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The Working Culture of Legal Aid Lawyers: Developing a ‘Shared Orientation Model’

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journals.sagepub.com/home/sls**Emma Cooke** 

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Abstract

This paper critically explores the working culture of legal aid lawyers and develops a novel ‘Shared Orientation’ model to better understand contemporary legal aid work and its workers. Set within a context of changing professional identities, a shrinking industry and financial constraints, the paper draws on ethnographic and interview data conducted with a high-street firm, multiple courtrooms and a law centre. It examines the emerging relevance and applicability of this new conceptual lens, refocusing the gaze on working life in fissured legal workplaces. It is argued that the ‘Shared Orientation’ model upholds multiple functions. Firstly, it captures the cultural heterogeneity of the legal aid profession, across civil-criminal and solicitor-barrister remits alike. Secondly, the model functions as a form of cohesive coping mechanism in response to the changing professional identity of the legal aid lawyers. Moreover, the ‘Shared Orientation’ offers unity as a way of functioning in an otherwise fragmented profession through its preservation of working culture ideals.

Keywords

Legal aid, austerity, professional identities, work, ethnography, occupational culture, shared orientation

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Introduction

The world of the legal aid lawyer holds a substantial amount of appeal for researchers, as a unique and complex occupational group which sits on the peripheries of the wider lawyering profession, the criminal justice system, the voluntary sector, and the welfare state. Capturing a snapshot of a depleted, and diminishing occupational group provides a precious resource to aid in understanding and contributing to what it means to be a liberal professional in the 21st century in the legal context. Increasingly, those working with the field face precariousness as they attempt to cling onto legal aid contracts resulting in ‘uncertainty, instability, vulnerability and insecurity’ (Standing, 2011: 12). In the context of increasingly ‘fissured’ legal workplaces however, observing labour under precarious working conditions is a matter that does not attract the attention it deserves (see Weil, 2019).

In light of the ‘new political economy of insecurity’ (see Beck, 2000), the occupational identity of the legal aid lawyer has undoubtedly been challenged by cuts to legal aid funding. Following the radical implementation of the *Legal Aid, Sentencing and Punishment of Offenders Act* (2012), and the *Transforming Legal Aid Consultation* (2013) in England and Wales, significant cuts to civil and criminal budgets changed the legal aid terrain beyond all recognition¹, severely restricting its scope. The combination of accumulative cuts alongside the increased demand for legal aid provision from service users, has led to sustained under-cutting, in turn lowering morale and discouraging legal aid work. The rhetoric of justice has fundamentally been damaged (Welsh and Howard, 2019).

Funding cuts congruent with demands for efficiency has led to legal aid lawyers becoming increasingly alienated (Newman and Welsh, 2019)². Increased levels of regulation have disrupted working practices and have interfered with existing work-based identities which traditionally, were client-focused. Changes to the legal aid regime now encourage the enactment of acquisitive as opposed to altruistic modes of work. Ideal legal aid lawyering principles become compromised for practical business concerns deriving work satisfaction and restricting the ability of those carrying out the work to ‘do-good’ or to act under the public service ideal (Sommerlad, 2004). As Thornton (2020: 248) states, this can force the lawyers to work in ways ‘they find restrictive, distasteful or even ethically uncomfortable’, with the lawyers themselves reporting a growing sense of crisis. In that context, this paper sets out the findings of empirical research, exploring the effects of these changes on the ‘occupational culture’ of public lawyers across criminal and civil justice remits together in one intricate and nuanced exploration of working practice. Exploring legal-aid lawyering on a wider scale is a new phenomenon, and one that has allowed this new working model to emerge.

This paper focuses on the development of a new conceptual framework entitled a ‘Shared Orientation’, a model which better obliges an occupation which has altered from its original remit. Made up of three key parts, the paper draws on research that has previously documented the wider lawyering role, as well as scholarship on the way in which work and culture come to interact. The methodology informing the study is outlined in advance of an overview of the pertinent findings around the shared orientation model. The paper concludes recent changes to the legal aid terrain have

challenged the professional and working identities of legally-aided work, insofar, that existing scholarship is no longer entirely fit for purpose. The paper suggests that we need to refocus the gaze away from traditionally rooted and rigid notions of working cultures – which no longer accommodate fragmented, diversified and precarious working conditions – whilst allowing for shared normative beliefs, values and processes which are integral to the occupation emerge.

