privileged standing (Gold *et al.*, 2007). Regarding career strategies, whereas newly-qualified lawyers are predominantly concerned about attaining the appropriate skills and abilities with regards to their law specialism; after reaching 4 years PQE, lawyers become more confident in their field and so, in terms of career aspirations, focus upon acquiring broader skill sets (Henderson *et al.*, 2012). In addition to the formal systems of training, career progression rests upon three additional central factors: “the requirement of long and unpredictable hours as a proxy for demonstrating commitment; the requirement of bringing in new clients and maintaining client relationships or ‘rainmaking’; and informality in the promotion process” (Tomlinson *et al.*, 2013:254). Such actions and values play a part in strengthening the traditional, idealised and resolute ‘macho’ long-hours image of the legal profession (Sommerlad, 2002).

The main objective post-qualification as a solicitor is to undertake increasingly creative and complex tasks and/or high-status work for career advancement (Cohen, 2015). Alongside this challenge, Tomlinson *et al.*, (2013) discovered that recently-qualified lawyers – typically male and of BAME origin – tend to engage in career-planning

strategies of ‘assimilation’ and ‘game-playing’: developing ways to perform and advance within the firms; either by surmounting structural and cultural obstacles, or using them to their advantage. Law students with privileged backgrounds may “already possess a strategic understanding of the field enabling them to negotiate it with ease” (Francis and Sommerlad, 2009:79). It is important to note here that class also plays a fundamental, yet tacit, role vis-à-vis elitism and privilege within law firms – as evidenced by the professional hierarchies and divisions between solicitors, associates and partners in accessing organisational resources (Pringle *et al.*, 2017). In their review of the literature, Seibert *et al.*, (2011) find that access to information and resources enhances an individual’s levels of motivation and work performance, increases their social power, influence and reputation and improves career satisfaction: aspects positively related to career success. Indeed, as career progression criteria tends to lack transparency, promotion is frequently dependent upon whether a lawyer is looked upon favourably by the partnership (Tomlinson *et al.*, 2013).

In this vein, considering the second research question, the factors perceived as influencing career progression, it may be insightful to contemplate research by Haynes (2012), who, using the construct of ‘physical’ appearance-based capital, highlights the importance of aesthetic image within the professional context: in appearing a certain way or working towards aesthetic professionalism. To employ Bourdieusian terms, this embodied cultural capital indicates compliance or divergence with established (traditional, white middle-class male) professional standards (Cook *et al.*, 2012). Due to the traditional views of PSFs, “the claim to fulfil this role is grounded in its elite – that is high-class, white male – character; and because the idea of the legal profession and the discourse of professionalism remains inflected with its foundational imagery, patterns of communication and forms of performativity, the white, class-privileged male remains the paradigmatic professional” (Sommerlad, 2016:6). When examining the notion of ‘professionalism’ using intersectionality within this research, “the importance of class in understanding the nature of inequality and the way class forms a constant intersectional backcloth to our understanding of inequalities” is a source of growing concern (Healy *et al.*, 2011:4).

Furthermore, the literature also documents how law specialism can be important in explaining the career progression enablers or obstacles experienced by lawyers.

Seemingly-inbuilt “hierarchies of prestige” assign different levels of value to different law areas (Cohen, 2015:353). Female lawyers are not well represented across certain law specialisms: from the ethnographic corporate law firm study by Pierce (1996) disclosing the entrenched engendered biases and practices of firms, to the continuing tendency for women to be directed and funnelled into ‘designated’ areas of law (Sullivan, 2010). Research documents the likelihood of higher proportions of women working in community-orientated and less lucrative specialisms, such as family and employment law (Bolton and Muzio, 2007). Pierce (1996) demonstrates that professional echelons are engendered based upon male-based aggressive and competitive emotional work. Therefore, the professional career is concluded to be largely appropriated to men (Hazard, 1988), with the ‘married man’ receiving preferential treatment (Hochschild, 1975) – the underlying notion being that his wife will care for children and/or extended family; enabling the husband to solely focus on furthering his career (Pierce, 1996). Although these texts were written over two (almost three) decades ago, and while Kronman (2001) advocates celebrating the positive, ‘moral gain’ that the opening of the legal profession to previously-excluded groups represents in recent times, the point remains: “if women wish to keep open the option of having children, they face strategic choices in relating professional career to personal life” (Hazard, 1988:24). As Crompton and Lyonette (2011) note, there will be little change in both lessening the unremitting cycle of occupational gender segregation and gendered forms of labour (notably women’s archetypal duties of care and house work) by continuing to assemble women into family-friendly professions or family-friendly specialisms within these professions. This only perpetuates the ‘collective-associative’ view found within the literature on occupational segregation: certain social identities tend to be associated with certain occupations: “we know the character of an occupation by the company it keeps” (Ashcraft, 2013:6).

As a lawyer makes career advances within their firm, a critical tournament is said to occur when associate solicitors pursue promotion to the desirable status of partner, who share the profits of their ownership stake in the company (Malhotra *et al.*, 2010). Nevertheless, an ‘elastic tournament’ – a tournament that is extended, thinner and tauter than in previous years – can affect partners, as well as associates (Galanter and Henderson, 2008:1867). The adoption of a professional identity – akin to the image of the ideal worker – is focused upon steadfast dedication to work (Reid, 2015).

Notwithstanding the sustained yearly increase in part-time work in the UK – totalling 8.56 million people in 2016 (ONS, 2016) – UK firms still refrain from incorporating part-time working into upper organisational echelons (Tomlinson, 2006). It is anticipated that professionals will “arrange their lives to ensure unlimited availability to work unencumbered by family responsibilities” (Williams *et al.*, 2013:213). Thus, increasing pressure is being placed upon salaried partners to display “exceptional levels of performance and commitment” (Muzio and Ackroyd, 2005:633) to be offered equity partner status – i.e., the right levels of symbolic capital (Bourdieu, 1989).

The business case for flexible workplace practices – arguing to benefit both workers and be of financial benefit to organisations – results in low adoption rates due to concerns over negative career consequences (Williams *et al.*, 2013). This gives rise to the continued gender inequality in terms of how work is organised, as well as the “unequal distribution of women and men in organizational class hierarchies” (Acker, 2006:448). In fact, although the professions are considered able to offer better career prospects and advancement for women (Muzio and Tomlinson, 2012), highly-skilled women who use “seriously career-limiting” flexible-working arrangements, such as working part-time, are often acutely aware that this will negatively-affect their career advancement (Crompton and Lyonette, 2011:247). While some flexibility is present in terms of alternative shift work and cover, this then precludes women from accessing the more rigid working-time necessitated for career promotion and progression: ‘restrictive working-time flexibility’ (Tomlinson, 2006). “Women represented the new, disposable resource which could be utilised to carry out this routine work, a business model subsequently entrenched by the intensification of the long hours’ work ethic and its incompatibility with caring responsibilities” (Sommerlad, 2016:6). The rules – *doxa* – of large corporate firms “disadvantage women by refusing to recognize other family-based and gendered role demands” (Dinovitzer and Hagan, 2014:933). However, highly-flexible working arrangements (‘optimal working-time flexibility’) and preferential treatment are gifted to senior, highly-skilled employees, to retain them vis-à-vis more attractive and competitive offers from rival firms (Tomlinson, 2006). It is here that leverage – number of associates per partner – becomes useful: leverage can facilitate with prioritising the valuable experienced-based assets of partners, by assigning associates with more routine tasks, while partners focus on creating innovative solutions to client problems (Malhotra *et al.*, 2016).

The constant troubling issue is that although recent decades have witnessed growing numbers of female lawyers working in PSFs, women are much less likely to be partners vis-à-vis their male counterparts (Walsh, 2012; Pinnington and Sandberg, 2013). With lawyers needing to network and build relationships after office-hours to improve their career progression chances, this also brings into question difficulties surrounding ‘boundary work’: “the process of negotiating, setting, moving, and adjusting boundaries between work and life outside of work” (Trefalt, 2013:1802). As Pringle *et al.*, (2017:455) note in their study, “women partners were clear that for women to progress to partner, aspirants must excel, be ambitious, have excellent time management skills, support at home and maintain unbroken careers”. Walsh (2012) assesses hindrances to female career progression with reference and nuance to Hakim’s (2000) preference theory; finding that female lawyers with a strong drive for promotion (to partner) may not require harmony between professional and personal life – they rather aspire for an integrative approach to their work-life balance. On the other hand, Pinnington and Sandberg (2013) conclude that the demands of the job at partnership level are such that any commitments outside of work must take a secondary role. Nevertheless, should job insecurity fears be warranted due to the perceptions that working part-time is detrimental to career advancement (Crompton and Lyonette, 2011), then this may justify the scarcity of female representation at partnership level (Sullivan, 2010).

As equity partners own a proportion of the firm and divide the profits, this small elite governance model alludes to the ingrained ethos of restricting ownership only to professionals (Aulakh and Kirkpatrick, 2016). “In the professional hierarchy, power resides in expertise; one has influence by virtue of one’s knowledge and skills” (Mintzberg, 1979:360). It could, therefore, be argued that they possess more of a vested interest in those hired by the company, in that these trainees will eventually progress into senior-level solicitors and generate the high levels of billings (profits) coveted by the partnership. Byrne (1996) judges that, in the corporate world, the ever-expanding salaries and perks of the select-few males at the top – already under attack by the media and the public – may also be additionally threatened by allowing too many females into the ‘club’. This is also witnessed by the actions of the legal profession’s most privileged with their increasing control over ‘professional closure’. Ackroyd and Muzio (2007) state that these actions have produced the following three effects: firstly, maintained the

elevation of both status and wage levels of these partners; secondly, permitted the integration of many workers into the profession, and thirdly, facilitated the increase in both size and profitability of legal practices. “Class is both a structural outcome and a process, underpinning professional career structures” (Pringle *et al.*, 2017:437) – providing sustenance for the gendered working practices and gendered law firms hierarchies (Pierce, 1996), and in maintaining the privileged position of the partnership (Bolton and Muzio, 2007; Sommerlad, 2016).

However, one caveat identified in this chapter is that the research literature in this area has tended to study large organisations; causing uncertainties about how to implement best practice methodologies within smaller firms (Wyatt *et al.*, 2010). For instance, when considering the nature of careers and career development in smaller-sized firms, Hirsh (2007) advises that although the workforce development processes may be less formalised, researchers should not instantly assume that their employment strategies are less sophisticated than larger firms. Indeed, studying smaller-sized firms via the ‘traditional’ belief of managing small businesses as one would large businesses, yet on a lesser scale (Welsh and White, 1981), causes an oversight about the exclusive and idiosyncratic practices and procedures occurring within, and bearing upon, small- and medium-sized firms (Cassell *et al.*, 2002). Thus, this research will aim to address these considerations by conducting an intersectional study of career progression within small- and medium-sized law firms.

2.7 Section Conclusion

This chapter has contextualised career advancement within the sector of interest to this research: the professional service firm (PSF). Historically, the traditional notion of ‘organisational career’, which is principally bureaucratic, has been focused upon upward advancement in a systematic organisational or professional hierarchy (Clarke, 2012). A career as a lawyer – with law firms depicted as adhering to the ‘Classic PSF’ structure (von Nordenflycht, 2010) – is argued to benefit from higher levels of job security, in relation to other sectors (Pinnington, 2011).

Given the inherent socialisation and professionalisation processes which take place within these law practices, the traditional, ‘linear career’ remains the dominant structure; whereby internal recruitment and promotions are expected and greater awards

anticipated with increased seniority (Sullivan and Baruch, 2009). This conventional meritocratic promotion ideology espoused appears consistent with traditional competitive career advancement (Pinnington, 2011). Ultimately, “the professional, as an individual, is defined through membership of a profession and adherence to its rules and standards” (Grey, 1998:572).

With regards to starting a career within law, additional challenges are highlighted by Webb and Fancourt (2004), who argue that scholarship increasingly documents the growing segmentation evident within the legal professions – not only the partition between solicitors and barristers – yet more so in terms of law specialisms and, more precisely, within each specialism itself; especially the distinctions between the type of work and client witnessed within the corporate/business and private client divides. The contrast between the ‘City’-based and commercial practices and the smaller ‘high-street’ firms has caused both sides to have contrasting views on legal training and academia, due to the differing criteria of entering their respective legal ‘genres’ (Boon and Webb, 2010). This contrast is further heightened; given that the recruitment of University law students can considerably affect the socio-economic and cultural diversity of law firms (Ashley and Empson, 2013; 2017). The institutions attended by students are commonly-based on their school examination results; whereupon socio-economic background may be a strong contributing factor (Sullivan, 2010).

Forging a career in the legal profession, in terms of career progression enablers and obstacles, were also considered. “In order to understand and explain the action of players in the field, one needs information about their dispositions and competence – their habitus – and about the state of play in the game as well as the players’ individual location in the field” (Iellatchitch *et al.*, 2003:738). In her work on ‘inequality regimes’, Acker (2006) contends that the different practices and processes used by organisations to achieve their goals (e.g.: establishing work requirements; organisation of class hierarchies; recruitment; wage setting; supervision and informal interactions), may also produce inequalities based upon class, gender and/or race. These distinctions are visible within the legal profession through professionalism (Grey, 1998), specialist knowledge (Empson, 2001) and tightening controls via occupational closure (Ackroyd and Muzio, 2007). Topics related to the consequences of an individual’s ethnicity, gender, socio-economic background and institution choice for entry into large law firms are thus

recurrent in the literature (for instance, Rolfe and Anderson, 2003; Nicolson, 2005; Sullivan, 2010; Ashley and Empson, 2013).

Much research into the professions – principally the traditional vocations of accountancy, medicine and law – conclude that career advancement remains dependent upon the amalgamation of continuous high levels of training and accreditations and working long hours: including frequent networking and nurturing of client relations after office hours (Muzio and Tomlinson, 2012). This professional social status quo equates working-hours below the expectation of ‘full-time’, as a sign of a lack of dedication of the legal practitioner to their employer and their profession (Pringle *et al.*, 2017). Successful lawyers are those who accumulate the high levels of economic, cultural, social and symbolic capitals (Bourdieu, 1972) desirable within the structured social space of the legal profession. Professional men are considered more able to achieve the ‘accepted social ideals’ of functioning as both ‘ideal workers’ and as ‘ideal men’ (Williams *et al.*, 2013:224). Engendered cultural biases regarding professional work and caring work thus constrain Hakim’s (2000) ‘choices’ for women. The competitive emphasis placed upon work dynamics and the long-hours culture of the legal profession supports and sustains patriarchy and the gradual permeation of managerialism (bureaucratic structures) into the profession (Sommerlad, 2002).

Due to the great importance afforded to social capital via networking (Seibert *et al.*, 2011) as part of the culture of the legal profession, female and minority-ethnic workers are negatively-affected from progressing in their careers. Family commitments and/or different cultural values may prevent them either from regularly attending, or made to feel welcome at, these events, and this lack of perceived flexibility is likely to curtail their advancement to partner (Sullivan, 2010). Finally, it is becoming increasingly difficult to move up the corporate ladder to ‘equity partner’, even with good volumes of billable hours, due to ‘internal organizational closure’ (Ackroyd and Muzio, 2007). This new closure regime is an attempt by equity partners to limit access to high status levels and rewards, to protect and enhance their own earnings (*ibid.*). It could be argued that the practice and implementation of law and justice does not, as yet, appear to have been grounded in their own working practice.

The also chapter examined how the small- and medium-sized law firms tend to facilitate the career progression of female and minority-ethnic lawyers compared to larger firms; with data from the Law Society Diversity Report showing a better representation in small firms (2-4 partners) of both female partners (31.1% of partners) and BAME partners (17.4% of partners); with BAME women totalling 6.1% of partners (Law Society, 2016b). As our knowledge of careers in the legal profession has been informed by studies of large law firms, this thesis sets out to investigate career structures and the career progression process within small- and medium-sized law firms in England and Wales. Further academic research into PSFs can thereby help elucidate the advances and current challenges for female and minority-ethnic employees within broader political economic systems (Muzio and Tomlinson, 2012).

Chapter 3: Diversity, Diversity Management and Intersectionality

3.1 Introduction

This second literature review firstly provides an overview of the literature relating to issues of diversity and diversity management. As much knowledge of diversity and diversity management has originated from studies conducted within large organisations, this thesis investigates how diversity and diversity management practices are conceptualised and implemented within small- and medium-sized firms; specifically, law firms in England and Wales. Relating this to Bourdieusian thought on structure and agency via the concepts of *habitus*, *capital*, and *field* employed in the previous chapter, individual diversity characteristics are important, as they result in a learned *habitus* and accumulation of capitals which may be different to those prized within the law *field*.

To fully understand the impact of these diversity characteristics, firstly, this chapter investigates the historical legacy of diversity, with the plethora of definitions being discussed. Subsequently, the evolution of diversity management will be described; within which the widely-used ‘business case’ for diversity, and its link to potentially-increased profits will be evaluated, in relation to the ‘moral case’ and the impact of diversity legislation. This review finds that diversity studies tend to conceptualise diversity categories as independent phenomena. This contrasts with intersectionality, which has a holistic approach to the study of identity. The increasing use of intersectionality in business and management research is then examined; given changing workforce demographics. Finally, the literature on intersectionality and its theoretical and practical contributions to diversity management and to this research will be explored; with its appeal and challenges highlighted. This chapter concludes by stating that use of an intersectionality framework in this thesis helps to better understand how the social construction of categories of difference are related to social justice, power, social context, relationality and inequality (Hill Collins and Bilge, 2016).

3.2 Defining Diversity: research problems

While business and management scholars have attempted to gain a sharper comprehension of diversity in organisations, countless definitions have flourished under the ‘umbrella of diversity’ (Harrison and Klein, 2007). The topic of diversity therefore requires fine-tuning, as the concept has been generally and liberally employed to numerous fields (McDonald and Dimmick, 2003). In layman’s terms, the very basic

definition of diversity stems “from any attribute people use to tell themselves that another person is different” (Williams and O’Reilly, 1998:81). Indeed, it appears that the notion of ‘difference’ is central to many definitions of diversity. “People are different from one another in many ways – in age, gender, education, values, physical ability, mental capacity, personality, experiences, culture and the way each approaches work” (Jamieson and O’Mara, 1991:3-4).

In more recent times, definitions of diversity have tended to focus upon either *surface-level* or *deep-level diversity* (Phillips and Loyd, 2006; Jonsen *et al.*, 2011). The former investigates observable, physical, demographic categories, such as gender, race or age; whereas the latter examines unobservable traits, such as attitudes, personality, opinions and values (Tasheva and Hillman, 2018). Empirical research has leaned towards a focus on ‘surface diversity’, as it is easier to measure (Jackson *et al.*, 2003; Phillips and Loyd, 2006). The definition of *deep-level diversity* has expanded to encompass task-related diversity, (e.g. education, function, background) (Riaz Hamdani and Buckley, 2011), as well as informational diversity, defined as “differences in knowledge bases and perspectives”, which, are likely due to “differences among group members in education, experience, and expertise” (Jehn *et al.*, 1999:743).

Reflecting upon the Bourdieusian (1972) theory of capitals mentioned in the previous chapter, both economic and cultural capital are viewed by Tatli and Özbilgin (2012) as deep-level diversity. The authors note that accumulation of these valuable capitals is closely associated with a higher social class background, which, in turn, is linked to, and provides support for, a high-level educational background, employment status, function, and lifestyle choices (*ibid.*).

Although the surface-level and deep-level categorisations amass similar diversity traits in a bid to increase empirical rigour, they also have limitations – for instance, differences in social capital and social network creation may be both due to task-related and demographic diversity (Tasheva and Hillman, 2018). Social capital may be related to task-related diversity, (e.g. education, function, background) in that this form of capital relates to contacts and connections acquired from wider social networks over time (Ashley and Empson, 2017). Additionally, social capital may be related to demographic diversity in that culturally-diverse individuals may innately have a greater

range or variety of connections along one or more form of demographic characteristics, for example, networks with those from multiple nationalities or ethnic backgrounds, due to their upbringing (Tasheva and Hillman, 2018). In sum, diversity within the literature has been conceptualised and operationalised as a ‘neutral descriptor of variation at the workplace’ (Noon and Ogbonna, 2001). As such, diversity may refer to an array of individual characteristics (differing qualifications, interests, talents, values and beliefs) or to differences which are social group-based and thereby, collective, such as age, gender, ethnicity, religion and disability (Kirton and Greene, 2016).

The above definitions taken from research appear to study and conceptualise diversity categories as independent phenomena; unaffected by temporal and geographic context. As a result, many studies on diversity adopt a “false sense of universalism”, which overlooks the constantly-changing nature of inequalities and power relations (Tatli and Özbilgin, 2012:182). Hence, in-keeping with the use of intersectionality in this thesis, the conceptualisation of diversity employed in this research is *social category diversity* (Phillips *et al.*, 2012). This classification stems from the concept of social identity, defined as “the individual’s knowledge that he belongs to certain social groups together with some emotional and value significance to him of this group membership” (Tajfel, 1972:292). Drawing upon the socio-psychological and organisational literatures and building upon research by Jehn *et al.*, (1999), *social category diversity* (Phillips *et al.*, 2012:255) refers to the noticeable demographic characteristics (gender, race, age, etc.) which are used as distinguishing factors to categorise individuals into “in-group (people who are like me) and out-group (people who are not like me)”. This social-group diversity is important in its ability to influence, and, to an extent define, the relations between the individual and others within the wider social context of the workplace (Kirton and Greene, 2016).

Social category diversity also best complements to the use of intersectionality as a research framework. By acknowledging that identities are socially-constructed (Charusheela, 2013), intersectionality can better highlight how inequalities are formed and reproduced as a joint consequence of the processes of identity-formation, workplace and societal practices (Castro and Holvino, 2016). Putting this framework into practice in this research may yield interesting results; given that increasing numbers of female and minority-ethnic workers are entering the professional service sector (Bolton and

Muzio, 2008; Sommerlad *et al.*, 2010; Tomlinson *et al.*, 2013; among others). Reflecting upon the importance of high levels of capital accumulation believed necessary for career progression from the previous chapter, given the law firm context of this research, collective (social group-based) differences are of most interest in terms of their significance for employment experiences and outcomes. This is because I believe that deep-level diversity traits may be linked to social group-based difference (Jehn *et al.*, 1999; Harrison *et al.*, 2002; Jackson *et al.*, 2003). For instance, due to societal structures, it is likely that an individual's interests or qualifications are related to their age or gender; and that their values and beliefs are shaped by their religion or cultural background (Kirton and Greene, 2016). In this way, considering my interpretivist outlook, I believe that:

“society is structured categorically, and organised by inequalities of power and resources. It is in the translation of social categories into meaningful reference groups that ‘social structure’ influences or produces individual behaviour” (Jenkins, 2004:89).

This definition is of great relevance to the intersectional analysis employed in this thesis, as these social category diversity characteristics form either aspects of privilege and power or disadvantage or oppression; in other words: ownership of the necessary symbolic capital (Bourdieu, 1972; 1989). This is also significant in terms of understanding the historical social exclusion from the professions (Ashley and Empson, 2017). Using intersectionality as the conceptual framework in this thesis will help to better understand how the social construction of categories of difference are related to social justice, power, social context, relationality and inequality (Hill Collins and Bilge, 2016).

Finally, this literature review notes that the language used by scholars to categorise diversity: visible, invisible or less-visible, and surface-level and deep-level does not best account for the fluidity of differences and identities emphasised by intersectionality theory. Social identity categories, such as disabilities or religion, may be either observable and/or more hidden depending upon the preferences, choices and/or constraints of the individual themselves. Furthermore, moral, social, legal, and political disputes contiguous to these traits may attract further attention; depending on context.

Hence, in this research, I aim to bridge this gap by asking the participants about their own definitions, to identify the ways in which diversity is constructed in the PSFs. This will aid in answering one of my research questions: whether diversity management practices and policies exist within smaller law firms, and to what extent they impact upon individuals' career progression. Different diversity categories identified in the literature have been employed in business practice in varying ways; resulting in both positive and negative outcomes in empirical evidence (Tasheva and Hillman, 2018). Thus, the following section reviews the literature on diversity management, to understand how practices related to managing diversity may be applied in organisations.

3.3 The Evolution of Diversity Management

Diversity management is housed under the broader umbrella field of Human Resource Management (HRM), which, using a range of structural, cultural and employee-based techniques, strives to achieve competitive advantage through the strategic organisation of a skilled, talented and extremely loyal workforce (Storey, 1995). The definition of diversity employed in the diversity management literature mirrors the definition of diversity used in this thesis, *social category diversity* (Phillips *et al.*, 2012), to some extent, as much of the literature refers to groups of diversity characteristics which are used to separate and categorise individuals into 'in-groups' and 'out-groups'.

'Managing diversity' was the term given to the concept conceived in the United States in the 1980s to face demographic changes within the workforce and global competition, in addition to reacting to the introduction of equity legislation and practices (Strachan *et al.*, 2010). A classic definition of diversity management is provided by Kandola and Fullerton (1998:7):

“the basic concept of managing diversity accepts that the workforce consists of a diverse population of people. The diversity consists of visible and non-visible differences which will include factors such as sex, age, background, race, disability, personality and work style. It is founded on the premise that harnessing these differences will create a productive environment in which everyone feels valued, where their talents are fully utilised and in which organisational goals are met”.

Here, it is interesting to reflect upon the ‘value’ of difference for later discussion, as, from an intersectional viewpoint, it is crucial to acknowledge that “the meanings associated with differences are socially constructed” (Shaw and Lee, 2007:60). Moreover, there is disagreement as to what constitutes our understandings of ‘differences’ – the foundation of diversity management (Holvino and Kamp, 2009). Diversity management highlights that workers are not all identical and may therefore respond in various ways or experience differing degrees of benefit from human resource management initiatives (Liff, 1999). Diversity management practices are defined by Yang and Konrad (2011:6) as comprising a “set of formalized practices developed and implemented by organizations to manage diversity effectively among all organizational stakeholders”. This entails any process, organisational system or practice that creates value from diversity and is formally-implemented (*ibid.*).

In their reflexive critique, Lorbieki and Jack (2000) explain how the four interrelating ‘turns’: demographic, political, economic and critical, are described to be ‘critical’ in ‘the evolution of diversity management’. To better handle demographic changes, Strachan *et al.*, (2010) state that ‘managing diversity’ was presented as a beneficial concept to US firms in that having a diverse workforce, and so, identifying and accommodating to the requirements of different employees, would be to a firm’s advantage. For the first ‘turn’, Lorbieki and Jack (2000) describe that the term ‘diversity management’ was brought to the fore by the 1987 publication, the Workforce 2000 Report, (Johnston and Packer, 1987), which depicted the USA’s changing and predicted future demographics. These new statistics (which stated that white males would no longer make up most workforces by the year 2000), startled US HRM practitioners. US organisations thus started to take heed of these demographic changes to ensure business survival and diversity was soon seen as an all-encompassing term. Substituting equal opportunity initiatives which gave precedence to moral, legal and anti-discrimination issues (Tatli, 2011), ‘political interest’ – the second ‘turn’ – stemmed from the diversity management philosophy being viewed by the Reagan government as a pleasing new-right alternative to affirmative action (Lorbieki and Jack, 2000).

Diversity management interest thus ‘turned’ economic with seductive arguments stating that managing diversity would benefit an organisation’s performance and/or image; playing off the fear of the competitive ineffectiveness of mono-cultural organisations in

meeting the new, altering demands of a global marketplace (Lorbieki and Jack, 2000). Taking the UK context into account, the notion that the ‘business case’ strategy (to implement equality for competitive advantage) is reliant upon employers, rather than the state, was very well-suited with the neo-liberal market thinking of the Conservative governments of the 1980’s (Dickens, 1999). The ‘business case’ shall be discussed more in the following sections. The final critical ‘turn’ depicts how the mishandling of diversity management practices resulted in negative outcomes – rather than the intended positive effects of greater understanding and acceptance of differences – and is portrayed as ‘critical’ (Lorbieki and Jack, 2000). The results from diversity studies within the literature are said to be hard to amalgamate and combine to produce definitive conclusions, due to the sheer extent of writings on this topic, the wide-ranging theoretical perspectives exercised within the research; and, thus, inconsistent findings (Harrison and Klein, 2007).

One of the central components within the evolution of diversity management is that the concept has been increasingly replacing the notion of equal opportunities – a movement which has also coincided with liberalisation and deregulation policies – throughout the USA, and subsequently, to the UK and Europe (Noon and Ogbonna, 2001; Holvino and Kamp, 2009; Özbilgin and Tatli, 2011; Urwin *et al.*, 2013). Advocates claim that the diversity management approach is better able to accomplish equality and inclusion than equal opportunities policies (Tomlinson and Schwabenland, 2010). Diversity management is “premised on a recognition of diversity and differences as positive attributes of an organisation, rather than as problems to be solved” (Thompson, 1998:195). These ‘differences’ have been conceptualised in two different ways. Firstly, ‘valuing differences’ recognises and appreciates the wealth of identities within the workforce; whereas ‘dissolving differences’ identifies the organisational requirement to adjust approaches to its diverse workforce on an individual, rather than social-group, basis (Liff, 1999). One could, thus, conclude that the means by which firms have traditionally branded individuals via single-axis attributes, such as race and gender, have disregarded the wealth of identities within society (Grzanka, 2014).

The shift to diversity management from equal opportunities also entailed a shift in rhetoric: from ethical and legal discourses to ‘business case’ discourses (Tatli, 2011). While equal opportunities policies are regarded as focusing mainly on legalities to avoid

discrimination cases, diversity management is considered to have a more positive view of individual differences; which, when valued and capitalised upon, have advantageous organisational benefits (Tomlinson and Schwabenland, 2010; Baxter, 2001). Within this change in outlook, Zanoni *et al.*, (2010) note that critical diversity studies, which materialised in the mid-1990s, arose in response to businesses adopting equal opportunities through the notion of diversity. The main argument surrounded the language of diversity; which, far from being positive, empowering and valuing differences, was deemed to conceal unequal organisational power relations (in terms of gender, ethnicity and/or disability); thereby limiting the scope within which to contest it (Tatli, 2011). Indeed, Oswick and Noon (2014) note the extent to which scholars exaggerate when aiming to theoretically differentiate equal opportunities/affirmative action (EO/AA) and diversity management: the former is depicted as old, worn-out, unsuccessful and dependent upon government regulations; while the latter is innovative and full of promise, with the organisation responsible for its implementation.

Furthermore, as equal opportunity programmes tend to show beneficial outcomes in the longer-term, managers may be partially excused from not leaping up to take advantage; given the pressures to demonstrate value and profitability to shareholders within short-term targets (Noon, 2007). This is especially important in this research; given the smaller business context. Nevertheless, to further complicate matters, diversity may also be engulfed as part of discussion on equality; with scholars either arguing that the two concepts are complementary or are distinct (Kumra and Manfredi, 2012). However, with the increasing significance of legislation in determining labour market policies, it may be difficult to truly detach managing diversity in the workplace from the delivery of equal employment opportunities (Dickens, 1999). Thus, it appears that this shift to diversity management is only fractional: whilst ‘equal opportunities’ have been repackaged and rebranded into ‘diversity management’, this has not been accompanied by “a shift in total mindset, values and norms in the field, which in turn would have shifted the practice” (Tatli, 2011:246).

In sum, diversity management in its practical application thus remains unclear. According to Shen *et al.*, (2009), no empirically-confirmed relationships exist between the use of HRM diversity practices and subsequent increases in diversity and enhanced business performance. Moreover, styles of ‘managing diversity’ will vary between

countries due to differences in population demographics, societal views and their employment laws (Holvino and Kamp, 2009); whereas human rights issues are, in theory, a universal standard (Strachan *et al.*, 2010). Reviewing scholarship on diversity in practice, Foster and Harris (2005) found that managers of a large retailers held different understandings about the meaning of diversity management. This was confounded due to the predominant concern over legal compliance and adherence to anti-discrimination legislation, in addition to finding the balance between acknowledging individual differences and providing equal treatment across the workforce (*ibid.*). Similar findings are reported in the 2007 CIPD Survey report of 258 individuals responsible for diversity within their business, spanning all economic sectors. When questioned about the most important drivers for managing diversity, almost two-thirds (64%) of participants mentioned its ‘contribution to the bottom line in terms of recruiting and retaining best talent’ and almost half (48%) said ‘improving business performance’ (CIPD, 2007). Limited evidence existed of firms normalising diversity into every-day practice (customer services and marketing) – processes within which substantial business performance improvements could be made. The CIPD (2007) conclude that these results accentuate the narrow comprehension of managing diversity with regards to the larger ‘business case’ concept. It has been demonstrated that the possible business benefits and societal justifications for hiring a diverse workforce form the central tenants of the diversity management literature. These shall now be considered more in depth in the following section.

3.4 The ‘cases’ for diversity management

Cox and Blake (1991) argue that either the ‘business benefit’ or ‘social responsibility’ rationales justify the implementation of organisational diversity management practices. The former perceives diversity as an ‘instrumental’ value and the latter as a ‘terminal’ value (Olsen and Martins, 2012). These viewpoints can be hard to reconcile: regarding employees as the means to achieve organisational goals is not coupled with a dedication to tackle inequalities (Tomlinson and Schwabenland, 2010). Within this blur of semantics and a “dichotomous understanding” (Tatli, 2011:239) of approaches, these two rationales are commonly represented as the ‘business case’ and ‘moral case’: the former often associated with managing diversity; and the latter regularly articulated in Equal Opportunities legislation (Urwin *et al.*, 2013). These ‘cases’ shall now be evaluated each in turn.

3.4.1 The ‘business case’

Changing demographics in the USA and the UK, together with academics emphasising the link between diversity management and organisational performance, the ‘business case’ was born and firms had little choice but to take notice (Lorbieki and Jack, 2000). “Diversity isn’t just fair; it makes business sense”: the fundamental impetus of the ‘access-and-legitimacy paradigm’ (Thomas and Ely, 1996:83). The ‘business case’, justifying diversity management on the grounds of tangible business arguments (such as increasing market share by better meeting the needs of a diverse customer base), is chiefly founded on the principle that working proactively with cultural diversity can produce superior business outcomes (Dickens, 1999). For instance, following a customer-orientated logic, ethnically-diverse work teams are argued to be better-suited than homogenous groups in designing strategies to attract diverse consumer markets (McLeod *et al.*, 1996). Thus, the concept of diversity within business, the ‘business case’, transformed the perception of ‘differences’ into strategic resources; which, if managed effectively, could deliver competitive advantages (Taylor, 2002; Slater *et al.*, 2008; Zanoni *et al.*, 2010; Riaz Hamdani and Buckley, 2011). As such, this change denotes that with business strategy now openly incorporating equal opportunities programs, strategic HRM ultimately incorporates ‘managing diversity’ (Cassell, 2009).

A central tenant underlying the ‘business case’ is that of the resource-based view of the firm. To exploit the associated acronym-based ‘VRIO framework’ and maintain competitive advantage, “managers must look inside their firm for valuable, rare and costly-to-imitate resources, and then exploit these resources through their organization” (Barney, 1995:60). ‘Information diversity’ (Jehn *et al.*, 1999) and the consideration of issues from multiple perspectives, a type of ‘kaleidoscope thinking’ (Kanter 1999), is believed to be the chief benefit of a diverse workforce in business in boosting creativity and innovation (Auh and Menguc, 2005). From a recruitment perspective, building upon findings that bilingualism equated to greater levels of cognitive flexibility (Lambert, 1977), Cox and Blake (1991) propose that organisations are hiring minority-ethnic groups in increasing numbers as bilingualism tends to be more prevalent among these cultures than within the majority-white (Anglophone) culture. This rationale denotes a noticeable use of social category diversity (Phillips *et al.*, 2012). Companies using diversity management practices in this resource-based view way afford diversity

an ‘instrumental value’: leveraging diversity for organisational success (Olsen and Martins, 2012).

In sum, the ‘business case’ is shrouded in debate and benefits and costs still need to be evaluated (Urwin *et al.*, 2013). One of the reasons for employing the ‘business case’ approach is that it is believed it would be difficult for employers to resist diversity management grounded upon economic motivations (Tomlinson and Schwabenland, 2010). However, the ‘business case’ remains overly-dependent upon cost–benefit analyses: the danger is that employers may consider the costs of equality policies as overshadowing the (perceived) benefits, and will consequently justify their lack of diversity management provisions as not in company interests (Noon, 2007). “Attention to equality issues becomes contingent, not necessary” (Dickens, 1999:10). While the attainment of ‘best practices’ are deemed to stem from the ‘business case’ rationale, this does not seem to have manifested as such in diversity management practice (Holvino and Kamp, 2009). The disparity between theory and practice may be explained in that companies are unsure about the best means to transform diversity concepts into practical, inclusive strategies and policies which transcend legal compliance criteria (Tatli, 2011). Employing the ‘business case’ model to justify diversity management initiatives can thus be problematic in its tendency to focus upon numerical equivalence – leaving considerations of equity, equality and social justice to be residual matters at best (Feenan, Hand and Hough, 2016). Certainly, while meritocracy is argued to be at the very core of diversity management policies – especially given the persuasive ‘war for talent’ argument – “the social construction of what counts as merits, one of the cornerstones in the institutionalization of privilege in organizations, is left unchallenged” (Holvino and Kamp, 2009:399). This is typified in the legal profession in terms of the strong desire for both institutional capital (Russell Group University degree) and embodied capital (image and ‘polish’) (Ashley and Empson, 2017:222). Furthermore, managers may encounter difficulties in differentiating between ‘talent’ as the individual and ‘talent’ as the traits and qualities of the individual (Boudreau, 2013). As Dickens (1999:10) highlights, the ‘business case’ has a “contingent and variable nature” in that “business case arguments have greater salience for some organisations than others”.

3.4.2 The ‘moral case’

Strachan *et al.*, (2010) highlight that the workplace equity structure is founded upon a human rights perspective (the belief in treating individuals equitably, with employment decisions not based upon personal characteristics). Nevertheless, while such moral reasoning exists for diversity management practices, these are overshadowed by economic cases (Lorbieki and Jack, 2000). For instance, from an ethical perspective, Cornelius *et al.*, (2010) note that little explanation has been offered in terms of how management can extract the unique differences from their workforce, without taking advantage of these individuals. By converting a diverse workforce, embodying a broad array of identities, into a strategic advantage (Tran *et al.*, 2011), businesses make the premeditated decision to further categorise individuals. Davidson and Fielden (2003) note that diversity programs which aim to alter workplace demographics may have different affects upon the majority- and minority- group employees. The shortcoming of the ‘discrimination-and-fairness’ paradigm in guiding organisational diversity management initiatives is that, while claiming that all workers are the same (given the prominence given to equal treatment within this perspective), employees feel pressurised to ensure that any significant differences between them do not matter (Thomas and Ely, 1996). Employing the Bourdieusian terms from the previous chapter, one could also argue that this pressure may be further exacerbated in that lawyers require a certain level of career capital [combination of economic, social and cultural capital] (Iellatchitch *et al.*, 2003) to successfully enter and progress within the profession.

In this regard, due to the complexity in managing diversity, it is often encountered by resistance (Alston-Mills, 2012). This outlook could potentially form resentment towards positive discrimination, which considers the disadvantage of individual characteristics (such as sex, ethnicity and disability) when recruiting candidates (Noon, 2010). This opposition may be more striking within the *habitus* of law firms. Reconsidering the notion of meritocracy, diversity management may thus infer “that ‘the other’ is invited to the organization, but is only tolerated and accepted in as far as he or she enriches the center” (Holvino and Kamp, 2009:399). While a strong claim, it may be argued that the dedication to social justice and equality of an organisation is revealed by the extent to which they engage with diversity projects when they will either receive no direct economic benefit from them, or they may even potentially harm business interests

(Tomlinson and Schwabenland, 2010). Noon (2007:781) feels very strongly about this and affirms that the ‘moral case’ for equality – founded upon the universal principle of human rights – “remains the strongest foundation for underpinning equality of opportunity” and so, “must not be abandoned for the current fashion of diversity and the business case”.

Although Thompson (1998) believes that attaching importance to diversity is a way to promote equality, he also indicates that diversity may be closely associated with discrimination: ‘diversity’ is synonymous with ‘variety’ and can be linked to ‘difference’; and ‘discrimination’ signifies recognition of ‘difference’ – thereby, treating one group less fairly than another. Though ‘difference’ may be expressed across a wide range of definitions, some diversity classifications are explored less often (Tatli and Özbilgin, 2012). The main concern is not solely that of difference; it is the tendency to use these differences to judge and categorise people – often in the application of negative and derogatory stereotypes (Coleman, 2012). A similar, more recent argument is provided by Lorbiecki and Jack (2000:29): “diversity management initiatives can be seen to perpetuate rather than combat inequalities in the workplace, diminish the legacy of discrimination against historically repressed minorities in the workplace, continue to prescribe essentialist categories of difference and offer problematic dualisms for effecting organizational change”. Additionally, Oswick and Noon (2014:35) state that “discrimination is a pervasive and insidious phenomenon which affects organizations and communities in fundamental and enduring ways”. These patterns directed towards various social groups are not fixed and modify in accordance with societal, economic and political fluctuations (Kumra and Manfredi, 2012). To understand how best to conduct an intersectional analysis, these issues require consideration.

Curiously, there lies a fine line between the way in which individuals are either able to promulgate, or restrain discrimination: in the latter context, this is via an educated and select choice of words. This is the recognition of the importance of language (Alston-Mills, 2012). To conclude, organisations wishing to demonstrate the ‘moral case’ are advised to adjust their language from economic ‘business case’ terms regarding productivity, to ethical terms of equality and inclusion to enable better discussion of sensitive issues (Jones et al, 2013). This subsequently manifests in perceptions of sincerity from their employees (ibid.). Diversity management has thus been regarded as

a new ‘business standard’: its conceptual foundations reach further than the human resources paradigm grounded solely upon legal compliance, to a new standard which proposes that having a diverse workforce possesses intrinsic value (Gilbert and Ivancevich, 2000). However, given the law firm context of this thesis and previous research findings which equate diversity management to legal compliance (Foster and Harris, 2005; CIPD, 2007), it is prudent to review the importance of legislation in shaping equal opportunities and the diversity management rhetoric.

3.5 Equal opportunities and diversity management: legislation

Since the mid-1970s, UK anti-discrimination legislation has caused organisations to respond by developing approaches to equality within the workplace (Liff, 1999; Foster and Harris, 2005). More recently, under the UK Equality Act 2010, which merged nine pieces of legislation (including the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995), nine ‘protected characteristics’ have been outlined which protect individuals against discrimination with regards to: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation (EHRC, 2017). The rationale behind these ‘equal treatment principles’ is to ensure that applicants are judged against job-specific criteria, and are not rejected nor discriminated against based upon the above social group characteristics during recruitment (Liff, 1999).

Historically, diversity management has been employed as a defensive tool to deflect any discrimination charges: in employing a diverse workforce, representative of the local community, a firm could present a strong position – effectively arguing in court that they are not guilty of discriminatory practices (Shen *et al.*, 2009). This is indicative of findings from the 1998 Workplace Employee Relations Survey (WERS), which show that while many British workplaces have equal opportunities policies, they do not implement equal opportunities practices; demonstrating an ‘empty shells’ approach to EO (Hoque and Noon, 2004:481).

Foster and Harris (2005:6) state that legal compliance remains to govern managerial decision-making via “an institutional emphasis on demonstrable procedural fairness as the best means of defending managerial decisions rather than the business case for

diversity”. This is supported by 2007 CIPD Survey report, which found that 32% of respondents class the law as the ‘most important driver’ in progressing diversity; despite the popularity of the ‘business case’ for diversity as the ‘most important driver’ in firms (17%). The CIPD (2007) branded their diversity-driver results as ‘surprising’, in view of the generally-widespread opposition to regulations by employers. Moreover, critics state that the concept of diversity, in its genuine sense, as opposed to being voluntarily espoused by companies, has been inconveniently enforced onto them (Domina, 2011). For instance, Holgate and McKay (2009) found that forced compliance with EO and diversity policies may be considered as a ‘box-ticking’ strategy; the implementation of which – while conveying a positive company image – does not automatically translate into higher employment numbers of minority-ethnic applicants.

Nonetheless, “using diversity for the purposes of public relations or choosing to focus on positive action policies will not bring forth lasting organizational change aimed at creating inclusivity and will not foster a culture that values differences” (Gilbert and Ivancevich, 2000:104). It would appear that, “the universal principle of equality (the right to fair treatment at work based on equality of opportunity) is supported by a contingent argument (provided it is good for business and depending on the circumstances of the organization)” (Noon, 2007:780). Moreover, resentment is often displayed towards positive action policies, such as a recruitment drive aimed at promoting and maintaining under-represented populations in the workforce (Noon, 2010). These policies are misinterpreted as based upon preferential selection and are associated with quotas (Oswick and Noon, 2014). Indeed, (white) managers tend to bitterly dislike positive discrimination – reacting negatively towards changes that seek to remove the privileges and dominance historically afforded to them: “there is hypocrisy in claiming a concern for social justice only when one becomes a potential victim of injustice” (Noon, 2010:736).

To ensure equal opportunities in the labour market and policies to better support and balance work and family life for all employees, the European Union (EU) has enforced several European Directives, such as the Parental Leave Directive and Part-Time Work Directive, which are obligatory within European Union nation states (Lewis and Smithson, 2001). Of specific interest to this research, the legal profession has come under mounting pressures over the past decade to implement more work-life balance

policies (Malhotra *et al.*, 2016). Due to the vague umbrella term, a vast range of policies have been amassed under ‘work-life balance’, including: policies regarding working hours, leave entitlements (such as parental leave), working location (from home or at the workplace), and financial assistance (such as childcare credits or maternity pay) (Dex and Smith, 2002).

While UK Shared Parental Leave legislation came into effect in April 2015 – affording some parents more flexibility in sharing a maximum of 52 weeks leave following the birth or adoption of their child (ACAS, 2015) – traditional gender norms are still considered to influence parents’ decisions to take up flexible-work (Tomlinson, 2006). This finding is important for this research, especially given the *doxa* (Bourdieu 1990) of the legal profession, and can be viewed in two ways. On the one hand, (professional) men who choose the ‘non-traditional’ caregiving role are considered ‘feminine’ and viewed as ‘poor organisational citizens’, which equates to a ‘poor worker stigma’ (Rudman and Mescher, 2013; Williams *et al.*, 2013). On the other hand, Radcliffe and Cassell (2015) note that women may potentially be unwilling to renounce, or divide the primary caregiving role – termed ‘maternal gatekeeping’ – which is what “ultimately inhibits a collaborative effort between men and women in family work” (Allen and Hawkins, 1999:200).

In sum, while scholars may contend that agency plays a part in decision-making, it is also important to note that such choices may also be restrained by numerous conditions, for instance, the accessibility and cost of childcare provisions, which lie beyond the control of individuals (Liff, 1999). Moreover, analysis of the 1998 WERS data suggests that many UK workplaces are lacking in the EO policies and practices necessary to be sufficiently able to handle and process the above EU legislative changes (Hoque and Noon, 2004). It is necessary to reflect on these issues to answer the second research question of this thesis: the extent to which personal and organisational factors influence career progression in small- and medium sized law firms.

3.6 Diversity: summary

The first part of this chapter has reviewed the literature relating to the topics of diversity and diversity management in organisations. There are countless methods applied to the measurement of diversity; most often clouded by methodological issues, such as how

best to define diversity. To facilitate issues of measurement, Riaz Hamdani and Buckley (2011) describe how researchers generally divide diversity into three main categories: task-related; traits and value; and demographic diversity. For the present study, diversity refers to social category diversity (Phillips *et al.*, 2012), to answer the research question examining the influence of personal diversity characteristics upon career progression within small- and medium-sized law firms. These prominent social category membership traits (demographic diversity) are a means by which individuals classify and organise themselves and others (Jehn *et al.*, 1999:745). This chapter has also discussed both the ‘business case’ and ‘moral case’ stemming from the evolution of diversity management. “The concept of ‘managing diversity’ is one that has grown out of HRM and is also a movement away from traditional equal opportunities policies and practices” (Thompson, 1998:195). Diversity management developed as a response to a supposed demographic threat, moulded to suit a practitioner audience and has been conceptually differentiated from its precursor of EO/AA (Oswick and Noon, 2014). Using the ‘resource-based view’ of business, innovative companies now appreciated diversity comprising of a set of scarce and valuable resources, which were difficult to replicate (Barney, 1995). This ‘means-end’ approach describes a business-minded ‘instrumental value’ rationale – as opposed to moral-minded ‘terminal values’ – whereby management behaviour is guided by business justifications to accomplish the desirable end state: successful realisation of organisational goals (Lorbieki and Jack, 2000).

Nevertheless, the ambiguity surrounding what ‘managing diversity’ represents can lead to discrepancies in its application, as well as the burdensome pressures of ‘convenience’ and ‘ease’ placed upon those expected to put the notion into practice (Foster and Harris, 2005). The diversity management field itself has been criticised as lacking theory and exemplified using one-sided attitudes and generalist frameworks that cause inequality and discrimination issues arising within the workplace to be insufficiently understood (Dick and Cassell, 2002). Reflecting upon the context of this research, Ashley and Empson (2013) argue that initiatives based upon the ‘business case’ for diversity may only be partially successful, as the legal profession excludes valuable talent by demanding high levels of human, social and cultural capital from its applicants. One way of ensuring businesses increase diversity within their workforce is through legislation: either through positive action and positive discrimination practices, or by

better incorporation of work-life balance policies. Pinnington and Sandberg (2013) advise researchers to concentrate more upon workplace diversity management policies and flexible-working practices within organisations: one of the intentions of this thesis. Although there are certainly increasing pressures to achieve a better work–life balance in UK organisations, these initiatives tend to only be upheld following a favourable cost-benefit analysis – which opposes the ‘universality’ stipulation of access to such provisions (Healy, 2004). Moreover, managers need to counteract ‘traditional’ gender norms and promote the use of flexible-working and work–life balance policies to their male employees, so that these are not perceived as gendered opportunities (Radcliffe and Cassell, 2015). To be successful, equality and diversity must be entrenched within the company business strategy and not merely treated as an ad-hoc attachment (Gilbert and Ivancevich, 2000; Urwin *et al.*, 2013).

It has thus been argued that research on workplace diversity needs to become more engaged and deal openly with this social change (Zanoni *et al.*, 2010). It is here where intersectionality can help. Hill Collins and Bilge (2016:25) define intersectionality as “a way of understanding and analyzing the complexity in the world, in people, and in human experience”. While intersectionality will be explicated in more detail in the next part of this chapter, it provides a solid foundation upon which to reflect the emergence, and use, of diversity management in organisations. Coleman (2012) cites intersectionality as another feature of the diversity concept, whereby individuals are seen as a whole (a multifaceted depiction of many diversity elements), and not as solely one diversity category. “The main strength of intersectional analysis is the recognition that diversity and power are embedded and intertwined in any social phenomena” (Özbilgin *et al.*, 2011:186). This is evidenced by Kandola and Fullerton (1998), who observe that, with greater numbers of women, minority-ethnic groups and people with disabilities of all ages working than ever before, never has the workforce been as diverse as it is presently. The study of career progression, using intersectionality as the theoretical framework, affords not only a greater understanding of the issues and lived experiences of diverse groups, but also a greater understanding of career progression issues as a diverse set of phenomena. This will produce insightful findings; given the exclusionary practices of law firms – rejecting those who do not possess relevant human, economic, social and cultural capitals – to maintain their middle-class status quo (Ashley and Empson, 2013; 2017).

3.7 Intersectionality

As the vast multiplicity of cultures and identities within a society cannot be easily quantified and categorised, intersectionality grew out of attempts to form conceptualisations between the interdependent relationships of gender, ethnicity, age, social class, and sexual orientation; among others. Individuals possess these numerous identities resulting from socialisation processes and belonging to various communities, historical influences and power structures (Symington, 2004). This section introduces intersectionality, its development and theoretical areas of debate. The definition and use of intersectionality in this thesis is then noted. The section concludes by summarising the use of intersectionality as a conceptual framework to better understand how diversity issues interact with career progression within law firms.

3.7.1 The emergence of intersectionality

Although ‘intersectionality’ was originally termed by legal scholar Kimberlé Crenshaw (1989), its underlying components of conflict and power struggle between simultaneously-interacting identities exhibits a long history (Symington, 2004; Davis, 2008; Nash, 2008). Before the term ‘intersectionality’ was used first by Crenshaw (1989), theories concerning sexism and racism usually “assumed that sexism is distinctly different from racism and classism, that whether and how one is subject to sexism is unaffected by whether or how one is subject to racism or classism” (Spelman, 1988:81). Indeed, regardless of the many identities prevalent within societies, Sanchez-Hucles and Davis (2010) note that individuals tend to respond to a mere fraction of these: normally the most visible features of identity, which are also often the most culturally and demographically prominent within a given locality. These actions may have serious ramifications within the workplace. These reactions would form the starting point of the intersectionality movement.

Cho *et al.*, (2013) describe how intersectionality was borne out of its context: its engagement with legal debates surrounding the gendered and racial power struggles; debates which shaped, and were shaped by, society. Critical race theory (CRT) functioned as a forerunner to intersectionality (Grzanka, 2014). Building upon both critical legal studies and radical feminism, CRT investigates and aims to actively

transform the links between race, racism, and power by demanding practical outcomes from social and legal theory (Delgado and Stefancic, 2012). The authors cite the 1970s as the initiation period of the movement: as a campaign to re-energise the slowing progress of the 1960's civil rights era and to develop innovative theories and approaches to confront the growth of indirect types of racism (*ibid.*). However, cynical of CRT's emphasis on race to the detriment of additional aspects of identity and difference, Black feminist law scholars developed a sub-dimension from the critical legal studies roots of CRT, focusing mainly on gender and class; hence, the beginning of intersectionality (Grzanka, 2014).

Intersectionality emerged out of social evolutions taking place within the legal system and the law more generally: many newly-qualified law scholars entering the profession from activist backgrounds held progressive political visions about race, class and gender, which were supplemented by Black feminist discourses (and studies on ethnicity) (Cho *et al.*, 2013). Their mission was to highlight their Black feminist struggles and experiences of marginalisation in White, middle-class America (Phoenix and Pattynama, 2006; Davis, 2008). These 'women of colour' considered themselves as neglected within earlier feminist dialogues (Sanchez-Hucles and Davis, 2010), as they felt that the inescapable 'race-class-gender' triad (Knapp, 2005) within which they belonged was overlooked; comparative to the 'white middle-class bias'.

Choo and Ferree (2010) note that when scholars use a 'woman of color' perspective, it is to highlight the need to study the multiple, oppressive forms of inequality in relation to each other: a shift away from the additive model, which adds them together as separate factors. Since its beginning, "intersectionality has had a long-standing interest in one particular intersection: the intersection of race and gender" (Nash, 2008:2). Hence, Hill Collins (2000:299) defines intersectionality as an "analysis claiming that systems of race, social class, gender, sexuality, ethnicity, nation, and age form mutually constructing features of social organization, which shape Black women's experiences and, in turn, are shaped by Black women". As such, Crenshaw's (1989) 'intersectionality' recognises that both gender and race interact with one another (interactive model) to construct the manifold elements of Black women's experiences (Davis, 2008). Employing 'single-axis' or 'single-issue' perspectives or analyses only

focuses upon one dimension of inequality; yet many axes work collectively and influence each other (Hill Collins, 2000).

Although intersectionality is generally linked to US Black feminist theory and the ‘political project’ of conceptualising the relation(s) between class, ethnicity/race and gender (Davis, 2008), since the 1990s and, more recently, gender, queer and postcolonial studies have started to pay more attention to intersectionality with regards to its focus upon the interrelationships of the various aspects of inequality (Winker and Degele, 2011). It is this ‘multi-dimensional’ approach, which draws upon various potentially-discriminatory categories – not solely race and gender (Nash, 2008; Winker and Degele, 2011; Kamenou *et al.*, 2013) – which has fuelled its popularity. In this way, no individual identity is segregated, nor individual experience disregarded (Purdie-Vaughns and Eibach, 2008). Thus, intersectionality possesses an abundant and more intricate ontology than other approaches (which concentrate on single category classifications); and so, argues for the need for “multiplex epistemologies”: that “social positions” must be treated as “relational” to form knowledge on this topic (Phoenix and Pattynama, 2006:187). However, employing intersectional concepts across diverse subject fields and in new contexts generates questions about the meaning of intersectionality and the extent to which it is able to enrich methodologies (Grzanka, 2014). These methodological uncertainties shall be discussed in the following section.

3.8 Conceptualisations of intersectionality: methodological issues

In an attempt to explain how intersectionality has become used as an interdisciplinary term, Cho *et al.*, (2013) explain how the field of intersectional studies can be defined into three divisions: firstly, as a theoretical and analytical framework employed in context-specific studies (as used in this thesis); secondly, as debates and discussions on its terminology and its theoretical and methodological application; and thirdly, intersectionality can be seen as a lens through which to view political and social-justice movements and thus, how best to use intersectionality to inform practice. As Hill Collins and Bilge (2016:4) highlight, “using intersectionality as a heuristic device means that intersectionality can assume many different forms”. Although these divisions are not rigid and allow for intersectionality studies to cross/overlap boundaries, Cho *et al.*, (2013) describe that generally, intersectionality is seen either to

be applied in form of a tool, to question and negotiate the social world, or in form of a theoretical framework via analysis of its theoretical and methodological underpinnings.

Although intersectionality has “become the primary analytic tool that feminist and anti-racist scholars deploy for theorizing identity and oppression” (Nash, 2008:1), there is a real need to develop this theory. Concerns about its application and engagement may arise when studying the suitability and use of its numerous metaphors, including the road junction/crossroads or the matrix (Chang and McCristal Culp, 2002). Moreover, scholars question the expansive nature of categories potentially implicated by an intersectional study (branded as the infamous “et cetera” problem), as well as “the additive and autonomous versus interactive and mutually constituting nature of the race/gender/class/sexuality/nation nexus” (Cho *et al.*, 2013:787). There is also an ‘operationalised opacity’ (Chang and McCristal Culp, 2002:485) in the various ways intersectionality research can be specified: either rigid and unchanging, or flexible and contextually-based (Cho *et al.*, 2013). This apparent lack of methodological exploration is controversial; especially considering the extensive use of intersectionality in research across many fields (McCall, 2005; Winker and Degele, 2011).

McCall’s (2005) categorisation of intersectionality into three approaches along a continuum – at one end, anticategorical complexity; conceptually-placed in the middle is intracategorical complexity; and at the opposite end, intercategory complexity – is an attempt to increase its methodological rigour. Founded upon a “methodology that deconstructs analytical categories” (McCall, 2005:1773), anticategorical complexity sees social categories as too basic in fully encapsulating the complexities of life. This conceptualisation is akin to post-structuralist feminist thinking, which, spurred on by the ‘post-modernist project’, attacked the validity of modern Western philosophy, history and analytical categories (Brah and Phoenix, 2004) by deconstructing social categories and avoiding essentialism (Healy *et al.*, 2011).

Secondly, intracategorical complexity “takes marginalized intersectional identities as an analytic starting point” (Nash, 2008:5) to expose “the complexity of lived experience within such groups” (McCall, 2005:1774). One may claim that this conceptualisation is akin to three aims of socialist, liberal and radical feminists motivated by modern gender politics: how to best theorise the relationship between gender, race, class and sexuality

(Brah and Phoenix, 2004), to discover the quantifiable consequences of these categories of difference, and the value of identity politics and its emancipatory affects (Healy *et al.*, 2011).

Lastly, intercategorical complexity involves researchers temporarily embracing “existing analytical categories to document relationships of inequality among social groups and changing configurations of inequality along multiple and conflicting dimensions” (McCall, 2005:1773). These analytical frames “highlight a tremendous gap between conceptions of intersectional methodology and practices of intersectional investigations” (Nash, 2008:6). However, the choice of approach by scholars indicates differing levels of societal engagement and importance ascribed to various perspectives (individual- or institutional-level), differing levels of sensitivity in engaging with the ontology and epistemology of intersectionality, and thus, creates a differing impact across disciplines (Cho *et al.*, 2013).

While acknowledging the work of McCall (2005), given the overall lack of discussion regarding appropriate methodologies for researching intersectionality, Winker and Degele (2011) formulated an 8-Step model of ‘multi-level analysis’, which is used in this thesis as a form of data analysis and explained more in later chapters. This model charts the interrelatedness of inequality-creating interactions occurring on various levels: social (and power) structures (macro and meso level), symbolic representations and identity constructions (micro level) (*ibid.*). Akin to Acker’s (2006) ‘inequality regimes’ cited in the previous chapter, Winker and Degele’s (2011) ‘multi-level analysis’ also vividly highlights how workplaces are central environments for the creation and reproduction of inequalities (Castro and Holvino, 2016). Moreover, specifically of interest to this thesis is analysing how intersectionality can further knowledge on the social construction of the legal profession (Cook *et al.*, 2012; Ashley and Empson, 2013; 2017), and subsequently, help better understand career progression within smaller-sized law firms. To this end, Winker and Degele’s (2011) multi-level approach, which views intersectionality as a process of interactions between three levels is praised by Janz (2014) in reuniting structural and agency-connected outlooks on social inequality (Bourdieu, 1986). Linking this to McCall’s (2005) approaches, intersectionality is conceptualised in this thesis as ‘intracategorical’. This not only best

fits the ‘multi-level analysis’ model and offers a more focused reflection on Bourdieu’s (1986) work, yet also best complements the case study methodology used.

In sum, Winker and Degele’s (2011) multi-level analysis model is the most useful way in which to employ the intersectional framework in this thesis. This is because this model examines inequalities via three categories (identity, representation and structure); whereas previous scholarship (McCall, 2001; Acker, 2006; Walby, 2009) has focused solely upon one or a maximum of two categories. The thorough analysis provided by the multi-level analysis model therefore allows for a more detailed and holistic understanding of inequalities within small- and medium-sized law firms. I shall return to this in the Methodology chapter and during data analysis.

3.9 Conceptualisations of intersectionality: the identity debate

As Hill Collins and Bilge (2016) state, while intersectionality appreciates the richness of multiple identities unique to every individual, criticism towards intersectionality – having ‘too much identity’ – may be conflated with criticisms of identity politics (the grouping of people together based upon a shared feature of their identity). What is problematic about identity politics for Crenshaw (1991:1242) is “not that it fails to transcend difference, as some critics charge, but rather the opposite – that it frequently conflates or ignores intragroup differences”. Knapp (2005) summarises that it was this political observation – that ignoring ‘intragroup differences’ leads to tensions between groups – which set the precedent for advancing intersectionality as a means of “mediating the tension between assertions of multiple identity and the ongoing necessity of group politics” (Crenshaw, 1991:1296).

In examining how identity links to intersectionality, Hill Collins and Bilge (2016) state that three understandings of identity – as strategically essential (fixed); as de facto coalitions (individual identities integrating with power relations); and as transformative identities (individual identities created within, and moulded by, wider societal phenomena) – play important roles in the conceptualisation of intersectionality. Carastathis (2013:942) asserts that conceptualising identity categories as coalitions allows for “the integration of all aspects of our individual identities [which] is crucial to achieving the internal balance missing in one-dimensional political movements”.

Certainly, individuals who are “intersectionally differentially socially located” will assign different meanings to social power structures (Scott, 2014:372).

Therefore, intersectionality is perhaps better conceptualised as involving both ‘social position’ (self-identification concerning access to cultural, economic and political resources), and ‘social positioning’ (how an individual understands, negotiates and challenges their position) (Anthias, 2012). In this way, as Crenshaw (1991:1297) stipulates, intersectionality acknowledges that certain categories have amassed power and employed it against others, and therefore, it is “not the existence of the categories, but rather the particular values attached to them and the way those values foster and create social hierarchies” which is intersectionality’s main concern. Hill Collins and Bilge (2016:135) thereby conclude that “the idea of a transformative identity politics comes closest to capturing the spirit of identity politics within various expressions of intersectionality”. Given the weight assigned especially to institutional and embodied capital in the legal profession (Ashley and Empson, 2017), viewing intersectionality in this way may yield some insightful findings.

In this regard, a useful starting point is to consider intersectionality working within the metaphor of the ‘matrix of domination’, which denotes the overall organisation of power within a given society (Hill Collins, 2000). While intersectionality may indeed be conceived in a political sense (Wilson, 2013), it is important to remember, when reflecting upon Chart A below, that, “the axes of privilege and oppression are not separate as the diagram would suggest and are systematically and politically bound up with each other in a way that confounds any simplistic attempt at isomorphic analysis based on privileging one axis” (Morgan, 1996:106). Moreover, although categories, such as race, class and gender, may all shape a certain situation, they may not be uniformly salient and/or significant in people’s self-conceptualisations (Hill Collins and Bilge, 2016).

Chart A: Intersecting Axes of Privilege, Domination, and Oppression

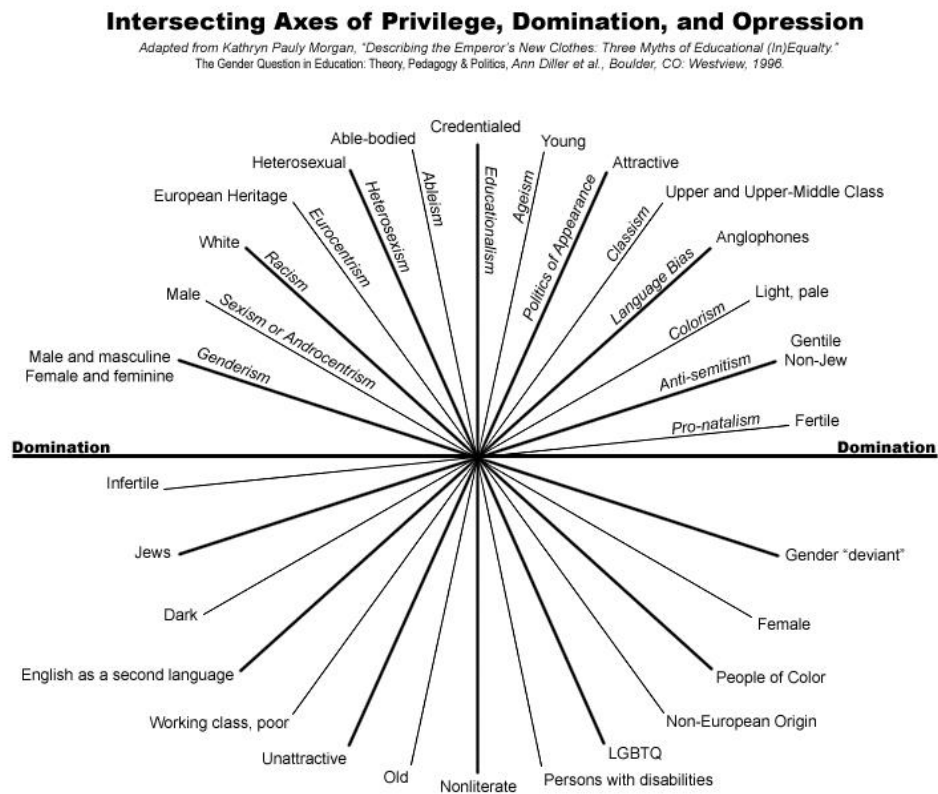


Chart A – a model created by Morgan (1996:107) showcasing ‘intersecting axes of privilege, domination and oppression’ – illustrates the interactions between social categories and power relations, with binaries emanating radially from the centre, showing the relative extents of ‘privilege’ set against ‘oppression’. The traits depicted above the ‘domination’ line, are those which must be held for a group to be perceived as the powerful ‘dominant’ or the ‘normative’ within a culture or society (ibid.). These social constructions have formed under various processes and systems which generate social inequalities: “capitalism, colonialism, racism, patriarchy, and nationalism” (Hill Collins and Bilge, 2016:200). Certainly, these identity categories may be considered as “intrinsically negative frameworks in which social power works to exclude or marginalize those who are different” (Crenshaw, 1991:1242). However, one must bear in mind that “these social constructions would not be problematic were they not created against the notion of the mythical norm” (Shaw and Lee, 2007:60).

The model shows that “each of us occupies such a point of specific juxtaposition on each of these axes (at a minimum) and that this point is simultaneously a locus of our agency, power, disempowerment, oppression and resistance” (Morgan, 1996:106). For

instance, an example above the domination line would be a young, attractive, white, heterosexual, able-bodied, upper middle-class male. Interestingly, these social categories characterise the occupational closure of the legal profession (Sommerlad, 2007): a closure regime which has become gendered, racialised and affected by class (Muzio and Tomlinson, 2012) due to a required combination of capitals (Bourdieu, 1972). Conversely, individuals are more likely to suffer from injustice and inequality when possessing numerous traits below the domination line: the “multiply-burdened” (Crenshaw, 1989:152). As Healy *et al.*, (2011) highlight, when studying inequalities, the groups that tend to experience the most discrimination, disadvantage and possibly violence are: women, ethnic-minorities, those with disabilities and people from lesbian, gay, bisexual and transgender (LGBT) communities.

Purdie-Vaughns and Eibach (2008) describe the contentious debate about whether a specific individual or social group has suffered more in terms of discrimination; especially when faced with the perceived multiple ‘inferior’ group characteristics depicted in Chart A. This thinking initially stemmed from the repercussions of “double jeopardy”, based upon dual discrimination of race and sex (Beal, 1969), further expanded by the third “jeopardy” of class and a fourth founded on sexual orientation (King, 1988). Further complicating matters, research on these topics (ethnicity, gender socio-economic class and sexuality) emerged independently to each other, with distinctive histories and politics (Williams, 2013); even being considered as “distinct systems of difference and inequality” by prevailing cultural beliefs (Ridgeway and Kricheli-Katz 2013:3). Moreover, discrimination is contextual and may be mitigated by legislation (Healy *et al.*, 2011). However, this ‘single-axis’ thinking of discrimination “structures politics so that struggles are categorized as singular issues” (Crenshaw, 1989:167). This maintains a separation between phenomena; rather than viewing them as interwoven and interrelated (Grzanka, 2014). While Carbado and Gulati (2013:71) acknowledge that the metaphor of intersectionality suggests that it may be useful to portray these categories via a Venn diagram – rather than Morgan’s (1996) model – the authors state that central to intersectionality theory “is the understanding that race and gender are interconnected, and as a result, they do not exist as disaggregated identities. In other words, there are no nonintersecting areas in the [Venn] diagram”.

Thus, to avoid criticism when conducting research and isolating one single ‘devalued’ identity as presented below the ‘domination line’ in Chart A, multiple-jeopardy scholars focus upon the experience of individuals with multiple subordinate identities (Browne and Misra 2003). Nevertheless, double or multiple ‘jeopardies’ differ from intersectionality in that the ‘jeopardies’ assume ‘additivity’: the total disadvantaged identities an individual possesses. As Choo and Ferree (2010:145) state, it is “easier to include multiply-marginalized groups than to analyze the relationships that affect them intersectionally.” These cumulative disadvantages, simply added together, overlook the ways in which identities and systems of oppression intersect (King, 1988; Purdie-Vaughns and Eibach, 2008). Intersectionality, on the other hand, recognises that disadvantage is not solely ‘additive’ and that identities cannot be understood in isolation from one another – identities ‘interact’ symbiotically (Crenshaw, 1989). Scholars wishing to use intersectionality in their research thus face a challenge in needing to surmount “ingrained habits of reductionism” (Choo and Ferree 2010:147).

Purdie-Vaughns and Eibach (2008:377) provide examples of individuals: a minority-ethnic woman, a white lesbian woman, and a black gay man, as “possessing multiple subordinate-group identities”, who may become ‘invisible’ compared with those with a “single subordinate-group identity”, such as a minority-ethnic heterosexual man, or a white gay man. In other words, the authors argue that those with multiple subordinate identities are exposed to greater levels of discrimination and prejudice than those with only a single subordinate identity (*ibid.*). Taking Morgan’s (1996) model into account, intersectional scholars are asked to clarify why the same institutional forces produce both experiences of marginalisation and privilege: “we must show how social privilege is gained at the expense of social marginality” (Williams, 2013: 614). Therefore, power relations need to be examined “both via their intersections, for example, of racism or sexism, as well as across domains of power, namely structural, disciplinary, cultural and interpersonal” (Hill Collins and Bilge 2016:27).

3.10 The application of intersectionality to this research context

Rumens and Kerfoot (2009) note that despite the abundance of scholarship on the sociology of professions, very little discussion considering gender and/or sexuality existed before later feminist analyses on the gendered nature of professionalism. It has since been argued that research within PSFs has tended to examine discrimination and

inequalities based on gender; often overlooking other social categories of difference and inequality, such as ethnicity and class – which, when studied, have been mostly handled as isolated characteristics (Castro and Holvino, 2016). However, as noted in the previous chapter, work such as that of Acker (2006:441) on ‘inequality regimes’, highlights how intersectionality may be conceptualised within firms as “the mutual reproduction of class, gender, and racial relations of inequality” in the form of “barriers to creating equality” within work settings. Becoming immersed in the elements contributing to these ‘inequality regimes’ allows researchers to expose the multifaceted and continuous construction of organisational inequalities (Healy *et al.*, 2011). This is especially important given the research context of this thesis, in that “where a culture has been historically highly masculine, as in accounting and law, the socialized embodied forms become synonymous with masculine attributes” (Haynes, 2012:502).

Intersectionality also contests the belief that discrimination affects all individuals in the same way (Collins, 2000). For instance, men will have differing access to male privilege (Johnson, 2005). Using the example of law specialism: considering the varying prestige assigned to different law areas (Cohen, 2015) and the tendency for women to be directed into certain fields (Bolton and Muzio, 2007; Sullivan, 2010), the most valuable specialisms are gendered based upon male-based aggressive and competitive emotional work (Pierce, 1996). Thus, the norms of professionalism within the law context may further (un)knowingly obfuscate the challenges faced by homosexual men in constructing their identities (Rumens and Kerfoot, 2009). Reflecting upon this, it is interesting to note, as Deutsch (2007:115) illustrates, that whereas ‘gender’ was previously created by exclusionary practices, after granting access to marginalised groups, (men within ‘female’ occupations or women within ‘male’ occupations), ‘gender’ is then formed by “differential treatment, behavior, and the interpretation of the behavior of the men and women”: gender is reproduced within that job, as individuals are compelled to carry out this work consistent with gendered norms.

The ‘intracategorical’ approach (McCall, 2005) used in this thesis will also need to consider that a certain level of physical capital – in addition to social and cultural capital – is also essential in the correct portrayal of the professional lawyer identity (Haynes, 2012). In an environment where “the white, class-privileged male remains the paradigmatic professional” (Sommerlad, 2016:6), the legal profession, in Bourdieusian

terms, favours applicants who possess the same specified forms of capital (Ashley and Empson, 2013). In doing so, the practice of excluding candidates who do not fit this archetype becomes preserved in the law firm habitus (Ashley and Empson, 2017). Considering the second research question, the factors perceived as influencing career progression, it may be wise to reflect upon this while acknowledging that the comportment, networks, opinions and interests required to be viewed as a professional are essential for career success within PSFs (Muzio and Tomlinson, 2012).

3.11 Section Conclusion

This chapter has offered an overview of issues related to diversity, depicted the evolution of diversity management practices and also, introduced the theory of intersectionality. The first part of this chapter discussed the manifold definitions attributed to diversity. Discrepancies in measurement of the benefits of diversity are dependent on definitions of the concept; ranging from surface-level to deep-level diversity conceptualisations (Phillips and Loyd, 2006; Jonsen *et al.*, 2011). *Social category diversity* (Phillips *et al.*, 2012) is the definition employed in this thesis, as these traits are related to either privilege or disadvantage.

Moreover, only by understanding the forms of capitals valued within the legal *field* from the previous chapter, can the definition of diversity employed in this thesis uncover the diversity categories which are the most salient. This is in accordance with the emic approach, as advocated by (Tatli and Özbilgin, 2012). As an individual's *habitus* is the accumulation of embodied social and cultural experiences over time, these experiences are not linked to solely one single, isolated diversity category – as occasionally portrayed in much diversity literature – but is linked to the interplay of overlapping diversity categories. In this way, *social category diversity* (Phillips *et al.*, 2012) forms the most comprehensive definition of diversity and refers to the group of diversity characteristics which are used to separate and categorise individuals into the 'in-group' and 'out-group'.

Thereafter, the chapter examined the evolution of diversity management, as well as depicting both the 'business case' and 'moral case' for its implementation. It has been demonstrated that the possible business benefits and societal justifications for hiring a diverse workforce form the central tenants of the diversity management literature, but

less consideration is attributed to the very application of diversity management in practice (Foster and Harris, 2005); especially within the small business context. Indeed, much knowledge of diversity and diversity management has originated from studies conducted within large organisations and predominantly from American scholars. This thesis aims to bolster this research gap in examining how diversity and diversity management practices are conceptualised and implemented within small- and medium-sized law firms in England and Wales.

The latter part of this chapter discussed the origins and popularisation of intersectionality. At the most basic level, intersectionality, the theoretical framework used within this research, examines “recognized sites of oppression” (race, class, national origin, gender and sexual orientation), and how a mixture of these characteristics unfolds in various situations (Delgado and Stefancic, 2012:51). The origins of intersectionality lie within the Black feminist movements during the late 1970s and early 1980s in the United States (Knapp, 2005; Sanchez-Hucles and Davis, 2010). These movements, reinforced by colonial histories (Symington, 2004), resulted in the assertion that feminist research must openly discuss how understandings of social identity are influenced by ‘social positions’ and ‘group membership change’ (Shields, 2008; Sanchez-Hucles and Davis, 2010). Intersectionality thereby allows for a greater comprehension of the diversity of women’s experiences (Healy *et al.*, 2011). Moreover, as opposed to research which has traditionally studied diversity and identities via single-axis attributes (Tatli and Özbilgin, 2012), intersectionality appreciates the wealth of identities within society (Grzanka, 2014) and views diversity categories as intertwined.

As mentioned earlier in the literature review, research documents how the elite, large law firms have created institutionalised exclusionary measures (Sanderson and Sommerlad, 2000), which disadvantage the progression of women and minority-ethnic lawyers. Using the ‘intracategorical’ approach (McCall, 2005) with its focus on the junction of “marginalized intersectional identities as an analytic starting point” (Nash, 2008:5), my research asks whether an intersectional theoretical framework, applied using Winker and Degele’s (2011) multi-level analysis model, helps to better understand what happens in practice in small-and medium-sized law firms. Intersectionality will therefore be useful in better understanding the maintenance of the ‘professional’ identity and its connection with the practices of law firms in excluding

candidates who possess the irrelevant human, economic, social and cultural capitals (Ashley and Empson, 2017) prized by the legal profession *habitus*. Hence, studying how intersecting inequalities are formed and maintained as products of the coinciding processes of identity-formation, workplace and societal practices, could be valuable to PSF theory and research (Castro and Holvino, 2016). To this end, the research questions of this thesis are below.

3.12 Research Questions

The principal aim of this thesis is to examine how career progression is structured in small and medium-sized firms in the legal profession; the factors perceived as affecting this progression; and to investigate how and whether diversity within the workforce is managed.

Akin to the methodological approach used by Ashley and Empson (2017), Bourdieu's perspectives on structure and agency via the concepts of *habitus*, *capital*, and *field* are also employed here to conceive the research questions appropriate to this thesis. The first concept of analysis is at the level of the *field*. Using Bourdieu's (2005) terms, law firms are seen as *fields* of power: hierarchically-structured social spaces in which agents compete over valued resources. Therefore, the first research question posed is:

1. How is career progression structured in small- and medium sized law firms?

The second concept of analysis is the level of the *habitus* of social agents (lawyers) within the law firm *field*. The *habitus* provides individuals with the ability to grasp "a feel for the game" (Bourdieu, 1990:66). This also encompasses an analysis of the field-specific career capitals (Iellatchitch *et al.*, 2003): economic, social, cultural and symbolic. *Habitus* thus bridges the concepts of *field* and *capital* (Ashley and Empson, 2017). The second research question is:

2. What are perceived as the factors (personal and organisational characteristics) influencing career progression in small- and medium sized law firms?

Finally, as noted, much scholarship on diversity and diversity management has originated from research undertaken within large organisations. Considering this thesis

context, diversity characteristics are important: an individual's learned *habitus* and accumulation of capitals may be different to those prized within the law *field*. To further knowledge of how best to manage an increasingly-diverse workforce and to discover the implementation of diversity management practices in smaller-sized firms, the third research question is:

3. What diversity management practices exist in these law firms and how effective are they?

Chapter 4: Methodology and Research Plan

4.1 Introduction

The findings in this thesis are founded on data collected from 44 semi-structured, qualitative interviews conducted with both legal and non-legal professionals within small- and medium-sized law firms in England and Wales. The sections that follow describe and justify the research design: from the philosophical underpinnings and my adoption of an interpretative stance, to data collection and data analysis. To reiterate, the research questions are:

1. How is career progression structured in small- and medium-sized law firms?
2. What are perceived as the factors (personal and organisational characteristics) influencing career progression in small- and medium-sized law firms?
3. What diversity management practices exist in these law firms and how effective are they?

4.2 Conceptual Framework

Intersectionality has been increasingly employed as a way of “studying, understanding and responding to the ways in which gender intersects with other identities and how these intersections contribute to unique experiences of oppression and privilege (Symington, 2004:1). In this way, power structures are viewed as omnipresent: the central tenant holding together the interactions between identities of social categories (race, gender, etc.) and social, cultural and institutional forces (Davis, 2008).

Research on large, elite firms highlight that white, middle-class men are the most likely to possess the high levels of field-specific career capitals (Iellatchitch *et al.*, 2003) required for a successful legal career. There is a need to explore the ways in which intersectionality can better inform our understanding of career progression of individuals from diverse backgrounds; specifically, within small- and medium-sized companies; given the lack of research currently available. Diversity characteristics of this increasingly-diverse legal workforce are important: an individual’s learned *habitus* and accumulation of capitals may be different to those prized within the law *field*.

The research framework used is intersectionality theory (Crenshaw, 1989), historically founded in the junction between race and gender. The interpretation and usage of this

term varies across diverse paradigms of thought and thus has profound implications for its research application (Bendl *et al.*, 2015). Shields (2008:311) contends that “intersectionality theory, by virtue of its description of multidimensional nature of identity makes investigation through qualitative methods seem both natural and necessary”. Nonetheless, various forms and levels of intersectional analysis may necessitate the use of different qualitative methods (Bowleg, 2008). Scholars thus call for clearly-established definitions, methodology and practical applications to this “undertheorized and under-operationalized” (Tatli and Özbilgin, 2012:181) concept to enhance its study. Intersectionality is deemed as forming an innovative paradigm to investigate connections between marginalised groups and examine gendered practices (Hancock, 2007a; Simien, 2007).

As described in the literature review, there are debates regarding how best to conceptualise intersectionality. Cho *et al.*, (2013) explain three possibilities: firstly, as a theoretical and analytical framework (used in this thesis); secondly, as involving discussions about its terminology and its theoretical and methodological application; and thirdly, employed as a lens through which to view political and social-justice movements and the methods in which how best to use intersectionality to inform practice.

The literature review also described McCall’s (2005) forms of intersectionality as being grouped into a continuum of three approaches: anticategorical (dismantling categories), intracategorical (individuals at the intersections of categories) and intercategorical (‘strategic’ usage of categories to record inequality across and within social groups). McCall (2005) notes certain caveats in making these distinctions but claims that the three approaches are largely ‘representative’ of existing methods in studying intersectionality. It is from these approaches that intersectionality is conceptualised in this research as intracategorical to best synchronise with the case study methodology used. As case studies provide an in-depth investigation into a particular social group or research site, intersectional researchers use this method to discover a “new or invisible group—at the intersection of multiple categories—and proceed to uncover the differences and complexities of experience embodied in that location” (McCall, 2005:1782). The advantage of McCall’s (2005) intracategorical approach and use of Winker and Degele’s (2011) model, which I will use during the second stage of data

analysis, is in terms of seeking depth and quality of data to best explain the complexity in constructing the modern lived experience (Hill Collins and Bilge, 2016).

As expressed in the literature review, this thesis refers to diversity as *social category diversity* (Phillips *et al.*, 2012). These noticeable social category membership traits (demographic diversity) are a means by which people organise and categorise themselves and others (Jehn *et al.*, 1999). From this, I take ‘identity’ to mean the social categories from which individuals claim membership (both ascribed attributes – gender or ethnicity – and/or on attained states, such as occupation) (Deaux, 2001), in addition to the personal meaning linked to those categories (the unique traits and self-classifications differentiating oneself from others) (Stirratt *et al.*, 2007). I form my conceptualisation of identity in this research based upon the distinctions made by Hill Collins and Bilge (2016), who surmise that transformative identities best capture the holistic nature of intersectionality. This approach is closely related to an interpretivist epistemological position; which is detailed below. This approach views identities as created within, and moulded by, wider societal phenomena (*ibid.*). This also concurs with scholars (Simon and Klandermans, 2001; Ashmore *et al.*, 2004), who state that as ‘the self’ and all associated attributes and identities are innately socially-influenced, they obtain “their meaning and significance only within a context of social relations between people” (Simon, 1997:321).

Of specific interest to these concepts and to this thesis, intersectionality recognises that individuals characterise themselves in terms of multiple social identities; which may change in formation and salience over time (Deaux, 2001). Intersectionality thereby acknowledges that the simultaneous experience of multiple identities gives rise to distinctive meanings and experiences than those solely captured by one identity alone (Stirratt *et al.*, 2007). In sum, using intersectionality as a conceptual framework will help to better explore the factors perceived to influence career progression (either positively or negatively) in small- and medium-sized law firms. As the growing number of entrants (women and minority-ethnic individuals) tend to lack the necessary symbolic capital required for advancement in the legal profession (Sanderson and Sommerlad, 2000; Iellatchitch *et al.*, 2003), the intersectional framework used in this thesis will shed light on the importance assigned to possession of these capitals in smaller-sized firms.

4.3 Philosophical underpinnings of the research

The very topic of interest in this thesis is social phenomena: created, explored and altered by the investigator (Guba and Lincoln, 1994; McAuley, *et al.*, 2007). In terms of the research paradigm, although positivism has largely dominated organisational and management research (Johnson and Cassell, 2001; Symon and Cassell, 2006; Buchanan and Bryman, 2007; Symon and Cassell, 2011), this study uses the philosophical position of interpretivism, which seeks to investigate social phenomena (people's behaviours and experiences of their environment) without any external experimental interference (Brewer, 2004). The justification for using this paradigm for this research is that interpretivism claims to most sufficiently realise the aim of qualitative research: by concentrating on the investigation of contexts and social settings (Vasilachis de Gialdino, 2009). Moreover, in acknowledging that knowledge, meanings and reality are socially-constructed (Bryman and Bell, 2011), interpretivism has a more profound and greater understanding of the complexities of intersectionality than positivism (Bowleg, 2008). Nevertheless, the inherent nature of interpretivist research makes it fallible to disagreements over the trustworthiness and quality of qualitative data, as it cannot be assessed by the same measures as the scientific paradigm (Lincoln and Guba, 1985; Guba and Lincoln, 1994). However, researchers using interpretivism argue that the rich insights of the complex social world may be lost if such complexity is reduced entirely to a series of law-like generalisations (Saunders *et al.*, 2009).

When considering a philosophical perspective, of paramount importance to any research design process is clarity of the researcher's epistemological (what constitutes knowledge) and ontological standpoint (the nature of reality) (Creswell, 2007). This research follows the epistemological stance of interpretivism in that it is necessary for researchers to understand differences between humans in our role as social actors (Saunders *et al.*, 2009). The ontological position adopted in this research is realist in that both the natural and the social world exist independently from human consciousness (Blaikie, 1991). This realist outlook is vital in understanding not only the impact of intersectionality upon individuals but the career barriers and enablers they may perceive and encounter. The research approach is founded upon the research philosophy adopted, whereby it is argued that the deductive approach lends itself more to positivism and testing theory, whereas the inductive approach lends itself more to interpretivism and building theory (Saunders, *et al.*, 2009). Although my theoretical

research contribution is substantive: using intersectionality to better understand the career progression process within smaller firms, the research process is more iterative as I relate back to theory and my literature review to guide my understanding and analysis.

4.4 Research Design and Research Methods

The research strategy employed in this thesis is qualitative research, which “consists of a set of interpretive, material practices that makes the world visible ... This means that qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them” (Denzin and Lincoln, 2003:3). Qualitative inquiry ‘illuminates meanings’ and discovers how individuals make sense of the world (Quinn Patton, 2014). This strategy will prove useful in discovering how research participants conceptualise diversity and diversity management and how they identify career enablers and barriers within the smaller-size law firm context.

However, qualitative research may be criticised for employing methods deemed to be “unstructured, flexible and open-ended” (Brewer, 2004:318), which creates vast quantities of data. Yet, these same arguments can also be used in favour of qualitative research: to complement and contrast against the traditional empirical *modus operandi* of research; enriching and adding a human perspective to an *a priori* objectivity (Bryman and Bell, 2011). Moreover, the qualitative research strategy lends itself well to the study of intersectionality of multiple interpretations and individual experiences in that the data collected in this way is in-depth, detailed and information-rich (Quinn Patton, 2014).

The research design acts as “a framework for the collection and analysis of data” (Bryman and Bell, 2011:40). This thesis employs a case study design, which consists of a detailed investigation, often with data collected over time, of phenomena within their context. The aim is to provide an analysis of the context and processes which illuminate the theoretical issues being studied (Hartley, 2004). The research method is defined as the means of collecting data and is linked with diverse types of research design (Bryman and Bell, 2011). The primary method employed in this research is semi-structured interviews. Company documents and brochures were also collected, as well as information from both organisational and Law Society websites. The additional use

of organisational documents corresponds with previous research on professional service firms (Grey, 1998; Cook *et al.*, 2012). Together, these data collection techniques present a richer case study. Bowen (2009:30) describes the usefulness of documents in advancing research by providing “background and context, additional questions to be asked, supplementary data, a means of tracking change and development, and verification of findings”. The research design and methods shall now be explained in more detail.

4.4.1 Interviews

Interviews represent one of the most widely used methods of data collection in qualitative research. A key reason for this, and certainly the rationale for its adoption in this thesis, is its potential as an effective means through which to understand the world in which respondents live and work (Rubin and Rubin, 2005). In line with my interpretivist stance, the semi-structured interview style will allow me, as a researcher, to better probe and reflect upon the way in which language is used within the interview and gain insight into how the dialogue is constructed within the interview context (King, 2004). This interview style has four purposes: firstly, to record the interviewee’s outlook on a topic; secondly, to stimulate ‘active engagement’ and learning for both interviewer and interviewee; thirdly, to offer flexibility in changing the interview direction to pursue emergent issues and secure more detailed responses; and finally, to potentially encourage an openness of feelings, which cannot be otherwise observed (Simons, 2009). Furthermore, the resulting discussions may touch upon sensitive issues around perceived career barriers. If any bias surrounding career advancement exists, it may be more implicit than explicit, and so, function unconsciously. These sensitive issues may not be as readily or openly disclosed via other data collection methods, such as questionnaires. Additionally, the use of interviews is also justified via the fluctuating numbers of employees in each small PSF – the potentially small sample sizes would not lend themselves well to large-scale data collection methods. Via semi-structured interviews, this study will explore how individuals present their views about their opportunities for career progression, how they feel they are treated and about whether they believe any barriers are created within the organisational culture to hinder their career advancement.

In terms of setting interview questions, my questions were mostly open-ended, to allow the interviewee “a great deal of leeway in how to reply” (Bryman and Bell, 2011:467); generating comprehensive and detailed accounts (DiCicco-Bloom and Crabtree, 2006; Teddlie and Tashakkori, 2009). Knox and Burkard (2009) discuss the importance of reflecting upon questions, due to the essence of interviewing in taking “an interest in understanding the experience of other people and the meaning they make of that experience” (Seidman, 2006:9). An interview schedule was thus created which reflected the interests of the conceptual framework and research aims. In designing my questions, Seymour-Smith’s (1985:113) principles were followed: questions were devised so that they were: “instantly understood by the respondent ... actually capable of giving you the information you want”. The conversations were loosely-structured in that respondents could vary the order of topics and potentially introduce new and related themes, such as the impact upon their careers resulting from the changing legislation on shared parental leave.

4.4.2 Case Study

Although Yin’s (2004) case study definition is perhaps one of the most widely-used, Woodside (2010:16) prefers a broader description and states the central facet of case study research is “an inquiry that focuses on describing, understanding, predicting, and/or controlling” at the individual level. Indeed, case study research involves a thorough examination of phenomena within a particular setting; the goal of which is to analyse contextual practices which inform the theoretical issues under investigation (Hartley, 2004).

Yin (2004) advocates the researcher to consider whether the case study shall be: exploratory, descriptive or explanatory. This choice will impact upon the goal or purpose of the research questions and the extent to which the case study intends to examine either specific conditions or on generalisable applications (Hartley, 2004). Nevertheless, both exploratory and descriptive case studies are criticised in conceding to the classical empirical positivistic tradition; whereby only the explanatory case study does not view the case “as ancillary to more quantitative methods” (Lee *et al.*, 2007:170). This thesis uses an explanatory case study to explicate the connection between variables (Saunders *et al.*, 2009): perceived carrier progression enablers and barriers.

Although Stake (2003) also distinguishes between three different case study types: intrinsic (exploring the specificity of a situation), instrumental (deeper understanding of a widespread issue and/or challenge generalisations and build theory) and collective (using multiple instrumental cases to investigate and make comparisons about a phenomenon), the author also states these distinctions are not always clear. Indeed, some criticisms of case study research are the multitude of possible interpretations of data due to ‘thick descriptions’ (Geertz, 1973). These detailed, context-specific accounts are deemed to “reflect chaotic complexity” to those employing a positivist paradigm (Woodside, 2010:20). The collective or multiple case study design, used in this research, permits the researcher to compare cases, discovering similarities and unique differences to better enhance theory building (Bryman and Bell, 2011). However, some scholars argue that a multiple case study approach would imply that a researcher affords less time and attention to the specific context and more to ‘measurability’ and how they can be contrasted (Dyer and Wilkins, 1991; Creswell, 2007).

Another important distinction to make is that the multiple case study design differs to the cross-sectional design in that the former centres upon the cases and unique contexts, whereas the emphasis of the latter is in generating overall findings, with little concern afforded to the unique contexts of each case (Bryman and Bell, 2011). Furthermore, case studies have been attacked for lacking in accuracy and diligence and for not being objective (Yin, 2009). This is due to the confusion generated by its diverse uses and interpretations, as well as its subjective nature and possible bias resulting from the relationships between the researcher and participants (Cassell and Symon, 2004). Additionally, as mentioned, quantitative research evaluation criteria is not entirely applicable to qualitative research; yet, the concerns of external validity (generalisability) remain (Bryman and Bell, 2011). Hartley (2004) believes that rather than measuring the robustness of case studies via quantity (e.g. sample size) – specifying ‘statistical generalization’ (Yin, 2009:38) – case studies ought to emphasise ‘analytical generalization’. This a comprehensive investigation of context-specific processes whereby the researcher can identify circumstances which will likely result in the occurrence of similar processes and behaviours. Certainly, while large research samples have the advantage of breadth, they lack depth – the opposite qualities to case studies.

Flyvbjerg (2006:241) admits that both are essential for a “sound development of social science”.

With case studies usually merging data-gathering methods such as interviews, questionnaires, archives and observations (Eisenhardt, 1989), the case study technique is well-matched to ‘rich’ data collected in context or understanding social or organisational processes (Hartley, 2004). The strengths of extracting theory from cases are: novel theory may be generated; emergent theory may be easily tested against measurable concepts and hypotheses; and it is possible that the resulting theory will be empirically-valid (Eisenhardt, 1989). Relaying back to the contributions of this thesis, the collective case study design proves ideal.

This inductive approach to connecting theory and research is compatible with the qualitative case study strategy (Bryman and Bell, 2011). Data collected thus needs to be representative of the environment studied: considerable time is required to uncover events and build relationships and trust (Brewer, 2004; Curry *et al.*, 2009). The case study is also viewed as “a useful technique where exploration is being made of organizational behaviour which is informal, unusual, secret or even illicit” (Hartley, 2004:325); such as in instances in this thesis of perceived carrier barriers and unequal treatment. A trust rapport is necessary to learn from participants (Russell, 2005) and influences how research is directed, types of data gathered and how information is interpreted (Brewer, 2004; McDonald, 2005; Buchanan and Bryman, 2007). This will be explained in greater detail below.

4.5 Data Collection

Hartley (2004:324) observes that case studies “generally include multiple methods because of the research issues which can be best addressed through this strategy”. The approach to this research involves semi-structured qualitative interviews in conjunction with organisational documents, brochures and both company and Law Society websites information. Together, this should offer more accurate inferences (Bowen, 2009), to answer the research questions. At the start of the data collection process, I conducted two pilot interviews at a consultancy firm, before refining my interview schedule for subsequent interviews at the law firms.

A pilot study, formed only of two male individuals at one professional service firm, was conducted during the initial stages of this research process. The first interviewee was recruited via email correspondence and an additional participant via ‘snowball sampling’ (Lewis-Beck *et al.*, 2004). The objective was two-fold: firstly, to examine whether the research questions corresponded to my epistemological stance and conceptual framework and were successful in producing meaningful data to answer the research questions. Secondly, these pilot interviews allowed me to determine the key questions to ask as I learned to navigate against the one-hour time constraint. Unfortunately, research could not progress any further within this management consultancy firm, as the organisation only employed 7 or 8 permanent workers and relied on hiring *ad hoc* contractual staff. Thus, I learned that the actual sample for this research would be too small (4 people were willing to participate) and there was no real organisational hierarchy upon which to base the internal career progression questions. Based on these pilot interviews, several revisions were made to the research strategy (seeking larger-sized PSFs) and interview design. For the latter, a greater emphasis was placed upon encouraging biographical narratives via incorporating discussions on past work experiences and why participants chose to work in the legal profession. This was also based upon the importance assigned to accumulation of capitals (Ashley and Empson, 2013) necessary for entry and progression within law firms; as highlighted in the literature review.

Following this experience at the management consultancy, I learned that I had to conduct more research into online databases (for example, Mint) and use Company House data to identify more suitable smaller-sized PSFs. Upon further reading of the literature on PSFs, the research aim evolved to focus on the legal profession. To study how small-and medium-sized law firms had been socially constructed in terms of career structures and the criteria required for career progression, I now sought to gain access into small-and medium-sized law firms in England and Wales. The sampling strategy is now described below.

I sought research access through organisational ‘gatekeepers’, (Smith, 2001; Hamersley and Atkinson, 2007) those who authorise access into a research setting (Bryman and Bell, 2011). Organisational gatekeepers may be concerned about the end uses of the data generated within the company – the possibility that research may publicly reveal

business practices, for example – and so, they demand absolute confidentiality, for both individuals and businesses; thereby delaying the research access process (Smith, 2007). Indeed, for one participating organisation in this research, I was asked to sign a Confidentiality Agreement to maintain and respect rules of confidentiality; using data gathered solely for the purposes of my PhD studies. I was also asked to provide confirmation from my lead supervisor of my position as a researcher at the University of Leeds. Drawing upon social theory, to use the ‘strategic exchange perspective’ (Watson, 1994), access to the organisations was granted and premised upon providing a summary of feedback and key points raised from employees, on perceived firm strengths and/or areas for improvement to senior management. In ‘exchange’ for this brief report, research access and permission to use the data created for my thesis was approved; providing that the entire research process remained confidential.

In total, I emailed between 50-60 firms, finding email details of head individuals on company websites: either contacting the operations partner directly or copying the practice managers, HR or administrative staff into the email; should additional information be available. By emailing both the operations partners and key support staff, I hoped gaining access would be more likely: the administrators may perceive themselves to be more integral to the process – I believed them to be the main ‘formal’ (Hamersley and Atkinson, 2007) gatekeepers – and would perhaps be flattered that I had also taken the time to find their names. This strategy indeed tended to prove successful; although gathering both these pieces of information sometimes proved difficult; dependent upon the quality of the company website information. I received email responses from most companies targeted who were interested in my research, but could not take the time to assist me in my project. Additionally, a large proportion of the organisations contacted did not reply.

In total, the sample generated from my efforts consisted of four small-and medium-sized law firms in England and Wales which could provide me with access at the chosen time. Each firm comprised between 7-15 participants. In-keeping with the intersectional approach, which advises sampling participants from demographically-diverse backgrounds (Özbilgin *et al.*, 2011), the sampling technique employed in this thesis was purposefully-driven. This meant that the law firms and participants in this thesis are relevant to a better understanding of the social phenomena under study (Mason, 2002). I

wished to interview participants from all positions of seniority, of all ages, genders and backgrounds across the four firms. This would yield a richer pool of data with respect to the career trajectory and career goals of a range of individuals, across a broader spectrum of *social category diversity* (Phillips *et al.*, 2012). While this sampling strategy may not score highly in terms of generalisability, the goal of this research project was in terms of seeking depth and quality of data. This is compatible with the premise of intersectionality in best explaining the complexity in constructing the modern lived experience (Hill Collins and Bilge, 2016).

Engel and Schutt (2013) summarise practices common in most qualitative data analysis approaches: the data collection process; organising data into categories and concepts; seeking to link concepts in the data together; validation and evaluation of the data; and relaying the outcomes. Within the case study research design, semi-structured interviews were used as the primary tool for data collection and were audio-recorded digitally on a dictaphone. Audio-recording provides the advantages of ensuring the data generated is documented accurately; it allows the researcher to concentrate more on the discussion and actively respond to interviewees; and the accurate recording offers a means by which the researcher can review and reconsider any possible misreporting or initial unfair judgements made (Simons, 2009). Nevertheless, the existence of an audio-recorder may unsettle participants, who may be concerned and overly self-aware of being recorded, yet after their initial apprehension, they settle into the conversation (Bryman and Bell, 2011). Throughout the interviews, I followed the responsive interview model, which encourages detail (specifics), depth (history and context), vividness (realistic descriptions) and nuance (subtle variations) within interviewee responses, to allow for the collection of rich data (Rubin and Rubin, 2005). During the interviews, it is also important for the 'ethically sensitive' interviewer to attentively listen to what the participant says or does not say, so that the interviewer is able to react quickly to answers and is wary of body language which may indicate that the participant feels uneasy with a certain topic or issue (Bryman and Bell, 2011).

Note-taking formed an additional means of documenting information; which should be done in a disciplined manner (Waddington, 2004; McDonald, 2005). This method "should include descriptions of people, events and conversations as well as the observer's actions, feelings and hunches or working hypotheses" (Taylor and Bogdan,

1984:53). Note-taking in this thesis was employed more for the purposes of reflection: to document what skills I may be able to improve for the subsequent interviews, new areas of interest or additional opinions made by participants who ‘opened up’ (Bryman and Bell, 2011) after the dictaphone stopped recording. Any data collected through note-taking was amassed after each interview, following Brewer’s (2004:317) advice to use discretion in “reducing the visibility of the pad and the physical activity of note taking”. However, while conducting case study research, it may be desirable to continue collecting more data; yet, this may not be viable or feasible owing to data management consideration (Hartley, 2004). Indeed, transcribing interviews is an industrious undertaking, leaving behind a vast paper trail, which all requires assessment and analysis (Bryman and Bell, 2011).

In terms of evaluating the quality of organisational documents and website information, scholars are advised to use criteria by Scott (1990:6), which reviews: authenticity, credibility, representativeness and meaning. Bryman and Bell (2011) note that company documents tend to be authentic and meaningful in terms of being coherent and clearly-written. In terms of credibility and representativeness, scholars need to remember that these documents indirectly provide researchers information about the social world of the people who wrote them (Payne and Payne, 2004). Firstly, they are written in such a way as to convey a certain (managerial) viewpoint (Saunders *et al.*, 2009). Secondly, company documents visible to the public “may not be an accurate representation of how organizational actors perceive the situations in which they are involved” (Bryman and Bell, 2011:550). Documentary analysis of the documents and information from websites (each law firm, the SRA and Law Society) formed part of the larger data analysis conducted using Winker and Degele’s (2011) intersectional multi-level analysis model. Data analysis shall be further examined in section 4.7.

4.6 Overview of the law firms

There is much debate in the literature as to the elements which create a professional services firm (PSF). Yet, general notions of a PSF correspond to the characteristics suggested by von Nordenflycht (2010): knowledge intensity, low capital intensity, and professionalised workforce – all three of which classifies a ‘Classic PSF’, such as an accountancy, law firm or architects (*ibid.*). The UK legal profession continues to be a growing industry: figures from 31st July 2016 show that solicitors with practising

certificates totalled 136,176, and 175,160 lawyers were on the Roll of solicitors (Law Society, 2017d).

The legal profession can be differentiated into: the larger law firms included in the ‘top 200’ list (the elite ‘silver circle’, ‘magic circle’ and ‘city law firms’) and the remaining – usually smaller-sized – ‘high street’ or ‘retail’ legal practices (Aulakh and Kirkpatrick, 2016). In terms of the cases themselves, this research concentrates on the smaller-sized law firms in England and Wales, who provide mainly ‘retail’ services to clients. To explain further, services related to ‘retail market work’, include family law, personal injury, wills and probate and conveyancing (Law Society, 2016d).

Although I will address data collection methods more in section 4.6, I will briefly explain here that I was granted access to four smaller-sized law firms and to achieve ‘breadth’ and ‘depth’, I secured access to 2 ‘small’ firms (those with 2-4 partners) (Law Society, 2015), and 2 medium-sized firms. Researchers must bear in mind that studying smaller-sized firms via the ‘traditional’ belief of managing small businesses as one would large businesses, yet on a lesser scale (Welsh and White, 1981), causes an oversight about the idiosyncratic practices and procedures occurring within, and influencing, these smaller companies (Cassell *et al.*, 2002). Hence, the philosophical outcomes of employing the case-study research design to the smaller-sized business environment will require reflection (Perren and Ram, 2004).

In relation to the research questions (Yin, 2009), the primary unit of analysis is the organisation – examining how career progression occurs and the existence of diversity management practices – yet this research shall also consider the individual with respect to their career trajectory, career goals and factors perceived to influence their advancement. I thus wished to conduct interviews with participants from all positions of seniority, of all ages, genders and backgrounds across all the four firms. A benefit of using intersectionality in this regard is that it is described as sympathetic and applicable to both the structural level of analysis and individual-level phenomena (Hancock, 2007b) due to its recognition of the four domains of power organised within a matrix of domination (Hill Collins, 2000): structural, interpersonal, disciplinary and hegemonic. Furthermore, as a data collection strategy, the intersectional approach advises sampling participants from demographically-diverse backgrounds, to enable more profound

analysis of “how multiple strands of diversity intersect to create differentiated opportunities and constraints at particular historical and contextual configurations” (Özbilgin *et al.*, 2011:189). I now describe the four law firms in turn.

Firm 1: “LEFT-LAW”

This firm is a limited liability partnership, employed between 70 and 80 employees at the time of study and has four offices. “LEFT-LAW” has 7 partners, with only one female partner. Three of the White British (coded as WB) male partners qualified as solicitors in the 1980s and two other men qualified in the 1990s. Akin to the largest organisation in this research, Firm 3, this firm also offers manifold legal services, yet, has a notable left-wing orientation in siding with trade unions. It markets itself as primarily being a Personal Injury (PI) law firm. The business also offers departments specialising in injury claims and occupational disease, employment rights, property services, family law, wills and probate, professional negligence and elderly client services.

Historically, the partners met once a month as a partnership where they made all the management decisions, but as the firm grew, they developed a management committee of three members initially. Continued growth of “LEFT-LAW” meant that it was no longer viable and resulted in the establishment of a ‘chief-exec role’, whereby an operations partner was allocated to be in charge of the day-to-day decisions about the running of the firm. These changes were thought to make for a more centralised and quicker decision-making process. One company document acquired relevant to this thesis was a hierarchical chart of the organisation, which aided in a clearer understanding of the company structure. Reviewed in more detail in Chapter 6, LEFT-LAW’s brochure on their ‘Equality and Diversity’ policy was also studied. This is similarly available on their website. They are the only company in this research to have made this information available online under the heading ‘About Us’ and in their sub-heading ‘Recruitment’. This section of the company website has been updated since the completion of fieldwork.

Most interviews took place with individuals working in either the employment law or Personal Injury (PI) divisions; with two other interviews with solicitors specialising in property and conveyancing. Within “LEFT-LAW” and also Firm 3, “LARGE-LAW”,

and Firm 4, “FEM-LAW”, there is a career progression route comprising the following grading structure, from most to least senior: partner (equity); partner (salaried); associate; solicitor; trainee Solicitor; paralegal / legal assistant.

All the paralegals and legal assistants at “LEFT-LAW” had studied law at University, but only some had decided to pursue the one-year full-time Legal Practice Course (LPC). Trainee solicitors had a law degree and completed their LPC and had been offered a training contract, which lasts for 2 years and covers work experience in different contentious and non-contentious law departments. At the end of this training, a trainee will qualify as a solicitor. Those in more senior positions had progressed their career through years of experience at the company and, at partner level, had met the criteria necessary to be accepted into partnership. The interviews that I carried out in “LEFT-LAW”, in terms of seniority, are as follows:

Table 4: Interviews in “LEFT-LAW”

Code	M / F	Age	Ethnic group	Role	Dpt	Time at firm	Qualify	School	Law at Uni	Parent
MMP1-1	M	50	WB	Managing Partner	Employment	27y	1989	Comp	Y	Y
FA1-1	F	40s	WB	Associate	Property & Conveyancing	4y	1994	Comp?	Y	Y
MA1-1	M	30s	WB	Associate	Employment	10 y	2008	Private	Y	? (N)
MA2-1	M	40s	WB	Associate	PI	13y	2003	Comp	History	Y
FS1-1	F	30s	WB	Solicitor	PI	Oct-13	2011	Comp	Y	Y
MS1-1	M	20s	BA (Brit. Asian)	Solicitor	Property & Conveyancing	3y	2015	Private ?	Y	N
FT1-1	F	20s	WB	Trainee	PI	4 y	2016	Comp?	Y	N
Fp11-1	F	20s	BA	Paralegal	PI	Jul-14	N/A	Comp	Y	N
FLA1-1	F	20s	WB	Legal assistant	PI	2 y	N/A	Comp	Y	N
FC1-1	F	20s	WB	Capture	PI	Nov-14	N/A	Comp	Y	N
FSc1-1	F	50+	WB	Secretary	Employment	13 y	N/A	Comp	N/A	Y
FSc2-1	F	40s	WB	Secretary	PI	20 y	N/A	Comp	N/A	N

Firm 2: “SMALL-LAW”

This was the smallest PSF in the study, with 25-30 employees. Therefore, the organisational structure was less ‘traditionally’ hierarchical in that the associate solicitor position between solicitor and the four partners did not exist. The lack of an associate

solicitor role was attributed to the way “SMALL-LAW” had changed: moving away from a ‘high street’ or ‘private practice’ arrangement into a more ‘commercial’ sphere; offering a full range of services for business and personal clientele, such as wills and trusts, personal injury, fraud, mergers and acquisitions, employment and dispute resolution and construction litigation. This, in turn, was deemed to appeal more to male, than female, applicants. The firm marketed themselves as a small firm, able to respond quickly to any queries and offering high-class, yet affordable services from senior staff with large-firm expertise: staff who had previously worked at larger law firms. With their new office relocation and hiring of a Business Development Manager, “SMALL-LAW” was looking to appeal to young, talented law graduates seeking a city-centre lifestyle. The firm took pride in its image as a ‘young firm’ in terms of the lower average age of its workforce contrasted to comparable businesses. Only company brochures were available – the most relevant was their information on their ‘Employment and HR Support Services’ to clients. Details on their website were minimal.

While 3 out of 10 interviews took place with individuals working in commercial property law, interviews were also conducted with employees specialising in employment law, commercial litigation, wills and probate and PI divisions and included interviews with 2 non-legal female managers. The “SMALL-LAW”, career progression route differs slightly to those of Firms 1, 3 and 4, comprising the following grading structure, from most to least senior: partner (equity); partner (salaried); solicitor; trainee solicitor; paralegal / legal assistant. The two paralegals at “SMALL-LAW” had studied law at University and completed their LPC. The interviews that I carried out in “SMALL-LAW” in terms of seniority, is as follows:

Table 5: Interviews in “SMALL-LAW”

Code	M / F	Age	Ethnic group	Role	Dpt	Time at firm	Qualify	School	Law at Uni	Parent
MEP1-2	M	38-39	WB	Equity Partner	Corporate Commercial	6 y	2001	Comp	Y	Y
MP1-2	M	38	WB	Partner	Commercial Property	10 m	2002	?	Y	N
MP2-2	M	44	WB	Partner	Commercial Property	2 y 4 m - March 13	1997	Comp	Y	Y
FNL1-2	F	30s	WB	Practice Manager	N/A	7y	2010	Comp	Y	Y
FNL2-2	F	40s	WB	Business Development Manager	N/A	9 m	N/A	Private?	Law & French	Y
FS1-2	F	20s	WB	Solicitor	Employment	3y	2013	Private	Y	N
FS2-2	F	28-29	WB	Solicitor	Wills & Probate	5.5 y	2012	Comp?	Y	N
FT1-2	F	20s	WB	Trainee	Commercial Property	1.5y Feb 14	2016	Comp?	Law & mgmt	N
Fpl1-2	F	24	WB	Paralegal	PI	Apr-15	N/A	Private	Y	N
Mpl1-2	M	25	WB	Paralegal	Commercial litigation	Jun-15	N/A	Private?	Y	N

Firm 3: “LARGE-LAW”

The largest company in this research, this limited liability partnership employs nearly 180 employees and had two offices in the city centre. At the time of study, out of 17 partners, 2 were women, but at the time of this writing, upon checking of the organisational website, one female partner had since left. Approximately 20 years ago, similarly to “LEFT-LAW” (Firm 1), “LARGE-LAW” was described to be a structured, traditional, old-fashioned partnership. However, the successive managing partner was forward-thinking and wished to raise the profile of the firm; recognising the benefits of

marketing and use of social media. The firm takes a very proactive approach to networking. This firm provides services for both business and personal clients and included both commercial, residential and intellectual property, wills and probate, (commercial) dispute resolution, family, employment, insolvency and personal injury departments; among others. The conveyancing department is the largest in the company, employing between 80-90 individuals. Some more senior staff members believe that this image may hinder the impact of the specialisms the company has to differentiate themselves from competitors. The managing partner believed customer service is key and installed a 'call-back promise' to clients within a certain time frame. Due to continued growth, "LARGE-LAW" was the only business to have recently hired a HR manager, who would oversee revising the recruitment processes, promotion criteria and so on. It was the HR manager who gave the following company documentation: welcome pack for new recruits; a brochure showcasing partners and heads of department at the firm; an internal email – an annual (financial) update; along with their most recent SRA diversity and equality survey. Interestingly, the HR manager has since left the organisation and there is nothing on their website to suggest that they have hired a replacement. While there is no diversity policy visible on their website, like Firm 1, "LARGE-LAW" has a 'Corporate Social Responsibility' heading which describes their organisational charity work that staff may become involved in.

While 5 out of 15 interviews took place with individuals working in conveyancing, interviews were also conducted with employees specialising in employment law, commercial property, family law, wills and probate and included interviews with 3 non-legal female managers. Both paralegals at "LARGE-LAW" had studied law at University, with one having completed their LPC and the other planning to shortly start on the course. While the 3 paralegals working in conveyancing all had their LPC, it was not necessary for the conveyancers to be qualified, but those interviewed had either completed or were working on achieving their licensed conveyancer qualifications. The interviews that I carried out in "LARGE-LAW", in terms of seniority, is as follows:

Table 6: Interviews in “LARGE-LAW”

Code	M / F	Age	Ethnic group	Role	Dpt	Time at firm	Qualify	School	Law at Uni	Parent
MMP 1-3	M	48	WB	Managing Partner	Employment	21 y	1993	Comp	Y	Y
FEP 1-3	F	50	WB	Equity Partner	Wills & Probate	21 y	1989	Scottish	Y	Y
MP 1-3	M	30s	WB	Partner	Employment	2002	2004	Private	Y	Y
MA 1-3	M	30s	WB	Associate	Employment	9y	2008	Scottish	History	N
FS1-3	F	30s	WB	Solicitor	Property	Jan-14	2012	Comp	Y	Y
MS1-3	M	20s	WB	Solicitor	Employment	4y	2013	Comp	Y	N
FNL 1-3	F	55	WB	Ops Manager	Conveyancing	2 y	N/A	Comp	N/A	Y
FNL 2-3	F	50s	WB	HR Manager	N/A	7m	N/A	Comp	N/A	Y
FNL 3-3	F	40s	WB	IT Manager	IT	23y (few years absent)	N/A	Comp	N/A	Y
FC 2-3	F	36	WB	Senior Conveyancer	Conveyancing	1y	Conveyancing course (current)	Comp	Psychology	Y
MC 1-3	M	26	BA	Paralegal	Conveyancing	Jul-14	N/A	Comp	Y	N
MC 2-3	M	20s	BA	Paralegal	Conveyancing	Jan-15	Conveyancing licence	Comp	Y	N
FC 1-3	F	30s	WB	Paralegal	Conveyancing	Jul-15	N/A	Comp	Y	?
Mpl 1-3	M	20s	WB	Paralegal	Employment	2 y in Aug	2017	Comp	Sports science	N
Mpl2-3	M	24	WB	Paralegal	Family	2.5m	2018	Private	Y	N

Firm 4: “FEM-LAW”

This firm is a limited company, employing over 120 employees and had four offices at the time of study. “FEM-LAW” differentiates itself from the others in this research by having a majority-female workforce and a female managing partner. This company specialised mainly in personal injury and stress-related claims, yet also offered advice and services in: bullying and harassment, compromise agreements, discrimination, equal pay, grievances, whistleblowing, redundancy and unfair dismissal. Again, the type of legal work was considered to appeal more to female, than male, recruits. This company is the only one to mention on their website that they offered legal services often under a ‘no win no fee’ basis. At the time of the interviews, I was told that the four offices were being consolidated into one big office and a rebrand would take place later in the year, which would allow the firm to better promote the fact that they are a client-focused, dependable and approachable law firm. Akin to “SMALL-LAW”, I was only able to acquire company brochures. Again, the most relevant was their information on their ‘Employment and HR Support Services’. At the time of this writing, information on their website was minimal. They have since thoroughly updated their website following the merging of offices and rebranding.

The organisational structure was described as dissimilar to other firms in that the majority of the workforce served in fee-earner roles, with only a few managers and a few support staff. The hierarchical composition within “FEM-LAW” was not as clear as the other firms in this study, yet the key observable roles, from most to least senior, were: director (equity); head of department; solicitor; trainee solicitor; fee earner, paralegal. One of the reasons impacting this alternative career progression hierarchy may be following a recent restructure of departments, where the succeeding managing partner had decided to amalgamate roles in specific departments. Thus, the solicitors I spoke to had missed an opportunity for promotion due to moving departments at the time of this reshuffle, or did not possess enough experience at the time. Although the workforce was predominately female, the heads of department and directors tended to be male. Indeed, the female managing partner is supported by two male directors; one of whom is the founder of the business.

Most interviews took place with female individuals working in a mixture of employment law, Road Traffic Accident (RTA) and Personal Injury (PI) divisions. Only

two out of the three paralegals at “FEM-LAW” had been to University, but neither of them had studied law as a sole degree. All three paralegals, however, were currently studying for their CILEx qualification to become a legal executive. The interviews that I carried out in “FEM-LAW”, in terms of seniority, is as follows:

Table 7: Interviews in “FEM-LAW”

Code	M / F	Age	Ethnic group	Role	Dpt	Time at firm	Qualify	School	Law at Uni	Parent
FS1-4	F	20s	WB	Solicitor (Head of Stress Dpt)	Employment (Stress at Work)	5y	2013	Private	Business	N
FS2-4	F	20s	WB	Solicitor	Employment (Stress at Work)	5y	2014	Comp	Y	N
FV1-4	F	30s	WB	Head of Vetting	RTA/CRCA	1.5y	N/A	Comp?	Theology	N
FNL1-4	F	36	WB	Deputy Office & Admin Manager	Employment	2y	N/A	Comp	N/A	Y
Fpl1-4	F	20s	WB	Paralegal	RTA/CRCA	Feb-15	ILEX (current)	Comp	N/A	N
Fpl2-4	F	37	WB	Paralegal	PI	4y	ILEX (current)	Private in S. Africa	N/A	Y
Fpl3-4	F	28	Mixed	Paralegal	RTA/CRCA	3y	N/A	Comp?	Law & Bus	N

4.6 Fieldwork reflections

Building on the work by Lincoln and Guba (1985) on the trustworthiness criteria of qualitative research, Creswell and Miller (2000) recommend scholars to engage in reflexivity to ensure the quality and usefulness of qualitative research. At the beginning

of data collection, I was a little anxious following consideration of the ethical procedures to be adhered to during the interviews. The interviews themselves generated discussion of topics and issues of a fairly sensitive nature and could possibly cause participants unnecessary distress. I was also very aware, as an outsider to the organisations, that my presence as a researcher could affect and bias the study (Brewer, 2004; Monahan and Fisher, 2010). In terms of what this meant and how this could influence my research, personal factors, such as my age, extent of experience and gender would be influential (Waddington, 2004; Buchanan and Bryman, 2007); especially considering that the legal profession has traditionally been male-dominated. Although female interviewers may be confronted with efforts from male participants to reaffirm their masculinity and male power – as the positioning in the interview situation challenges traditional gender norms – it is the interviewer, structuring and managing the discussion, who holds the more influential role and, subsequently, writes the research which documents the conversation (Deutsch, 2007). One strong advantage of qualitative research is its accommodation of such reflexivity (Marshall and Rossman, 2006).

Depending on my participants, my age was more often beneficial than a hindrance regarding creating rapport, as most of the interviewees were in their twenties or thirties. My gender transpired to be advantageous; given that the majority of my research sample is female. Moreover, it is thought that female fieldworkers may gain easier access to unique information via their greater innate compassion and sensitive interpersonal skills (Russell, 2005). This became more apparent when interviewees disclosed experiences of unequal treatment, the challenges when considering family planning, the perceived career obstacles within their firm and the legal profession at large. Grey (1998:574) argues that using reflexivity in this way means that ‘the qualitative researcher must constantly negotiate between the subjective (constructing accounts) and remaining objective as an observer’; thereby challenging the traditional beliefs of this type of research. This reflexivity is especially important in terms of the intersectional data analysis. The different elements of “educational and/or economic privilege or disadvantage, unequal access to power and resources collude in shaping their [participants’] experiences of the work–life interface” (Özbilgin *et al.*, 2011:189).

4.7 Coding and Analysis

Data analysis began following interviews with participants and the collection of available documents from each law firm. Interviews with partners, non-legal management, solicitors, trainees, paralegals and administrative staff in the four law firms yielded a total of 44 semi-structured interviews. Each interviewee permitted the audio-recording of their interview. An advantage of the semi-structured interview design meant that the interview questions could be separated into seven areas – which connect to the focus of my research questions on career progression – and so enable an open evaluation of my main points of interest: background; job; family; career progression; diversity; HR practice; firm. These categories are depicted in Table 8 and shall now be discussed below.

The first stage after uploading the recorded interview data onto the secure University network was transcription. I chose to transcribe the interviews myself as I felt it essential to be as engaged and involved in my data as much as possible. From this first drafting of text, I could also start reflecting upon what was said and make notes of general emerging themes prior to the first formal reading and analysis. The interviews were uploaded to NVIVO – a type of software which aids qualitative data analysis. The software facilitated the categorisation, ordering and arranging of information and helped me to examine relationships and common themes developing within the data and across the law firms.

Qualitative research can be challenging: vast amounts of field-notes are generated and the sheer quantity of information and observations, in addition to the time and effort taken for subsequent coding and analysis, can overburden the researcher (Miles, 1979; Waddington, 2004; McDonald, 2005; Gilliat-Ray, 2011). In this regard, the method of data analysis chosen was template analysis, whereby data is organised and analysed according to themes (Table 8). This is to make the vast quantity of textual data more manageable (Crabtree and Miller, 1999). This facilitates the second interpretative stage, in inferring what is influencing the interviewee's communication and behaviour. A great advantage of template analysis is that its use of codes is not as inflexible as those used in grounded theory; welded to its realist methodology (Waring and Wainwright, 2008). Rather, template analysis “may be used within a range of epistemological positions” and so, is beneficial to many researchers (King, 2004:256).

Data analysis was conducted on two levels. Coding started on a descriptive basis: I considered the subject-matter that the interviewee was interested in to create themes. The second level employed an intersectional analysis, and related to my interpretative outlook: I considered how the interviewee explained the theme or issue. For descriptive coding, I analysed the interview according to themes suggested by my research questions, the literature review and my interview data as important to the evaluation. Codes “are tags or labels for assigning units of meaning to the descriptive or inferential information compiled during a study” (Miles and Huberman, 1994:56).

Creating the codes to form a ‘template’ was part of the analytical process, as some codes appeared from the data during transcribing; rather solely being predetermined. The *a priori* themes, as presented in Table 8 were: background; job; family; career progression; diversity; HR practice; and firm. In NVivo, this coding was accomplished through creating ‘nodes’. ‘Quality checks’ were to ensure reliability and validity of these themes (King, 2004), and in re-reading the transcript, a ‘hierarchical coding’ structure was fashioned, with sub-themes emerging (Cassell *et al.*, 2005). These sub-themes, seen in the middle and right-side columns of Table 8, are ‘tree nodes’ – groups of related nodes arranged within a ‘tree-like structure’ (Bryman and Bell, 2011). These themes (nodes) were applied to highlighted segments of interview text and colour-coded (coding stripes) to be recognisable.

Upon reflection of the template and a third detailed reading of the transcripts, I needed to clarify the sub-themes by distinguishing them further, for instance, ‘relationships’ into those with ‘clients’, ‘partners’ and ‘colleagues’, as seen in the right-side column of Table 8. As part of revising the template and with these additional subcategories, reviewing the transcript was more time-consuming, as I was meticulously analysing each ‘chunk’ (Crabtree and Miller, 1999) of text more accurately in terms of coding for the fourth detailed reading. This flexible ‘Boolean search’ allowed a quick grouping together of similar and intersecting data; significant for the second data analysis stage.

Nevertheless, difficulties encountered during this first stage analysis were in terms of (re)assigning codes and reviewing the transcripts. Yet, it can also be argued that coding introduces error if “the rules for assigning answers to categories, collectively known as

the coding frame, are flawed, the variation that is observed will not reflect the true variation in interviewees' replies" (Bryman and Bell, 2011:204). Indeed, a great benefit of using NVivo for facilitating an intersectional analysis was that the software enables the researcher to search for series of text coded at two nodes (for example, gender and ethnicity) and thus intersect (ibid.).

For the second interpretative stage, in terms of implementing my intersectional data analysis, I adhered as much as possible to the view of Cho, Crenshaw, and McCall (2013:795), in that "what makes an analysis intersectional...is its adoption of an intersectional way of thinking about the problem of sameness and difference and its relation to power". Scholars writing on the methodological challenges of intersectionality critique how research tends to use additive measures in amalgamating different identities, instead of focusing on the multiplicity of identities throughout the data collection and analysis stages (Landry, 2007; Hancock, 2007a; Bowleg 2008). In this regard, following McCall's (2005) categorisations of intersectionality, the intracategorical approach (study of experiences within a given category) is employed within this research, to best synchronise with the case study methodology used.

Table 8: Coding system

	THEMES	SUB-THEMES	FURTHER SUB-THEMES
1	Background	1.1 Parents 1.2 Education 1.3 Qualifications 1.4 Previous work experience	
2	Job	2.1 Content 2.2 Identity 2.3 Status 2.4 Relationships 2.5 Positive job characteristics 2.6 Negative job characteristics 2.7 Teamwork 2.8 Flexible working practices	2.4.1 Clients 2.4.2 Partners 2.4.3 Colleagues
3	Family	3.1 Decision to have a family 3.2 Work support 3.3 Spouse support 3.4 Maternity leave 3.5 Being a parent	
4	Career progression	4.1 Why law? 4.2 Career barriers 4.3 Career enablers 4.4 Career goals	4.1.1 Interest 4.1.2 Money 4.1.3 Unintentional / deliberate choice 4.1.4 Prestige 4.2.1 Financial 4.2.2 Effects of recession 4.2.3 Priorities change (family over career) 4.2.4 Unequal treatment 4.2.5 Reflections on profession 4.3.1 Connections and networks 4.3.2 Role models 4.3.3 Luck
5	Diversity	5.1 Definition 5.2 Self-perception (individuality) 5.3 Policies (EO) 5.4 Positive discrimination 5.5 Women 5.6 Ethnicity 5.7 Age 5.8 Diversity and change 5.9 Monitoring (SRA)	
6	HR practice	6.1 Performance appraisals 6.2 Progress monitoring (informal) 6.3 Training 6.4 Recruitment	6.4.1 Word-of-mouth 6.4.2 Organic growth
7	Firm	7.1 Workforce demographics 7.2 Firm size 7.3 Advantages 7.4 Disadvantages 7.5 Culture	

To best learn from case study data, Stake (2003:149) advises that “the conceptions of most naturalistic, holistic, ethnographic, phenomenological case studies need accurate description and subjective, yet disciplined, interpretation; a respect and curiosity for culturally different perceptions of phenomena; and empathic representation of local settings – all blending (perhaps clumped) within a constructivist epistemology”. This also provides a firm rationale for the use of an iterative data analysis process, which shifts between the data and existing literature on the smaller-sized law firms. Supporting this need for accuracy in description and methodical interpretation, Hill Collins (2015:14) notes the epistemological challenges of using intersectionality in research and calls for scholars to adhere to at least one, or a mixture of the following ‘guiding assumptions’. Firstly, different identity groupings (such as gender, age, race, class) are best understood holistically, rather than separately. Secondly, these categories are interconnected and so, power relations (such as sexism and racism) between them are affected. Thirdly, these interlinked power systems fuel the social construction of multi-layered injustices structured within unequal socio-economic societal conditions and through the unique and subjective social exchanges of individuals. Fourthly, the social constructions of these multi-layered injustices are historically-, culturally- and geographically-conditional and thus may be subject to fluctuation. Fifthly, individuals and groups situated along varying points of the intersecting continuums will judge their own and others’ experiences of multi-layered injustices differently; thus furthering the development of research projects which mirror their own experiences along these different intersections. Finally, the multi-layered injustices supported by intersecting power relations are discriminatory in nature; thus, influencing the design of research projects which support or challenge the pre-existing socio-economic societal conditions.

Reflecting upon this, I followed the model of intersectional multi-level analysis advocated by Winker and Degele (2011) (Appendix E), which comprises eight steps. Although the results from analysis are further explained in the Discussion Chapter, given the centrality of this model to this thesis, it is prudent to briefly describe it here. This model considers the interconnection of categories of inequality across three levels: social structures, symbolic representations and identity constructions (Janz, 2014). Bourdieusian (1998) thinking regarding the need for a theory of practice which narrows the stark distinction between empiricism and theory can be identified in Winker and Degele’s (2011) model. This is via the acknowledgment that theoretical categories are

not required to be suitable for, and adhere to, analytical categories (Few-Demo, 2014). To this end, the start of analysis is not theoretical, but empirically-accessible social practices, i.e. identity constructions (Winker and Degele, 2011). This starting point enables scholars to recreate the identities created by participants, “as well as the structures and norms they draw on, as social practices are conceptualized as being embedded in structures and in symbolic representations” (Janz, 2014:90).

This intersectional model allows for a holistic analysis of the processes of (re)production of inequalities across and between multiple levels; enabling a thorough examination and understanding of the interdependent relationships between social practices, social structures and symbolic representations (Janz, 2014). Two of the 8 steps in this model involves analysis of supplementary data. Firstly, step 6 requires data sources for the analysis of the structural level. Winker and Degele (2011) note that interviewees often provide a few details on this, yet this information is not sufficient to analyse the impact of structural power relations and so, further research needs to be conducted. Secondly, step 7 builds upon step 2 and furthers analysis of symbolic representations. Winker and Degele (2011) note that participants may refer to symbolic representations in interviews. Through the analysis of supplementary data sources, Step 7 seeks to elucidate which societal contexts are relevant for the creation and maintenance of the participants’ socio-cultural beliefs (ibid.).

For these steps, the secondary data sources analysed were company documents and website information from each law firm, the SRA and Law Society. Bowen (2009) describes documentary analysis as a systematic technique for assessing or analysing digital and printed documents. Akin to alternate qualitative methods, documentary analysis necessitates the interpretation and assessment of data to generate meaning, comprehension and scholastic contribution (Corbin and Strauss, 2008). I was able to gather more organisational documents of substance and relevance from “LEFT-LAW” and “LARGE-LAW” than the other two law firms. These company documents included brochures of certain law specialisms of each firm, as well as some information on their equality and diversity policies. Document analysis comprises of initial skim-reading, a subsequent thorough review, and finally, interpretation (Bowen, 2009). Following this document analysis, I reviewed the websites of the SRA and Law Society, as well as their respective equality and diversity policies – the SRA ‘Equality, Diversity and

Inclusion Strategy' (SRA, 2016) and The Law Society's 'Diversity and Inclusion Charter' (Law Society, 2017a) – and compared this to the hard-copy documentation of each law firm. This is to discover the reciprocity between the identity constructions of participants and the wider social structures and symbolic representations (Janz, 2014).

Although the results from this are further explicated in the Discussion Chapter, three key themes mentioned as relevant to the experience of being a solicitor and working in small-and medium-sized law firms formed the conclusions from this analysis: *(1) Calibre, credentials and character; (2) Who you know than what you know is more important; and (3) Where you stand determines where you sit.* These three themes are not only closely linked to the three levels central to Winker and Degele's (2011) model of intersectional multi-level analysis (social structures, symbolic representations and identity constructions), yet they also complement the template analysis findings.

The first theme of 'excellence' following the multi-level analysis corresponds to the template analysis themes of 'background' and 'job' in inferring that a certain level of intelligence and socio-economic security is needed to enter the legal profession. The second theme of 'connections' links to the template analysis themes of 'job' and 'career enablers' in that connections and networking is essential in being a lawyer. The third theme of 'positioning' relates mostly to the template analysis themes of 'job' and 'firm', yet also possibly 'background' in that the qualifications achieved by an individual may affect the size of law firm they apply to. These two levels of data analysis have ensured greater trustworthiness (dependability) and have permitted a greater depth of understanding; to my interpretivist epistemology. The advantage of McCall's (2005) intracategorical approach and use of Winker and Degele's (2011) model for this research is in terms of seeking depth and quality of data to best explain the complexity in constructing the modern lived experience (Hill Collins and Bilge, 2016).

4.8 Ethical Considerations

In conducting this work, ethical approval had to be authorised. This was because this interview-based research involved discussion of potentially sensitive and/or confidential issues; in addition to the interviews being audio-recorded. Thus, before I commenced my search for participating organisations, this research project was reviewed by the University of Leeds AREA Ethics Committee and approval secured. When writing to

each organisation to ask for their participation in this research, I also enclosed a consent form (Appendix B) and participant information sheet (Appendix C) to ensure the safety, rights, dignity and well-being of the participant and those of the researcher. I also attached a document listing some sample interview questions (Appendix D), so that individuals could enter into the research freely and willingly, and know and understand what they are agreeing to in participating.

At the start of each interview, I read a preamble summarising my research and to refresh the participant's understanding of the interview and general topics to be covered. I also presented them with a copy of the participation information sheet, which they had received prior to the interview. I also asked them again whether they were happy to participate in this study and asked them to complete and sign the consent form. This form reiterated the key points outlined in the participant information sheet. From both my opening introductory statement and from the reading of the two forms, each interviewee understood their right to renounce their participation in the research at any time, and without providing any explanation for this. Everyone was pleased to participate in this study, agreed to the interview being audio-recorded and understood that their confidentiality and anonymity would be guaranteed throughout and after the process. I took careful steps to anonymise the interviews so that no individuals nor firms could be identified. There were no health and safety risks to either the participants or researcher. The recorded interview data was uploaded onto the secure University network immediately after the interview sessions finished on that day, and was instantly deleted off the recording device.

4.9 Chapter Conclusion

This chapter has summarised the methodological approach to answering my research questions. I have adopted an iterative, qualitative, multiple case-study design, in which four small-and medium-sized law firms have acted as the cases in this project. Qualitative research boasts a plethora of methods for investigating social phenomena. Although semi-structured interviews have afforded the most appropriate data collection method for this research, data analysis of the vast quantities of information generated from this type of fieldwork can be challenging; an 'attractive nuisance' (Miles, 1979). Nevertheless, it can be argued that qualitative research is perhaps the most comparable intersectionality-cognisant methodology in that the objective of qualitative researchers

is to also comprehend the richness and complexity of individuals' experiences (Denzin and Lincoln, 1994). In addition to interviews, company documents and online information were also analysed. This method requires searching, reviewing and consolidating the documentary data (Bryman and Bell, 2011). By using a variety of methods, findings can be corroborated across other sets of data, which, minimises any possible biases and improves the trustworthiness of research (Bowen, 2009).

The model of intersectional multi-level analysis proposed by Winker and Degele (2011) was used to analyse the data derived from coding on NVivo. Although the benefit of this model is of its study of intersectionality in a three-dimensional way, Kerner (2012:210) argues that it is overly-dependent upon the identity-construction level and that the intersections that are uncovered in interview data are "only those that the participants themselves are aware of and mention in their accounts". However, Janz (2014) asserts that an analysis of inequalities begins with an examination of the social practices within which differences are (re)produced; such as identity construction. While I have observed the critiques of case-based research and of the multi-level analysis model by Winker and Degele (2011), for this research project, I seek depth and quality of data: a multiple case-based approach, using identity-construction as a central factor, as the most suitable way to answer my research questions.

Chapter 5: Results – Small- and medium-sized law firms & Career progression

5.1 Introduction

This first empirical chapter analyses the four law firms in greater depth. Detailed responses from interviewees address the following research questions: firstly, how is career progression structured and secondly, what are perceived as the factors influencing this career progression within the small- and medium-sized law firms? Bourdieu's perspectives on structure and agency via the concepts of *habitus*, *capital*, and *field* were used to generate these research questions. The first research question equates to an analysis at the level of the *field*. The second research question covers the concepts of *habitus* and *capitals*; with the view to discerning the extent to which lawyers acquire “a feel for the game” (Bourdieu, 1990:66) and progress successfully due to the accumulation of the appropriate portfolio of capitals (Ashley and Empson, 2017). Much scholarship has examined the social construction of the professions within the contexts of large commercial firms. However, this thesis sets to fill this research gap by studying these phenomena in small- and medium-sized law firms.

To answer both research questions, the chapter is separated into two parts: the first half considers the process of career progression and how it is ordered within the organisations, and briefly highlights what is expected of employees to progress through the law firms. The second half discusses the perceived career progression enablers and obstacles; examining both personal and organisational factors. This will cover aspects of the job and the institution of law itself, balanced against the desire to have a family and a satisfactory work-life balance.

5.2 How career progression is structured: Promotion Criteria

This section aims to answer the research question: how is career progression structured in small- and medium-sized law firms? The rationale behind this research question was to discover whether the career routes within these smaller law firms – those with fewer than 25 partners (Law Society, 2012) – differ from the progression route documented more widely in the larger law firm setting.

The aspiration for all paralegals and trainee solicitors was to qualify successfully as solicitors; yet, many of them also wished to eventually become a partner in a firm. The duration of this career journey was fairly vague in each company: each progression

stage necessitated ‘several years’. To illustrate this, the levels of post-qualification experience (PQE) required for advancement to associate varied within each business: the White British (WB) “LEFT-LAW” managing partner said an application for associate could be made after 3 or 4 years of being a solicitor; whereas the WB managing partner of “LARGE-LAW” stated 2 to 3 years. While the potential for promotion in both firms is fairly early in terms of PQE, two WB associates, one from each aforementioned firm, took much longer; disclosing that they were only promoted after 6 years of being a solicitor.

Junior employees were also driven to their end partner goal by their considerable financial investments in their education and wanted to make ‘good use’ of their degree; *“otherwise there was no point in going to law school” (WB male paralegal, 1-2)*. The career goals for the 7 partners interviewed were to continue to build a successful law firm and, upon their retirement, leave the organisation bigger and stronger than when they arrived. Career goals shall be studied in more detail in Section 5.3.

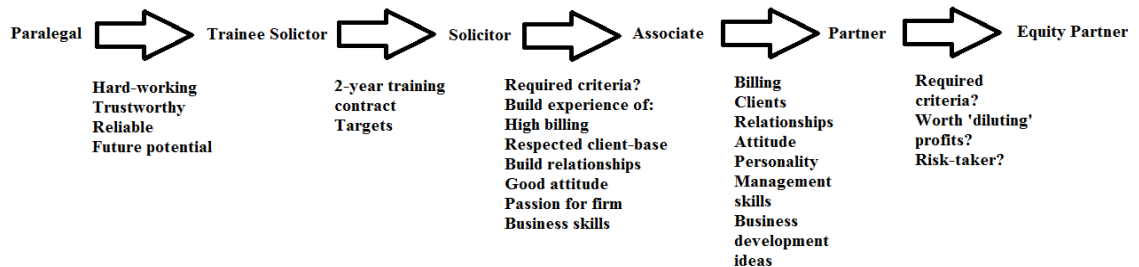
All four law firms were keen on the ‘organic growth’ of the business. From entering the profession, paralegals and trainee trainees were ‘vetted’ to determine who ‘best-fitted’ the firm and its culture. Promotion from paralegal to trainee solicitor is a competitive process which takes place annually, with targets set to achieve before application. Promotion from trainee solicitor to solicitor required successful completion of the 2-year training contract. Solicitors said that promotion from trainee to solicitor was dependent upon whether the organisation had a vacancy at the time of qualification and whether there was a suitable person to fill that position.

Interviewees believed that progression to associate was generally measured on merit and effort, billable hours, demonstrating a hard-working attitude and commitment to the job. Furthermore, the solicitor should also be willing to be involved in business development, learn new skills and attend networking sessions and meetings. Additionally, a candidate was judged upon personality and relationships with colleagues: whether they were respected and others ‘responded well’. At this more advanced stage, however, a type of ‘lawyer-checklist’ emerged for promotion. Chart B below summarises the findings of the interviews and depicts, in basic terms, the

common and rather *ad hoc* promotion criteria used in the small- and medium-sized firms.

A more traditional promotion rationale consisted of choosing the longest-serving employee. This was certainly the belief by many interviewees. However, a WB female solicitor with 4 years PQE was not ‘entirely sure’ about the “LEFT-LAW” promotion process; concluding that it was ‘a bit cloak and dagger’. Indeed, at certain points in the law firm hierarchy; namely solicitor to associate and associate to partner levels, progression to the next stage was not very clear. At “SMALL-LAW”, a WB female trainee believed that there were ‘big steps’ from solicitor to partner because there was no associate-level stage. The uncertainty in what criteria was required to progress to the next stage in the firm was also felt in the other practices in this study. At “LEFT-LAW”, a WB associate with over 10 years PQE, with 13 years at the firm, expressed his concerns and felt his employer should offer reassurances about job security, the health of the firm, some clarity and guarantees in terms of remuneration, and progression to partnership.

Chart B – promotion criteria



However, all the firms in this study stated their career progression routes were transparent in that there were clear hierarchical stages from paralegal to partner. For instance, the expectation at “LEFT-LAW” is that candidates wishing to apply for associate or partnership would discuss it at their appraisal: “*it’s a case of, dangling a bit of a carrot and then seeing what you do with it ... and if you do enough with it*” (WB male associate, 1-1). Promotion rounds for partnership were usually on an as-and-when-needed basis. A managing partner admitted: “*there is an element of dead man’s shoes*” (WB male managing partner, 1-1) – suggesting that career progression is limited until an employee either moves firms or retires.

Managing partners at “LEFT-LAW” and “LARGE-LAW” stated that associates promoted to partners were the most ambitious, or perceived as ambitious; ‘earning’ promotion by getting involved with business development and marketing, assuming extra internal and external responsibilities and being ‘indispensable’. Promotion from partner to equity partner was even more elusive. A WB partner disclosed that should he wish to become equity partner, he would not be judged on whether he was a good lawyer; rather, on what clients he had. In these smaller firms, promotion opportunities were said to exist for ‘the right individuals’. Salaried partners had to ‘prove’ to equity partners why they should be offered equity status.

Managing partners admitted that there was ‘no formal promotion process’. There was a perception that progression to partnership was premised on time served and of ‘Buggin’s turn’, yet the “LEFT-LAW” managing partner stated that something additional needed to be ‘brought to the party’. Some partners reflected on their career and explained what they considered to be promotion criteria. A partner explained that ultimately, he was judged by the ‘brutal’ fact of how much money he brought into the firm. Being ‘opinionated’ and ‘argumentative’ were also deemed as attributes necessary for career progression.

“You’ve got to be bloody good at it, ‘cos there’s so much competition – if you’re not good enough, then somebody else will be” (WB male managing partner, 1-1).

“the job involves you, ultimately, arguing with another solicitor from the other side ... it’s a job of conflicts” (WB male partner, 1-2).

These remarks concur with findings of the study conducted by Tomlinson *et al.*, (2013); with this latter quote providing a good example of the ‘assimilation’ strategy: displaying dominant masculine behaviour. The promotion criteria of the four firms appear to favour masculine-associated qualities, which later become incorporated in organisational hierarchies and continue to perpetuate gender inequalities (Acker, 1990).

The criteria illustrated in Chart B are interesting in terms of deciphering the ‘image’ the firms wish to portray with their staff. Reflecting upon the above promotion criteria, using Bourdieusian terms, successful lawyers are thus those who demonstrate certain

types of embodied cultural capital in terms of having the right ‘attitude’ and ‘personality’, social skills and the way they present themselves (Cook *et al.*, 2012 This is akin to the strategy of elite law firms wish to present an ‘upmarket’ image, as this has become synonymous with ‘quality’ (Ashley and Empson, 2013:221).). The evaluation of a ‘professional’ thus becomes increasingly intertwined with a firm’s culture (Grey, 1998).

For the non-legal staff, however, there were limited opportunities to progress in the firms. For support staff, a secretary may eventually become a senior secretary; taking on some PA work. For certain departments, namely conveyancing, where staff did not necessarily need to be fully-qualified, sideways moves could be offered to provide new development opportunities; rather than promotion.

In conclusion, to answer the first research question, career progression within small- and medium-sized law firms is structured in a similar way to larger elite firms. The findings presented above mirror those in previous scholarship conducted in larger law firms. At entry-level, paralegals are offered training contracts based on perceived potential and whether they are a ‘good fit’ for the firm (Kumra and Vinnicombe, 2008; Pinnington, 2011). The firms wished to retain their trainee solicitors nearing qualification; given they had invested 4 years in them and trained them to work in the way best-suited to the company.

After a certain number of years of PQE, it is expected that a lawyer is technically-competent at their job (Hanlon, 1997), and was successful at ‘rainmaking’ – “the ability to generate client work” (Morris and Pinnington, 1998b:7). For solicitors, promotion criteria are also centred upon their additional skills: extensive billable hours (Leblebici, 2007), personal reputation and relationships with peers (Kumra and Vinnicombe, 2008; Pinnington, 2011), and excellent client-management skills (Sommerlad, 2016).

Advancement to associate and, later to partnership, was a little more surreptitious: other aptitudes, such as networking skills, growing client bases, business acumen (Tomlinson *et al.*, 2013) and high billing levels (Brivot *et al.*, 2014). were required beyond the technical aspects of being a good lawyer. This highlights the importance of symbolic capital (Bourdieu, 1986); even within these smaller law firms. This issue of vagueness

about the conditions for partnership is akin to the findings of Sommerlad (2002). Nevertheless, promotion criteria appeared to draw upon gender stereotypes, desiring more masculine-related skills and competencies. For instance, akin to findings in larger firms, managing partners at the firms in this study stated that associates promoted to partners proved that they were ambitious and indispensable' (Tomlinson *et al.*, 2013).

Admission criteria to equity partnership was even more uncertain and it was the decision of already-present equity partners to decide whether the new recruit was deserving of a stake in the company's profits (Malhotra *et al.*, 2010). Salaried partners who wished to own a share in the business had to 'prove' their worth to equity partners; only rewarded upon displaying "exceptional levels of performance and commitment" (Muzio and Ackroyd, 2005:633).

5.3 Factors affecting career progression

This section aims to answer the second research question in exploring the characteristics that shape and influence career progression in small- and medium-sized law firms. Data analysis highlighted specific factors that either positively or negatively affected career progression; with certain elements causing more harm to female and minority-ethnic employees. This part of the chapter will concentrate on the issues and themes derived from the interview questions addressing career progression. In summary, three main themes arose: career goals; career enablers and career obstacles to progression; which are discussed below.

5.3.1 Career goals

Most participants remarked that their goal was to be successful, respected and recognised within their own specialism. On occasion, these career progression goals were linked to role models – social exemplars based upon desired attributes (Gibson, 2004) – who were generally viewed as sources of motivation. For example, the "LEFT-LAW" managing partner admired the previous company director, and felt it was important to do well in his role: "*most of us often work for people more than organisations, don't they?*" (WB male managing partner, I-1). As 6 out of the 7 partners interviewed were male, female trainee solicitors and paralegals thought that having more female partners in their organisations would inspire them to progress their careers in a similar way. One legal assistant thought highly of a female partner who she classed

as a ‘symbol’. This partner was ‘inspiring’: she was ‘quite young’, with a family, and so, ‘had it all’: *“you don’t often hear of women being able to do it all like that”*. An additional comfort for the legal assistant was knowing that she was not *“fighting to be the first woman there”* and not *“breaking the norm”* (WB female legal assistant,1-1).

Specifically, for paralegals, their ‘ultimate’ goal was to obtain a training contract and qualify as a solicitor. Support staff were motivated by responsibilities given to them by senior management which differed from their daily routine. They took immense pride in this and wanted to show they could do a good job. Although solicitors were motivated by remuneration, recognition and career progression, some older associate solicitors also desired stability and quality of life – they were thinking about reducing their hours; concentrating more on commitments outside of work. Associates aimed to ‘climb the career ladder’ as quickly as possible and desired job security, increased pay and opportunities to work on higher-profile, more lucrative cases. Participants also wished to maintain a stable career, receive a good income and live a comfortable life:

“It sounds really awful but I don’t want to have to walk round bargain supermarkets. I want to know that if I want to get everything from Waitrose or Marks and Spencer’s, then I can” (WB female associate,1-3).

This is an example of the reward coveted by lawyers in successfully ‘playing the game’ (Bourdieu, 1993) by climbing the hierarchical ladder of the legal profession (Watson, 2017).

Goals for partners and equity partners were growth and profitability of the organisation, to ‘move the business forward’ and build a successful partnership. In this regard, a partner also mentioned that for himself personally, the ‘fear of failure’ was a motivator and he always wanted to ‘keep achieving’ in his work. Additional goals for partners were that their firms had good reputations, with clients who respected and valued their work. In other words, strong reputational capital (Hanlon, 2004).

For those with families, the main goal was being able to provide for their children, to give them a good education, ‘all the opportunities’ and being able to go on holidays: *“if I can do that without worrying about money, then I’m happy”* (WB male partner,2-2).

Likewise, rather than having specific ‘career-orientated goals’, some interviewees described work as a ‘motivating’ factor to provide them with the ‘ability’ to fulfil their personal needs and wishes, treating themselves and their families to luxury items and days out. Working-mothers wanted to feel fulfilled in both work and family aspects and have a good ‘balance’; with the goal accomplished when they feel that they are doing both jobs well and they benefit each other.

5.4 Career enablers

This section investigates themes arising from data analysis which were perceived to facilitate and have a positive effect upon career progression in the small- and medium-sized law firms. In sum, two main topics arose: connections and networks and advantageous environmental factors.

5.4.1 Connections and networks

Developments within social capital theory (Coleman, 1990) have emphasised the importance and value of social resources in facilitating the realisation of certain goals (Seibert, Kraimer and Liden, 2011). Networking is thus considered as central to professional development and career development (Williams et al., 2012). The significance of social capital is highlighted in the following comments.

Some individuals acknowledged their ‘luck’ of good connections – for example, paralegals being able to move firms with their supervisors instead of having to apply for training contracts – and others gaining their current position via connections or recommendations:

“A lot of it, I think, is who you know, not what you know ... if you know somebody, it’s a lot easier” (WB female trainee, 1-2).

For some interviewees, having connections with current employees was advantageous:

“If you look at my level, I came to this firm because I worked with [current male equity partner] who I worked with at a previous firm” (WB male partner, 2-2).

“So it is crap, but everything to a degree is who you know” (WB female solicitor, 2-2).

Moreover, the current managing partner was told some ‘invaluable’ advice to clinch the job before his interview at “LARGE-LAW”: the then-managing partner enjoyed golf.

“The killer question came, ‘what else do you do?’ And of course, the answer was ‘I play a lot of golf!’ ... I got the job, and you know, great, haven’t played golf since!” (WB male managing partner, 1-3).

This is akin to ‘sponsorship’: someone who “helps me attain desirable positions; uses his/her influence in the organization for my benefit; uses his/her influence to support my advancement in the organization” (Ragins and McFarlin, 1990:328). This latter scenario is illustrative of in-group favouritism (Gorman and Kmec, 2009) and ‘homosocial reproduction’ (Kanter 1977; Elliott and Smith, 2004).

Cook *et al.*, (2012:1746) note how “all social events and spaces” are permeated by organisational culture. In the legal profession, many groups, and potentially, the most powerful networks, are nearly exclusively male; frequently centred on golf or hunting (Morgan and Martin, 2006).

The female employees interviewed relayed stories of exclusion from these groups. A WB “SMALL-LAW” solicitor described how most of her networking or marketing events were centred on golf, football or cricket. By recognising the significance of networking for career development and in reaction to this marginalisation, some formal women’s networks have developed – such as the “SMALL-LAW” solicitor’s ‘Women In Law’ networking group. This ‘Women In Law’ group have ‘informal discussions’ about unequal treatment, such as:

“denied promotions ... for women, or just not invited to events ... [which are] all kind of aimed at getting men out, so, we kind of try to do our women’s thing and get there as much as you can. It’s difficult, but the legal profession, it just used to be men – as did most things” (WB female solicitor, 1-2).

There is, however, disagreement in the literature as to the helpfulness of these networks – both formal and informal – for such ‘outgroups’ (non-male, non-white) (DiTomaso *et*

al., 1996; Williams et al., 2012). Additionally, with large emphasis placed upon networking (usually after office hours) for increased career progression prospects, the settling of ‘boundaries’ separating ‘work’ and ‘life beyond work’ (Trefalt, 2013) proves challenging.

For those with caring responsibilities, this additional networking acts as exclusionary “subtle and institutionalised constraints” (Sanderson and Sommerlad, 2000:165); subsequently hindering the progression of those concerned (typically women and minority-ethnic lawyers). Given the importance of social and cultural capital for career success within the legal profession (Francis and Sommerlad, 2009), such exclusionary practices result in lower levels of the coveted symbolic capital (Bourdieu, 1989:17) for those affected.

5.4.2 Advantageous environmental factors

Some of the older participants reflected on how ‘lucky’ they had been to experience lower or no University tuition fees and lower law school fees than at present. This is not ‘luck’, but the benefit of hindsight: enabling comparison to the younger generation, who are now confronted with a more expensive education and a more difficult and slower process of obtaining training contracts. ‘Luck’ or ‘favourable circumstances’ also arise in promotion opportunities or new vacancies with regards to being in the ‘right place at the right time’. In one instance, a trainee solicitor was moved out of his commercial litigation seat into employment law:

“We really needed somebody ... at that time, there wasn’t enough work just to justify going out and placing a solicitor, but there was enough work to have an additional trainee”. Once he qualified, “I loved it so much, there was a job there, and I sort of stayed there” (WB male partner, I-3).

Although he did not directly state that this was good fortune, this transition appeared to happen very seamlessly – possibly due to unconsciously-acquired social capital (Bourdieu, 1986).

Finally, a partner disclosed that competition for promotion was such that visibility was key: ensuring they were seen by ‘certain’ partners and were ‘in their view’:

“How do you then become an equity partner? The answer is you still get the tap on the shoulder” (WB male managing partner,1-3).

This is exemplified in the literature on the legal profession in that the application of promotion practices “often remains informal and lacking in transparency, leaving ample room for the personal preferences of existing partners” (Tomlinson *et al.*, 2013:6). The opposing argument – ‘unfavourable circumstances’ (recession), are later discussed as career obstacles.

5.5 The impact of firm size upon organisational culture

The finding of firm size is an interesting one, and is conceptually-positioned in the middle: as this appeared to have a both a positive and negative impact upon perceived and actual career progression. Most interviewees commented that the size of business formed part of their decision as to which firms to apply to; with most preferring the smaller-to-medium size. The younger end of the profession thought that as they are ‘thrown in at the deep end’ in smaller firms, they learn quicker; although it may be more impressive and look ‘better on paper’ to have completed a training contract at a larger business. The general opinion was that a smaller firm offered more chances to succeed and progress, and within a shorter time. In other words, the belief that a smaller law firm may result in a shorter promotion tournament (Galanter and Palay, 1991).

Moreover, individuals wanted to be ‘valued’ and did not want to be ‘just a number’. They hoped that management would eventually recognise them, know of their good work and be more likely to offer them advancement: an example of learned *habitus* (Bourdieu, 1993). Within larger firms, “*it’s a lot more difficult to get your face forward*”, but also, it appears that promotion is political: “*it’s more about who likes you, rather than how good your work is*” (WB female paralegal,2-4). Partners and equity partners also felt small- and medium-sized firms allowed them to be more ‘involved in the business’ at a younger age than their contemporaries at larger firms.

Interviewees also said they deliberately chose a small- and medium-sized practice because they thought that their qualifications and grades at University would not be high enough for the larger firms. Several employees feared that their choice of University – going to an old polytechnic, not a redbrick institution – and degree

qualifications, could hinder progress. One female employee also considered herself to be a ‘minority’ as she did not receive a public-school education in what she still perceives is an ‘old-school’, ‘boys’ club’ profession. Some interviewees were also deterred by the lengthy and stressful application and recruitment process of larger organisations.

These feelings stem from the strategy used by most elite law firms in hiring trainees with specific forms of institutional and embodied capital (Cook *et al.*, 2012). This serves two purposes. Firstly, this allows these law firms to portray a glamorous and upscale image, which enables them to charge higher fees and validate their (vague) claims to knowledge (Ashley and Empson, 2013). Secondly, this exclusion, also known as ‘occupational closure’ (Sommerlad, 2007) can be conceptualised as defending and preserving the self-interests of elites (Ackroyd and Muzio, 2007; Larson, 1977). This method of exclusion may be justified as a type of ‘organizational strategy’, which seeks to secure competitive advantage and uphold the ‘legitimacy and status’ of the firm against other elite law firms (Ashley and Empson, 2017:213).

Although female employees have ‘heard stories’ about the ‘glass ceiling’, most of them said that to date, they had not directly experienced such obstacles or barriers to progression. Nevertheless, two WB male partners stated that they left the same larger, national firm due to encountering a ‘glass ceiling’ at solicitor-level. A WB equity partner said that there appeared to be ‘the chosen few’ with similar qualifications who seemed to get progression; stating there was an element of ‘right place, right time’. These individuals, unlike the equity partner, had come into the large firm as trainees, so had been there the longest and worked their way up – ‘Buggin’s turn’. A WB male associate at “LARGE-LAW” also perceived there to be a possible ‘glass ceiling’ to his progression in that his department was already ‘vastly top-heavy’, with an equity partner, three salaried partners, and a legal director. When these male employees were asked why they used the term ‘glass ceiling’, when it is a metaphor generally attributed to women and minority-ethnic groups, they replied that it was perhaps not the ‘right’ phrase, but the associate said it was still ‘appropriate’ in that what he meant was:

“You see what’s above you, but there is that invisible barrier, it’s simply that factor about the desire to have a varied team, different positions represented” (WB male associate, 1-3).

Nevertheless, the hierarchical structure of “SMALL-LAW” may act as an obstacle to career progression. Although the firm was increasing in size, this growth was not deemed fast enough at present to warrant the creation of an additional tier. A WB solicitor who had been at the firm for 3 years mentioned that she had received four pay rises, yet had not been promoted. The main difficulty of the “SMALL-LAW” practice manager was that she could not quantify how much she was worth to the business; unlike before her maternity leave, when she was a successful solicitor and could justify asking for a pay rise due to her high billing levels. Although she wished to become a type of ‘managerial partner’ – a non-legal management role – she believes that she could only achieve this if she kept her current salary:

“I think they’re going to wait a couple more years to make sure that I’m definitely not [going to have another child] and then, they might ask me(!)” (WB female practice manager, 1-2).

Being ‘creative’ with positions, as the practice manager states, is more feasible due to the ‘flexibility’ that a small firm possesses. This is supported by the wider literature: firstly, law firms are witnessing a more diversified hierarchical organisational structure, as they adapt to a transforming business environment (Pinnington and Morris, 2003; Muzio and Ackroyd, 2005). Secondly, law practices wish to retain productive and talented employees and thereby design new roles, under the ‘Professional Support Lawyers’ umbrella (“qualified lawyers who provide supporting tasks for fee earning lawyers” (Malhotra *et al.*, 2010:1403). This allows employees to disembark the partnership career track and give more prominence to their family responsibilities (Brivot *et al.*, 2014).

Finally, a female solicitor thought that while some women do ‘make it’ at larger firms, she recounted the guidance of a female managing partner of a large law firm. The managing partner told her that, for career progression:

“you have to kind of try and be a man – to get to where you want to be, you have to learn football, you have to go and drink beer ... as a woman, we have to change so that we can fit in to what is – what was – a man’s world” (WB female solicitor 1-2).

From a Bourdieusian reading, this advice translates into the need for women to build a “specific portfolio of field-relevant capitals” (Iellatchitch *et al.*, 2003:732).

Furthermore, the *lapsus linguae* and correction of ‘what is’ to ‘what was’ itself speaks volumes about the continuing perception of the male-domination of the legal profession.

5.6 Career obstacles

This section investigates factors which were perceived to hinder and have a negative effect upon career progression (particularly for female employees). In sum, six main themes arose: financial barriers; the impact of the recession; issues around family planning; the choice of law specialism; the fact that the legal profession remains male-dominated at senior level; and finally, institutional barriers; which are discussed below.

5.6.1 Financial

Many interviewees commented on the expense involved in training to become a solicitor: the law degree and the (£12,000 minimum) LPC qualification. One WB legal assistant was unsure about taking the LPC due to this huge financial commitment; although she knew the course was necessary for progression. This financial undertaking was amplified by the danger that there was no guarantee a training contract would be offered. Most paralegals and trainee solicitors admitted that they had student debts, and wished to progress as quickly as possible.

Nevertheless, to be offered a bank loan necessitates a certain level of financial stability. Thus, it appeared that entry into the profession required a certain socio-economic status (Ashley and Empson, 2013).

A partner declared that the high fees to enter law were ‘a serious issue’ and attributed the lack of diversity in the profession to this. However ‘fantastically-talented’ an applicant was, he stated that it would be ‘very unlikely’ that they would employ a trainee from certain poor inner-city suburbs. This shows the emphasis on embodied capital (Bourdieu, 1986); even in small law firms. In another example, a solicitor spoke

of her friend who was one of ‘the few’ female barristers who had ‘got through the net’ of the ‘old boy’s group’. The solicitor implied that social class was important: *“but then, her family were doctors and things, so, there are some women who make it but...”* (WB female solicitor, 1-2).

Employees found financial obstacles not only affected them upon entering the profession: ‘occupational closure’ (Ackroyd and Muzio, 2007), but also advancing through it. An equity partner voiced his concerns about cash flow constraints: although the business may wish to offer another senior role, they would find it difficult before the employee started generating work. This lack of resources can be problematic in small- and medium-sized businesses.

5.6.2 Effects of recession

All four firms spoke of the increased difficulty to generate the same fees across departments as before the 2008 recession. The department of personal injury (PI) was quite severely affected with changes in funding and legislation. With 20% of the interviewees working in PI, and 16% of those working in “LEFT-LAW”, where PI was the firm’s ‘bread and butter’, the ‘hey-day’ of PI had passed. For employment law also, changes in legislation made claims more complicated, compensation more limited, and discouraged the use of tribunals. As the recession affected law firms, redundancies had to be made. “LARGE-LAW” dismissed 20 employees in June 2008 and, in the first year of the recession, turnover fell by £1.5 million and profits were down by 37%.

On a more individual level, the 2008 recession affected recent graduates and paralegals in their search for work in that there were fewer firms to apply for and increasing numbers of candidates for jobs. This unpredictable market also caused internal restructuring of the companies – specifically in “LEFT-LAW” and “FEM-LAW” – lessening the chances of any new promotion opportunities. For some, this was thought to act as an obstacle to career progression. For instance, the downsizing of the “LEFT-LAW” partnership to more of a ‘pyramid’ structure meant there were fewer progression opportunities; affecting two WB associates, at 6 years and 10 years PQE respectively. They both felt that the recession had ‘put a stop’ to their progression; having ‘just missed the boat’ following the firm’s restructuring. As Cohen (2015) posits, some

lawyers will certainly feel the impact upon their careers due to structural modifications taking place in law firms since The Legal Services Act (LSA) 2007.

The financial and recessionary pressures following the 1990's recession also caused huge graduate unemployment and redundancies. Nevertheless, this inadvertently provided opportunities: *"I had no particular desire to go into the law and no ambition – it was something to do in 1993 - that was literally the reason why I went into it"* (WB male partner,2-2).

5.6.3 Prioritisation of family over career at different life stages

Qualifying as a solicitor was considered as the 'feasible' stage after which starting a family 'made sense' – this was a 'stable' point in the linear career: a situation coveted by both male and female employees. Young female interviewees mentioned that they wished to reach a level in the organisation where they felt as though they were 'indispensable' and then have children: a type of employment security net following maternity leave. Nevertheless, the consensus was that, for women, having children undeniably takes a few years out of their career development. Two female interviewees directly stated, without hesitation, that a career obstacle and 'disadvantage' they had encountered was being pregnant:

"I think if you're a woman ... and you have children, you have to take a break out of your career and men don't have to do that, so I think you are held back" (WB female solicitor,1-1).

Again, compliant with the principle of 'Buggin's turn', continuous work (of males), rather than the 'interrupted' work of women, appeared to be rewarded with better pay and opportunities to progress (Crompton and Lyonette, 2011).

Correspondingly, a male partner uniquely put himself in the position of his female colleagues, declaring that if he were a woman and chosen to have a baby, *"you can't get away from the fact that that does... get in the way"* (WB male partner,2-2). A female solicitor mentioned that 'there always will be' men filling the top management positions; not only *"because they are looking for a like-to-like and it's always been that*

way”, but also “*because women always need to have time off to have babies*” (WB female solicitor,1-2).

A partner and paralegal spoke about the new shared parental rights legislation of April 2016 covering the first year after a child’s birth. The paralegal doubted the likelihood that many male employees would take up the new rights above the two-weeks’ paid leave. His rationale was that “*the majority of males will earn more money than the females*”, which seemingly justified the “*really sexist, traditional sort of view*” that men would rather be “*out there, earning the money to look after them, providing*” (WB male paralegal,1-3). In the second instance, the male partner did not take off his entitled leave with his last child, 6 years ago: “*despite the grief I would have got at work by taking two weeks off just like that, it would have involved me taking something like a 90% wage cut*” (WB male partner,2-2).

While this ‘grief’ is not clarified – yet is indicative of perceived stigmatisation in taking on this ‘non-traditional’ role (Radcliffe and Cassell, 2015) – the impression given was of the more ‘traditional’ view of ‘the mother and the child’. This conforms to Acker’s (1990) ‘gendered organisations’ in that while the male worker’s life is completely focused on his full-time job, his wife / partner cares for his children. Moreover, supporting previous research, taking advantage of flexible-working options may result in misconceptions of an individual’s dedication to their professional work (Muzio and Tomlinson, 2012).

While younger female participants thought that a choice should not exist between prioritising family and work, “*I hope not anyway, I’d be bit crap if it was, you shouldn’t have to choose!*” (WB female solicitor,2,2), others said that for women in the legal profession, there was still a choice to be made: “*I think it is probably the career, that is what you’ve got to sacrifice*” (WB female legal assistant,1-1). A “FEM-LAW” solicitor feared that should she ‘step down’ too much, she could never ‘step back’ into working at the same level and meeting the high demands of the job in the same way. Numerous female employees mentioned the necessity of ‘having to compromise’; although having heavily invested in their education and worked hard to make themselves ‘indispensable’ to their firms. This sentiment was expressed by several female employees: they noted how ‘definitely’ and ‘naturally’ priorities change in putting their children before their

career. A few female interviewees stated that they would rather have children early in their career, “*get that out the way*” (*WB female solicitor, 1-1*) and focus more on their career once the children had reached school-age. Getting children ‘out of the way’ implies that having children is a career advancement obstacle for women. Conversely, 3 out of 28 female interviewees were adamant that they did not want children; with 6 uncertain. However, these participants admitted that their firms ‘expected’ them to have children.

A female associate said that working in the legal profession was ‘difficult’ and there were still ‘fairly limited opportunities’ for women who want to have families. Furthermore, male partners mentioned that since having children, especially, ‘in this line of work’, balance is remarkably difficult and ‘something’s got to give’. Career progression in law was said to be “*a younger man’s game*” (*WB male partner, 1-3*). A former female solicitor, now practice manager, expressed the same view: being a solicitor is ‘too pressurised’ and that with children, one cannot ‘do [the job] properly’. Acker’s (1990) work is again substantiated by the fact that a male partner spoke of a female solicitor who was a ‘fantastic lawyer’ and would probably be in line for partnership, yet stated that she was more likely to have aspects of her personal life preventing, or making her progression more difficult, than for a male colleague. This ‘shift in focus’ onto caring for children means that work becomes ‘secondary’: “*you can’t have everything, can you?*” (*WB female solicitor, 1-1*).

Nonetheless, an equity partner mentioned that if one parent has a good career, they ‘can get away with’ working long hours, while the other cares for the children. Most working-parents used the help of relatives to assist with childcare over ‘crippling’ nursery fees. The “LARGE-LAW” HR manager acknowledged the ‘big sacrifice’ she makes to come to work, finding it challenging to get the right ‘balance’ and feels remorseful in not spending enough time with her children. She believes that flexible-working helps and ‘clearly plays’ a key role in being a mum. Perhaps more importantly, these working mothers also wanted to be good ‘role models’. They wanted their children to be proud of them and to see that if they also work hard, they can achieve success:

“I want my kids to understand ... you don’t have to put everything on hold because you have children. It’s a juggling act, but it’s doable” (WB female HR manager,1-4).

The working-fathers also made sacrifices: *“I don’t see my wife and my children nearly as much as I would like to (WB male partner,2-2).* For these fathers, work-life balance was important to them as their ‘biggest career driver’ were their families: *“I’ve got three children under 13, it’s really all about them” (WB male managing partner,1-3).*

Recognising his own privilege, a male partner admitted that he has only been able to achieve what he has because his wife mostly stays at home, looking after the children. He acknowledged that if childcare had fallen to him, there would have been a ‘compromise on the job’; concluding that many of his female colleagues probably do not have the same ‘benefit’. This is a quintessential example of Hochschild’s (1975) ‘Clockwork of Male Careers’ whereby the ‘professional career’ remains largely a male preserve (Hazard, 1988).

5.6.4 Law specialisms

Although participants stated that the legal profession was generally perceived as high status, a type of hierarchy of prestige emerged across specialisms; as noted by Cohen (2015).

An associate thought that career opportunities in her conveyancing department were limited as it is *“seen as the bottom rung of the ladder when it comes to areas of law” (WB female associate,1-1).* She believed that both the legal sector and the public did not view conveyancing as a ‘real profession’, as many unqualified people are conveyancers, and it is not particularly well-paid. In her eyes, the legal sector viewed other more lucrative areas, such as intellectual property or corporate law, as ‘real law’.

The perception of one department being ‘inferior’ to others may also be dependent upon its clientele. Personal injury clients, for example, were described as ‘challenging’ in that they were usually ‘foreign’ and language barriers had to be overcome without using any ‘jargon’; a stark contrast between the flashy corporate or commercial law clients. This perception was said to be exaggerated by the media giving the ‘wrong impression’ regarding the ‘types’ of RTA clients and the RTA ‘industry’; subsequently creating ‘unfair’ public perceptions.

Similarly, those taking the CILEx route, as opposed to the LPC, felt they were perceived as ‘inferior’. A paralegal, studying for her CILEx described how a ‘stigma’ remains between solicitor and legal executive – mainly due to the difference in fees one can charge post-qualification. It may be concluded that the practitioner-control of professional associations providing legal education in England over many years (Burrage, 1996) has influenced this somewhat disdained regard for those training via the CILEx and not the ‘University and LPC’ route. Moreover, although law was still generally considered to be a prestigious profession, its image had said to have deteriorated over time. Some female employees commented that being a lawyer had historically been held in high esteem, whereas nowadays, facilitated by the CILEx route, increasing numbers are qualifying as lawyers. Both the law specialism and choice of qualification could potentially factor into unconscious bias at promotion stage.

5.6.5 Structural and institutional inequalities of a ‘masculine occupation’

Employees spoke of their concerns regarding their state-school education, socio-economic status, ethnicity and gender, which they believed may prohibit them from forging a successful legal career. Interviewees inadvertently referred to (the lack of necessary) symbolic capital (Bourdieu, 1989). Although these issues shall be analysed in Chapter 7 on intersectionality, it is important to note them now; as they create obstacles to career progression; specifically, for female and minority-ethnic employees.

10 men and 8 women commented that the legal profession remains a very white, male-dominated profession. The male interviewees were a little nonchalant at the situation, stating the lack of diversity was ‘unfortunate’ and that there had been ‘little change’ over the years. The female participants were very aware of this ‘stigma’ and had been ‘warned’ about the continuing presence and dominance of strong male characters in the legal profession:

*“My mum worked for a firm straight out of college and said ‘they were an absolute set of f***ing w*inkers’, was how she put it ... ‘it was very much, if you’re a woman, you’re b*ggered, it’s all about the money’” (WB female solicitor,2-2).*

In this regard, a partner described a moment while he was undertaking work experience in 1995, when “*a rather old-school solicitor said to me, ‘you will always do well in this profession, because you’re a white male’*” (WB male partner, I-3). The “LEFT-LAW” managing partner addressed the fact that though his staff were not the ‘typical, old, Etonian crowd’, the profession was to a large extent occupied by solicitors who came from “*very well-off middle-class backgrounds with a public-school upbringing, and possibly, an Oxbridge education, and they’re overwhelmingly male and white*” (WB male managing partner, I-1). This exemplifies the necessity of having a “specific portfolio of field-relevant capitals” (Iellatchitch *et al.*, 2003:732); which, in turn, reproduces class inequalities (Acker, 1990).

Likewise, one partner, while looking at a picture on the wall of his department, was ‘conscious’ of the lack of diversity:

“it’s just stale, male and pale ... it just doesn’t look right, if you know what I mean ... I think, it gives a false image of the firm, it doesn’t... Doesn’t show the diversity that we do have and try to promote, sort of you’ve got eight blokes sitting there!” (WB male partner, I-3).

This opinion encapsulates the ‘aesthetic diversity’ rationale – one of the contributions of this thesis – explained in Chapter 6. The concept of ‘aesthetic diversity’ refers to the belief that a workforce should act as a ‘visible presence’ to reflect the diversity in wider society as the panacea and marketing signal of inclusivity. What is interesting to note from the above excerpt is that the partner does not explain why or to whom the picture ‘doesn’t look right’ – perhaps to himself from a moral view, to the clients. It may also not feel right to the partner in a different way; given his privileged middle-class upbringing. The general sentiment was that although impossible to ‘change overnight’, the ‘more diverse end’ of the profession would drive change and eventually, ‘filter through’ to the top (Sommerlad, 2002).

What was clear in the structure of all four firms was that men filled most senior positions; comprising 6 of all 7 partners. In most law firms, “*you’ll find it’s just a tier of very senior old men; for want of a better description*” (WB male partner, I-3). While 28 women formed much of this sample (64%), they generally worked in the less-senior

positions. Although the workforce of “FEM-LAW” was predominately female, department heads and directors tended to be men; thus, conforming to the hierarchical male arrangement of the other firms in this study. Male interviewees contended that although certain departments in their organisation may be male-dominated and ‘obviously’ the firm does not ‘consciously’ plan that, these departments at other local businesses are female-dominated.

A WB solicitor stated that while many talented women enter the legal profession, they tend to leave. She thought this was due to a combination of family commitments, changing life priorities and *“the fact that it tends to be more men up there, so they’re interviewing for a type of person – I’m not sure if women always fit ... I suppose it’s a subconscious view on what they want”* (WB female solicitor,1-2).

This concurs with the gender bias literature which suggests that managers tend to ‘homo-socially reproduce’ (Kanter, 1977; Elliott and Smith, 2004) the gender and ethnic composition of senior management to employ those like themselves. In other words, managers hire those with the appropriate embodied cultural capital (Bourdieu, 1986) prized in the legal *field*. Seemingly, those ‘fitting the profile’ – with the right physical appearance: Caucasian, middle-class and male – profit from this aesthetic advantage via professional empowerment and entitlement (Haynes, 2012).

Senior male employees at “LARGE-LAW” mentioned that the senior female employees who were ‘in line’ for promotion either moved with their husband’s job relocation, left to go into teaching, or suddenly became ill and had to leave the company. This still does not negate the fact that, as mentioned previously, the nature of certain specialisms tends to appeal either more to men or women:

“Men are seen to be more fierce, so in a commercial... Is that a respect thing? – do men have more respect for men? ... if a man sees a woman walking in a boardroom ... do they think, ‘oh, I’ve got this one in the bag?’” (WB female solicitor,2-4).

Interviewees cited several reasons as to why the ‘traditional’ organisational structure still prevailed: why senior management was all-male, the middle echelons contained both men and women and the less-senior positions, to a large extent, and support staff

were all female. One paralegal thought that there may be an element of unconscious bias in that the manager prefers a “*certain type of person and then they just recruit that type of person all the way through*” (WB female paralegal, 1-4). Another suggestion was that the majority of law applicants would still be male, following historical conventional practice and that future applicant demographics may ‘balance out a bit’.

Notwithstanding such hopeful visions, it appears that the social exclusionary practices of law firms remain deeply embedded in their strategy to secure competitive advantage (Ashley and Empson, 2017). This further cements the importance of field-specific career capitals (Iellatchitch *et al.*, 2003).

5.7 Chapter Conclusion

This first empirical chapter has analysed how career progression is structured within the small- and medium-sized law firms and has ascertained the factors perceived to affect career progression in this context. The small- and medium-sized law firms all follow a structural career progression route, from paralegal to partner, which is no different than the larger firm structure. Lawyers followed the traditional trajectory of the linear career (Sullivan and Baruch, 2009) to improve their place within the ‘career field’ (Iellatchitch *et al.*, 2003:732).

Promotion remained based upon levels of experience, high billing levels and generating large client bases. The importance of organic growth was highlighted in all four practices. This rewards employees who ‘best fit’ the firm and its culture – those with relevant embodied cultural capital (Bourdieu, 1986) – with career advancement. The unanimously-preferred hiring practice of the firms was personal recommendation. This appears to conflict with the wish to hire individuals from all backgrounds to create a greater diverse workforce.

To answer the research question on the factors perceived to affect career progression, two elements seemed to have a positive impact upon career progression in the law firms: social capital in the form of connections and networks and ‘luck’ (favourable circumstances). Networking is considered key to both professional development and career development, yet tended to favour men. Luck was more of an abstract notion for both genders, but referred to the ability to make comparisons or ‘being in the right place at the right time’. Most interviewees, particularly after they had qualified, stated that

their goal was to become respected and recognised for successful achievements within their chosen law area. This mirrors the beliefs ingrained within the practices of the linear career, with success resulting from “advancement along a hierarchy of power or prestige” (Barley, 1989: 48). Some interviewees also mentioned the positive impact of role models, who were considered as ‘inspirational’ in guiding their own career development.

Generally-speaking, the smaller firm size appeared to have a more of a positive impact upon perceived and actual career progression. However, these smaller firms also felt a greater impact from organisational structural changes resulting from both the recession and the LSA 2007; which subsequently hindered the career progression of certain individuals by reducing the opportunities for upward, internal progression.

Conversely, negative influences upon career progression also arose from the data analysis. Firstly, financial barriers affected entry into the legal profession due to socio-economic status. This also coincided with career progression within the firm in terms of the size itself constricting further advancement opportunities. Secondly, the recession caused legislative amendments, which made business less profitable. Firms had to make redundancies and reduce partnership numbers. Thirdly, starting a family was considered more of a career progression obstacle for women, who had to ‘accept’ that having children would alter their priorities in life and they would focus less on their career until their children were older. Indeed, gendered disparities in career advancement for women arise early on; around the early thirties (Crompton and Lyonette, 2011). This finding mirrors work by Evetts (2000) in that, in pursuing a linear career, women may need to resist the traditional feminine ideologies of motherhood. This also reflects the literature in that professional men are deemed more able to achieve the ‘accepted social ideals’ of functioning as both ‘ideal workers’ and as ‘ideal men’ (Williams et al., 2013:224). Issues regarding balancing shared paternity leave with finances made it more difficult for those working-parents who wished to stay at home longer with their children. It appears that the nature of the legal profession itself acts as the main career obstacle for women in this regard, with other disciplines, such as academia, being “*much more child-friendly!*” (*WB female solicitor 1-2*).

Moreover, certain areas of the law were considered to have more limited career advancement opportunities than others; especially considering the emergence of a hierarchy of superiority within the specialisms. The continued male-dominance of the legal profession and (unconscious) gender bias negatively impacted the progression of women. There appeared to be the compacting of female lawyers into feminised, less profitable specialisms (which offer fewer progression routes) in the small- and medium-sized law firms. This is akin to the literature on larger law firms (Bolton and Muzio, 2007; Crompton and Lyonette, 2011; Sommerlad, 2016). It could be argued that the most admired law specialisms appear to have the highest levels of economic and cultural capital (Ashley and Empson, 2017). Finally, institutional barriers, glass ceilings and the engraved homosocial reproduction of white, middle-class males also adversely affected women and ethnic-minority employees. These two latter issues in particular support Acker's (2006) work on 'inequality regimes' whereby gendered workplaces practices, policies and structures may also reproduce inequalities.

In sum, within these smaller firms studied, successful lawyers are those who accumulate high levels of economic, cultural, social and symbolic capitals (Bourdieu, 1972). This places those who do not, or are not able to, conform to the professional standards characterised by the white, middle-class male paradigm (Muzio and Tomlinson, 2012) at a disadvantage within the legal profession. While these issues shall be considered more closely in Chapter 7, the following Chapter aims to answer the third research question: what diversity management policies exist within small- and medium-sized law firms and how effective are they?

Chapter 6: Results – Diversity & Diversity Management

6.1 Introduction

This second empirical chapter outlines how diversity and diversity management are viewed in the four small- and medium-sized law firms. Given the extensive range of definitions of diversity highlighted in the literature review, the first part of this chapter focuses on the difficulties in defining ‘diversity’. I thought that asking participants about their own explanations was important; given the lack of a clear, widely-established academic definition. This approach brought about, as one may expect, many distinctive answers. In summary, four main definition categories arose: the issue of ‘difference’; the matter of culture; the ‘business case’; and diversity and change. This approach allowed for an important discovery to be made: the concept which I term ‘aesthetic diversity’; explicated in section 6.3.1. This new concept may be seen as an offshoot to the ‘business case’. The main argument is that many interviewees described ‘diversity’ as instantly-recognisable demographic characteristics, for example: gender, ethnicity and age (Tran, Garcia-Prieto and Schneider, 2011) – essentially, the aesthetics of an individual. The unobservable traits, such as opinions, personality and values (Tasheva and Hillman, 2018), laying beneath this aesthetic exterior, are overlooked.

Following discussion of definitions, this chapter uncovers findings related to my third research question: whether diversity management practices exist in the small- and medium-sized law firms and how effective they are. This section uses the finding from the previous chapter as a springboard: given the importance of social capital, the unanimously-preferred hiring practice of the firms was personal recommendation. This detracts from the desire to hire applicants from all backgrounds to create a diverse workforce. This section thus examines how HR initiatives are implemented in the law firms, and covers issues of recruitment, appraisals, training and flexible-working. The importance assigned to increasing workplace diversity was seen across all firms: from both an economic viewpoint (diverse workforce reflects societal diversity and thus attracts new business and applicants) and, on a more personal level (workplace diversity provides employees with opportunities to learn about other cultures).

Answering this third research question more fully, while a more proactive approach to diversity was witnessed in the “LEFT-LAW” recruitment process (positive discrimination), as interviews progressed, it became apparent that there were no

standardised HR policies supporting diversity management initiatives in any of the firms. Diversity management practices in the law firms were mainly viewed as synonymous to equal opportunities policies. The closing section on legal compliance and monitoring supports this finding. Finally, the Solicitors Regulation Authority (SRA) is both praised and scrutinised for its efforts to promote diversity and facilitating access into the profession.

6.2 Defining diversity via ‘difference’

The typical definition of diversity, describing those from ‘different backgrounds’, made use of the protected characteristics (chiefly age, race, sex, disability and religion) under the 2010 Equality Act as an initial thought. These definitions correspond to *social category diversity* (Phillips *et al.*, 2012), which refers to the noticeable demographic characteristics, and acted as a benchmark for those expanding on their definitions after these first notions. A noteworthy point here is that very few interviewees mentioned sexual orientation in these definitions, with only 5 females making brief references throughout the interviews. Nevertheless, most of these definitions were vague – ‘that kind of thing’ – preventing interviewees engaging with the topic:

“diversity is obviously the standard, you know, religions, race, you know, people from different places” (British Asian (BA) female paralegal, 1-1).

For 4 interviewees, ‘different backgrounds’ were equated to individuals having different upbringings. No real explanation was offered to describe these ‘upbringings’. It was unclear whether this corresponded, in the most general terms, to the way individuals are cared for and taught how to behave while growing up, or whether this related to issues concerning education, religion, schooling and community:

“people of different... People have been brought up differently to you” (BA female paralegal, 1-1).

Although only few participants spoke of upbringings and socio-economic circumstances to clarify their interpretation of ‘different backgrounds’ (usually both the oldest: senior management, and youngest employees), this ‘difference’ was also equated to different cultures, with the topic of ethnicity deemed central to many definitions. For the most

part, these topics of ‘culture’, ‘background’, ‘ethnicity’ and ‘diversity’ appeared somewhat amalgamated together as a sentence of vague, yet inferred, lists. Similarly, issues of ‘colour’ appeared, either quite literally or through metaphors:

“sort of a spectrum of different things ... the rainbow effect of different colours” (White British (WB) female head of vetting, 1-4).

Of intersectional interest, one participant was clear on how she defined diversity, including some categorisations, while rejecting others. Asking why this distinction was made, the solicitor noted how her own gender affected her definition, but also how generational changes may impact upon perceptions of diversity, while also alluding to the potential darker sides to diversity. ‘Being a female’ in the legal profession was not ‘weird’ as maybe was considered ‘50 years ago’:

“Diversity would mean ... different racial backgrounds, religious backgrounds, I wouldn’t really class sex, gender, as that, as diversity – but I think that yeah, it’s sort of racial, religious belief or from different cultures” (WB female solicitor, 1-1).

“different races, cultures and religions, is quite a new thing, so, I think they’ve kind of got over the, well hopefully, the sexist ... I think we’re probably kind of over that with gender, but maybe not quite so much with race and culture and things yet” (WB female solicitor, 1-1).

The literature (Sommerlad, 2002; Bolton and Muzio, 2008; Sommerlad *et al.*, 2010; Pinnington and Sandberg, 2013; Aulakh *et al.*, 2017; among others), as well as official statistics (Law Society, 2016b; SRA, 2017d) document the increasing number of female employees entering previously male-dominated professional services. This perhaps justifies the notion that women within the workforce is not ‘a new thing’. This may be due to the demographics of law firms: with the average ages of Partners being 47.1 years and 41.3 years for solicitors across the legal profession in 2009 (Law Society, 2009), the historic recruitment of lawyers from a “very narrow social background” (Elliott and Quinn, 2016:203) may not have, at present, drastically altered perceptions.

6.3 Defining diversity via the ‘business case’

Both legal and non-legal managers in each law firm employed the ‘business case’ definition of diversity: individuals from ‘different backgrounds’ have different ideas, skills and expertise; all for the benefit of the firm. These definitions followed a pattern of meritocracy, the ‘best person for the job’, regardless of their ‘background’. This rhetoric mirrors previous research (Kirton and Greene, 2016). However, these definitions raised my expectations in finding diversity management practices in the firms: positively answering the third research question. When questioned on the rationale of the definition of diversity in a business sense, an interviewee retorted that it was the ‘only way’ it could be defined; negating diversity arguments based on moral (Noon, 2007) or ethical grounds (Cornelius *et al.*, 2010):

“Why would you have it any other way? ... From a business perspective, you don’t care who you have ... they’re not disruptive in the office... regardless if they’re, you know, tall or short or thin or fat, as long as that person does their job and what they’re asked efficiently ... that’s all you want isn’t it?” (WB female practice manager,1-2).

Supporting the literature on this topic (Holvino and Kamp, 2009), attracting the best talent and ‘best brains’ was viewed as a key objective for firms in a bid for increased competitive advantage and accessing larger consumer markets, so as not to be perceived as an ‘exclusive’ organisation. The changing societal demographics were viewed by firms as advantageous in enabling recruitment of people who were the ‘right fit for the company’ from a much ‘wider base’. The most important and profitable organisational benefit, as well as the main new challenge for the companies in this study, is of language.

A multi-lingual workforce was a ‘unique selling point’ (McDonagh, 2011) in that these culturally-diverse employees would be better able to relate to, and understand, their clients’ cultures. Furthermore, employing bi- or multi-lingual staff was deemed as a way to overcome the language barriers (Cox and Blake, 1991) in having to refuse work from potential clients who may not have English as their first language.

“people maybe just feel more comfortable talking to their own as it were” (Female solicitor,2-2).

“This is going to sound horrible – a Chinese person that works for us – which is great for us because she speaks Mandarin! ... that’s an extra skill that we’ve got – and we do advertise that ... we will say if you have a Punjabi-speaking client, we can do it ... it adds benefit I think to the services that we provide” (WB female operations manager, I-3).

The “LARGE-LAW” operations manager appeared uncertain about whether her answer was appropriate. She responds by equating cultural diversity to language ability; stating that there are ‘only a couple of firms’ in the local region who ‘can offer that’ [Mandarin speaker]. In this regard, “language has a value as a cultural resource” (McDonagh, 2011:49). Along with the Punjabi-speaking conveyancer mentioned, this language knowledge allows “LARGE-LAW” to differentiate itself from its competitors: a form of cultural capital (Bourdieu, 1986).

Additionally, it was felt that smaller law firms would have to diversify so as not to risk losing potential business which could be catered for by a competitor firm with a more inclusive and accommodating culture. For instance, a WB male associate said that if a minority-ethnic client wished to bring a discrimination case forward and saw a ‘predominantly white British’ firm, they may wonder whether the firm would be truly ‘fighting’ for their case. In this regard, having a visual representation of workforce cultural diversity – ‘aesthetic diversity’ – was believed to be advantageous and encourage different clients to the firm.

“One of the guys across town, he’s a Sikh and I put something on Twitter about him being on the radio ... and there was an explosion of Tweets about him from the Sikh community. And actually, I’d be lying to you if I didn’t think to myself, ‘ooh, be nice to tap into that!’” (WB male managing partner, I-3).

The above beliefs, relating to ‘aesthetic diversity’ would have subsequent implications for the structure and application of diversity management practices in the firms; discussed in the following sections.

6.3.1 Using ‘aesthetic diversity’ to attract applicants and new business

Akin to the ‘business case’ rationale, having a ‘good mix’ of diversity within the workplace was considered important: a way to attract talented newcomers and gain new clients. In this respect, and as argued throughout this chapter, diversity was generally defined by interviewees via demographic characteristics. This is evidenced in one stark example; whereby physical masculine attributes are listed to categorise a successful lawyer:

“he’s brilliant in terms of gravitas, he looks the part ... he’s a former rugby union professional, he’s massive. Big, strong, strapping, handsome boy” (WB male managing partner, 1-3).

The body of this individual becomes a central part of what it means to be a ‘lawyer’ and has been shaped by the professional socialisation processes (Haynes, 2008; 2012) of the legal context. This excerpt provides evidence of law firms favouring those who exhibit particular forms of embodied cultural capital (Cook *et al.*, 2012). The importance of appearance and ‘looking the part’ features heavily in a firm’s brand image; especially “where knowledge is most ambiguous” (Ashley and Empson, 2013: 221); such as in the legal profession. This is seen within the occupational segregation literature: occupations tend to affiliate with specific social identities (Ashcraft, 2013). Certainly, “professionalism is at least one of the dimensions structuring the issue of appearance” (Grey, 1998:577).

Interestingly, an opposing set of identities to the above were the most central in terms of the creation of the aesthetic diversity concept. Although gender and age diversity were important, ‘ethnic backgrounds’ – expressed through skin colour – were considered the most noticeable and instantly-recognisable characteristic. This acted, quite literally, as an organisation’s “external face” and was viewed as helpful in terms of marketing the firm as inclusive and appealing to the public. This supports the literature, in that gender or ethnic differences may be turned into strategically-advantageous organisational tools (Tomlinson *et al.*, 2013).

“I suppose from a marketing-the-firm perspective as well, it is helpful ... obviously we want to be as diverse as possible ... because you want to be inclusive and appeal to as

many people as possible. So there is that, in terms of the external face of the firm” (WB male associate,1-3).

Regardless of ‘background’ or ‘differences’ (be it gender, religion, skin colour or sexual orientation among others), it was felt that a workforce should be a ‘proper reflection of society’ and not simply ‘cloning the white, male, 35-45 years’ archetype:

“It’s just a homogenous block of one type of person, which I don’t think is really very sensible for the team dynamic, giving better service to clients, or for being more appealing to clients” (WB male associate,1-3).

This argument was strengthened by the view of a male partner, while looking at a picture of the staff members in his department: it ‘did not look right’. These two statements formed the inspiration of the concept of ‘aesthetic diversity’ conceived in this research. The first component to this concept is that diversity continues to be viewed in its most visible, instantly-recognisable demographic characteristic forms: primarily skin-colour, then gender. Age was not mentioned in this definition: the focus appeared to be upon the need for gender and ethnic diversity – perhaps in the face of current mass media pressures.

Documentary analysis was used to uncover the second component of this concept. To garner further information and support for interview findings, this analytic procedure entailed finding, selecting, appraising (making sense of), and synthesising data contained in company documents (Bowen, 2009). The second component of ‘aesthetic diversity’ relates to the fact that, from the initial finding above, an organisation’s ‘image’ and depiction of its workforce via a range of skin colours and genders (and occasionally, ages and disabilities), was transmitted through marketing brochures and company websites to showcase a ‘visible presence’, reflecting the diversity in wider society. Prospective clients and applicants, thus, form split-second judgements through viewing these glossy images of instantly-recognisable characteristics and deduce that the organisation welcomes and celebrates inclusivity. The use of the ‘diversity-culture-skin colour’ triad employed in organisational marketing strategies, although a clever approach, appears to be mostly for ‘aesthetic’ purposes. This was quite readily apparent when browsing through the online webpages of each company. The largest company in this research, “LARGE-LAW”, was the only firm to synchronise both its online and

hard-copy marketing documents in a monochromatic colour scheme. From these images, skin colour disparities were harder to deduce than distinguishing between male and female employees. Whether this choice was anything more than a stylistic preference remains uncertain. The online platforms for the other three firms focused less heavily on flashy personnel-marketing, yet showed images of their employees in colour on their websites.

Nevertheless, and in part, establishing the third component of ‘aesthetic diversity’, this does not negate the fact that, although there may, indeed, be workforce diversity to a certain extent, a greater mix of individuals are usually concentrated in certain specialisms and roles, while those in senior management positions were still white males. For instance, there was a greater ethnic mix amongst paralegals in all four firms and more gender and ethnic mix in the high-turnover conveyancing departments. This may be as it was not necessary for the conveyancers to be qualified (attain the LPC), so the potential range of applicants would be broader than those for a specifically-qualified role. The second part of this third component, which fully answers the third research question (highlighted later in this chapter), is that these small- and medium-sized law firms only employ a minimal commitment to diversity and equal opportunities (EO) policies; limiting its use to the recruitment process; rather than in other business areas, such as appraisals, evaluations or promotions, where they would be beneficial. Moreover, it appears employees were not all treated equally. Although one Jewish female associate commended her firm for being welcoming of diversity and conceding to her ‘non-negotiable’ early leave on Fridays, other minority-ethnic staff felt that they merely received a light-touch dedication with regards to diversity provisions, in that their firm were unaware of religious events, such as Diwali.

6.4 Deeper reflections about diversity

As expected, some interviewees acknowledged and identified a broader spectrum of what diversity may encompass – shying away from the recognisable, visible characteristics, as depicted in social category diversity (Phillips *et al.*, 2012), to a deeper understanding of diversity. These expanded definitions spoke of the different needs of employees, flexible-working and different identities, upbringings, personalities and outlooks. Interestingly, these definitions came more from female than male participants. A WB female Business Development Manager, reflecting upon her diversity training

from previous employment, described diversity to be as much about the ability to leave work early to look after an ill child, as it was about physically-impaired individuals being able to access their workplace.

Moreover, supporting the literature on these topics, diversity was also seen as treating everyone in the same way, where it has been conflated to ‘fairness’ and ‘equal treatment’ (Thomas and Ely, 1996; Thompson, 1998; Liff, 1999; to name a few) .Some interviewees also commented on the fact that people may have different hobbies and interests and, although newcomers might not share in these same pastimes, they would each receive a ‘basic standard’ of treatment and “*would still be welcomed in*” due to the small firm being a “*very inclusive kind of office*” (WB female head of vetting,1-4).

Some participants used a form of semantics and analysis of the question in defining diversity, which was, in some ways, expected due to advanced linguistic skills learned through their education. This allowed a chance to reflect upon how social categories were classified by individuals. Many of these questions came from males in senior positions; the reasons for which may be interpreted as two-fold: either in ‘testing the water’ of my position as a (female) researcher or as a way of expressing their ‘extensive’ knowledge on the issue.

“Diversity? Well, it depends on who you ask really. Diversification of what? – people, assets, businesses, like I say, depends on the person you ask” (WB male paralegal,2-3).

“It’s what word you add before it that makes diversity what it means ... the context of the word ‘diversity’ is important before you answer what it means to you” (WB male associate,1-1).

Perhaps the most comprehensive definition of diversity came from a British-Asian paralegal from the largest firm in this case study, whereby he spoke not only of visible characteristics (much like most interviewees), but traversed through aesthetics to mention aspects of culture, and different outlooks and personalities. It was understanding that people have their own beliefs, cultures and ways of doing things, and others should respect them:

“understanding that something you may not see as offensive, is, can be seen as offensive to somebody else ... not just understanding that culturally we’re different, ethnically we’re different, or from different towns, cities or whatever, but also, as a person, that we’re all different, and it’s learning to accept that ... it’s acceptance of differences, more than anything else” (BA male paralegal,1-3).

This is one of the very few (only five or six) diversity definitions referring to the societal need of ‘acceptance’ and alluding to fostering an inclusive atmosphere. Diversity was deemed as positive in enabling sharing and learning about people’s knowledge and cultures – reflecting the ‘moral case’ for diversity (Noon, 2007). However, ‘acceptance’ of difference was also complex, as it appeared to rely upon the openness of both parties on either side. For some, regardless of their age, acceptance of diversity seemed to come at a price and was not exactly aligned with valuing cultural differences:

“As long as people integrate, then that’s fine ... there are a lot of immigrants coming into this country ... As long as you put into the economy, and pay your way, you know people are happy aren’t they, so diversity is just... working with and dealing with anybody” (WB female paralegal,2-4).

This quote was interesting, given that this 37-year old was brought up in South Africa and witnessed substantial impacts of cultural diversity. This ‘integration’ begs the question: to what extent? Perhaps, this is answered by the following excerpt:

“Quite cynically, I would say, as long as people aren’t round my house robbing it, I don’t mind, it’s one of those sorts of things I’ve never really bothered about, people getting worked up about it, I think everybody’s got rights, everyone’s got responsibilities, as long as we all just get on with each other, then that’s great” (WB male partner,1-3).

This partner may have wished to make a rather innocuous statement, although this reads and sounds the exact opposite. While this excerpt is dissected in greater depth in the Discussion Chapter (Section 8.4), reflecting on the upbringing and status of this participant – who received a private school education and advanced upwards through

the firm since starting in 2002 – one could argue that he is providing a vague and slightly bizarre answer to how he defines diversity; distancing himself from truly engaging with this topic. Related to these feelings, similar comments were also voiced by employees in other firms, even the younger paralegals:

“there’s quite a lot of, especially the British working man, there’s quite often, there’s a tad of racism that is just there” (WB male paralegal, 2-3).

These are insightful excerpts; given the high levels of professionalism one would expect within the legal sector. A conceivably important nuance is that older employees used language of economic and social integration to handle societal diversity, whereas younger workers would tend to highlight the continued existence of discriminatory views. Moreover, some participants were either unsure of how to best answer the question: *“I’m a blank, sorry” (Female secretary, 1-1)*, or, perhaps, did not completely understand how the question was phrased, going off somewhat on a tangent: *“I would interpret ‘concept diversity’...” (WB male equity partner, 1-2)*. However, some even acknowledged that they themselves had progressed their own reflections upon the issue: *“Isn’t true diversity where we stop thinking there’s difference between us?” (WB male partner, 2-2)*.

6.5 Diversity management: HR within small- and medium-sized legal practices

Having investigated how diversity was understood, I now shift focus to look at how it was managed. This section investigates the existence of diversity management practices within the small- and medium-sized law firms: the third research question. Although all the organisations were strong advocates for the benefits of workplace diversity, it became increasingly noticeable that no standardised HR policies supporting diversity management initiatives were in place in any of the law practices: diversity management and equal opportunities policies were considered identical. This belief is discussed further below, which covers recruitment, progress monitoring, training, measures to increase workplace diversity, maternity leave provisions and flexible-working.

6.5.1 Recruitment

The occurrence of diversity management practices within the small- and medium-sized law firms during the recruitment process presented a dichotomy of findings. On the one

hand, this was deemed as the main – and, essentially, only – stage at which diversity measures and equal opportunities initiatives could be, and were, utilised, to encourage applications from diverse pockets of society. On the other hand, recruiting internally and encouraging organic growth were the most attractive organisational strategies for the four practices in this study.

Considering the first perspective, there was great emphasis placed on the ‘best person for the job’. Participants clearly stated that each company had an equality and diversity policy, whereby every applicant received ‘an equal footing’ and selection was based mostly upon experience. No firms cited any ‘targets’ to adhere to or no measures to stop discrimination: it was the concern of the policy – a visual sign to show legal compliance – the start and end of the matter. The managing partner of “LEFT-LAW” stated that, due to his employment law background, he would be ‘very strict’ about equal opportunities; mentioning that this is easier to implement with time.

The law practices appeared to only implement light-touch HR and equal opportunities (EO) policies during the recruitment process:

“Is there anything to protect any prejudice coming in? No, just a few of us looking at CVs and just making sure it doesn’t creep in really ... hoping people are sensible enough and not biased to do that, but nothing other than an equal opps policy” (WB female HR manager,2-3).

This demonstrates a lack of a ‘formalised procedural approach’ (Liff, 1999) and a minimal commitment to diversity from all the law practices. The policies appeared to only exist for legal effect, to demonstrate compliance and show potential candidates that the firms welcomed all applications – merely a standalone policy without any supporting mechanisms: ‘aesthetic diversity’. The law firms saw little place for these policies in other areas where they may be of most use (Foster and Harris, 2005), such as promotion or performance evaluation. These findings support the literature. Hoque and Noon (2004) discovered from study of the 1998 Workplace Employee Relations Survey, that many workplaces adopt an ‘empty shell’ attitude towards EO policies, rather than assuming a holistic, ‘substantive’ strategy to challenge discrimination.

However, there were reservations about the usefulness of these policies due to the seemingly ingrained ‘best person for the job’ patter throughout all interviews. Furthermore, in terms of diversity management, most participants disregarded the use of positive action or positive discrimination practices for increasing workplace diversity. This may have been confused with quotas (Noon, 2010), and may have shaped some of the responses given:

“I’m not sure they do help, to be honest! I suppose it depends who’s doing the interview ... from my experience ... every person is taken completely on their merits ... whether there’s a policy in place or not, the best person at interview will get the job” (WB female solicitor, 1-2).

Nonetheless, a potentially more proactive approach to diversity was witnessed in the “LEFT-LAW” recruitment process. Reflecting upon his own definition of diversity, the managing partner mentioned socio-economic background to be an important factor in his recruitment approach. While perhaps intending the sentiment of this strategy to positively tackle historical class-related stereotypes, it may be interpreted quite differently:

“One of the things that we’ve done historically, is deliberately looked to recruit working-class people, that’s my background ... I went to a comprehensive school. We’ve tried, or I’ve certainly tried, to recruit more of those over the years, because I think the profession has not been good at that. And whilst it’s getting better ... still a lot of those women and black and Asian people are from middle-class and better-off families” (WB male managing partner, 1-1).

This excerpt demonstrates generalisation: (perceptions) of people from Black, Asian, and minority-ethnic (BAME) groups as middle-class; of a white (male) working-class; and shifting blame externally by stating that the profession generally has not been ‘good at’ diversity. The use of ‘more of those’ to refer to more individuals from working-class backgrounds and ‘those’ middle-class women and BAME populations is, in effect, homogenising class and gender groupings. Furthermore, the rationale of assigning people who attended comprehensive schools as from working-class backgrounds is also problematic; as this may not be the case. If this is how working-class is measured and

conceptualised across the profession, then this is a troubling issue. Finally, the question remains: why? Is the managing partner seeking to employ working-class individuals from an inclusionary standpoint in that these groups have been under-represented in law? Class is not a protected characteristic as defined by The Equality Act 2010 (EHRC, 2017). Or, is the managing partner reflecting upon his own background and thus wishes to help other working-class individuals achieve similar success?

This statement is different from LEFT-LAW's comprehensive 'Equality and Diversity' rhetoric; outlined in both hard-copy brochure form and on their website. This describes their commitment to removing discrimination, so that every employee feels respected and fully part of the firm, and fostering equality and diversity within their workforce; the end goal of which is to ensure that their workforce is representative of society. Since the completion of fieldwork, this section of the LEFT-LAW website was updated in 2016 to include their own 'Equality and Diversity' policy and SRA 'Diversity in the Legal Sector' reports.

Considering the second perspective, the style of recruitment depended upon the level of the position advertised, yet most job adverts were placed internally within the firm, as organic growth was highly-coveted in each company. Thereafter, personal recommendations were seen as an advantageous way to recruit. By means of incentive, some firms introduced monetary rewards for employees following successful recommendations. Word-of-mouth recruitment was seen as preferable, especially in a smaller firm size. Workplace-person fit was stated to be of great importance in these smaller law firms, as the recruit had to suitably-match the organisational culture and attitudes of the existing employees. The strength of this approach being that if an employee could 'vouch' for the new individual, then they would not disappoint:

"You have less room to carry any passengers or any problems ... if you can go to someone you know, then you always will" (WB male partner,2-2).

"Nobody who's been at a firm a while will introduce an idiot to that firm" (WB male managing partner,1-1).

This reaffirms the importance of personal reputation (Brivot *et al.*, 2014) and implies the necessity of a solicitor to exhibit high human capital and embodied capital value (Cook *et al.*, 2012), so as to uphold, or augment, the reputation of the law firm itself (Ashley and Empson, 2013). Nevertheless, an element of unconscious bias may thus affect the fairness of this process.

To encourage as many external applications as possible, and perhaps to maximise the benefit from larger networks, the organisations advertised not only on their external, public internet website but also used social media channels. While hiring senior members was preferably via personal contacts, recruitment of new trainees and paralegals was either using contacts at the University Law Schools or through advertising directly at local law colleges. These were considered as efficient and inexpensive ways to widely broadcast vacancies.

“We avoid paying fees to recruitment agencies if we can avoid it, basically” (WB male partner, 1-2).

The wish of ‘home-grown talent’: senior employees having worked their way up in the firm from entry-level positions, was classed as a more ‘traditional’ pursuit. This was seen as a source of pride and sought-after by all the firms in this study. Additionally, the firms preferred to hire the students they had taken on for work experience. A low staff turnover or ‘attrition rate’ was viewed as beneficial for the image of the firm: candidates were more inclined to apply for vacancies if they perceived the firm to treat employees well. Keeping talented employees was seen as sustaining organisational competitive advantage. Employees would also be less likely to transfer elsewhere, taking their skills and knowledge (and the firm’s investment) with them:

“They don’t go externally, which I like. I think if you’re investing in people, invest in people” (WB female solicitor, 2-4).

“We do get a lot of loyalty to... the institution, if you like ...There’s a kind of... loyalty to the firm first, which is useful” (WB male managing partner, 1-1).

This close identification with the organisation, rather than with the legal profession at large, confirms Grey's (1998) predictions about the future of professionalism – in this instance, there was a “LEFT-LAW” ‘type’. Nonetheless, the resulting labour market uncertainty since the recession has only further compounded these feelings and worked to the firms’ advantage. Work experience and internships have increasingly become an important entry component into many professional sectors (Rolfe and Anderson, 2003; Milburn, 2009). Although this permits businesses to determine whether students are competent enough in completing tasks and showing potential, this method reduces the opportunity to recruit from a broad socio-economic spectrum (Sullivan, 2010). Perhaps the power of organic growth is distinctive and stronger in smaller law firms. This differs with Pinnington's (2011) review of the literature, in which he states that larger law firms encounter problems with employee retention.

Only a few interviewees admitted to the disadvantages to organic growth, referring to the lack of ‘outside’ ideas via external recruitment of ‘new blood’. Only the “LARGE-LAW” HR manager presented the ‘business case’; stating it may be better to recruit externally:

“We’ve got to do that benchmark of ‘have we got the best people here?’ ... some of the people aren’t the best, and we need to make them better or bring in new people” (WB female HR manager,2-3).

In sum, recruiting internally and encouraging organic growth were the most appealing recruitment strategies for the four legal practices. Supporting previous literature (Carroll *et al*, 1999), recommendations were the preferred recruitment route: they offered some guarantee that the applicant would be a good fit for the company culture. A solicitor commented that an equity partner was keen on organically-grown employees, so that *“they can mould them into what they want as a lawyer” (WB female solicitor,2-2)*. This idea of a ‘lawyer-checklist’ opened up questioning of the ‘image’ the firms wished to promulgate with their employees; drawing upon issues of occupational identity from Chart B in Chapter 5 (page 114).

6.5.2 Performance appraisals

Within the legal services sector, an emphasis upon how professionalism is evaluated – given the focus upon, and preference of, behavioural aspects over technical skills – will better elucidate the behaviours most coveted by the evaluation procedures (Grey, 1998). However, as mentioned above in the section on recruitment, the law firms perhaps did not recognise the value and usefulness of HR and EO policies in other areas, such as performance evaluation. This section briefly summarises the performance appraisals operating within the law firms.

Assessing an employee's performance was differentiated in two ways: informal and formal approaches. A more informal daily approach took place through brief conversations; described as a type of 'mentoring' approach. Paralegals worked closely with a senior solicitor daily, who quality-checked each file. 'Mentoring' was principally regarded as partners guiding trainee solicitors through their training contracts at the firms. Solicitors also often worked closely with their supervisors in a 'supportive' environment, so regarded these frequent exchanges as 'informal' mentoring. This follows the philosophy that learning in small- and medium-sized enterprises typically occurs on a daily basis (Billett, 2000).

Additionally, a more formal evaluation was adopted; with appraisals generally taking place annually in each organisation. The main career ambition for paralegals was to be offered a training contract, so targets were assigned to provide a 'chance to prove themselves' for the September intake. The trainee solicitors tended to undergo a very formal appraisal system: a monthly performance and developmental review; followed by the six-monthly review with management. Across all firms, a 'structured' and 'constantly-developing' appraisal system existed for these staff.

Associate solicitors also had managerial responsibilities. As well as yearly appraisals, they also had six-monthly meetings, whereby they were assessed upon meeting cost targets as well as business development expectations. "SMALL-LAW" and "FEM-LAW" employed an additional financial incentive, whereby solicitors receive a bonus if they exceed monthly billing targets. "LEFT-LAW" measured 'time utilisation': the percentage of billable hours a week. Regular meetings were scheduled for associates to assess and improve networking.

Relating this to the literature, while the technical skills of associates are measured under 'managerial responsibilities', evaluating the 'professionalism' of these higher-level solicitors in terms of social skills focuses more upon how they conduct themselves (Grey, 1998). It is here where diversity policies would be helpful. While networking is considered as essential to professional development and career progression (Williams *et al.*, 2012), female and minority-ethnic workers may not feel welcome at, or be able to regularly attend, these events: with this perceived lack of flexibility likely to curtail their advancement (Sullivan, 2010).

At partnership level, alongside the yearly appraisal, the assessment criteria were achieving financial targets and contributing to the business. The WB "LEFT-LAW" managing partner stated the company previously implemented a formal partner appraisal, which was considered 'divisive'. Instead, performance measures across all firms included peer supervision – with management reviewing files for financial and legal compliance – and the smooth running of departments, with no complaints, disciplinarys or grievances. For equity partners, appraisals were 'very ad hoc' and, akin to the partners, "*the fact that I don't get complaints*" (WB female equity partner, 1-3) was deemed as an adequate measurement of performance. Equity partners were peer-assessed after reporting their rainmaking skills, client work, any additional activities and tasks and, perhaps the vaguest measurement of all, what they 'contributed' to the partnership. The largest firm, "LARGE-LAW", also previously tried to implement an appraisal system, yet never finished the process; instead placating staff with pay reviews.

Non-legal management received annual appraisals, were set organisational goals and 'assessed' via informal chats with colleagues and superiors. The administrative staff also had a yearly appraisal and their workload monitored, yet, additional monitoring was said to occur 'behind the scenes'. Nevertheless, conveyancers did not receive appraisals and were assessed on their conversion rate: the time in which files were allocated and completed. Feedback from clients seemed to be more heavily-used to monitor the performance of conveyancers. The conveyancers felt this was useful, but some opined that appraisals would be beneficial for goal-setting and to ascertain whether they were meeting the organisation's 'expectations'.

To conclude, all four firms were keen to state that they offered appraisals, not only to monitor performance, but also to allow employees to use this time to voice any concerns: a seemingly light-touch diversity approach. Diversity issues in this sense, might be viewed negatively, as they would be attached to complaints. This point shall be raised again in the Discussion Chapter. Reflecting the literature, performance in appraisals was mainly assessed by billable hours, and client satisfaction and feedback at higher levels (Brivot *et al.*, 2014). While appraisals were deemed to be ‘very structured’ with clearly set targets for less senior employees (yet appeared to be more informal in the smallest firm, “SMALL-LAW”), there was a less rigorous system in place at partnership level across all firms: “*you know if your partners are working and, if they’re not, then you let them know(!) – that’s it really*” (WB male managing partner, 1-1). Technical proficiency was purely considered as the basic prerequisite of professional practice; with behavioural qualities deemed as superior skills (Grey, 1998). Indeed, equity partners were not otherwise ‘formally’ evaluated. “This reflects the importance of the traditional professional form of control through self-regulation and the power of partners, as the owners of the firm and its clients, to resist the imposition of closer controls” (Morris and Pinnington, 1998a:85).

6.5.3 Training

As discussed in both the literature review and in the previous chapter, career progression within the ‘Classic PSF’ (von Nordenflycht, 2010) remains premised upon the traditional ‘linear career’ of internal promotions; with enhanced benefits following from firm-specific training or increased seniority (Sullivan and Baruch, 2009). Given that professionals are socialised to espouse these career attitudes and value their own self-worth and continuous training (Pinnington, 2011), training within these law firms should be of upmost importance.

Reflecting the literature (Kotey and Folker, 2007), upon joining the law firms, training primarily took the form of on-the-job through experience. This was regardless of whether an individual pursued the one-year full-time Legal Practice Course (LPC), completed a Graduate Diploma in Law (postgraduate law conversion course) at University; or even opted for the CILEx qualification to become a legal executive. For trainees, every piece of work was quality-checked by supervisors, which they found

beneficial as they quickly learned from mistakes. This supports the literature (Dalley and Hamilton, 2000). Generally, paralegals and trainees felt inexperienced in their role and believed that they would gain confidence with time:

“Law school doesn’t really prepare you for what’s to come after in the real working world” (WB female paralegal, 1-2).

This sentiment is also evinced in the work by Burrage (1996) who states that there are many lawyers who believe that studying law at University is unconnected to law in practice.

As mentioned in the literature review, as part of the training contract, trainees undergo a 72-hour Professional Skills Course (PSC). Relating this topic back to the third research question, while one of the core elements in the PSC is customer-facing: ‘Client Care and Professional Standards’, this module remains unassessed and does not cover diversity awareness (SRA, 2017b); important in light of changing client demographics. Moreover, during the interviews, there was no mention of under-represented groups (women and minority-ethnic workers) obtaining additional support and/or specific training; nor employees receiving any diversity training from their law firm. The compulsory Continuous Professional Development (CPD) did not appear to be linked to diversity training – learning and development needs were aligned with what was stipulated as necessary for career progression at appraisals.

As progression is measured on billable hours, a hard-working attitude and commitment to the job (Brivot *et al.*, 2014), as well as business development involvement and networking attendance (Tomlinson *et al.*, 2013), (formalised) diversity awareness training did not seem to be valued or compulsory within the small- and medium-sized firms.

For the more senior solicitors, training was described as an ‘ongoing process’, whereby, in addition to 16-hours a year CPD, *“a lot of it comes from experience” (WB female associate, 1-1)*. The more senior solicitors (with more than 5 years PQE) wished to acquire law-specific knowledge and/or training in ‘softer’ management skills; with the hope of receiving future opportunities to manage teams. However, there appeared to be

a discrepancy between the availability of training for solicitors and conveyancers. Some employees felt that training was more ‘geared’ towards the fee-earners. Non-legal management had attended the occasional managerial or marketing courses, but stated that ‘having experience’ and learning ‘on-the-job’ was what was important. The administrative staff interviewed in “LEFT-LAW” had only received basic IT and telephone training and never the training that was ‘promised’.

The main challenge for associates however, was “*finding the time to do it or the inclination*” (WB male associate,2-1) due to their busy schedules. For partners, apart from the 16-hours CPD, they are ‘expected’ to be competent at the job. The priority for partners was keeping abreast of changes in the law that would affect their department. Aside from their many years of ‘technical’ experience, partners described that their skills, creativity, learning style and business development ideas were what they were ‘judged on’:

“I don’t think it’s sustainable any more to pretend that because we’re good lawyers, we’re good managers” (WB male managing partner,1,1).

“It’s the things beyond being able to do the job which define you really” (WB male partner,2-2).

To conclude, although the firms were praised, especially by the less senior employees, for the level and frequency of training provided, it was felt that training post-qualification ought to be more specific and precisely catered to the needs of the employees; concurring with the literature (Gold and Thorpe, 2008). Several interviewees questioned the relevance of the training. *“There is no sort of go on a training course for two weeks ‘become a partner’ sort of a thing ... there was nothing, no coaching or anything – you get on with it”* (WB male partner,1-1). Additionally, it was thought that training across all companies could be more structured, with possible designation of a partner or HR to oversee a stricter management and implementation of training schedules, and to encourage employees to be more responsible for their own professional development; so that, for example, the CPD is not left until the ‘last minute’. While organisations such as “LAWLEX” appeared to be bound by legalities of

accreditation bodies, such as Investors in People (IIP), the management mind-set needs to become more proactive to ensure proper implementation of training:

“when it comes to appraisals, training, these are things where actually, I’ve got less interest, if I’m being brutally honest ... I’m not as inspired by it, it’s hard to persuade the others it’s urgent or important, you know – perhaps important but not urgent – and, I mean clearly by our own actions, we haven’t done it in previous years. So we got [HR manager] in” (WB male managing partner,1-3).

This relates to findings from the 2014 CIPD study of 578 UK small- and medium-sized enterprises (SMEs). This shows that the SMEs tended to call in HR professionals on an as-and-when-needed basis. The main reason was for a re-evaluation of formal policies and processes as the workforce grew and reached a size when a ‘more structured people approach’ was needed; most likely among the medium-sized firms with 50-249 employees (CIPD, 2014a:21).

6.5.4 Law firm support: flexible-working

Diversity management practices only appeared interwoven with HR policies with regards to flexible-working arrangements. As documented earlier in this Chapter, some interviewees defined ‘diversity’ in terms of job tasks or working hours. Participants at all levels of seniority, of all ages and genders, viewed the provision of flexible-working practices or opportunities for part-time work as an important duty on the part of the organisation. The law firms’ rationale for offering flexible-working was to retain human capital: providing opportunities for parents to work school hours, for example, would perhaps make employees look upon the organisation more favourably and encourage firm loyalty:

“the flexible-working side, that’s part of diversity. You do have people’s prejudices ... that’s why there is an element of ‘don’t let us all down!’ – so don’t keep that stereotype of days gone by going. I feel those who then have been given that opportunity, to bring diversity into the business and make it work” (WB female HR manager,2-3).

However, high praise was given to those organisations who had been able to accommodate such flexible-working practices. Participants, usually working-mothers,

who adopted this way of working, stated that ‘luckily’ the firms were ‘very understanding’ and family-orientated. It could be argued that this comes from a mind-set expecting inequalities and that when fair treatment is received instead, it is almost a surprise:

“I’ve been very, very fortunate ... I have worked in places where, when I’ve had a family, they’ve said, ‘yes, if you want to work part-time, let’s do it, let’s see if we can make it work’” (WB female non-legal manager, 2-2).

Opinions given for why firms were able and open to offering flexible-working practices were dependent upon the management’s viewpoints and company culture; not particularly the size. If the partners had young children and worked flexibly, less senior employees felt more likely to receive employer empathy and so, have the same flexibility as the management; it was ‘allowed’ in effect. Participants also believed that if their employer valued them, they would be more willing to ‘accommodate’ their needs.

This supports the literature. Although perhaps viewed as a moral obligation, employers may allow for flexible working following a ‘business case’ rationale (Healy, 2004; Tomlinson, 2004). From a critical stance, Tomlinson (2006) argues that female employees who have the skills that their organisation is eager to keep, seem to have more success when requesting working-time arrangements. As in the case of the non-legal managers working in “SMALL-LAW”, some law firms have introduced new roles, adapting to the ‘up-or-out’ career system (Galanter and Henderson, 2008); which allows companies to retain talent below partnership level, yet offer more flexible-working possibilities (Malhotra *et al.*, 2016).

In terms of parental leave, firstly, the impact of maternity leave was felt differently relative to the size of each firm. This concern was reiterated by a paralegal in the predominantly-female “FEM-LAW”. She said that maternity leave would have a large impact on her small company due to the pressure of having a large part of their experienced workforce leave and the high costs involved in hiring new staff. After generally taking nine months’ paid maternity leave, the main reason female employees returned to work (mostly part-time) was financial. However, a “LARGE-LAW” equity

partner had 8 month's leave with her first child when she was a solicitor, and when made partner, following her equity partnership deed, only had 4 months: 3 month's full-paid leave, adding 4 weeks of paid holiday leave, and returned to work full-time. The equity partner almost felt trapped in her decision to work full-time: "*part of me thinks, lead by example and part of me thinks ... I maybe don't see them enough!*" but justified her lack of spending time with her two girls in that she had 'no money worries' (*WB female equity partner, 1-3*).

One of the factors influencing the return to full-time work may have been the concerns of a reduced quality and status of work projects; a finding by Stone and Ackerly Hernandez (2013) as faced by professional/managerial women after they turn to part-time working. The above concerns also relate to the study by Williams *et al.*, (2013) in that professional women may feel torn between the 'work devotion' and 'family' schemas. In addition to being experienced simultaneously, these 'mother' and 'employee' work-orientation categories (Hakim, 2000), while potentially viewed as completely opposing, also change over time (James, 2008). Moreover, the limited maternity leave as equity partner corresponds with the lack of flexible-working available at the partner tier in law practices (Anderson *et al.*, 2010); as opposed to women in less senior positions.

Nevertheless, several interviewees, both male and female, mentioned that smaller firms were much more 'child-friendly' and 'flexible' concerning employees' needs compared to larger firms. An equity partner at "SMALL-LAW" stated that he did not think that having children 'would have worked' had he tried to progress his career at his previous larger firm. No male participants interviewed worked part-time, although some did work reduced hours to attain some type of work-life balance. Moreover, these working fathers also praised the 'flexibility' attributed to the smaller firm environment:

"Working here is good ... if I've needed to go early, I've gone early, if I need to stay late, I'll stay late, and that counts for a hell of a lot – more so than money in some degrees" (*WB male partner, 1-3*).

Female interviewees also cited positive experiences of their treatment by employers when childcare issues arose. Women at "FEM-LAW" and "SMALL-LAW" described

how their employer had also changed their work schedules to reduce their childcare fees. Moreover, the working mothers at “FEM-LAW” felt that having a female director was ‘helpful’ in that, a working mother herself, she fully appreciated the pressures of keeping *“many plates spinning all at once”* (WB female non-legal manager,1-4). Furthermore, “FEM-LAW”, had to change its strategy: *“it’s quite a female orientated firm – they’ve sort of come to realise that maternity is right at the top of the agenda now”* (WB female paralegal,2-4).

6.7 Legal Compliance and Monitoring

The Solicitors Regulation Authority (SRA) regulates solicitors in England and Wales, and are responsible for promoting diversity and facilitating access into the profession by analysing workforce diversity data on a quarterly basis. This questionnaire asks about an employee’s role within the firm and comprises tick-box questions on age, gender, disability, ethnicity, religion, sexual orientation, education and caring responsibilities. The crux of this issue is that the SRA requires all law firms to complete their workforce diversity survey, yet employee participation is voluntary (SRA, 2016). A solicitor explained how the SRA sends out this diversity survey to all firms as a ‘check’ that employers are ‘fair across the board’:

“I don’t know how we get on with that because like I said, we are not very diverse in that sense, in the different kind of people sense” (WB female solicitor,2-2).

Complying with the SRA and Law Society regulations was regarded as paramount for the livelihood of the law firms and seems to form a central part of day-to-day activities. In some companies, an individual was specifically designated with this task. Partners felt that playing this administrative catch-up made their jobs more difficult than needed.

The HR side of law firms, in terms of a function, did not seem to carry much weight in the eyes of the participants. Legal compliance ensured that HR responsibilities were met, although the regulators were accused of sensationalising diversity issues. The WB “LARGE-LAW” IT manager described how they receive an online Law Society survey on *“diversity and ethnic something or other in the workplace”*. This was to ensure that employees *“didn’t feel like you were being minoritised or anything”*. These are insightful excerpts, given the technical language one might expect. Through these

opinions, this was clearly of little concern to the IT manager, who thought *“that the red tapers make more of it, and make it an issue when it isn’t”* (WB female IT manager,3-3).

Some interviewees, conversely, mentioned the need for these policies so that organisations remain compliant and properly fulfil their HR duties. However, participants, at all seniority levels, seemed averse to the prospect of using forms of positive discrimination or positive action to increase workplace diversity. A solicitor admitted that in the legal profession and, speaking from experience, especially in medium-sized firms, management were so concerned about regulations that, undoubtedly, things ‘slip’ and get neglected. ‘The way forward’, she argued, was for companies to acknowledge that they need to be stricter with policies:

“It’s better for everybody if there is a bit of diversity, but I don’t know how you could do it without forcing it and it shouldn’t have to be forced!” (WB female solicitor,2-2).

Although there are laws implemented to ensure that businesses were compliant, some participants said it would be ‘nice to know’ that firms could do without those: a moral reason, instead, of a legal obligation. Both a female solicitor and female HR manager hoped that these regulations would ensure compliance of fairness in the workplace, creating good, positive-working attitudes and acting as an educator of behaviours, increasing awareness of the consequences of actions. A female solicitor voiced her concerns by stating that it was ‘indicative’ of law firms, in that as the profession is so ‘heavily regulated’, companies spend copious amounts of time ensuring they adhere to these regulations *“that the little things get pushed to one side”* (WB female solicitor,1-3); resulting in a lack of deeply-ingrained organisational (diversity) policies.

Investigating this in more detail, three law firms in my study justified the absence of a structured HR approach due to the skills of their employment lawyers:

“I’m an employment lawyer in my day job, which means that kind of HR is second nature to me ... so all the training that I’ve ever done in terms of being an employment lawyer, is also directly relevant with my HR hat on (WB male managing partner,1-1).

“LARGE-LAW”, however, was the only company to have recently hired a HR manager. The reasoning behind this was that a HR professional was needed to reviewing formal policies and processes; given the increasing size of the firm. Company size was the trigger for hiring HR staff on a more permanent basis: *“people just go ‘how are you managing a business with 170 people without a HR manager?’ , so that’s where it came from” (WB female HR manager,2-3)*. This was communicated to staff via email. In a copy of an internal “LARGE-LAW” email – an annual (financial) update – given to me by the HR manager at the end of my fieldwork at the firm, the managing partner writes:

“I am pleased to confirm that a formal pay review process will be undertaken in September 2015 and that will focus on the results of the forthcoming appraisals we are doing for the preceding 12 months. [HR manager] has been employed to ensure that the appraisal process going forward is completed on an annual basis. The appraisal system will allow you to highlight your efforts and results for the firm and to be rewarded for the same” (Internal email, dated 30/06/15).

Referring to the criteria used to evaluate the quality of documents (Scott, 1990), this company email is considered as more “useful as a source of the writer’s perceptions and views than as an objective account of reality” (Saunders *et al.*, 2009:276). The strategic rationale for HR in the email is interesting; given that the managing partner first highlights the implementation of pay reviews; almost as a cushion for the introduction of more formalised appraisals. This is then buttressed by referring again to pay and rewards.

During the interview with the “LARGE-LAW” HR manager, it became evident that she would also be faced with changing some elements of the partnership mind-set. She stated that many partners were ‘forward-thinking’ and could see the benefit of hiring a HR professional. However, she also mentioned that she had directly been told that some partners were opposed to her employment; believing that this contributed to her lengthy recruitment process:

“it was quite a big deal for some other partners to invest in an HR manager in the first place” (WB female HR manager,2-3).

“There are a couple of partners, who are: why do we need it? Everything’s been trundling along quite nicely, you know, we’re still very successful, why, what will [HR manager’s name] bring or what will the role bring?” (WB female HR manager,2-3).

At the time of conducting fieldwork, the HR manager had only been working at “LARGE-LAW” for 7 months and mentioned the noticeable impact of a lack of HR, stating that the recruitment process was not necessarily executed in the best way; nor were records routinely kept collecting data. Relating these HR responsibilities to the above except from LEFT-LAW’s managing partner – which reflects the opinions from the three other law firms – is likely the tasks he refers to as ‘that kind of HR’. While the “LARGE-LAW” HR manager may have had her own personal explanations for these sentiments, she inferred that this was due to the apprehension of organisational change; optimistically concluding that:

“The HR admin stuff, anybody could do, to be fair, and you know, hopefully it’s the value adding stuff I mentioned [succession planning, retention tools and employee engagement] that will really make a difference” (WB female HR manager,2-3).

“It’s about making sure that HR is seen as important and valuable first (WB female HR manager,2-3).

Although the LEFT-LAW managing partner would tend to agree with this, it seems that this proactive change needs to be first fully embraced by the larger law firms before the small- and medium sized firms take note:

“I think increasingly then, we’re now seeing the big firms bringing in chief execs from outside law, accountants and so on, business specialists, and I think that trend will continue – I don’t think it’s sustainable any more to pretend that because we’re good lawyers, we’re good managers” (WB male managing partner,1-1)

These accounts have led to some interesting findings. Firstly, the reasoning behind the lack of a structured HR approach by the three other firms – that this function is essentially covered by the skills of their employment lawyers – is a prime example of

what Healy *et al.*, (2011:1) describe as “‘talking the talk’ of diversity which tends not to challenge the factors that reproduce inequalities in the workplace and society”.

Secondly, one issue that needs to be underlined is the packaging of employment law as HR. While the employment lawyers in this research pride themselves on their HR expertise and offer ‘Employment and HR Support Services’ to clients, as depicted in brochures from SMALL-LAW and FEM-LAW, this consists largely of drafting and preparing employment contracts and staff handbooks, staff training on aspects of employment law and helping with settlement agreements. It seems that the employment lawyers’ understanding of HR is questionable.

Finally, akin to CIPD (2014a) findings from surveying UK small- and medium-sized enterprises (SMEs), the actions of “LARGE-LAW” were due to firm size. As the workforce grows and reaches a size when a ‘more structured people approach’ is needed, HR professionals are hired. This is most likely for medium-sized firms with 50-249 employees – and HR is used predominately for reviewing formal policies and processes (CIPD, 2014a:21). Nonetheless, these ‘formal policies and processes’ are not clarified in the CIPD report.

6.7 Chapter Conclusion

This second empirical chapter examined the relationships between the theoretical and the practical: from difficulties in defining diversity, to issues surrounding the implementation of diversity management and HR practices vis-à-vis the importance allotted to legal compliance.

Firstly, given that there is no universally-accepted academic definition of diversity, I asked participants about their own definitions. ‘Diversity’ was seen by most individuals – from all levels of seniority, age and gender – to describe ‘different backgrounds’, yet this connotation was unclear and could refer to, *inter alia*, upbringings, socio-economic status and education.

Increased workplace diversity was considered advantageous in the firms through ‘business-case’ reasoning: firstly, the firm benefits in an economic sense, due to different skill-sets, for example, of language. Additionally, having the workforce

‘reflect’ wider societal diversity was important to attract clients and talented individuals into the firm. From this, cultural diversity was considered the most beneficial; with interview data analysis forming the ‘aesthetic diversity’ concept.

Following ‘moral case’ justifications, increased diversity generated personal benefits, as employees could break down cultural barriers and learn more about different backgrounds in a ‘safe’ environment. Changing demographics provided both opportunities and challenges for the organisation: tapping into new consumer markets, being able to choose from a wider ‘pool’ of applicants and, changing how the legal practices provide their services in terms of extra resources needed for translation services to be able to meet consumer needs.

The second half of this chapter tackled the third research question: whether diversity management practices exist within smaller law firms, and how effective they are. Due to the difficulties found in defining diversity in the first instance, thoughts on managing diversity were also blurred with issues of providing equal opportunities and fair treatment to both applicants and employees. Diversity management was seen, essentially, as the sole responsibility of the recruitment process and not implemented in other organisational areas. Managing diversity was, thus, not concerned about managing the deeper idiosyncrasies – talents, personalities, skills and knowledge – of employees through training, at appraisals or at promotion rounds. This is depicted quite evidently in that three out of the four companies did not have a HR department in-house. This is believed to be due to firm size, in that they may not be large enough to ‘warrant’ a HR division – with HR services usually outsourced. Moreover, HR policies had more of a ‘strategic’ focus; centred around appraisals and learning and development needs.

Consequently, the legal compliance and monitoring of the SRA were regarded as, possibly, still needed, to ensure that diversity management policies were implemented, rather than adhered to out of a moral respect, within the legal sector. Providing flexible-working or part-time work opportunities may be described as a more practical implication of diversity; providing employees with workplace support. These practices allow the organisations to retain human capital by encouraging firm loyalty and reducing the desire for their staff to go elsewhere. From an employee viewpoint, usually

women, who adopted this way of working, it gave them time to either manage duties outside of work or to look after their families.

In sum, to answer the third research question, at the most basic level, diversity and equal opportunities were, perhaps, seen as a technicality to be adhered to as a minimal commitment, and then overlooked in any further diversity initiatives in the workplace. These results support findings that smaller, private sector firms without an in-house HR expert tend to adopt an ‘empty shell’ approach to EO policy (Hoque and Noon, 2004).

Linking the findings of these empirical chapters (5 and 6) to Chapter 7 on intersectionality will yield some insightful findings. As this chapter showed, notwithstanding the business case for diversity and the positive diversity rhetoric, the law firms in this study favoured lawyers who possessed specified forms of capital; much like in larger elite firms (Ashley and Empson, 2013). Adopting an emic approach (Tatli and Özbilgin, 2012), it is via understanding the forms of capitals valued within the legal *field* that the most salient diversity categories can be unearthed: in this instance, white, middle-class, heterosexual males. Chapter 7 aims to highlight how different sequences of identities influence individuals in terms of access to opportunities within the legal *field* (Bourdieu, 1977). The current diversity management practices of these law firms “exclude many talented individuals and have a detrimental impact on social inclusion” (Ashley and Empson, 2017:213). Knowledge created in Chapter 7 and the Discussion Chapter will help to re-orientate these small- and medium-sized organisations into more inclusive and positive ways of thinking when constructing and implementing diversity management and equal opportunities policies.

Chapter 7: Intersectionality

7.1 Introduction

This conceptual chapter reflects upon the findings from the previous two empirical chapters on career progression and diversity. In chapter 5 and 6, some participants recognised, albeit indirectly at times, that “the white, class-privileged male remains the paradigmatic professional” (Sommerlad, 2016:6) in the legal profession. This archetype transcended both the larger and smaller law firms and was uncovered in two ways.

Firstly, as chapter 5 highlighted, both the linear career structure and promotion criteria in the small- and medium-sized law firms reflect the practices occurring in larger law firms. The promotion criteria depicted in Chart B imply that successful lawyers in these smaller firms, much like in large, elite firms, are those who express certain types of embodied cultural capital: having the right ‘attitude’ and ‘personality’, as well as social skills and the way they present themselves (Cook *et al.*, 2012).

Secondly, as chapter 6 demonstrated, the justification outwardly-provided for a light-touch approach to HR and diversity management practices was due to the smaller firm size. Nevertheless, as disclosed by “LARGE-LAW”’s HR manager, incorporating HR practices also required a shift to a more forward-thinking managerial and partnership mind-set. In doing so, without any formalised HR or diversity measures in place, the (un)conscious practice of excluding candidates who do not fit the above archetype becomes preserved in the law firm *habitus* (Ashley and Empson, 2017); even within these smaller firms.

Thus, conducting an intersectional analysis on how participants in this study have constructed their own identities – either consciously or unconsciously reflecting upon the above (male) occupational identity (Ashcraft, 2013) of the legal profession – will produce interesting data. This may also provide an insight into how future research on the professions may benefit from using an intersectional framework. This chapter is divided into two parts. This chapter uses identities as a starting point and concentrates on the issues and themes derived from the interviews of specific interest to intersectionality. While scholars have different views on the extent to which identity links to intersectionality, identities naturally play important roles in the conceptualisation of intersectionality (Hill Collins and Bilge, 2016). Thereafter, the

second section (7.9 onwards) investigates how the power relations in the legal profession operate and seek to maintain its white, male middle-class archetype by elucidating issues of differential treatment resulting from the interviews. This enables a greater understanding of how institutionalised, oppressive systems have produced social identity categories as “ossified outcomes” (MacKinnon, 2013:1023). These negative ‘outcomes’ appear to link to the discussions on career barriers in chapter 5, and correspond with the three case study examples presented later in this chapter.

7.2 Main Themes and Constructs

The literature review has shown that discrimination surrounding entry to, and progression within, the legal profession is continually structured in accordance with gender, race and class (Feenan *et al.*, 2016). This was also the case, to some extent, within the small- and medium-sized law firms in this study. Interviewees expressed how one or several aspects of their identity either coincided with, or opposed, the traditional occupational identity of the legal profession. To summarise, five aspects of identity arose from interviews; each with differing levels of salience: gender; socio-economic background; ethnicity; religion; and, age.

This separating and listing of identity individually and interdependently in this way equates to a strategically essentialist (fixed) approach (Spivak, 1996). However, each of these identities was expressed by participants *in relation to* the context of the legal profession. In doing so, each of these identities are transformative (Hill Collins and Bilge, 2016). This is a viewpoint which integrates “both relations of identification and recognition of relations of power” (Weir, 2008:112). In this way, as mentioned in the literature review, identities can be argued to be conceptualised by intersectionality as including both ‘social position’ (self-identification concerning access to cultural, economic and political resources), and ‘social positioning’ (how an individual understands, negotiates and challenges their position) (Anthias, 2012). As stated above, this chapter firstly examines individual characteristics and then explores intersectionality through case studies. The following sections detail the identity categories; starting with the identity that interviewees perceived as most salient within the legal profession context. What is important to remember here is that the law firm is viewed as a *field* of power (Bourdieu, 2005) and the *habitus* is more easily embodied

within white men, who subsequently go on to shape the field, due to their possession of highly-valued field-relevant capitals (Iellatchitch *et al.*, 2003).

7.3 Gender

As mentioned in chapter 5, some interviewees recognised that professional standards within the legal sector were characterised by the white, middle-class male paradigm (Muzio and Tomlinson, 2012). As female participants (28 interviewees) constituted much of my interview sample (64%), gender was considered the most important identity construct *in relation to* the legal profession context. Although most of the sample were female, the law firms themselves were male-dominated; mirroring the profession at large, with the senior tiers of each company predominately filled with males who ‘look the part’. In a similar vein, the gender role rhetoric played out differently regarding the (perceived) roles of men within the firms: the discourse was different, with more powerful undertones. It was *the law* and the roles within the profession had to be taken seriously – it was ‘business’. As mentioned in Chapter 5, the perception of law specialisms within each of the companies in this study were seen as more ‘masculine’ or ‘feminine’, since they were either more or less ‘contentious’.

This ‘gendered segmentation’ (Bolton and Muzio, 2007) was also perceived by interviewees in these smaller law firms. Moreover, the senior positions within each firm (associate solicitor and partnership level) were mostly taken by men possessing the appropriate forms of embodied cultural capital (Cook *et al.*, 2012) – those who ‘look the part’. The importance of aesthetic image within the professional context is noted by Haynes (2012) via the need to appear a certain way or working towards aesthetic professionalism. One could also construe this practice as a type of homophily, which has been widely documented in the literature (Walsh, 2012; Sommerlad, 2016) and leads to the formation of ‘old boys’ clubs’. This same ‘image’ and ‘occupational identity’ (Ashcraft, 2013) are witnessed in these smaller firms. This shall be further illustrated by a female employee in a case study later in this chapter.

Reiterating issues of career progression and promotion criteria from chapter 5, if the ‘old boys’ network’ exists nowadays, its power may potentially be less than it used to be, as women are now progressively starting to occupy senior positions (Bolton and

Muzio, 2007). However, as one solicitor reveals, when she goes to networking events, she feels intimidated:

“You look around and there are three women in the room, ‘what am I doing here?’, and you’re surrounded by these men, a lot of them are all kind of older, obviously wealthy, kind of right-wing, they’re kind of what you expect” (WB female solicitor, 2-2).

‘They’re what you expect’: the legal profession is, thus, still regarded as male-dominated, by both the males and females interviewed, although not described as *“an insular profession, but seems to be, to some extent, set in its ways” (WB male partner 1-2)*. Hence, there remains some type of ‘image’ of what a lawyer is (i.e. embodied cultural capital (Cook *et al.*, 2012)); even within the small- and medium- sized law firm context depicted in this research.

Many participants spoke about these (perceived) organisational roles of men and women in their firms. Akin to findings in chapter 5, there appeared to be a strong divide in gendered roles between the legal side of the businesses and support staff. As interviewees admitted, perhaps due to a more ‘traditional’ structure and style still prevalent in older firms, all the secretaries were female. Some speculated that, perhaps most men would not want to train as secretaries, whether they would see the role as *“a stupid thing for a man to do” (White British (WB) female solicitor, 2-2)*. Others suggested that when men were in secretarial roles in the firms – usually on temporary contracts covering for permanent staff – the stereotypical conclusion was that they were not heterosexual and fitted the ‘male secretary stereotype’; a construct seemingly referred to as shared by society at large: *“‘oh, it’s a man? – must be gay’” (WB female IT manager, 3-3)*. Nevertheless, it was classed as a ‘good thing’ for the support staff to be female as they were considered, even in jest, as ‘better’ at doing the job:

“All the secretaries are female ... most of the support staff are female, and all of the partners are men, so take out of that what you will!” (WB male partner, 1-2).

Conversely, 2 out of 28 women interviewed believed that their gender benefitted them. The women mentioned that the legal profession is still very male-dominated at senior

levels and, thus, there were opportunistic advantages to being female. This was either in terms of flirting, or being used to balance the male-heavy senior business structure within a firm to achieve a greater level of ‘aesthetic diversity’. The IT manager felt that her gender helped her in this regard and she did not feel exploited because of it:

“A little bit of flirting does go a long way ... it still works ... there is an element of fluttering your eyelashes, you can get extra out of people. And that’s always the way it’s going to be” (WB female IT manager,3-3).

While being a woman in the legal profession was only seen as advantageous in two cases, most female participants expressed the unwarranted, rude behaviour and treatment they received from clients over the phone who often stated, quite directly, that they did not like dealing with women. This was thought to be due to increasing societal multiculturalism, with clients coming from potentially more patriarchal societies; where it is predominately men who oversee business and financial dealings.

Reflecting on the second research question, perceived career progression enablers and barriers in the four small-and medium-sized law firms, female employees felt the need, and in most cases, wanted to be independent, empowered and career-driven. Nevertheless, most female workers (68%) felt that there were more important things in life than having a successful career: family. However, being a woman in the legal profession was, perhaps seen as more of a disadvantage in larger (corporate) firms. Female interviewees felt that they would find it more difficult and would need to work a lot harder as they may still be perceived as being inferior – regarded as ‘women in a ‘man’s world’’:

“You’ve just got to be one of the boys haven’t you?” (WB female solicitor,1-3).

“I feel really bad for that, because I’m a woman in the workplace, I should have these ideals of a career and everything, but really, give me a year and I’ll want babies ... I don’t need to be the high-powered, career-driven woman – I’m happy as I am, because the career-driven woman comes at a price ... in the sense that something’s got to suffer, you can’t do everything, there’s only so much you can do” (WB female head of vetting,1-4).

These findings are synonymous with Pierce (1996:105) in suggesting a “preoccupation of relational issues”, whereby women are ‘negotiating and renegotiating’ their identities and the essence of being a ‘woman’ and a ‘lawyer’. Engendered cultural biases about professional work and caring work constrain Hakim’s (2000) ‘choices’ for women. As highlighted in Chapter 5, although institutional practices such as ‘homosocial reproduction’ (Kanter 1977; Elliott and Smith, 2004) formed (perceived) career progression obstacles, women also felt somewhat refrained from advancing their careers by their gender identity. This is illustrative of the use of ‘social position’ and ‘social positioning’ (Anthias, 2012). This is evidenced, in part, via the perception of gendered roles. This is indicative of law firms favouring a masculinised professionalism (Haynes, 2012).

7.4 Socio-economic background

Socio-economic status has been previously discussed in this thesis and it is also important to refer to it here in relation to the literature on intersectionality: another aspect of identity. In a similar vein, this section briefly elaborates on the above ‘occupational identity’ and refers to the class barriers of entry into the legal profession described in Chapter 5. The legal profession still appears to convey the image of individuals coming from more privileged backgrounds (Sommerlad *et al.*, 2010). Francis and Sommerlad (2009:76) state that “neither Rule 6 of the Solicitors’ Code of Conduct (a duty not to discriminate) nor anti-discrimination law explicitly encompass class or intersectional disadvantage”. This is said to be the main cause “for the failure of equality law and policy” (Centre LGS, 2006:9).

A WB male managing partner ‘genuinely’ thought that the legal profession remains ‘pale, male and stale’, stating that senior positions in law firms were, to a large extent, filled with the ‘typical, old, Etonian crowd’. In the interviews, a WB trainee solicitor reflected on her LPC, stating that most of her course-mates were white and from middle-class backgrounds. Similarly, a male partner said that the legal profession: “*traditionally is such that 95% of the people doing the job are of the same background and the same class, and of a certain colour, of a certain persuasion*”. Nevertheless, the partner nonchalantly concludes that although the legal profession is attempting to increase the diversity of its workforce, “*it is what it is*” (WB male partner, 1-2).

Interestingly, a British-Asian (BA) paralegal also spoke of hearing stories: *“even, like, white people say it”* that the Bar remains very much an old boys’ school network of ‘middle class, middle-aged, white men’. Reflecting on the ‘role model’ findings from Chapter 5 – not ‘seeing many Asian barristers’ – and knowing that successful entry into the Bar was all about ‘knowing the right people’: *“my dad knows your dad and he’s a judge, and my son’s a barrister”* (BA male paralegal, 1-2), the paralegal decided that undertaking the training contract to train as a solicitor was a ‘safer’ choice than becoming a barrister.

In Chapter 5, employees raised concerns about their state-school education and socio-economic status which, they believed, may hinder their progress in the legal profession. One female employee even considered herself a ‘minority’ due to her gender and education:

“Am I classed – are you classed as a minority? You’re not classed as a minority, are you, because you’re half! ... I always think that, in the legal world, I am... because it’s old-school and I didn’t go to public school, so in my mind, I am” (WB female practice manager, 1-2).

Difficulties... going to an old polytechnic, not a red-brick university, getting a 2.2, not a 2.1 – that was countered by playing professional sports, because you got through doors you wouldn’t have got through, if you had just a 2.2 from an old poly ... because you can’t get into those places [large elite firms] without a 2.1 from a red-brick university generally, even [regional corporate competitor], never mind national firms! (WB equity male partner, 1-2).

To combat the traditional ‘middle-class’ law image, as noted in Chapter 6, the managing partner of “LAWLEX”, himself from a working-class background, set to deliberately recruit working-class individuals. However, he encountered difficulties in trying to change the ‘gender and ethnicity split’, given his perception that many BAME individuals were from middle-class families. Nevertheless, in another breath, he wondered whether it was ‘purely coincidence’ that as the number of paralegals and trainee solicitors in the firm increases, the numbers from BAME backgrounds also

increases. He concluded that it was not because these BAME individuals were less-skilled, but that:

“The barriers of the profession to progress if you’re not white, male, public-schooled are such that you’re more likely to find more diversity at a more junior level” (WB male managing partner, I-1).

The above excerpts reveal that interviewees are aware of the high levels of institutional capital (Ashley and Empson, 2017) desired in larger law firms. This is showcased in much literature on the elite corporate law firms, which describe the preferred practice of hiring recruits from the “class cachet conferred by Oxbridge and elite public schools” (Galanter and Roberts, 2008:168). “As a professional status project, the maintenance of law’s classed nature is fundamental to the reproduction of professionalism” (Sommerlad and Stapleford, 2008:113). This social exclusion substantiates the vast amount of literature on this topic of ‘closure regimes’ (Bolton and Muzio, 2007; Sommerlad *et al.*, 2010). The final quote from the managing partner forms an interesting account in that he is expressing the barriers in terms of intersectionality: “the reciprocally constructing phenomena that in turn shape complex social inequalities” (Hill Collins, 2015:2). Recent data published by The Law Society (2016) notes that in 2015, approximately 14% of practising lawyers were from Black, Asian, and minority-ethnic (BAME) backgrounds and 48% of this practising workforce were female. However, the managing partner’s view cannot be corroborated, as there are no details in this data which cross-examine ethnicity with education or social class.

7.5 Ethnicity

From an intersectional perspective, an individual’s ethnicity may form a part of their identity to either a lesser or larger degree; dependent on context and personal choice (Hancock, 2007b; Nash, 2008). Nevertheless, the construction of ‘ethnic groups’ is in itself a complex process in terms of what exactly constitutes an ethnic group (Nagle, 2016) – those who speak the same language, respect the same religion, are born in the same country and so on.

Across all four firms, paralegals were generally more culturally-diverse. A wider gender and ethnic mix was also evinced within the high-turnover conveyancing departments.

As depicted by the creation of the ‘aesthetic diversity’ concept following data analyses, presented in Chapter 6, the consequences of the stereotypical process of using skin colour to act as a type of visible ethnicity marker – depicted via a “*a rainbow effect of different skin colours*” (WB female head of vetting, 1-4) in an organisation’s marketing brochures – equates to signalling: ‘we are inclusive here’. As mentioned, the advantages of a culturally-diverse workforce for the firms were mainly centred on language skills.

Something of interest to this research is that, from the 44 interviewees, 7 were from BAME groups. From these 7, only 1 participant openly self-identified as a minority, although they were demographically classed as ‘White British’. This example shall form part of the individual case studies at the end of this chapter. This illustration goes some way to demonstrating that, instead of only viewing diversity from a minority-ethnic basis, there is diversity within the ‘majority’: the White UK population. This, indeed, makes the subject of ‘identity’ complex, and the theory of intersectionality, thus, lends itself well to this study.

Interviews with the minority-ethnic individuals captured different ways of thinking about ethnic identity in terms of the feelings of ‘sense of self’, ‘expectations’ and ‘belonging’, with various weights attached when speaking of these cultural issues. The other 6 individuals in this study (most of British-Asian origin) spoke of the origin of their parents as they were second- or third-generation migrants; mostly born in the UK. These participants, thus, chose to locate their ethnic identity within the broader concept of their social identity within the workplace by contrasting it to their colleagues, as noted by this British-Asian paralegal:

“I was born in England and stuff, so in that sense, I’m the same as some of the other girls here, but the way I’ve been brought up is quite different ... and the same for them, they might be brought up different to me, so I think that makes a difference” (BA female paralegal, 1-1).

As this excerpt suggests, through interaction with others, an individual’s ethnic identity can be formed or shaped either through acceptance (leading to the maintenance of this identity) or rejection (leading to the rebellion of this identity). This is a perfect example of transformative identity (Weir, 2008).

In another instance, one female paralegal from “FEM-LAW” with an extremely mixed-demographic background commented on the fact that moving to the UK from overseas made her more ‘aware’ of the Asian side of her cultural heritage and helped her improve her Urdu- and Punjabi-language skills, so that she could communicate with relatives. She confessed that others were ‘fascinated’ by her because it was not overly ‘common’ to see an individual from such a mix of ethnic groups. This is a great example of expressing difference in terms of the importance of the ‘sense of self’; contrasted to feelings of ‘belonging’ by increased ‘awareness’ of one part of her cultural background.

Reflecting upon the ‘aesthetic diversity’ concept, the identity category of ethnicity was implied via skin colour and was only ever directly expressed by one individual: the White British Jewish associate. From a critical viewpoint, it could be argued that the robust and effective socialisation processes in both law school and legal practice neutralise the identities of lawyers; rendering any surplus identity irrelevant (Nicolson, 2005). This could be used as a means of building and preserving a sense of identity as a ‘professional’ (Adamson and Johansson, 2016). This negation or supressing of ethnicity *in relation to* the traditional white, male occupational identity of the legal profession (Haynes, 2012) is an interesting finding, as intersectionality both reveals and forms the power relations which encompass the theory (Hill Collins, 2015). In this instance, one could perhaps conclude that these actions contribute to the preservation of the power structures which maintain the ‘professional’ identity in terms of individuals feeling the need to conform to acquiring the necessary human, economic, social and cultural capitals (Ashley and Empson, 2017) prized by the legal profession *habitus*.

7.6 Religion

It was interesting to note from the interviews how certain diversity categories were awarded more salience than others. The topic of religion only appeared on two occasions. One British-Asian interviewee commented on the fact that, the day previously, nobody in her office knew or ‘recognised’ that it was Diwali, and that possibly, if the other Indian employee at the firm worked in the same office then “*maybe people might have noticed*” (BA female paralegal, 1-1). The other time religion was mentioned in the interviews was the “LEFT-LAW” associate directly stating that she was Jewish.

However, when interviewees found colleagues that they perceived as ‘similar’ to them in some way, the language was complimentary and they spoke of feelings of warmth, or the contentment they felt in being able to share that ‘connection’. In another excerpt, the British-Asian paralegal made a further distinction within her own culture – Sikh Indian, as opposed to Hindu Indian:

“Yeah, one other Sikh Indian girl. I think she was the only one until I came along, like ever, so ... the receptionist that’s joined us... I like talking to her because she’s quite culturally different, she’s from Thailand, but she’s Indian though, her parents do similar things to what my parents do...” (BA female paralegal, I-1).

Reflecting upon the generalised way in which diversity was described by most interviewees as people from ‘different backgrounds’, it could be argued that using this term without any further explanation is somewhat conflating or ignoring differences between groups: the difficulty of identity politics (Crenshaw, 1991). It may be that these sweeping definitions given for diversity were due to the anxiety about causing accidental offence:

“Is that really the society that we’re working in? Is that where we’re ending up towards? This uber-anxious, uber-paranoid society that doesn’t want to say anything in case they offend someone else – it’s not right” (BA male paralegal, I-3).

To conclude, an excerpt from a female solicitor from “LARGE-LAW” highlights the concept of intersectionality well. She speaks of ethnicity as one part of many identities an individual possesses, and not the only one upon which others should draw assumptions:

“I think it does make for a good workforce that everyone gets on ... breaking down the barriers, and actually finding out more about the person, rather than just defining them by one thing, like ‘oh you’re Sikh, you’re a Muslim’. They are a person as well, they do have interests, and I think people’s expectations are based on a person’s idiosyncrasies, and they go, ‘oh I expected you to be like this, I expected you to be like that’, because

that's what I've read, rather than actually speaking to the person ... I think the problem is the media!" (WB female solicitor, 1-3).

In sum, religion may take two forms. Either individuals may not feel very strongly about any religion or may not feel that religion constitutes a central part of their identity; or the exact opposite: that religion is extremely important. This latter scenario was demonstrated by the Jewish associate. Moreover, religion may be a highly personal component of their identity and so, individuals may not wish to disclose this.

Referring to Table 1 in Chapter 2, which presented demographic information on the UK legal profession structure in 2015, while most solicitors surveys cited their belief as Christian (48.7%), those professing no religion was also high at 35.4% (Law Society, 2016a). Linking this to the religions of the participants highlighted above, the 2015 data shows that solicitors who noted their belief as Jewish (2.3%) outnumbered those noting Sikhism (1.5%) (ibid.). Furthermore, businesses and companies in the UK are largely secular. Branching off from the 'Ethnic Minority Lawyers Division' (EMLD), formed as a representative voice for solicitors from black and minority-ethnic (BAME) backgrounds (Law Society, 2017c), specialist organisations such as the Hindu Lawyers Association and the Association of Muslim Lawyers have been established. These firms offer legal assistance to clients with similar faith-base.

7.7 Age

It appeared that the category of age was also assigned a lesser degree of salience than other diversity categories. Age was mentioned with regards to four different aspects: self-position; career progression (potential and goals); entry into the legal profession; and influencing viewpoints on increased diversity.

Firstly, some interviewees commented that their age (either older or younger), when compared with their colleagues, was a way in which they felt made them unique. Within the data collected, the oldest participant, a secretary, was in her late fifties, and the youngest was 24, a paralegal.

Secondly, age was a deciding factor for some individuals in terms of career progression. Some would happily welcome a promotion at their firm, but would not want to move

elsewhere, for all the stress that settling into a new environment would entail. Others acknowledged that now that they were nearing their forties, they were not at the age of having the comfort to ‘walk into’ a job as easily, so they wished and needed to be financially secure for their future.

Thirdly, age was used by the law firms as a type of unique selling point. All four law firms in this research were described as having a good range of ages of their employees – all being ‘young’ companies in the sense that the current average age of partnership was lower than had previously been recorded. Consulting the (presumed 2014) SRA Legal Diversity Survey Report from “LARGE-LAW”, the average age group from the 114 employees who completed the survey was 25-34 years old. Additionally, 38% of “LEFT-LAW” employees who completed the 2015 diversity survey (approximately half of the total population) also formed part of the 25-34 age group. Although all four firms were described as ‘young’ in terms of their workforce demographics, some participants commented on the older age of applicants (in their later, rather than early, twenties) at entry level and qualifying level. The competition for training contracts at present is such that, to choose the ‘best talent’, firms take law graduates and hire them into low-salaried paralegal roles, evaluate their capabilities and potential, and only then, look to offer them two-year training contracts; following which, however, there is no guarantee of a permanent job.

Reflecting upon Chart A – a model created by Morgan (1996) depicting ‘intersecting axes of privilege, domination and oppression’ – while being young is a favoured attribute above the domination line, it could be argued that in the legal profession, to a certain extent, age – especially for the perception of clients – is linked to expertise. In terms of firm structure, as may be expected, the more qualified staff from the companies in this study were older than the trainees. This demonstrates that lawyers in these companies continued to follow the ‘traditional linear career’ (Sullivan and Baruch, 2009). However, as mentioned in previous chapters, the small- and medium-sized law firms in this research were committed to organic growth – they view the trainees as possible future partners (Kumra and Vinnicombe, 2008; Pinnington, 2011), so the investment of the training contract has to be rewarded by ensuring that they choose applicants who will ‘best fit’ the firm and its culture:

“Diversity isn’t the issue there, it’s about numbers, because the colleges and career teachers are not telling people that law is oversubscribed, and that’s fundamentally what needs to happen” (WB male managing partner,1-1).

Fourthly, opinions regarding an increasingly diverse workforce were seen not as positive when contemplating the older generation:

“I think absolutely, yeah, you need to have ... a workforce that reflects society” (WB female non-legal manager,1-2)

Interviewer: “Do you think everyone else agrees with that here?”

“Yeah, I think they do actually. I’m sure the old dude doesn’t... but he’s old!” (WB female non-legal manager,1-2)

In a way, it was somewhat expected by the younger lawyers that the older generation were not to be as accepting of these societal demographic changes. Moreover, younger people’s beliefs were slightly dismissive and blasé to this. The antiquated view of older employees did not appear to be directly challenged or contested in any way – it seemed ‘normal’: *“but he’s old!”* This runs contrary to Grey’s (1998) observation – rather, this ‘inappropriate behaviour’ was compensated for by the high levels of knowledge or expertise attributable to older age.

7.8 Experiences of inequality

This section reflects on the above and continues on from the ‘career barriers’ discussion from chapter 5, in that these issues also tend to intersectionality. As Crenshaw (1991:1297) asserts, intersectionality acknowledges that certain categories have amassed power and employed it against others; hence, the main concern of intersectionality is “not the existence of the categories, but rather the particular values attached to them and the way those values foster and create social hierarchies”.

In considering one’s social position (Anthias, 2012), interviewees often spoke of their uniqueness or individuality. Company size and job role was considered important to this. For instance, in a small firm, participants believed that each employee has a

different role and different tasks assigned to them; as opposed to larger firms where, potentially, there would be a few employees – most likely, trainees – who perform the same job. In terms of job role, a WB “SMALL-LAW” partner commented that he did not ‘feel different’ to other employees – he ‘still had a job to do’ – but thought that the less senior staff may ‘see him differently’.

In considering one’s social positioning (Anthias, 2012), the conventional ‘identity’ of the legal profession was viewed by participants as, “*pale, male and stale*” (*WB male partner, I-1*) – full of white, middle-aged, middle-class males in a hierarchical environment resilient to change and undermined by internal politics. In other words, historically functioning as “an exclusive club of white middle-class men” (Nicolson, 2005:201). Yet, what is interesting to note is that, although the interviews touched on these ‘pale, male and stale’ notions above, little was said about trying to improve access to the profession for those who were less privileged. This section now briefly reviews the areas of most salience for participants in coming to terms with their ‘self-positioning’, from discussing possible ways to improve the diversity of the legal profession. The topics are related to ethnicity (positive discrimination), embodied cultural capital (favouritism in the workplace), and gender (sexism). Thereafter, the chapter concludes by providing three more detailed case study examples which demonstrate transformative identities (Hill Collins and Bilge, 2016).

7.8.1 Positive discrimination

Not to be confused with ‘positive action’, positive discrimination gives applicants from disadvantaged and under-represented groups preferential treatment in the recruitment process, *regardless* of their ability to do the job (Noon, 2010). The positive action provisions referred to in section 158 of the Equality Act 2010 mean that employers can encourage applications from candidates with protected characteristics from under-represented groups; with a justification for rebalancing the workforce presented, but the final hiring decision must be made on merit.

Some participants blurred the distinction between positive action and quotas; describing it as ‘box-ticking’. Quotas and similar approaches were frowned upon as ways of increasing workplace diversity, in that they would prejudice other groups. Recruitment,

as noted in the business case rhetoric of firms in chapters 5 and 6, should find ‘the best person for the job’:

“I don’t think you should have to say employ X amount percent of black people, X amount of Asian people just to fill a quota; if they’re great at the job, then brilliant, bring them on, but you shouldn’t have to have them just because, because then you might end up missing out someone who’s much better at the job that wasn’t allowed to do it because they don’t fit in with the quota” (WB female solicitor,2-2).

Taking the above example, opponents to positive discrimination see it not as ‘levelling the playing field’, but substituting those who ‘deserve to be there’ on merit. From an intersectional perspective, one could argue that this also fails to consider the fact that, possibly, some white, middle-class, able-bodied males are benefiting from institutional- and culturally-ingrained positive discrimination. This supports the findings by Tomlinson *et al.*, (2013), whereby some women reported thinking they have to be better and work harder than the average while male to be noticed and/or progress. This may be to counteract the fact that they may soon choose to take maternity leave.

In sum, positive discrimination was criticised, firstly, as viewing under-represented groups as a type of ‘panacea’ to replace people who traditionally occupy certain positions, and secondly, as a way to achieve ‘aesthetic diversity’ via ensuring a ‘visible presence’ within an organisation that young people can aspire towards.

7.8.2 Favouritism

Perceived inequalities were cited by female interviewees who felt that their male colleagues received ‘special treatment’, extra bonuses or were promoted before they were – even though, in most cases, both genders had the same qualifications and levels of experience, or females had higher qualifications and lengths of service. Talks of promotion were where issues of preferential treatment came to the fore, with competition from others and organisational politics playing a part in the success of an applicant. Both male and female interviewees commented on this and felt that they had been mistreated or ‘unfavourably overlooked’. This was seen in legal, non-legal and support roles in the firms.

Some issues that emerged were quite sensitive. To follow ethical guidelines, as mentioned in the Methodology Chapter, I noticed one interviewee was becoming upset, so thought it best not to progress further with the conversation. What one of the secretaries interviewed disclosed was quite insightful – she felt that unequal treatment still occurs within her organisation, leaving her feeling helpless. She indirectly admitted that some “LEFT-LAW” managers seem to have ‘worked their way up’ and are now ‘at the top’, and regardless of any actions to challenge this ‘promotion’, nothing is done:

“You just know there’s no way you’re ever going to get into that league, so just don’t even try ... It wouldn’t matter what you could do, or how well you can do it – you just never get there” (WB female secretary, I-1).

With regards to her own career progression, she felt as though people were ‘chosen’ without any advertisement placed internally to encourage others to apply for a new vacancy. The reason being, simply-put, *“I just think your face doesn’t fit” (WB female secretary, I-1)*, in that she perceived the management favoured a certain, more ‘bubbly’ personality type and would overlook anyone who did not ‘fit’ into their preferred ‘mould’.

This snap-shot into the organisation uncovered that people were still branded as a manager’s ‘favourite’ and treated differently. From the perspective of interviewees, this favouritism stemmed from differing levels of cultural capital: both embodied and objectified – and potentially institutional capital (Ashley and Empson, 2017). From the 4 firms within this research, participants in 2 other firms had similar qualms. Indeed, most participants who mentioned issues of ‘differential treatment’ in the interviews were women. These were mainly to do with sexism in the workplace.

7.8.3 Sexism

The legal profession appears to still bring with it a certain image – a predominately ‘male’ or ‘masculine’ occupational identity – Ashcraft’s (2013) ‘Glass Slipper’ effect – admitted by both male and female interviewees. In a way, perhaps as the legal profession is still regarded as male-dominated, there may be a tendency for women to be more vigilant of inequalities, given the image of the profession.

A negative image of the legal profession was already adopted by a trainee in her early-twenties:

“I do think that this profession is a bit sexist ... [male colleague] is treated differently than I am ... I think is that because of his age, because he’s more experienced than me or is that because he’s a man?” (WB female trainee, 1-2).

In another instance, unequal levels of pay were mentioned by two women in different firms, whereby they knew of male employees, who had the same level of qualifications and experience as their female counterpart, being paid more. They initially thought this might be an issue of discrimination, yet then, gave thought to the fact that their male colleague may be in a different (and, perhaps, more lucrative) area of law.

Differential treatment was also perceived by female employees at appraisal. The ‘special treatment’ received by male employees is illustrated by the feedback given to a female trainee at her appraisal: the management told her she had to arrive at 8am, work 11-to-12-hour days and was set targets. Meanwhile, in the male trainee’s appraisal, he did not receive designated working hours, was not told to arrive into work earlier, or given strict targets; in fact, he was praised for his good work. Although he worked in a different law specialism, she thought that the expectations from each of them could not be so different:

“That makes me think, well is that because he is a bloke? If I was a bloke, would they have said that to me?” (WB female trainee, 1-2).

These above accounts suggest that the White British male employees quickly learned to ‘play the game’ (Bourdieu 1990; 1993), whereas the women were self-positioning themselves as ‘outsiders’. Accordingly, “for outsiders professional socialisation involves learning to negotiate the various hazards intrinsic to the dissonance that exists between their professional identity and their primordial identity” (Sommerlad and Stapleford, 2009:114).

Finally, as noted in chapter 5, participants acknowledged that being a woman in the workplace was ‘difficult’. They felt that having a child was ‘expected’ and that

colleagues were ‘probably thinking’ along those lines when they entered their child-bearing years.

“You’ve got to not so much make it as clear that ‘this is what I want’ - hush, hush! ... I think it’s expected of you, isn’t it?” (WB female trainee, 1-1).

The mentality remained, as in Walsh’s (2012) findings, in maintaining the ‘image’ of being career-driven women, while obscuring the fact that having a family is what they wish for.

Women also felt that, in the legal profession, they had to ‘prove themselves’ more: *“of course it does for solicitors! Yeah! Massively!” (WB female practice manager, 1-2).*

This pressure, although perceived as being worse in larger firms, was still felt in the small law practices. As previously mentioned, small law firms were deemed to have a more supportive culture than larger firms:

“I know people who have gone to bigger firms, where they felt like they were not positively-encouraged to progress, for whatever reason, and it felt like it was gender-based or age-based” (Female solicitor, 1-3).

In sum, these accounts support the literature. Firstly, female solicitors in this study felt the need to work harder than their male counterparts – also perceived in larger firms (Kay and Hagan, 1998; Tomlinson *et al.*, 2013). Secondly, the smaller firm size of the companies in this study was deemed as quite significant in tackling notions of the ‘glass ceiling’ and unequal treatment – issues more prevalent in larger firms (Kumra and Vinnicombe, 2008; Pinnington and Sandberg, 2013). The female employees interviewed never encountered a ‘glass ceiling’ or experienced others either hindering or discouraging them to progress their careers. However, it can also be argued that “much of the discrimination that occurs in the legal profession may go unperceived by its victims” (Hull *et al.*, 2000:253).

7.9 Case studies

As noted above, individuals live multiple, tiered identities derived from aspects of their backgrounds, socialisation processes, and the impact of structures of social and

organisational powers. Intersectionality can be operationalised as a framework which allows the analysis of these “inequality-based identities” (Grzanka, 2014:68). To better investigate the findings from previous chapters, this section looks holistically at three individuals in an illustrative case study format.

a) Female associate: “LARGE-LAW”

This was an interesting case in that the White British associate chose a type of ‘ethnic self-labelling’, which demonstrates pride and positive attitudes towards an ethnic group. This exclamation could be considered a ‘minority’ view, as this assertion of identity and uniqueness was a single, isolated incident. This opposes Ibarra’s (1999) notion of an individual modifying role identities to ‘best fit’ their sense of ‘self’ in the workplace, to be ‘accepted’ into the culture and strive to meet the same goals. This case demonstrates that questions of association and how individuals ‘categorise’ themselves are not as clear as one might think within the ‘majority’ White population.

This associate felt more conflicted in terms of ‘choosing’ between her multiple identities than the male participants, citing her extra responsibilities of culture and religion as additional (burdens) to her workplace duties:

“I see myself or I’d like to see myself as an ethnic minority, I am the only Jewish person that works for this firm, and ... it’s not about being a woman, it’s about being a religiously-observant woman ... lots of restrictions are placed on us by our religion, there are lots of holidays ... and there’s a lot of preparation for them as well, so ... quite a lot of work” (WB female associate, I-1).

She felt torn between wanting to be ‘good’ at her job, ‘good’ for her family, and also upholding religious observances: an example of a ‘compromise strategy’ (Tomlinson *et al.*, 2013). In this regard, she emphasised that the preparation for festivals generally fell to women. Moreover, these essential, yet demanding, activities were also viewed as tasks that their other female colleagues, who were in similar stages to them, did not have to do. Nevertheless, as stated in Chapter 5, she had successfully obtained the law firm’s consent to her ‘non-negotiable’ early leave on Fridays to prepare for and observe her religious customs. This instance is akin to observations made by Fernando and

Cohen, (2013:1022): “faith is seen as a body of knowledge and a set of social imperatives, which are used flexibly by women in pursuit of their career goals”.

She also had positive attitudes of mutual support for cultural and religious differences of her colleagues:

“the person that I view myself as having most in common with actually is [an Asian colleague] and, I think it’s been a bit of a bonding thing for us, because you can talk about things, and funnily enough, I think, of everybody here, he understands it more and appreciates it more than anyone else does. Similarly, you know when he’s coming to work over Ramadan, we will try and accommodate each other” (WB female associate, I-1).

In addition to her religion, another part of her identity that she spoke about was her socio-economic background. This contradicts with the privileged, middle-class background which forms part of the lawyer archetype. What is important to note here, and may be potentially due to this intersecting with her religion, is her admission that she had to refrain from studying the subject that she was passionate in at school, to conform to her parent’s wishes:

“Nobody in my family had really been to university ... I mean my parents came from a very working-class background and had made good, so it was very, and they’d sort of gone up a class, and it was very important for them that their children went into a respectable profession” (WB female associate, I-1).

“What I really wanted to do was to do was study English and be a teacher, but my parents didn’t think that that was good enough and so, they really decided that if I wasn’t going to be in the absence of anything else, it would be law” (WB female associate, I-1).

This parental influence was a determining factor in the career choice of this associate. Her parents viewed the legal career as a prestigious occupation. The socialisation and professionalisation processes of the legal profession, which demand high levels of human, social and cultural capital for entry and progression, have been levered to its

advantage to create a respected and ‘high-class’ image (Ashley and Empson, 2013; 2017).

b) Male solicitor: “LEFT-LAW”

This British-Asian solicitor downplayed the effects of his experiences of underlying racism, preferring to use indirect and innocuous terminology in structuring his examples around hypothetical scenarios. For instance, he began by saying that, as an ethnic minority, ‘some times’ one ‘might have difficulty’ in progressing in a ‘certain area’ or environment. Although he stated that ‘things are improving’ and that this may not occur as often nowadays, one might ‘hear on the news’ of instances whereby there ‘might’ be another person who has a ‘better chance’ in progressing because ‘they are not an ethnic minority’. This relates back to the ‘role models’ discussion in ‘not seeing’ ethnic minorities in certain jobs, such as judges, which “*are mainly covered by white, English people*” (Male solicitor, 1-1).

He made no direct admission of experiencing discrimination – unlike another British-Asian paralegal who confessed that he had received abuse: “*it’s been malicious, it’s been cruel and it’s been belligerent (BA male paralegal, 1-3)* – as, ‘fortunately’, he qualified as a solicitor successfully, he ‘may have had some along the way’ and later confessed it would have been a stumbling block to his career: “*if you, like, applied for a training contract and you might have experienced something where somebody else might be favoured more than me*”, in that he ‘personally felt’ that as he would be the minority in a group of White candidates:

“I sometimes feel that maybe I might not have the stronger chance there in succeeding ... progressing, so I’ve, may have felt that, I might not get the training contract because of that reason” (Male solicitor, 1-1).

Akin to the associate mentioned in the case study above, parental influence was a strong motivating factor to enter the legal profession, but he also found them to be a support. Reflecting upon his own cultural background, this solicitor also mentioned an element of comparison to, and competition with, others within the same ethnic group as a benchmark for success. This may have been exacerbated by the success of his siblings:

“I’m one of six, I’m the youngest, yes ... so seeing them progress in their careers and have a job, and you know, be successful and I want to do that as well and my family have always been supportive, they’ve always said, if this is what you want, then we’ll support you 100%. And, they’ve just taught me that in life, you need to work hard to get somewhere and you can’t rely on others forever, as well, and in order to do well, you need to work hard and progress in your career and try and achieve your goals” (Male solicitor,1-1).

“So your family think, they want their son or daughter to do well as well because so and so’s doing well” (Male solicitor,1-1).

This is consistent with the findings of Cohen *et al.*, (2012) who observe the emergence of a ‘hybrid identity’ resulting from their research participants’ need to adapt their career ambitions and development to the cultural norms of their Asian origins. Using an intersectional framework, one can see that this a key example of an individual possessing numerous identities resulting from socialisation processes and belonging to various communities, historical influences and power structures (Symington, 2004). This similar ‘parental push’ to the associate is likely the consequence of his intersecting identities of religion and ethnicity.

c) Female equity partner: “LARGE-LAW”

This equity partner recounted the story of a promotion decision which took place in her firm. While the current male managing partner of “LARGE-LAW” was still a solicitor, his bosses heard that he was approached by another firm and, so, not only offered him a pay increase to stay. He was also promised that if he ‘kept his nose clean’, he would become an equity partner. The now equity partner of this case had joined the firm three months before this male counterpart. Although she was more qualified solicitor at the time, she described how ‘cross’ she was to discover that the current male managing partner was made a partner in 1997, while she was made an associate. Moreover, these promotions occurred at the same time as she was expecting her first child.

This strong gendered force was also witnessed in other departments within this company. The IT manager described how in the all-male employment law department in

“LARGE-LAW”, some employees, in her view, had already been assigned favourable treatment:

“Just pretty much all men, and men’s attitudes ... they’re the boys. That’s [the managing partner’s] little team there ... They are the boys and they like the boy stuff and it is a bit of a boys’ club. And if you’re not a boy, you’re not in the club ... some other boys aren’t in the club actually” (WB female IT manager,3-3).

Firstly, the promotion decision recounted by the female equity partner illustrates in-group favouritism and gender bias (Kanter 1977; Elliott and Smith 2004). Secondly, the fact that the current male managing partner was made a partner at the same time as she, an expectant mother, was promoted to associate is akin to findings conducted within larger firms. Anderson et al., (2010) state that there is very little or no flexibility at the level of partner tier; yet many opportunities for flexible-working for less senior female employees.

Two additional central aspects of the equity partner’s identity were as a wife and mother: *“I was single when I joined the firm, but now I’m married with two children!” (WB female equity partner,1-3).* She described how, following her husband’s wishes, she went back to work full-time after having her first child. While she was a little reluctant about this decision at the time, she rationalised this in terms of her own career progression and maintaining a comfortable lifestyle for her family:

“We’ve a house with no mortgage, the girls are at grammar school, we’ve no money worries so, it’s paid off, and you just get on with it and that’s why I look so ancient!” (WB female equity partner,1-3).

“To become a partner, we have no part-time partners here, you know the assistant solicitors who have been here, had the children, came back part-time ... I suppose the equity partners, there are two of us [women], both work full-time ... but salaried partners, there’s no women at all” (WB female equity partner,1-3).

Occasionally during the conversation, I felt that the equity partner was rather irritated with several issues. These related to the long-working hours and pressures to constantly

network – endemic within the culture of the legal profession – as well as navigating between competing imperatives of full-time work, being a mother and missing her husband, who is constantly travelling due to his job. These were made more noticeable by her frustrated tone of voice.

“Being somebody whose husband has travelled, for the last 17-18 years, I don’t, it annoys me all the networking that everybody is expected to do, because I’ve been a single parent, in effect, and I don’t think you should be expected to do all the networking, I think we have lives outside of work. We’ve got the [annual company event] coming up in a couple of weekends time, so I’ll need to go and show my face on that Sunday, but I think actually, ‘when am I going to do the ironing, when am I going to cut the grass, when am I going to do the supermarket, when am I going to oversee violin practice or help a child with revision?’ – we shouldn’t be doing it!” (WB female equity partner, 1-3).

This excerpt summarises the complexity of identities that is understood and appreciated by intersectionality. The equity partner self-positions herself as a single parent. In terms of self-positionality, she relates this identity to the promotion criteria of the legal profession: “long and unpredictable hours as a proxy for demonstrating commitment” and “the requirement of bringing in new clients and maintaining client relationships or ‘rainmaking’” (Tomlinson *et al.*, 2013:254). Such actions play a part in strengthening the traditional, idealised and resolute ‘macho’ long-hours image of the legal profession (Sommerlad, 2002). In relating her identity to work requirements and informal interactions, the equity partner then internalises these ‘inequality regimes’ (Acker, 2006); asking when she will get time to do the ironing, cut the grass; in effect, when will she get time to be a mother and wife? The equity partner thus shows a “preoccupation of relational issues”, in ‘negotiating and renegotiating’ her identities and the essence of being a ‘woman’ and a ‘lawyer’ (Pierce, 1996:105).

In sum, the overlapping identity markers of ethnicity, religion, gender and motherhood presented in these cases, thus, provide a stark comparison to the archetypical lawyer occupational identity surfacing from the previous two chapters. The use of an intersectional framework in this manner helps to recognise how different series of identities influence individuals in terms of access to rights and opportunities.

7.10 Chapter Conclusion

The discussion on self-position and self-positioning (Anthias, 2012) denoted the many ways in which individuals relationally construct their own identities; thereby favouring an intersectional approach. Using intersectionality to conceptualise identities as transformative (Hill Collins and Bilge, 2016), this chapter examined how participants in this study constructed their own identities *in relation to* the (male) occupational identity (Ashcraft, 2013) of the legal profession. In this regard, the main identity categories which were of main pertinence to interviewees were: gender, socio-economic background (class) and ethnicity; with religion and age also being mentioned, yet to a lesser degree.

The section on unequal treatment possessed several overlaps with ‘career barriers’ in Chapter 5, reviewing the areas of positive discrimination, favouritism in the workplace and sexism. These were the power relations of most importance for participants in reflecting upon their ‘self-positioning’ to create transformative identities (Hill Collins and Bilge, 2016). The sections analysed three types of unequal treatment which arose in interviews. Firstly, positive discrimination – read differently, emphasises the importance of institutional capital (Ashley and Empson, 2017) and occupational closure (Bolton and Muzio, 2007). Secondly, feelings of sexism in the smaller law firms signals that generally, “work is organized on the image of a white man who is totally dedicated to the work and who has no responsibilities for children or family demands other than earning a living” (Acker, 2006:448). Thirdly, favouritism notes the need to possess relevant levels of cultural capital for progression (Ashley and Empson, 2017).

In their review of empirical evidence and the literature, Francis and Sommerlad (2009) conclude that lawyers who are “multiply-burdened” (Crenshaw, 1989:152) – whose identity comprises many ‘minority’ categories – are more likely to face challenges in entering and progressing within the profession. Using intersectionality in this chapter has entailed a more ‘worldview’ approach whereby the interviewee is valued for the multiplicity of their identities – their whole self – as opposed to either one part of their identity or simply those conventional delineations of gender and ethnicity to which they belong. The sections on unequal treatment uncovered through self-position and self-positioning in light of the perceptions of occupational identity of the legal profession,

which will prove useful for further analysis in the Discussion using Winker and Degele's (2011) model.

Moving forward, while reflecting upon the themes in this chapter, the findings from using the intersectional model in the following chapter may have great scope to ensure that HR and diversity management policies and practices reach out to a wider group of employees in the small-and medium-sized law firms. As a solicitor in this study succinctly proposes, "*it's about seeing them as a person; not defining them by their gender or their race or their age or anything that they can identify with*" (WB female solicitor, 1-3). Although it may be possible to apply theories of intersectionality to HR, this theoretical shift needs to be accompanied by practical steps. As mentioned in chapter 6, 3 of the 4 law firms did not house a separate HR function under their roof; relegating HR tasks as the duty of employment lawyers. By repositioning the orientation from what may be the default stance ('our way is best') to a diversity-sensitive standpoint ('take the best of a variety of ways'), this would assist more effective management of a diverse workplace. An effective means of achieving this is by introducing diversity training in the small-and medium-sized law firms; one of the recommendations of this thesis; explained more in the following chapter.

Chapter 8: Discussion

8.1 Introduction

This thesis set out to assess both career progression structures and diversity management practices in small- and medium-sized professional services firms (PSFs): law practices. This study has explored the answers to the three research questions posed in this thesis; discussed hereafter in relation to findings and the literature. This chapter shall reflect on the empirical data presented in previous chapters associated with ‘career progression in smaller law firm context’ and ‘diversity and diversity management’. Thereafter, use of the model of intersectional multi-level analysis created by Winker and Degele (2011) assists in a better understanding of the career enablers and obstacles faced by lawyers in the small- and medium-sized law firms. Latter parts of this intersectional framework cause the emergence of three groups of lawyers, centred around themes, which present new insights for the literature on smaller-sized law firms. The chapter concludes by considering how intersectionality may be useful for the small- and medium-sized firms in this study to use in practical terms.

8.2 How is career progression structured in smaller-sized law firms?

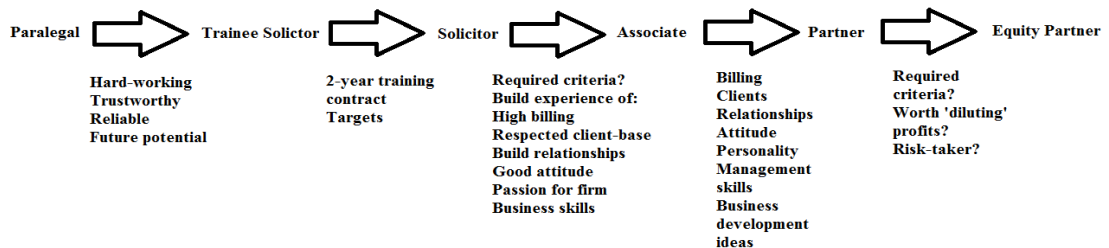
The rationale behind this research question was to discover how career routes were structured in small- and medium-sized law firms – those with fewer than 25 partners (Law Society, 2012) – and whether this differs from the progression route documented more widely in the larger law firm setting. Chapter 5 addressed these issues via analysis of the promotion criteria, documenting the career aspirations of lawyers, and subsequently creating a diagram (Chart B) to help illustrate this progression structure within small- and medium-sized legal practices. The main findings are now presented.

Lawyers in these small- and medium-sized legal practices continued to follow the ‘traditional linear career’ (Sullivan and Baruch, 2009). The findings demonstrate that these small- and medium-sized law firms adopt a career structure akin to those found in larger firms. Consistent with larger law firms, all the companies followed the same progression stages dependent upon post-qualification experience (PQE) to maintain a universal standard across the legal profession.

In this regard, promotion within all four firms, while outwardly dependent upon levels of experience, seemed to fall back upon gender stereotypes: desiring more masculine-

related skills and competencies (Brivot *et al.*, 2014). At entry-level, paralegals were offered training contracts based on perceived ‘potential’. Trainee solicitors nearing completion of their course tended to be retained by the businesses, as they had invested 4 years into them and trained them to work in the way which best-suited the organisation. This may be considered even more important to these smaller-sized firms, given their limited resources; relative to larger, law firms. It could be claimed that a ‘professional bureaucracy’, such as a law firm, relies on a workforce who follow normalised, regulated standards and thereby, recruits appropriately-trained and ‘indoctrinated specialists’ for the ‘operating core’ (Mintzberg, 1979).

Reflecting upon the ‘lawyer-checklist’ summarised from the findings from Chapter 5, Chart B depicts, in basic terms, the typical and rather *ad hoc* promotion criteria used in the small- and medium-sized firms. These criteria are interesting in terms of reflecting the (male) occupational identity (Ashcraft, 2013) of the legal profession; prizing masculine-associated traits (Haynes, 2012); even within the smaller law firm setting.



These promotion criteria, based upon networking skills, business acumen and high billing levels, strongly reinforcing the notions of professionalism (Pinnington 2011). Moreover, these criteria, certainly as one advances upwards in the law firm hierarchy; are not very transparent. This is akin to research conducted within larger firms (Tomlinson *et al.*, 2013). The vagueness surrounding promotion criteria, as well as the duration of career progression, is further exacerbated by the managing partners admitting that there was ‘no formal promotion process’ in any of the small- and medium-sized law firms. This admission also links to those findings uncovered in answering the third research question of this thesis.

Reflecting upon the second point of interest connected to this first research question, the smaller firm size, while not vastly affecting the hierarchical career progression

structure, was considered to impact in alternative ways. Firstly, the smallest firm in this study, “SMALL-LAW”, did not have an associate solicitor stage. Equity partners stated that this was due to the small size of the firm – only employing 25 workers. They also blamed financial constraints; exacerbated by recessionary pressures, which had generated more demand for fixed-fee services. In short, “SMALL-LAW” had less disposable income and it appears the equity partners were slightly risk-adverse. Without the associate solicitor position in the career structure, the ‘promotion tournament’ (Pinnington, 2011) would subsequently turn into an ‘elastic tournament’ (Galanter and Henderson, 2008).

Secondly, as mentioned, the effect of smaller size had been more greatly felt by these companies since the recession. It could be argued that these changing contextual factors lengthened the ‘promotion tournament’ – noted by interviewees in “LEFT-LAW”, “LARGE-LAW” and “FEM-LAW” – due to firms down-sizing and/or restructuring since the recession. However, these changes have also given rise to the “Creative Lawyering and the More-for-Less Innovation Challenge” (Malhotra *et al.*, 2016:374). The “LEFT-LAW” managing partner cited the ‘biggest change’ in the legal sector to be due to legislative amendments. Consequently, on the one hand, he says law firms must work more efficiently and ‘handle more cases per capita’ than before, to remain in business. To meet demand, more junior-level staff are hired, to turn over higher numbers of files, yet ‘some corners have to be cut’ to ensure ‘sustainability’ – law firms are now unable to provide their previous ‘Rolls Royce Service’.

On the other hand, “SMALL-LAW” proves an interesting case in that while this firm was not deemed large enough to warrant the creation of an associate solicitor tier, it appeared the most creative in terms of job role design; in both instances, for part-time working-mothers. A WB female solicitor became practice manager following her maternity leave, and the firm had also recently-hired a business development manager who oversaw developing the firm’s marketing strategy. This latter role ties in with findings for both the second and third research questions, and reflects how the legal profession is, first and foremost, financially-driven.

Reflecting upon these insights, it is also worthwhile to remember that the career goals for all partners interviewed were to continue to build a successful law firm and, upon

their retirement, leave the organisation bigger and stronger than when they arrived. Essentially, the goal for these smaller firms is to be like, and grow into, their larger counterparts. These elite, large law firms want to exhibit an ‘upmarket’ image, as this has become synonymous with ‘quality’ (Ashley and Empson, 2013:221). The aims of the partnership of these small- and medium-sized firms is to do, and be, the same. This is a key finding, which may help explain why the promotion criteria in the small- and medium-sized firms mirrors that within larger firms. This is examined further in the following section.

To conclude, lawyers in the small- and medium-sized law firms followed the ‘traditional linear career’ (Sullivan and Baruch, 2009) through a career structure akin to those found in larger firms. The promotion criteria thus replicated that of larger firms. However, there was one notable difference for the smallest firm in this study. “SMALL-LAW” did not have an associate solicitor stage and this appeared to be due to equity partners being wary about the amount of disposable income available to the firm. Nevertheless, as mentioned in Chapter 5, the small- and medium-sized law firms in this study were considered as more flexible and thus, could be creative with designing new roles (Malhotra *et al.*, 2010). This would potentially allow working-parents to give more prominence to their family responsibilities (Brivot *et al.*, 2014); issues detailed below.

8.3 What are perceived as the factors (personal and organisational) influencing career progression in small- and medium-sized law firms?

The motivation for this research question was to consider the aspects – both on a personal and organisational level – which were thought to either enable or hinder the career progression of these ambitious ‘knowledge workers’ (Druker, 2003). While much scholarship has focused on these factors, the contextual focus has primarily been upon larger law practices. Thus, akin to the first research question, the issue of firm size was thought to be an innovative and thought-provoking vantage point from which to assess such career influencing elements.

Throughout the interviews, it became apparent that the promotion criteria (Chart B) were the same in the small- and medium-sized law firm context as depicted in the literature on larger, elite law firms (e.g. Muzio and Tomlinson, 2012; Tomlinson *et al.*, 2013; Brivot *et al.*, 2014; Sommerlad, 2016). The career progression enablers and

obstacles were also similar in this respect. Two elements seemed to have a positive impact upon career progression in the law firms: social capital in the form of connections and networks, and ‘luck’ (favourable circumstances). In brief, the main aspect linking both the positive career driver of networks and the promotion criteria presented in Chart B is the necessity of social and cultural capitals (Francis and Sommerlad, 2009). Social capital via networking (Seibert *et al.*, 2011) as part of the culture of the legal profession is considered as central to career advancement (Williams *et al.*, 2012). While the impact of class is felt here, female and minority-ethnic lawyers are also negatively-affected due to lack of perceived flexibility in being unable to attend all events (Sullivan, 2010). Likewise, forging a successful career in law is reliant on upon possession of certain types of embodied cultural capital: the right ‘attitude’ and ‘personality’, social skills and the way they present themselves (Cook *et al.*, 2012).

The career obstacles mentioned by participants, which were highlighted in Chapter 5, are akin to those found in larger law firms. They are: financial barriers, the impact of the recession, family planning, law specialism choice, law remaining male-dominated at senior level, and institutional barriers. Via application of intersectionality to these conditions, it could be argued that three of these obstacles are connected to disadvantaged social categories stemming from class (financial barriers); and gender (starting a family and caring responsibilities take priority over career); with both class and gender impacting upon law specialism choice. As for the additional cited career obstacles, the recession forced the firms in this study to make structural changes and downsize; thereby reducing opportunities for career advancement.

However, the final important finding in answering these first two research questions was that of company size. Most interviewees were attracted to the smaller-to-medium firm size for different reasons. The paralegals and trainee solicitors thought that a smaller firm offered more chances to learn and develop their skills, and to succeed and progress within a shorter time. Likewise, partners and equity partners felt that small- and medium-sized firms allowed them to become actively involved in the running of the firm within a shorter time than would be the case at larger firms. In other words, the belief that a smaller law firm may result in a shorter promotion tournament (Galanter and Palay, 1991).

While it may be the case that learning or career advancement is facilitated to some extent, the opposing side to this argument is that, within a smaller firm size, there are fewer opportunities to progress into the most senior positions. Regardless of how ambitious or hard-working a lawyer is, as the “LEFT-LAW” managing partner admitted in chapter 5, promotion becomes possible when an employee either moves firms or retires: ‘dead man’s shoes’. This was exemplified by a WB male associate at “LARGE-LAW” who used the term ‘glass ceiling’ to refer to his hindered progression. He considered his department as already ‘vastly top-heavy’, with a male equity partner, three male salaried partners, and a male legal director.

The ‘glass ceiling’ metaphor was also employed by two “SMALL-LAW” WB male partners, who left the same larger, national firm as they could not progress past solicitor-level. They felt there were other employees – ‘the chosen few’ – who achieved promotions. The partners justified this as ‘right place, right time’, noting that these successful lawyers, unlike themselves, had progressed internally through the firm from trainees: However, while there may have been an element of ‘Buggin’s turn’, it may also have been that the successful lawyers had greater levels of human, cultural and institutional capital (Ashley and Empson, 2017) desired by the firm. In this regard, interestingly, both the WB male partners at SMALL-LAW” received a state-school education and studied law at polytechnics.

This impression of a smoother career progression also coincided with the perception by participants in chapter 6 that smaller law firms were friendlier workplaces and more flexible in terms of being more able to arrange work around additional (caring) responsibilities of employees outside of work. While this forms part of the answer to the third research question, this increased possibility of flexibility is important to note here as a career barrier. Although the smaller firms were praised for their flexibility, this was also noted by participants to hinder career progression. As noted in the above section, promotion criteria in the small- and medium-sized firms was premised on the larger firm criteria. Working full-time was central to this progression and became increasingly important in the most senior positions. As noted by the WB female equity partner at “LARGE-LAW”, working part-time was possible for success at associate solicitor level, but not at partnership.

Interviewees also said they deliberately chose a small- and medium-sized practice because they thought that not studying at a redbrick institution and their qualifications would not be good enough for entry into the larger firms. Some younger interviewees were also deterred by the lengthy and stressful application and recruitment process of larger organisations. Again, these perceptions originate from the high standards of institutional and embodied capital (Cook *et al.*, 2012) sought by most elite law firms. Reflecting upon my data sample, most participants did not receive a private school education (70%). This strengthens the ‘organizational strategy’ of larger elite firms in securing competitive advantage and upholding their ‘legitimacy and status’ (Ashley and Empson, 2017:213). By excluding those – ‘occupational closure’ (Sommerlad, 2007) – who do not possess the “specific portfolio of field-relevant capitals” (Iellatchitch *et al.*, 2003:732), the self-interests of elites are preserved (Ackroyd and Muzio, 2007; Larson, 1977).

To better understand these findings and gain a more profound insight into these issues within the smaller law firms, I analysed the interview data following the model of intersectional multi-level analysis advocated by Winker and Degele (2011), which comprises eight steps (Appendix E). The authors believe that their approach focuses upon the discrepancies and inequalities within the three categories of identity, representation and structure – a crucial point – which they consider existing theoretical and empirical research has ignored (McCall, 2001; Acker, 2006; Walby, 2009). These categories have been conceived as clashing and incompatible; thus, focus in previous scholarship has only been upon one or a maximum of two categories (*ibid.*). Janz (2014) praises this praxeological multi-level approach for reuniting structural and agency-connected outlooks on social inequality (Bourdieu, 1986).

Winker and Degele’s (2011) multi-level analysis framework is based upon their view of intersectionality as a set of interactions. Their intersectional model allows for a holistic analysis of the processes of (re)production of inequalities across and between multiple levels; enabling a thorough examination and understanding of the interdependent relationships between social practices, social structures and symbolic representations (Janz, 2014). Winker and Degele (2011) advocate the following of all eight steps presented (adapted to this research in Chart C) for scholars performing an intersectional analysis. The intracategorical approach to intersectionality, which has been used in this

thesis, is the most compatible with this model and best matches the case study methodology used (McCall, 2005). While the intracategorical approach appreciates that there are problems with using categories, it acknowledges they also have relevance in constructing the modern lived experience. The great strength of intersectionality is that it maintains that identities are fluid, changing and relative; depending on context (Hill Collins and Bilge, 2016).

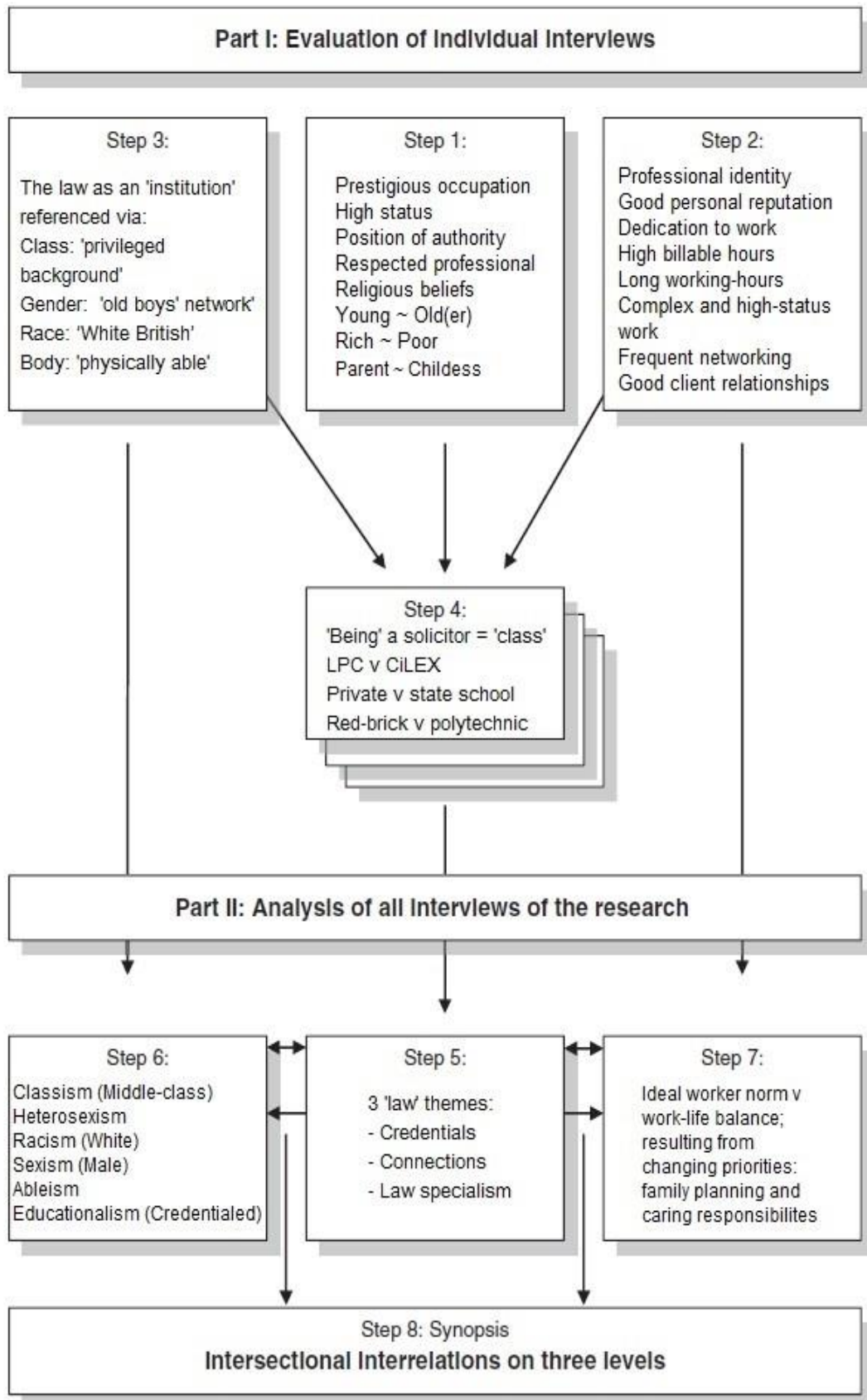
In light of this, considering advice from the Methodology chapter, I adhere to four of six ‘guiding assumptions’ (Hill Collins, 2015:14) to enhance accuracy in the description and methodical interpretation of intersectionality in my research. As per the first ‘assumption’, the intracategorical approach (McCall, 2005) understands different identity groupings (e.g. gender, age, race, class) holistically, rather than separately. This approach also views these categories as interconnected, which affects their relative power relations (e.g. sexism and racism) – the second ‘assumption’. Thereafter, I bear in mind that the interlinked power systems which emerged during data analysis enhance the social construction of multi-layered injustices (which are historically-, culturally- and geographically-conditional). These injustices, based upon the prized symbolic capitals (Bourdieu, 1986) of the legal profession, permeate society and affect the lived experiences of individuals – the third and fourth ‘assumptions’. According to the fifth and sixth ‘assumptions’, Hill Collins (2015) reminds scholars that individuals and groups situated along varying intersecting points will judge their own and others’ experiences of multi-layered injustices differently. Moreover, the multi-layered injustices supported by intersecting power relations are discriminatory in nature. These two issues thus influence the design of future research projects, which either mirror individual/group experiences; and/or which support or challenge the pre-existing socio-economic societal conditions.

To this end, Winker and Degele (2011) claim that the advantage of using their method is through their systematic approach, which not only imposes a high level of precision, yet does not allow for the categories of representation and identity to be restricted or closed in any way. This allows intersectional researchers to analyse the exchanges and relationships between the groupings of ‘difference’ on both a single level basis and/or among all three levels (*ibid.*). Reinforcing the rationale of this model is the view of McBride *et al.*, (2015), who argue that in employing an intersectional approach,

scholars need to surpass the method of the simple problematisation of the links *within* groupings of ‘difference’ (an ‘intersectionally-sensitive’ approach), to employing a method which confronts the theoretical difficulties of the problematisation of the links *between* these groupings of ‘difference’. Kerner (2012) notes that central to this method of analysis are statements from interviewees which reflect the importance they assign to structural and representational factors in their own understanding of themselves and their current situation.

In conducting data analysis for this research, I adhered to all eight steps of the model of intersectional multi-level analysis proposed by Winker and Degele (2011) as follows. Firstly, in describing identity constructions for step one of the model, the first few interview questions enabled participants to describe themselves, their work and how long they had been employed at the company. Winker and Degele (2011) state that individuals ‘self-position’ themselves by means of differentiating themselves from others; either explicitly (e.g. status) or implicitly (self-evident observations, e.g. male). The starting point of the framework at the subject level enables an understanding of how interviewees behave and subjectively construct and develop their identities and *habitus* (Janz, 2014). In terms of identity constructions, 16 participants were male, 28 were female and most interviewees were White British (38). Only 3 female interviewees identified themselves as mothers within the same starting question as their occupations. One interviewee self-identified as minority-ethnic due to their religious observances, even though they were of White British origin.

Chart C: Adapted intersectional multi-level analysis model (Winker and Degele, 2011)



Social position (Anthias, 2012) in terms of the occupation were centred around increased status. This was in terms of the prestige assigned to studying law at degree level and the external perceptions of a lawyer as being in a position of authority and a respected and/or impressive career choice – in-keeping with the ideals of professionalism (Grey, 1998). These perceptions are based upon the legitimated institutional and embodied capital of the legal profession (Ashley and Empson, 2013). A class-specific *habitus* (Bourdieu, 1979) had been constructed by interviewees. As Ashcraft (2013:14) notes, “in professionalization, for instance, the occupational identity project (what is it that we do?) merges with occupational image (what do we want them to think that we do?) and often entails a corresponding overhaul of individual practitioner identity (who am I?)”. Winker and Degele (2011) note that this approach relates to intracategorical complexity, whereby significant intersections are pursued within a biography, history or story. This allows researchers to deduce initial intersectional findings (results otherwise undiscovered via a single-category focus). Moreover, approaching the intersectional analysis in this way allows for power relations to be studied and thereby, offers a deeper understanding into how inequalities in accessing resources are accounted for within organisational research (Özbilgin *et al.*, 2011).

Step two, identifying symbolic representations, examines how context and culture influence the actions and practices of an individual. This is because identity-constructions are also dependent upon the environment: societal norms, values, ideologies and expectations. These symbolic representations, which appear linked to successful career progression within these small-and medium-sized firms, remains dependent upon the amalgamation of: continuous high levels of billable hours (Leblebici, 2007); undertaking increasingly complex and high-status work (Cohen, 2015); long working-hours (Tomlinson *et al.*, 2013; Reid, 2015); frequent networking (Muzio and Tomlinson, 2012); maintaining a good personal reputation and relationships with peers (Brivot *et al.*, 2014) and superiors (Tomlinson *et al.*, 2013), and continued nurturing of client relations after office hours (Trefalt, 2013; Sommerlad, 2016). These symbolic representations, akin to the adoption of a professional identity – parallel to the image of the ‘ideal worker’ – is focused upon steadfast dedication to work (Reid, 2015). As previously mentioned, these criteria transcend both larger and smaller practice. Even within small- and medium-sized law firms, high value is placed upon ambitious

lawyers, who are ‘polished’ (i.e. highly-confident, excellent communicators, with professionalism demonstrated through attire and conduct) – attributes conceived as embodied capital (Ashley and Empson, 2017:220). Furthermore, lawyers who can demonstrate social capital: “an interest in, aptitude for and knowledge of the occupation in which they wish to work” (ibid.:220) are also highly prized.

Therefore, the other key issue arising in this Step in the interviews was whether having children and maternity leave acted as a significant career barrier to female employees. Both male and female employees referred to ‘societal expectations’ that women would take time off work to have children. However, one female employee of ‘child-bearing age’ definitively stated that she did not want children; although both her employer and family ‘expected’ this of her. Similarly, as mentioned in chapter 5, one working-mother with two children, felt that her employer may wait a few more years to make sure that she was not having any more children until they (potentially) offered her a promotion. Although this was said in jest, it has serious potential repercussions for the continued dominance of the ‘old boys club’ in the legal profession generally. Moreover, this highlights the dilemma faced by women in the sample: wanting to pursue demanding careers, while battling perceptions and social norms about motherhood and age (Wilkinson *et al.*, 2017). In an environment where “the white, class-privileged male remains the paradigmatic professional” (Sommerlad, 2016:6), professional men are thought more able to achieve the ‘accepted social ideals’ of both ‘ideal workers’ and ‘ideal men’ (Williams *et al.*, 2013:224).

Thirdly, in finding references to social structures, I used inductive analysis to examine whether and how (directly or indirectly) the participants referred to or linked their narratives about their everyday social practices to Winker and Degele’s (2011) four structural power relations: class, gender, race and body. The authors affirm that identity-constructions are connected to social practices (micro level) and shaped by social structures and institutions (macro and meso level) (ibid.). The main way in which conversations were related to the four structural power relations in the interviews was in the general perceived image of lawyers.

Historically, the legal profession has been perceived as an ‘old boys club’ and can still be argued as such in modern times. The legal profession as an institution was referred to

as still ‘male, pale and stale’ in that the senior positions in most law firms are filled with middle-aged, white males. The early-career solicitors who share similarities with senior employees, either with regards to background, education or shared hobbies and interests, may be looked upon more favourably – as evidenced in accounts from participants. This is illustrative of embodied cultural capital (Cook *et al.*, 2012). Regarding class, ‘the legal profession’ was deemed for the privileged in terms of course fees and necessary qualifications – attainable only to those from a certain socio-economic background. Concerning gender and race, interviewees suggested that more female students and minority-ethnic individuals possessed appropriate law qualifications, were applying to the firms and being recruited; however, their career progression appeared to encounter more obstacles than their white, male counterparts. In sum, linking intersectionality to Bourdieusian terms, these law firms can thus be viewed as *fields* of power shaped by white men, whose embodied cultural capital is the most valued.

Body denotes the physical human body in terms of the inequalities generated if the ‘body’ has a physical or cognitive impairment and thus may be perceived as less-employable and less-productive. In terms of body, all interviewees were physically-able, and I did not come across anyone with disabilities in this research, to my knowledge. Disability is complex as it may be hidden, such as cognitive impairments, and not necessarily visible. Individuals may also be unwilling to talk about their own disability. Although I was told in all four law firms that people with disabilities were welcome to apply and disabled access measures were available, individuals perhaps do not feel as though they are able to apply; for the potential lack of support they may feel in such a pressurised legal environment. Disabled access, or special adaptive equipment, such as keyboards, chairs, or desks could be introduced easily; as per the SRA’s reasonable adjustment policy (SRA, 2017c). Nevertheless, less-visible impairments make this issue not as clear-cut. Furthermore, does the firms’ viewpoint change when an employee suffers an accident? Is it then a choice for the employee to leave the organisation, or do they feel pressured to leave?

In assigning interrelations of central categories on three levels (social structures, symbolic representations and identity constructions) for the fourth step, I noted the categories of differentiation – via which individuals fashion identities – which the

participants considered to be the most important, starting with the level of identity. Winker and Degele (2011) advise an iterative technique here, whereby the initial findings are constantly contrasted to the other respective levels; thus, broadening the analysis. Chapter 7 noted that these identities were expressed *in relation to* the legal profession context. They were: gender, socio-economic background, ethnicity, religion and age; each with differing levels of salience. These instances show social position and social-positioning (Anthias, 2012) which enables identities to become transformative (Hill Collins and Bilge, 2016).

In chapter 5, also, interviewees raised concerns about their state-school education and socio-economic status which, they felt hindered their career progression. More detailed examples of these differentiating categories are expressed by those who had undertaken the ‘traditional’ educational law route to complete their LPC; as opposed to those who completed their CILEx. Another instance would be those employees who had received a private, as opposed to state-school education and similarly, those gaining degrees from Red-Brick Universities; set against degrees from other institutions. These admissions reveal that participants were aware of the high levels of institutional and embodied capital (Cook *et al.*, 2012) desired in elite, larger law firms and chose, as noted previously, to work in smaller-sized law firms due to perceived facilitated career progression.

The advantage of intersectionality here is in recognising that disadvantage is not ‘additive’ and that identities cannot be understood in isolation from one another – identities ‘interact’ symbiotically (Crenshaw, 1989). This discourse related to socio-economic background in the small- and medium-size firms formed the interrelations of central categories on three levels: “the reciprocally constructing phenomena that in turn shape complex social inequalities” (Hill Collins, 2015:2). These examples transcend the identity level and are interwoven with social structures and symbolic representations via ‘class’; making them “indicators of a self-construction of high significance” (Winker and Degele, 2011:59).

Fifthly, in the second part of the intersectional multi-level analysis, the comparing and clustering of subject constructions, acts as a group-building process whereby the researcher investigates patterns between cases that enable the creation of homologous

(related) types or groups, which, when compared to other groups, are heterologous (dissimilar). Winker and Degele (2011:60) stress that social practices are the focus here; stating, “only after the types have been established do we start analysing to what extent they are gendered, ethnicized, etc.”. In this way, I noted three distinct groups of lawyers working in the small- and medium-sized law firms, who were then allocated to the central themes; explicated below:

(1) *Calibre, credentials and character*: certain interviewees appeared to be more anxious than others about their educational provenance and the standard of their qualifications attained both prior to University and at degree-level. At times, this preoccupation was seen more so for the younger interviewees in terms of navigating the need to attain good qualifications against the high financial costs of a legal education. Thirdly, regarding ‘character’, it is essential that any new hire best-fits the organisational culture and the personalities of the existing staff. This is especially important in the smaller firm context.

Following Winker and Degele’s (2011) advice, after this first group was established, I then analysed these accounts in terms of the categories of differentiation from the previous analysis stages (e.g. gender, socio-economic background, ethnicity). The barriers to entry into the profession are potentially very high. The interviewees from less-privileged backgrounds, who attended state-schools and did not achieve the highest degrees at the most prestigious Universities were (in)directly aware of the high human and institutional capital levels stipulated by the large, elite law firms (Ashley and Empson, 2013). From this knowledge, the participants, as mentioned, excluded themselves from applying to these larger firms. In other words, the occupational closure (Bolton and Muzio, 2007) of larger firms was a driving force in their applications to the smaller-sized law firms. This highlights the important distinction between the status of educational institutions and their affiliations with the legal profession: the universities (i.e., the medieval institutions, redbrick universities and the ‘campus universities’ – all forming part of ‘the academy’) and the ‘new’ universities (the revamped polytechnics overhauled in 1992) (Boon and Webb, 2010).

The last point, of great importance, is how ‘personable’ a candidate is: they need to be a team player (a key skill requested of applicants for vacancies) and looked upon

favourably by the partnership (Tomlinson *et al.*, 2013). Workplace-person fit was viewed as more important in small- and medium-sized law firms than in larger firms. In a smaller environment, where employees work closely together, an unfortunate choice of candidate could potentially disrupt workforce dynamics and cause upset. In this regard, one could conclude that the smaller law firms assign a larger weight and significance to embodied cultural capital (Cook *et al.*, 2012) than larger firms; given their limited size and space.

(2) *Who you know than what you know is more important*: certain interviewees appeared to be more well-connected than others; using their networks to either enable facilitated entry/transfer into the firms in this sample, and/or achieve smoother and swifter career progression once in these law firms. As documented in chapter 5, some individuals recognised their ‘luck’ of good connections. For example, paralegals moving with their supervisors and more senior lawyers acquiring their current role through connections or recommendations. In another instance, a WB female solicitor at “SMALL-LAW” narrated the story of her friend from the LPC who struggled to obtain a training contract, despite her high qualifications, and was unfortunate not to ‘meet the right people’. Furthermore, the building of connections and constant networking is highly-desirable; not only for improved business growth and performance, but also for facilitating the speed of career progression within the law firms. This was demonstrated in the instance of the advice given to the current “LARGE-LAW” male managing partner before his interview: the managing partner at the time enjoyed golf.

Interestingly, when analysing these scenarios alongside the categories of differentiation, one could conclude that, at entry-level into the small- and medium-sized law firms, these identity categories are not as salient in terms of forging personal connections as at more senior levels in the firms. At this higher level, the application and promotion criteria for these roles appear to mirror that within larger firms. Embodied cultural capital (Cook *et al.*, 2012) thus becomes increasingly important at the more senior levels, whereby like-minded individuals’ personalities tend to be ‘favoured’ – illustrative of in-group favouritism (Gorman and Kmec, 2009) – supporting the continued existence of ‘homosocial reproduction’ (Kanter 1977; Elliott and Smith, 2004). Moreover,

possessing the appropriate cultural capital will assist in building reputational capital in increasing the likelihood that there will be similarities between lawyer and client; subsequently engendering status and trust (Hanlon, 2004). Consequently, lawyers from more privileged backgrounds will be more able to build the networks, outside of their immediate social group, which are essential in providing valuable information and knowledge (Ashley and Empson, 2013).

(3) *Where you stand determines where you sit*: some employees thought that their choice of law specialism hindered their career progression. The law specialisms deemed to most likely hinder advancement were personal injury (PI) and employment law. The rationale behind the former was a worsening of the PI image, due to an increase in numbers of lower-class clientele; an image which was fuelled by the media. Meanwhile, legislative changes since the recession and cutting of Legal Aid provisions were attributed to fewer promotion opportunities within employment law. Moreover, as noted in the Methodology chapter, interviewees tended to work in either employment law, PI or property law. Smaller-sized law firms mainly offer ‘retail’ services to clients (Aulakh and Kirkpatrick, 2016); including family law, wills and probate and conveyancing (Law Society, 2016a). These services were also thought to influence a different type of applicants and clients.

Analysing these accounts in terms of the categories of differentiation, seemingly-inbuilt “hierarchies of prestige” assign different levels of value to different law areas (Cohen, 2015:353). For instance, large city law firms tend to specialise in corporate law, which is more profitable (Bolton and Muzio, 2007) and perceived as more attractive than smaller high-street firms specialising in PI. These more lucrative specialisms enable higher billing levels; which is prized for career progression (Leblebici, 2007). Geographical location will also influence the type of applicants and clients: those who can afford to live and work in London and achieve the highest grades desired by these large firms will tend to come from more privileged backgrounds than those who frequent their local law firm. Conversely, it can also be argued that smaller law firms provide better, detailed training to their staff as there is less margin for error than at larger firms. Moreover, in smaller companies, one may be able to foster a closer relationship with supervisors than in larger businesses, which may be beneficial to

career advancement. Furthermore, using Bourdieusian terms, these large, elite London-based firms are also located near the '*field* of power' (Ashley and Empson, 2017) – the social space where elites from all sectors, with similar reputational capital, form and build relationships based upon shared social status (Hanlon, 2004).

For the sixth step, supplementing structural data and analysing power relations, I needed to draw on further structural level data sources for this analysis stage. The information given by participants needed to be accompanied by statistical or other data to better understand the structures and power relations in which the narratives of interviewees were positioned. To understand about educational requirements and entry-level position applicant criteria – the worry of those in group 1 – I had to familiarise myself with the structural power relations concerned; namely the Law Society and the Solicitors Regulation Authority (SRA) websites and additional company documents: both brochures and websites. The SRA has high levels of authority and influence, regulating 10,471 solicitor firms in July 2017 (SRA, 2017d). The SRA stipulates necessary criteria for entry into the profession (educational requirements), training to qualify as a solicitor, and the continuing training needed post-qualification. "In the case of professionalization, occupational identity construction tends to be highly strategized, tightly organized, and rigorously controlled by practitioner associations" (Ashcraft, 2013:14).

The creation of group 2 highlighted the need to explore the link between identity categories and their varying impact upon building successful connections and networks. In addition to peer-reviewed journal articles, numerous reports, published by, and in conjunction with, both the SRA and Law Society – the paper by Aulakh *et al.*, (2017) being a recent example – document the rising diversity of the legal profession. This is partly due to policy interventions, such as 'Pathways to Law' (The Sutton Trust, 2017), among other initiatives, such as increasing the number of LPC providers (Boon and Webb, 2010), which has reported a facilitated entry into the legal profession for previously-underrepresented groups (women and minority-ethnic individuals). However, regardless of The Law Society's 'Diversity and Inclusion Charter' (Law Society, 2017a) and the SRA 'Equality, Diversity and Inclusion Strategy' (SRA, 2016), in practice, linking back to analysis of structural power relations, the professional career is construed to be largely appropriated to men (Hazard, 1988), with the 'married man'

receiving favoured treatment (Hochschild, 1975) – the assumption being that his wife will care for children and/or extended family, as he furthers his career (Pierce, 1996).

The additional impact of the ‘ideal worker’ and subsequent ‘flexibility stigma’ (Williams *et al.*, 2013) is also evidenced by the continuing tendency for women to be channelled into ‘designated’ areas of law (Sullivan, 2010); with higher proportions of women working in community-orientated and less lucrative specialisms, such as family law (Bolton and Muzio, 2007). This is also indicative of the concerns of those in group 3. Regarding class and socio-economic background, as lower-salaried jobs (such as conveyancing and legal secretarial work) often have no set career path, taking leave off work has fewer adverse consequences. However, professional and highly-skilled women are often aware that taking time out for family will negatively-affect their career advancement (Crompton and Lyonette, 2011). Considering that the nature of work within particular occupations is recognised by its associated ‘embodied social identities’ (Ashcraft, 2013), the legal profession as an institution, and, within the small- and medium-sized law firms, was described in the interviews as ‘male, pale and stale’. Senior positions, as well as the most lucrative law specialisms, still tend to be occupied by middle-aged, white males (from privileged upbringings).

Upon deepening the analysis of assigned representations for the seventh stage, the researcher refers to additional sources (e.g. the mass media and written documents) to comprehend the ideologies embraced by interviewees – related to symbolic representations (Step 2). This is to “explain which societal contexts are meaningful for these norms and values and those that sustain them” (Winker and Degele, 2011:61). A key issue emerging from the interviews was the ‘societal expectation’ to have children and, from this, whether the subsequent absence from work of female employees on maternity leave resulted in significant career progression obstacles or hindrances. Certain female interviewees were faced with the alleged ‘guilt’ they should feel or were confronted with demeaning views of others for not ‘embracing their maternal instincts’; should they either choose not to have children; or, conversely, choose to return to work (either part-time or full-time) and so, are not always ‘there’ for their children. This filters through all societal groups, regardless of their diverse social circumstances and identity-constructions. These feelings reinforce the challenge women face in pursuing a professional career while confronting the perceptions of others and social norms

regarding age and motherhood (Wilkinson *et al.*, 2017). As the legal profession is founded upon a business model and *doxa* which value long working hours, time for duties outside of work, such as caring responsibilities, are conflicting agendas and traditionally disadvantage women (Dinovitzer and Hagan, 2014; Sommerlad, 2016).

Finally, Step 8, via elaborating interrelations in the overall demonstration, the typologies established in Step 5 are related to the symbiotic relationships between the levels of analysis: structurally (class, gender, race and body), at the level of identity, and the connection between structural systems of power relations and symbolic representations. In terms of the extent to which structures and representations balance each other, firstly, classisms. Due to their professional orientation as solicitors, all interviewees could attain the necessary high standard of law qualifications. Moreover, given that they were from a certain background and level of socio-economic status, they were all able to afford this education. Nevertheless, this middle-class ‘solicitor’ standing affects them differently. As previously mentioned in this thesis, for the younger generations, increased University tuition and LPC fees have been accompanied by increasing levels of debt. The more experienced solicitors entered the profession when there were either no University fees or the cost of higher education was much lower. Additionally, due to growing numbers of University law graduates in recent times, competition for law places has also increased; meaning that the personality and disposition of a candidate is also scrutinised, to best-fit the organisation.

Studying the structural level of heteronormativisms equates to analysing “power relations that are grounded in hierarchical gender relations as well as in unquestioned assumptions about naturalized heterosexuality and a binary gender order” (Winker and Degele, 2011:55). In this regard, the solicitor accreditation and regulation bodies take a robust approach with regards to equal opportunities following the Equality Act 2010; with the SRA’s Equality, Diversity and Inclusion Strategy aiming to “encourage a strong and diverse profession where all have an opportunity to succeed” (SRA, 2016). Nonetheless, there appears to be some disparity here.

In terms of symbolic representations, the professional identity of lawyers continues to be analogous to the image of the ‘ideal worker’ premised upon unwavering dedication to work (Reid, 2015). Women interviewed felt that, in the legal profession, they had to

‘prove themselves’ more, which supports the literature (Kay and Hagan, 1998). This pressure, although perceived as worse in larger firms, was still felt in the small- and medium-sized law practices. As previously noted, the choice of law specialism was also considered influential in shaping the rate of career progression, as depicted by the “hierarchies of prestige” (Cohen, 2015:353); with the more profitable specialisms, such as corporate and commercial law, being more likely to be male-dominated (Pierce, 1996; Bolton and Muzio, 2007; Sullivan, 2010). This contrasts with much research which continues to report increasing numbers of women entering the legal profession; for instance, that women form over 60% of all new admissions to the Roll in 2016; compared with fewer than 10% in 1970 (Aulakh *et al.*, 2017).

While increasing numbers of female lawyers demonstrates progressive longitudinal change in dismantling the male-dominated image of the legal sector, on the other hand, struggles against heteronormativisms are very recent. For instance, the ‘LGBT Lawyers Division’, campaigning on behalf of LGBT solicitors across England and Wales, was only launched in 2016 (Law Society, 2017c). Findings from an online Law Society survey in 2009 revealed that 96% of gay male and 92% of gay female respondents were ‘out’ (not concealing their sexual orientation or gender identity) in their personal lives (Law Society, 2010). However, the survey recorded that only 9% of gay male and 27% of gay female lawyers expressed that they were ‘widely out’ in the workplace (*ibid.*). Reasons given for this included the fear of a negative response from their clients and differences in the cultures of their respective firms. Openness of organisational culture varied according to firm size, geographical location, type of law firm, and type of department. Junior solicitors showed a greater willingness to be open about their sexuality at their first firm (60% of lawyers under 25; compared with 15% of 51-55-year olds and 16% of 46-50-year olds) (*ibid.*). Nevertheless, while the report found that, for many gay male lawyers, their sexual orientation had limited impact upon their careers (whereas gay female lawyers reported that their sexual orientation had greatly affected their career advancement) (*ibid.*), the statistics provided were vague and difficult to decipher.

As Matchett (2018) states, “the history of LGBT representation within the legal profession to a large extent mirrors that within wider society. Homosexuality may have been decriminalised in 1967, but other laws such as the ban on ‘promoting’

homosexuality in schools (Section 28), introduced in 1988 were not overturned until 2003”. Legislation can only partially evoke change; with the process of altering perceptions and deeply-rooted views is a longer-term process. Representation for the identities related to sexual orientation through the ‘LGBT Lawyers Division’ raises awareness of the discrimination LGBT lawyers may face and initiates new dialogue on how to best combat inequalities and continue to move the legal profession gradually forward. Interestingly, the above report was entitled, ‘Law Society survey of LGB solicitors’, which shows the progress made in society since 2009, with the addition of ‘T’, ‘Q’ and ‘+’ in some category identifiers.

In terms of racisms, at the structural level, research reports promote the need for greater levels of diversity in the legal profession, yet also document the success of regulatory bodies in achieving this – for example, Asian solicitors comprising 19% of all new admissions to the roll in 2016 (Aulakh *et al.*, 2017). The Law Society (2017) declare that they are “committed to promoting inclusion in the legal profession, reflecting the diversity of our society”, yet their Diversity and Inclusion Charter was only quite recently established – in 2009 – with assistance from BT and the Society of Asian Lawyers. There were only 467 law firms registered to be on the Charter as of May 2017, which represents just over a third of the total legal profession in England and Wales (*ibid.*).

Finally, bodyisms, which, at the structural level, prove a little harder to analyse. Winker and Degele (2011:56) define bodyisms as “power relations between human groups in terms of physical characteristics like age, attractiveness, generativity and physical state”. Latest SRA (2015) figures reveal that, those with disabilities accounted for 2.8% of the 26,547 lawyers surveyed. The SRA instructs that the data on disability be treated prudently, as disability remains considerably under-reported in the profession. Indeed, in this survey, 5% preferred not to say and 4% had invalid responses. However, results showed that, with increasing law firm size, the proportion of lawyers reporting as disabled decreases. Moreover, there were fewer disabled people in firms specialising in corporate law and property work (*ibid.*). The SRA (2017c) show their dedication to advancing diversity and inclusion in the legal profession by stating that it is their duty to provide reasonable adjustments for those with impairments (rather cynically analysed, bound by a legal duty to the Equality Act 2010; not moral duty). The Law Society

launched 'The Lawyers with Disabilities Division' in January 2009, to build upon the 20-year success of their 'Group for Solicitors with Disabilities' (Law Society, 2017c). The Division urges lawyers to use their knowledge and experiences to assist and encourage aspiring solicitors or colleagues aiming to progress their legal career.

Following the first part of this last step of analysis, Winker and Degele (2011) instruct that analysis be directed towards the other levels. From this analysis, I observe how the symbolic representations not only affect the constructions of identity in the legal context, yet, vice versa: these professional identity constructions balance the symbolic representations. Additionally, the symbolic representations also balance with the power relations at the structural level (classisms, heteronormativisms, racisms and bodyisms). This multi-level analysis thus allows scholars to "reach conclusions as to how far structures and representations stabilize each other or if shifts occur from the structural level" (Winker and Degele, 2011:62). Given that professionalisation results from completing demanding and thorough qualifications (Haynes, 2013), and that the sought-after attitudes and traits (and career progression) are based upon networking skills, business acumen and high billing levels – which strongly reinforce the notions of professionalism (Pinnington 2011) – it may not come of much surprise that all three levels reinforce one another; even within the small- and medium-sized law firms.

To conclude, the model of intersectional multi-level analysis proposed by Winker and Degele (2011) allowed for a more thorough examination of the empirical data from previous chapters. While both male and female respondents acknowledged encountering career obstacles, many of these appear to be gendered, racialised and negatively-affected by socio-economic status. Findings from this intersectional framework were linked to the factors which advance and hinder career progression within small- and medium-sized law firms as depicted in chapter 5. In sum, the successful lawyers were those who incited certain social identities (Ashcraft, 2013) based upon aesthetic professionalism (Haynes, 2012).

In using the model of intersectional multi-level analysis (Winker and Degele, 2011), three distinct groups of lawyers work in the small- and medium-sized law firms, who were allocated to central themes; covering the importance of educational attainment (excellence), networks (connections), and law specialism chosen (positioning). These

groups/themes cover several important aspects relevant to advancing knowledge in the literature. Two implications emerge for the first group/theme. Firstly, concerns over educational background and qualifications was a factor which drove lawyers to solely apply to smaller law firms; given their awareness of the exclusion criteria of large, elite law firms: high human and institutional capitals (Ashley and Empson, 2013). Secondly, it was also concluded that workplace-person fit and embodied cultural capital (Cook *et al.*, 2012) were more important in small- and medium-sized law firms than in larger firms; given the limited space and smaller headcount.

For the second group/theme, the well-connected interviewees were more able to use their networks to their advantage: either via facilitated entry/transfer into the firms and/or in achieving smoother and swifter career progression. The interesting implication here is that at entry-level into the small- and medium-sized law firms, disadvantaged social identity categories (e.g. female, minority-ethnic background) had a minimal, if any, impact upon building connections and networks. However, developing social capital appeared to be easier at more senior levels in the firms for individuals who possessed similar embodied cultural capital (Cook *et al.*, 2012) to clients and the partnership. Reputational capital was also important in this regard (Hanlon, 2004). Thus, at this higher level, the application and promotion criteria for these roles appear to mirror that within larger firms.

The implication from the third group/theme results from the ‘retail’ services usually provided to clients in small- and medium-sized law firms (Aulakh and Kirkpatrick, 2016). These are considered as less profitable law specialisms; compared to those offered by larger, elite law firms (Bolton and Muzio, 2007). Employees believed that their choice of law specialism – in addition to the constraints of the already-limited positions available for promotion within the smaller firms – hindered their career progression. These disenfranchised feelings were further exacerbated by geographical location, which was deemed more likely to attract a different (less-privileged) type of applicants and clients. As these smaller law firms are located far from the ‘*field of power*’; as opposed to the large, elite London-based firms (Ashley and Empson, 2017), the small- and medium-sized law firms in this study, as well as their employees, will tend to possess lower levels of reputational capital (Hanlon, 2004).

Relating these themes to the overall analysis conducted throughout the model, the intense socialisation and professionalisation processes surrounding the development of a lawyer, alongside the factors considered as demonstrating success (and career progression) all strongly reinforce the notions of professionalism (Pinnington 2011). Hence, all three levels of Winker and Degele's (2011) model – social structures, symbolic representations and identity constructions – continue to strengthen one another.

8.4 What diversity management practices exist and how effective are they?

Similarly, to the other two research questions, the issue of interest for this research question stemmed from the sizes of the legal practices; given the reduced amounts of resources available, when compared to the elite, larger law firms. This research question set out to examine whether firm size had any effect on the implementation of diversity management and equal opportunities practices.

Firstly, as demonstrated in Chapter 6, a question posed to all interviewees was to describe their own interpretations of diversity – given the lack of a clear, widely-accepted academic definition – so as to identify the ways in which diversity was constructed in the PSFs. This approach generated many distinctive answers. The 'business case' definition of diversity, justifying diversity management as yielding enhanced business results (Dickens, 1999), was one frequently cited. Central to these 'business case' definitions were emphasising the importance of meritocracy: attracting the best talent and the 'best person for the job'; regardless of background (Holvino and Kamp, 2009). This was an encouraging result, as I thought that I would find diversity management practices within the firms in this study.

A particularly important finding for employing a diverse workforce for the small- and medium-sized law firms, was the belief that, especially given their size, the law firms, had to be seen to be able to change and accommodate for every client, so that they would appear favourable over a rival company unable to provide such services. Having the workforce reflect the diversity in wider society allowed the businesses to attract new clients and new applicants. The main new challenge for the law firms was of language. Employing bi- or multi-lingual individuals – those from diverse cultural backgrounds – was viewed as a way to surmount any 'language barriers' (Cox and Blake, 1991). This

approach generated and improved the competitive advantage of the firms, making them able to offer unique packages with their legal services, for instance, language and interpretation skills. These employees, quite literally, acted as a company's 'external face' and were deemed as valuable in marketing the firm as inclusive and appealing to the public. Following extensive analysis of interview transcripts, cultural diversity was deemed to be extremely valuable; resulting in the 'aesthetic diversity' concept – one of the contributions of this thesis.

The new concept of 'aesthetic diversity' emerged from the definitions of diversity used by participants during the interviews. It is made up of three elements. Firstly, diversity was seen, in its most visible form, as instantly-recognisable demographic characteristics. Most definitions of diversity were either directly or indirectly explicated through differences in skin colour. Secondly, the 'aesthetic diversity' concept links the resultant 'diversity-culture-skin colour' triad to organisational strategies. These strategies were predominantly concerned within the marketing and selling of the firm's image as an inclusive workplace; appealing to new clients and job applicants. The third element of the concept is that, within the small- and medium-sized law firms, there appeared to be only a minimal dedication to diversity practices and policies for employees; as opposed to policies or initiatives which are deeply ingrained throughout the organisations. This latter element is akin to the 'empty shell' findings of Hoque and Noon (2004). Instances of staff experiencing a nominal commitment to diversity are illustrated when the culturally-diverse employees interviewed highlighted ways in which their ethnic and religious identities may have either been overlooked – in that the firms were unaware of certain religious occasions or celebrations – or they felt that the 'few other cultural things' they did were an additional challenge.

Secondly, analysis of interview data revealed a lack of diversity management initiatives supported by HR policies in any of the law firms. This data was then compared to company documentation and reviewed in relation to the Law Society reports on diversity and inclusion, the 2017 SRA report on 'Diversity in the legal profession in England and Wales' (Aulakh *et al.*, 2017) and the Equality, Diversity and Inclusion Strategy stipulated by the SRA. Although all the law firms considered themselves to be strong believers for the benefits of workplace diversity, it was only recruitment – the stage at which legal compliance with SRA equality and diversity requirements are

obligatory – and flexible-working practices, which were linked to diversity management. Quite cynically, offering flexible-working arrangements generates the appearance of a ‘benevolent’ organisation; consistent with HR ‘best-practices’ (Dex and Smith, 2002). Perchance due to the difficulties in defining diversity, thoughts on managing diversity were blurred with equal opportunities (EO) policies and fair treatment provisions for both applicants and employees. As Healy *et al.*, (2011) note, most people are likely to equate ‘equality at work’ to the ‘common sense’ understanding of ‘treating everyone the same’. Diversity management was thereby fundamentally deemed to be the concern of the recruitment process and not implemented in other organisational areas, such as training and individual-based appraisal, where this would be of benefit (Shen *et al.*, 2009). Interviews with managers indeed highlighted disparities between the use of HR policies related to recruitment, training, appraisals and promotion.

This lack of HR commitment from the firms studied is shown in that only one out of the four companies (the largest, with 170 employees) has a HR manager in-house. Growing company size was the trigger for the small- and medium-sized law firms to hire HR staff on a more permanent basis. This relates to CIPD (2014a) findings in that from the 578 UK small- and medium-sized enterprises (SMEs) surveyed, only 290 businesses employed HR professionals; from which 145 were medium-sized organisations with 50-249 employees. The other three firms in my study justified the absence of a structured HR approach due to the skills of their employment lawyers. This is a key example of what Healy *et al.*, (2011:1) describe as “‘talking the talk’ of diversity which tends not to challenge the factors that reproduce inequalities in the workplace and society”.

Diversity management was thus considered identical to equal opportunities policies; the latter to which all the firms in this study conformed. Although legal compliance features so heavily for these small- and medium sized firms, legislation in the United Kingdom to combat discrimination in the workplace has been criticised as not very forthcoming: anti-discrimination legislation on employment is said to have been “forced upon the government, rather than primarily motivated by commitment to equality” (Bradley and Healy, 2008:62). Moreover, reading of the business case for diversity and inclusion set by the Law Society (2017) does not seem to have any moral imperative. The opening line of the executive summary of this report – and the website from which this is

available – is not very conducive to social justice arguments on the topic; asking the question, “why should you bother about diversity and inclusion?” The report then cites compliance with the law and the vast spending power of these diverse groups – forming potential clients – as the main reasons why firms should implement these policies (ibid.:2). Given that the likelihood that the employment lawyers, taking on HR tasks, would read these documents, the language used to promote diversity through scaremongering tactics implies that diversity policies are not based upon moral imperatives; only through legal compliance. This utilisation of economic or ‘cold’ language is found to impact upon how individuals think and behave in becoming less cooperative towards a given situation (Jones *et al.*, 2013).

To conclude, answering this research question, diversity management and equal opportunities practices were only formally utilised during the recruitment process. Moreover, when recruiting externally, each law practice favoured employee referrals – a common organisational practice. Yet, this reliance upon employees from a largely homogenous group for referrals has limited impact upon the recruitment of diverse candidates, and may be detrimental to the diversity and inclusion practices these businesses set out to achieve. The ambiguous nature of the profession, with regards to recruitment, needs to be confronted. Akin to calls by Sullivan (2010:14), ensuring that all job openings are externally-advertised, to enable “those without connections to have a fair chance”, is a change which could be implemented with ease and immediate effect.

Potentially due to the ‘employment law – HR administration’ mind-set mentioned above, in addition to the smaller firm sizes, SRA monitoring and legal compliance were deemed as, possibly, still required, to ensure the implementation diversity management policies within the legal sector. However, a true organisational commitment to diversity management – which goes beyond the scope of EO and its preoccupation with legal compliance – underlines the need to appreciate and make the most of individual differences, so that all employees can fulfil their potential (Shen *et al.*, 2009). One beneficial way in which the small- and medium-sized law firms showed their appreciation was by providing flexible-working opportunities. Although companies are becoming increasingly cognisant of the importance of work–life balance, (female) employees recognise that working flexibly will negatively-affect their career advancement (Crompton and Lyonette, 2011). Nevertheless, Walsh (2012) suggests that

the legal firm's cultural working environment, in addition to the feasibility and capacity for flexible-working, are the two most significant determinants of female lawyer opportunities for career advancement and partnership. It could also be argued that the image of being a 'good employer' – desired by the four firms in this study – as they tend to offer flexible-working arrangements, can be leveraged in an argument advocating for the broader, and perhaps more inclusive, use of flexible practices (Dex and Smith, 2002).

To build upon this positive image, another way that organisations can show a commitment to diversity management is through providing diversity training. Diversity training should be founded upon ethical and moral concerns; with a focus upon "awareness of diversity as a moral issue (before broaching diversity-related skills or other topics), because doing so will make employees more likely to code diversity-related decisions as ethical decisions" (Jones *et al.*, 2013:62). A commitment to valuing diversity and creating an inclusive work atmosphere ensure that individuals from all backgrounds feel welcome (Shen *et al.*, 2009). In sum, as successful diversity management, due to good HR practices, produces positive results, "diversity management must become a priority agenda in HRM practices for all organizations" (Shen *et al.*, 2009: 246).

8.5 Chapter Conclusion

This thesis makes an important contribution to research in this field by conducting an intersectional analysis of career progression within the legal profession. Following analysis of the interviews, answering the first research question, lawyers in the small- and medium-sized law firms typically followed the career path akin to the structure of larger firms. However, the smaller firm size, while not vastly affecting the hierarchical career structure, was considered to impact upon career progression. These smaller-sized firms had less disposable income than larger, elite firms. These financial constraints were also deemed to have been exacerbated by recessionary pressures, which had generated more demand for fixed-fee services. Thus, these firms did not have enough resources to significantly increase the staff headcount; or, as in the specific case of "SMALL-LAW", did not have the scope to create an associate solicitor stage. Nevertheless, the small- and medium-sized law firms in this study were considered as more flexible and thus, could be creative with designing new roles (Malhotra *et al.*,

2010). These creative job roles, interestingly, were seen in “SMALL-LAW” and for part-time working-mothers.

In answering the second research question, as lawyers in the small- and medium-sized law firms followed the same career structure as larger firms, the promotion criteria thus replicated that of larger firms. Career enablers were: connections and networks and advantageous environmental factors; whereas career obstacles were: financial barriers; the impact of the recession; family planning; the choice of law specialism; that law remains male-dominated at senior level; and, institutional barriers. In sum, akin to larger firms, forging a successful career in small- and medium-sized law firms is reliant on upon possession of legitimised social and cultural capital (Francis and Sommerlad, 2009; Cook *et al.*, 2012).

To gain a better understanding of this data, I analysed the interview data further using the model of intersectional analysis proposed by Winker and Degele (2011) which explores intersectionality in a three-dimensional way: social structures, symbolic representations and identity constructions. The advantage of McCall’s (2005) intracategorical approach and use of Winker and Degele’s (2011) model for this research is in terms of seeking depth and quality of data to best explain the complexity in constructing the modern lived experience (Hill Collins and Bilge, 2016). A multiple case-based approach, using identity-construction as a central factor, was therefore the most suitable way to answer my research questions. In sum, the findings from this model resulted in the emergence of three key themes: (1) *Calibre, credentials and character*; (2) *Who you know than what you know is more important*; and (3) *Where you stand determines where you sit*. This intersectional framework proved useful in better understanding the maintenance of the ‘professional’ identity within the small- and medium-sized law firms and its connection with the general practices of larger law firms in excluding candidates who possess the irrelevant human, economic, social and cultural capitals (Ashley and Empson, 2017) prized by the legal profession *habitus*.

Answering the third research question, a key finding is that while all the organisations in this study recognise increasing workplace diversity as important and beneficial, it was only at recruitment – the point at which, one could critically argue, is bound by legislation in making diversity-thinking compulsory – and flexible-working practices

(including parental leave – maternity leave more so) which comprised diversity management elements. This supports findings by Foster and Harris (2005), who state that legal compliance continues to govern managerial decision-making; as opposed to the ‘business case’ for diversity. Moreover, three out of the four legal practices studied did not have a HR department in-house. Supporting findings from the CIPD (2014) survey, this is believed to be due to firm size, in that they may not be large enough to justify a HR division – with HR services typically outsourced. Throughout fieldwork and data analysis, it became noticeable that no HR policies linked to diversity management were embedded within any of the law firms. Furthermore, HR policies across all firms had more of a ‘strategic’ focus; centred around appraisals and learning and development needs. Diversity management was therefore considered identical to equal opportunities policies; the latter to which all the companies in this thesis conformed.

Therefore, using an intersectional framework has highlighted the need for the small-and medium-sized law firms in this study to implement HR policies; specifically, for their smaller firm requirements. These policies would be designed to: familiarise owner-managers with the positive outcomes that a diverse workforce provides; demonstrate the importance of HR within the law practices; and, re-orientate the organisations, using intersectionality, into more inclusive management of diversity and equal opportunities policies. Moreover, these firms could also implement diversity training which stresses a moral importance, which may enhance the effectiveness of diversity management discourse by conveying a genuine dedication to inclusion (Jones *et al*, 2013). Indeed, linking this to career advancement of female and minority-ethnic workers, when a firm possesses cultural values which foster encouragement and support of junior employees, this may, in turn, steer managers towards advancing informal training, mentoring, and developmental projects more broadly; and not merely to those trainees who are considered as the future successes (Kay and Gorman, 2012).

Chapter 9: Conclusion

9.1 Introduction

This thesis has investigated both career progression structures and diversity management practices in four small- and medium-sized law firms in England and Wales. Although a large body of research has investigated career progression and issues related to diversity management, contemporary literature has overlooked the connection between these two fields; especially, within the smaller firm context. Analysing career progression in smaller law firms provides a rich data source with regards to their importance to the British economy: these small- and medium-sized law firms – those with fewer than 25 partners (Law Society, 2012) – comprise the greater part of the legal sector. Moreover, this qualitative study on career progression experiences of employees and the existing diversity management practices within the smaller professional services firm (PSF) context, has generated valuable insights into what the legal career entails for these ‘knowledge workers’ (Druker, 2003). This study has also shown, however, a lack of importance assigned to diversity management policies in these organisations – a remarkable finding; given that a more diverse profession is more effectively able to meet the needs of its clientele.

The empirical chapters have raised several significant points regarding current thinking and practice related to legal careers within the small- and medium-sized firms and managing diversity. This chapter briefly reconsiders the empirical findings, with Section 9.2 summarising the key enablers and obstacles relating to career progression within the firms and Section 9.3 reviewing the diversity management practices implemented within the organisations. Thereafter, Section 9.4 draws out the broader implications of this study for research on the professions; diversity management and intersectionality theory. The section concludes by identifying potential avenues for future research and offers concluding remarks.

9.2 Career progression in small- and medium-sized law firms: a summary

Chapter 5 found that, given the law firm socialisation and professionalisation processes, the traditional, ‘linear career’ – upward advancement in a systematic organisational or professional hierarchy (Clarke, 2012) – prevails in small- and medium-sized law firms. The smaller firm size, while not vastly affecting the hierarchical career structure, was considered to impact upon career progression. These smaller-sized firms had less

disposable income than larger, elite firms. Nevertheless, the small- and medium-sized law firms in this study were considered as more flexible and thus, could be creative with designing new roles (Malhotra *et al.*, 2010). This would potentially allow working-parents to give more prominence to their family responsibilities (Brivot *et al.*, 2014).

We turn now to the findings presented on the factors perceived as influencing career advancement in the small-and medium-sized law firms. The career obstacles mentioned by participants appear to support Acker's (2006) work on 'inequality regimes'. This highlights how crucial it is to acknowledge that structure and agency are completely interconnected – in better understanding the reproduction of workplace inequalities (Bradley and Healy, 2008). Therefore, a key argument of this thesis is that (perceived) career progression enablers and obstacles should be understood through consideration of the implications of intersectionality.

Akin to previous studies into the professions, the findings of this thesis demonstrate that – even within these small-and medium-sized firms – the historic, traditional masculine culture prevails. The long-hours culture of the legal profession supports and sustains patriarchy (Sommerlad, 2002) through embodiment of the 'ideal worker' norm (Acker, 2006) and favours masculine attributes. Thus, career progression remains dependent upon suitably representing the correct (masculine) professional lawyer identity (Haynes, 2012). In short, akin to larger firms, forging a successful career in small- and medium-sized law firms is reliant on upon possession of legitimised social and cultural capital (Francis and Sommerlad, 2009; Cook *et al.*, 2012).

9.3 Diversity management practices in the law practices: a brief review

This second empirical chapter examined the relationships between the theoretical and the practical: from difficulties in defining diversity, to issues surrounding the implementation of diversity management and HR practices vis-à-vis the importance allotted to legal compliance. To answer the third question, although all the organisations studied were strong advocates for the benefits of workplace diversity, diversity management practices were only employed at the recruitment stage and in the firms offering flexible-working practices.

Moreover, three out of the four legal practices studied did not have a HR department in-house. This is mainly believed to be due to the smaller firm size; supporting findings from the CIPD (2014) survey. Furthermore, HR policies across all firms had more of a ‘strategic’ focus; centred around appraisals and learning and development needs. Diversity management was therefore considered identical to equal opportunities policies; the latter to which all the companies in this thesis conformed. Finally, the preferred recruitment method for all four firms was personal recommendation, which appears to conflict with the wish to hire individuals from all upbringings in order to create an increasingly-diverse workforce.

9.4 Theoretical contributions

9.4.1 A reframing of diversity management

Firstly, this thesis makes a noteworthy contribution to diversity and diversity management. The literature review of this thesis demonstrated the extent to which numerous scholars have attempted to study diversity. Within vague theoretical and terminological boundaries, the review illustrated how scholars generally conceptualise research on diversity into three categories: task-related; traits and value; and demographic diversity (Riaz Hamdani and Buckley, 2011). Moreover, the language to describe diversity as ‘visible’, ‘invisible’ or ‘less-visible’, and ‘surface-level’ and ‘deep-level’ did not best account for the fluidity of differences and identities which intersectionality theory highlights. It is partially from this technical turmoil that the concept of ‘aesthetic diversity’ is conceived within this research and is one of my significant thesis contributions.

The new ‘aesthetic diversity’ concept is based upon three different elements within the findings presented in chapter 5; further supported by the employer branding and impression management literatures. While the significance and value of increasing workplace diversity was recognised across all firms, a pattern appeared as to how ‘diversity’ was conceived by interviewees. Firstly, this concept argues that the majority view of ‘diversity’ continues to be described as visible, demographic characteristics; overlooking the less-visible diversity traits – such as opinions, abilities, knowledge and experience – assimilated within the ‘business case’ definition. Secondly, by portraying this ‘visible’ workforce diversity through marketing strategies, organisations transmit an ‘inclusive’ image, which appeals to both prospective clients and applicants.

Nevertheless, thirdly, these smaller law firms also employ a minimal commitment to diversity and equal opportunities policies; supporting the work of Hoque and Noon (2004). The recruitment process was the core, and only, stage when these policies could be, and were, generally, used. Furthermore, only one from the four law firms in this research employed HR professionals in-house. By making diversity and diversity management central *foci* of this thesis, a conceptualisation has been developed that researchers can utilise, and can begin critically engaging with the concept; using this thesis as a reference point.

9.4.2 Research within the professions require greater use of intersectionality theory

The current findings add to a growing body of literature on intersectionality theory and akin to previous work (Acker, 2006; Muzio and Tomlinson, 2012; Castro and Holvino, 2016) has investigated the intersections of gender with other social categories of difference in organisations. This thesis analysed the interview data using the model of intersectional analysis proposed by Winker and Degele (2011) which explores intersectionality in a three-dimensional way: social structures, symbolic representations and identity constructions. To the best of my knowledge, this is the first time that Winker and Degele's (2011) intersectional multi-level analysis model has been used to explore career progression in small-and medium-sized law firms in England and Wales. Employing this intersectional analysis model has permitted a greater depth of understanding; central to my interpretivist epistemology.

For debates on structural factors influencing career progression within the professional service sector to be moved forward, a better understanding of discrimination in relation to (disadvantaged) social categories needs to be developed. Given the social construction processes central to PSFs – that “social and political proximity to ruling elites has historically favoured professional projects” (Muzio and Tomlinson, 2012:458) – using intersectionality will progress understanding about the way in which such discriminatory practices have facilitated access and career advancement for the privileged few (Nicolson, 2005). Given that law firms are *fields* of power (Bourdieu, 2005), the most highly-valued embodied cultural capital is possessed by white, middle-class men. As these male lawyers most easily embody the *habitus* of the law firm, their career progression is facilitated. As the central premise of an intersectional analysis are

the interwoven relations between “social inequality, power, relationality, and social context” (Hill Collins and Bilge, 2016:29), further intersectional studies on the professional services sector, or intersectional case studies of individual PSF, would yield a richer insight into how power relations within these firms fundamentally contribute to the subordination of distinct groups (Bradley and Healy, 2008). The varying impact upon different groups of all the perceived career progression obstacles noted in the findings of Chapter 5 is better understood and appreciated using intersectionality theory.

9.5 Implications for policy and practice

9.5.1 Diversity training needs to form an essential component in the lawyers’ education

Both the literature review and chapter 5 described the considerable training necessary for aspiring lawyers: an accredited law degree, the Legal Practice Course (LPC), the Professional Skills Course (PSC) as part of the training contract and, Continual Professional Development (CPD) once qualified, made compulsory by The Solicitors Regulation Authority (SRA). Notwithstanding such comprehensive learning stages, none of this training includes modules on diversity or diversity awareness. Potentially the closest to achieving this training – the unassessed core module ‘Client Care and Professional Standards’ in the PSC – while customer-facing, does not cover diversity awareness (SRA, 2017b). Even the new standardised assessment route to qualification – due to be established in September 2020 – the two-stage Solicitors Qualifying Examination (SQE), while striving for increased accessibility for all students in terms of keeping costs of qualification to a minimum (SRA, 2017a), does not include diversity awareness training.

Furthermore, during the interviews, there was no mention of certain groups (female and minority-ethnic workers) being eligible for specific mentoring initiatives. Employees did not receive diversity training; neither from their employer nor through their CPD. Within this latter form of training, learning and development needs for CPD were associated with skills considered necessary for career progression; leaving diversity awareness training to be overlooked by employees in the small- and medium-sized law firms. In light of changing client and workforce demographics, the lack of diversity training is unsettling.

There is no practical advice, no commonly-accepted academic definition and no legal advice stipulating how best to conceptualise and/or measure diversity. Diversity thus becomes equated with what individuals believe it to be – which, as this research has highlighted – are the visible demographic characteristics expressed through the ‘aesthetic diversity’ concept. As Bradley and Healy (2008:6) surmise, “we live in a multicultural world, in which much lip-service is paid to equality and diversity”. The benefits of diversity and inclusion should greatly surpass SRA compliance – as evidenced in this study – and enter every aspect of a business; especially in the legal profession – an inherent customer-facing sector. A key policy priority for the SRA should therefore be to implement diversity teaching in all legal training to equip trainees and solicitors with better knowledge of the changing needs of their clientele.

9.5.2 The Equality Act 2010 and the role of intersectionality

A great step forward for equal opportunities by the UK government was the implementation of the Equality Act, introduced on 1 October 2010. This amalgamated nine pieces of anti-discrimination legislation and outlined nine ‘protected characteristics’ safeguarding an individual against discrimination (EHRC, 2017). This is a piecemeal approach to the development of discrimination law in not recognising that people may suffer more than one form of discrimination due to their multiple identities.

Of specific interest to this thesis, Section 14 of the Equality Act 2010 on dual discrimination – allowing individuals to bring a combined claim forward on the belief that they have been treated less favourably due to two protected characteristics – was one of several elements not to be enforced: the government stated that this was a means to reduce the cost of regulation to business (EHRC, 2017). Furthermore, this prospective measure is limited to only two combined discrimination grounds from seven protected characteristics (not including marriage and civil partnership; or pregnancy and maternity); potentially due to the complicated nature of bringing a claim forward based upon the intersection of three or more characteristics – although possible in principle. Additionally, the provisions of section 14 cover only direct discrimination; evidence of which is rare, as discrimination is often insidious (Kanter, 1977). The rationale provided for this decision “was that it would be “unduly burdensome” to business” (Hepple, 2010:16). However, instances of indirect discrimination or harassment, which may also

involve the combination of two (or more) protected characteristics, tends to prevail – as demonstrated by experiences of Black women leading to the coining of intersectionality theory.

While Dickens (2006:305) notes that “state intervention is critical to an equality agenda, because the market tends to produce discrimination, not equality”, it seems that the coalition Government failed the UK population in not implementing the dual discrimination measures when the Equality Act came into force. This thesis strongly urges policy makers to enforce section 14 covering dual discrimination; both direct and indirect. An additional course of action is obliging policy makers to press for changes to help those from less privileged socio-economic backgrounds. Social disadvantage is a complicated, multifaceted issue and affected individuals experience many forms of discrimination: not solely in terms of access to education and workplace opportunities, but also from systemic and socioeconomic pressures, necessitating the development of further equality-based legal frameworks and protections for those who may be, are and have been, discriminated against (Hepple, 2010).

9.5.3 Diversity management practices central for organisational success

When examining the legal profession using an intersectional lens – as in this research – it is important to highlight the inequalities related to class, gender and ethnicity which the discourse and identity of professionalism espouse (Sommerlad, 2016). This professionalism incites the importance of full-time work; thereby portraying a strength of character: a loyal employee, disapproving of part-time work, and willing to undertake additional responsibilities. Interestingly, of upmost importance to all interviewees in this study was having flexible-working opportunities within their firms. Participants in this study referenced the supportive organisational culture of their small-and medium-sized employers as more accommodating than larger firms in terms of implementing flexible-working initiatives and being ‘family-friendly’ employers.

It appears that the structure of the legal profession itself, with its long-hours culture, acts as the main career obstacle for working parents; specifically, working mothers. As small- and medium-sized law firms comprise 98% of the legal sector (Aulakh and Kirkpatrick, 2016), there is, therefore, a definite need for these firms to provide flexible-

working arrangements for their employees. This will be central to the continued success of these law firms in retaining productive and talented employees.

Moreover, in addition to supporting the first policy recommendation – that diversity training is needed within legal education – for dedication to diversity to become entrenched in the business culture, training courses on the topics of team-building, communication, conflict management and reconciliation should be provided; alongside a strong argument for the business case for diversity, observable and continued support from senior managers and line-manager accountability (Slater *et al.*, 2008). However, organisations implementing diversity training which stress a moral importance may enhance the effectiveness of the business case for diversity discourse by conveying a genuine dedication to inclusion (Jones *et al.*, 2013).

9.6 Implications for future research

While the findings presented in this thesis offer useful direction and a basis for research into small-and medium-sized (law) firms, diversity management practices and intersectionality, several limitations to this study need to be acknowledged. Firstly, in terms of the total sample size of this research (44 participants), the minority-ethnic lawyer participant size (15.9%) is more than representative of the UK population who define themselves as belonging to a BAME group – 14% in the most recent Census (ONS, 2012). However, upon reviewing the organisational structure files available to me from both LARGE-LAW and LEFT-LAW, it became apparent that there were more individuals from BAME backgrounds from both organisations who had not chosen to partake in my research. For instance, in LARGE-LAW, from the 180 workers depicted in the October 2015 organisational chart, 18 employees (10%) were from BAME groups; whereas only 2 employees from BAME backgrounds were in my sample from a then-170 workforce. In LEFT-LAW, which had a less detailed organisational chart, from the 73 employees listed in 2015, 8 (9.1%) were from BAME groups (including the White-British employee identifying as minority-ethnic due to her religion); whereas 3 employees participated in the interviews. Given that the theoretical framework in this thesis is of intersectionality, it is unfortunate that the study did not include more BAME employees.

This then highlights another question about how my research email request was distributed throughout the organisations. This also is a cause for concern with regards to research confidentiality in that the gatekeepers and/or chief contacts can access information about which employees responded and engaged in the interview process. This may have potential repercussions; should they be able to be identified in this research. Thus, precautions were taken to fully-anonymise the participants as much as possible.

An issue that was not addressed in this study, and one source of weakness, was to what extent some of the interviewees knew about other colleagues who were also engaging with this research. Due to the organisation of the fieldwork process by the companies involved, interviews were conducted as a conveyor belt process: one participant straight after the other. Additionally, at some point, and potentially more likely in the smaller organisations and smaller departments, it may have been more obvious to employees (whether they were choosing to be involved in this research or not) about which fellow colleagues were leaving the room to participate. Again, to prevent loss of confidentiality and anonymity, safeguards, such as replacing participant's names with codes, were implemented to adhere to University-stipulated ethical procedures and codes of conduct as a researcher.

Reflecting upon the total sample size, while the in-depth findings of this thesis – given the rich data collected and their level of detail – could not have been discovered via adopting a quantitative approach, the generalisability of these results is somewhat limited; given the case study methodology used. Although the current research is based on a small sample of participants, the study of career progression using an intersectional analysis, has extended our knowledge of the career enablers and obstacles of an increasingly-diverse workforce within small-and medium-sized law firms. The element of company size was central to this study and this research will serve as a base for future studies into small-and medium-sized firms.

This thesis uses an intersectional framework to consider identities and power relations, within the legal firm *field*. However, this is not a simple task, as the core themes of intersectionality are interconnected; thereby augmenting the complexity of the concept (Healy *et al.*, 2011; Hill Collins and Bilge, 2016). From this, one potential limitation of

this current research is the choice of intersectional approach as ‘intracategorical’ – the study of individuals at the intersections of categories (McCall, 2005). A natural – and interesting – progression of this work is to compare the experiences of the individuals in this study using a different intersectional approach from McCall’s (2005) continuum: anticategorical and/or intercategorical complexity.

The use of intersectionality (Crenshaw, 1991) in future research will help scholars in exposing the “persistence of intersectional inequalities in organizations explicitly committed to challenging inequality regimes” (Healy *et al.*, 2011:467). A final opportunity for further research stemming from this project would be to undertake a cross-country comparative intersectional investigation. Using an intersectional lens, to be exempt from discrimination, the identities of an individual must be so contextually-powerful that they cannot be undermined. This is seen mostly in Western contexts with male, white privilege; yet these attributes or characteristics vary across cultures and across nations.

9.7 Final concluding remarks

This thesis has examined how career progression is structured within four small- and medium-sized law firms in England and Wales; has investigated the perceived career enablers and barriers; and has evaluated the presence of organisational diversity management practices in these firms. This research employed a case study methodology, with data collection premised on 44 semi-structured, qualitative interviews and subsequently evaluated against organisational documents and the company websites.

As described in the literature review, the meaning of ‘career’ has transformed over time, alongside issues of power in employment relationships, the nature of work and the structure of organisations themselves (Collin and Young, 2000). The traditional, ‘linear career’, from paralegal to (equity) partner – remains the dominant structure within the legal profession; regardless of law firm size.

The literature review also depicted the evolution of diversity management away from the discrimination legalities of equal opportunities policies, to positively recognising the value of individual differences to firms (Baxter, 2001): the ‘business case’. While the

‘business case’ was considered important in all the firms – especially in terms of recruitment – HR, as a function in its own right, was only employed in one of the four firms in this research; with the other law firms seemingly reliant upon the skills of their employment lawyers for HR tasks. One of the more significant findings to emerge from this study is the creation of the ‘aesthetic diversity’. By making diversity and diversity management central foci of this thesis, a conceptualisation has been developed that researchers can utilise, and can begin critically engaging with the concept; using this thesis as a reference point.

To generate more in-depth findings, I analysed the interview data using the model of intersectional multi-level analysis proposed by Winker and Degele (2011). Using this model to analyse career progression enablers and barriers in the small- and medium-sized law firms, three key themes emerged: (1) *Calibre, credentials and character*; (2) *Who you know than what you know is more important*; and (3) *Where you stand determines where you sit*. These three themes are closely linked to the three levels central to Winker and Degele’s (2011) model (social structures, symbolic representations and identity constructions). It can be argued that the legal profession still appears to bring with it a certain image – that of a predominately ‘male’ or ‘masculine’ occupational identity (Ashcraft, 2013). The legal profession itself was criticised, by both genders, in that maintaining a work-life balance was challenging. Nevertheless, working-parents agreed that their small-and medium-sized employers were more accommodating, ‘family-friendly’ and more supportive than larger firms regarding the implementation of flexible-working initiatives.

To conclude, the key argument of this thesis is that recruitment and staff retention, as well as (perceived) career progression enablers and obstacles, should be understood through consideration of the implications of intersectionality; the individualised consequences of which determine the respective ease or difficulty in commencing, maintaining and advancing one’s own career.

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Appendix A: Research flyer attachment on emails sent to prospective organisations

Careers in SMEs

Research aims

The aim of the research is to look at people's experiences of career progression in small and medium sized enterprises (SMEs). The goal is to also better understand how business practices can have a positive influence upon career progression within these distinctive kind of organisations.

Process

I would like to speak to some employees at different grades. This research will provide the opportunity to share experiences and contribute to an interesting piece of business and management research within the SME field.

Participation will be via a face-to-face interview, which will last for a maximum of an hour. I wish to ask about people's views, perceptions and experiences about their own career trajectories and ambitions within the workplace.

In appreciation of your contribution, once the research is completed, I will offer a summary report to management of the overall key issues in this study.

Results

The data collected will form the basis of my doctoral research at Leeds University Business School (LUBS) and will be kept secure. All information collected will be kept strictly confidential. Information used within the project will remain anonymous. These results and subsequent analysis will go towards successful completion of my PhD thesis programme at LUBS.

Summary

The main goal of this research is to collect information which will provide an improved understanding of the concept of 'career progression'. This will aid in designing creative and innovative programs and management practices; specifically tailored to the benefit of SMEs.

Appendix B: Participant consent form

UNIVERSITY OF LEEDS

Leeds University Business School
Career progression in small and medium enterprises (SMEs)

PARTICIPANT CONSENT FORM

If you are happy to participate in this study, please complete and sign the consent form below.

I confirm that I have read the attached participant information sheet and have had the opportunity to consider the information and ask questions, and had these answered satisfactorily.

I understand that my participation in the study is voluntary and that I am free to withdraw at any time without giving a reason and without detriment to any treatment/service.

I understand that my responses will be kept strictly confidential. I understand that my name will not be used, and that I will not be identified or identifiable in any publications that result from the research.

I agree to the research interview being audio-recorded.

I agree to take part in the above research project.

Name of participant

Signature

Date

Name of person taking
consent

Signature

Date

Leeds University Business School (LUBS)**Participant Information Sheet**

You are being invited to take part in a research study. This project has received ethical clearance from LUBS. This information sheet is designed to give you full details of the project, its goals, and what you will be asked to do as part of the research. Before you decide, it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Please ask if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part. Thank you for reading this.

What is the title of the research?

A critical examination of diversity and career progression in small and medium enterprises (SMEs)

Who will conduct the research?

Juliet Nagy, LUBS PhD student

What is the aim of the research?

I wish to look at people's experiences of career progression and diversity in SMEs. I wish to investigate how diversity management practices are used within organisations and how equal opportunities are adhered to and put into practice.

Why have I been chosen?

Your company is supporting me in conducting my research on its diversity management policies and equal opportunities practices. I wish to talk to as many people as possible. This research will grant you the opportunity to share your experiences and contribute to an interesting piece of research within a growing academic field, with the aim of understanding how diversity management practices can have a positive influence on successful career progression within small and medium enterprises.

What would I be asked to do if I took part?

You will be asked to participate in a single semi-structured interview, which will last for a maximum of an hour. You will be asked about your career progression opportunities and your views, feelings and beliefs about managing diversity within your workplace. The interview would ideally take place face-to-face but interviews may be conducted by telephone call or over Skype if required. The interview will be audio-recorded.

What happens to the data collected?

The information derived from the interview and supporting documents will be kept securely and forms the basis of my doctoral research. The data collected will be used to identify gaps in the field of knowledge of career progression research and diversity management. An audio recording of the interview will be used for subsequent analysis and the anonymity of the participant will be guaranteed in the write-up stage.

How is confidentiality maintained?

All information collected will be kept strictly confidential and the researcher will ensure that you cannot be personally identified from any report or publication that emerges from the research. The interviews will be transcribed by the researcher alone and the recordings will be destroyed after the transcription has been completed.

What happens if I do not want to take part or if I change my mind?

Your participation is voluntary, and you may change your mind about being involved, or decline to answer a particular question or questions at any time and without giving a reason.

Will I be paid for participating in the research?

No. I will give a report to participants, noting all feedback recorded. I may also present a research briefing; if deemed useful.

Will the outcomes of the research be published?

These results and subsequent analysis will go towards successful completion of my PhD thesis programme at the University of Leeds.

What benefit might this research be to me or other subjects of the research?

The main goal of research is to collect information which will provide an improved understanding of the concept of diversity management and career progression issues. This will aid in designing creative diversity management programs and new management practices, which will be specifically tailored to the benefit of SMEs.

Contact for further information

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What if something goes wrong?

If you wish to complain about the way in which the research is being conducted, or have any concerns about the research, then please contact Prof Catherine Cassell.

Appendix D: Interview Schedule

Interview schedule

Preamble

My name is Juliet and I am an early career researcher at Leeds University Business School. I am interested in exploring the factors that influence career progression within small and medium enterprises. I have some questions to ask you about your experiences of working at this company. There are no right or wrong answers. I am interested in your opinions and feelings. I would just like to reiterate that, within the research itself, confidentiality and anonymity will be guaranteed. I am happy to discuss this more with you at any stage in the process. I wish to record this interview in order to transcribe it later. I am the only person who will have access to the listening of the recording and reading of the transcripts. I would like to confirm that you still give your consent please.

Introductory questions

To begin, I would like to ask you some general questions about your background and your job:

1. How long have you been working at this company?
2. Could you briefly tell me a bit about yourself and about what you do in your job?
3. Before you took on this position, can you please tell me about your education and career trajectory so far?
4. What were the main factors that influenced you to want to work in law/ accountancy/ management consultancy...?
5. Is the work mainly team-based or individual? What opportunities do you have to work with others?
6. What do you like most about your current job? What do you like the least about your current job?
7. Tell me a little about what makes you feel motivated to work here.
 - Manager/supervisor or colleagues
 - Work environment or the nature of the work you do

19. Overall, what would help you obtain more satisfaction from your work?

Diversity management questions

This section is about your ideas of being part of an increasingly-diverse society and your experiences of working as part of a diverse workforce.

20. Perhaps thinking about your previous employment history, and contrasting it to working at this company, how do the workforce demographics compare?

- a. Do you feel that diversity within the workforce was/is seen as something of potential value for your former/current employer?

21. What kinds of experiences have you had working with others with different backgrounds than your own?

- Learning new things or more effective communication

22. Thinking about the end users of the services your company provides, in what ways have your offerings had to adapt over time to changing consumer needs?

- a. With increasing cultural diversity seen within the population at large, how has the company as a whole, or yourselves at an individual level, had to react to meeting (changing) consumer requirements?

23. Management scholars are increasingly studying the influence of diversity in the workplace. What does the term 'diversity' mean to you?

24. One of the areas I'm interested in is the management of this 'workplace diversity'. This means giving thought to employees from a variety of upbringings, which include the obvious factors, such as race, gender, and ethnicity; but also differences in physical ability and educational background. How do you think a company can create this workplace diversity?

25. Leading on from the previous question, what do you feel are the advantages and disadvantages of an increasingly-diverse workforce; if any?

26. Thinking about yourself as an individual, are there any ways in which you feel (make you) different to the other employees here?

- a. Do you think this impacts upon your own opportunities for career progression in any way? (What about other colleagues who may be different in some way?)

Recruitment/Equal opportunities questions – for management only

This section is about recruitment at this company.

27. Could you please briefly explain the recruitment process used at the company when looking to hire new employees.
 - a. What is the image the company wishes to portray in order to attract potential applicants?
28. When a new job within the company becomes available, where is the vacancy usually advertised?
29. Are you able to provide an example of a recent recruitment drive and a few general details in terms of demographics of the individuals who applied?
30. To what extent are promotion opportunities within the company possible? (What is the process?)
31. Thinking about the current workforce, are there any kind of mentoring schemes in place for employees? If so, for what purpose are they mostly used?
32. Attracting the best talent is seen as a key factor for most businesses. With this in mind, how do you think recruitment can be effectively targeted to diverse groups?
 - a. Does the company have any strategies to encourage applications from diverse groups?
33. With more and more applicants coming from potentially more diverse societal groups, how do company policies regarding equal opportunities help with recruitment processes?
34. With increasing diversity seen within the general population and thus, within companies in terms of their labour forces, do you think that businesses should develop a greater commitment to diversity? How do you think this could be applied at this company?

Concluding career questions

These final few questions are about your goals and hopes for your future career.

35. How do you think your career aspirations have changed since you first entered this profession?

36. What could/is your current employer do/doing to increase your desire to stay with the company?
37. (Although you hold a senior position at this company) What are your future career aspirations?
38. Is there anything else you would like to mention about your work experiences?
39. Do you have any colleagues who may be interested in being interviewed too?

Thank you very much for your time.

Appendix E: Intersectional data analysis model (Winker and Degele, 2011)

Figure 1: Model of intersectional multi-level analysis – Winker and Degele, (2011:63)