Exploring the Legal Profession

Much of the existing research more specifically on legal aid lawyering, or ‘poverty lawyering’ is based on US lawyers or focuses on the pre-2010s climate. Recent studies, have tended to address specific elements of the lawyering role, including: the lawyer-client relationship, legal aid reforms (see Hynes and Robins, 2009; Sommerlad, 2004), newly qualified lawyers (see Boon, 2005), entry into the profession (see Duff et al., 2000), lawyer mobility (see Francis, 2005), lawyer ethics (see Boon, 2002; Webb, 2003), or specific fields of law, that is criminal defence (see Kemp, 2010; Newman, 2013; Newman and Welsh, 2019; Stephen et al., 2008; Stephen and Tata, 2006; Thornton, 2019; Welsh, 2017; Welsh and Howard, 2019), or family law (Mant and Wallbank, 2017). Abel et al. (2020) discuss broader global trends following the acceleration and intensification of global socio-economic developments since the 1980s, challenging the professional form of the legal profession. With the volume spanning legal professions across 46 different countries, this data allows for the engagement of cross-national comparisons.³

Sommerlad (2004: 15) argues, the ‘structure, culture and ethos of the profession’ has changed over time as lawyers within it become subject to more surveillance, increased competition and greater regulation overall. As a result of remuneration changes, Stephen and Tata (2006) note that those practicing in legally aided defence work are spending less face-to-face time with clients, resulting in their work being less effective. This builds on the problems McConville et al. (1994) highlighted in their study on organisational practices of criminal defence lawyers in the 1990’s, which found that lawyers relied on standardized services provided by lesser-qualified, or non-qualified staff. In an occupation that was already facing significant challenges, the extent to which these problems have been exacerbated further is a significant area of concern as justice has become increasingly temporally situated and limited across the globe (Welsh and Howard, 2019).

Re-Focusing Law’s Gaze on Working Life

Reducing public spending comprises one of the latest manifestations of neoliberalism, undermining the professional nature of legal aid work by weakening working values and morals. Yet, the legal aid profession remains a vital pillar of the welfare state. Negotiating the radical impact of cuts to funding, and the associated erosion of legal aid has not only produced structural reform, but rising state intervention has fundamentally altered the very meaning of legal aid provision. The profession is becoming increasingly detached from its original altruistic remit as it denies the rights of workers within it

to serve justice and help people most in need (Newman and Welsh, 2019). Typically, the occupation upholds specific professional values which correlate with the privilege and status of being a legal aid lawyer. A devotion to serving in the public interest, and forefronting client-centred practice are two key attributes which have typically defined the profession. Under New Public Management (NPM), the emergence of a 'new class of legal professionals who do not have the income, status, prospects or autonomy' arguably has standardised legal product (Sommerlad, 2010: 334)⁴. Lawyers have likewise become increasingly subject to additional administrative duties. Zaloznaya and Nielsen (2011: 10) have coined the term 'task marginality' whereby those in the field now spend more time doing menial tasks than using their advanced levels of professional and legal skills to assist those most in need.

Yet, negotiating the professional nature of legal aid work has never been so highly idiosyncratic. Legal aid work has become increasingly onerous for the lawyers who now must navigate a difficult allocation system provided by the Legal Aid Agency. The process of acquiring funding has become equally arduous for the lawyer and the client as provisions become more restricted. While lawyers' power is now more constrained as the Legal Aid Agency determines 'what is knowledge', lawyers working within that world are subject to different pressures as they face differing caseloads, funding models, specialisms and client bases as to be explored. As the occupation becomes increasingly hollowed out, the 'new' legal aid lawyer faces a more demarcated working environment. Deep engagement with their clients and broader social justice orientations *still* allows them to 'make do' – in a profession whereby they are otherwise marginalised professionally in comparison to their private counterparts – in spite of ever-increasing restrictions (Zaloznaya and Nielsen, 2011: 919). Kinghan (2021: 168) found that lawyers in their study wanted to sustain their identities as *progressive lawyers* in spite of these pressures. Evidence shows that a progressive lawyering movement still exists in the UK which is built around 'networks of informal interaction', 'shared beliefs and solidarity' as well as 'collective action', lending itself to the construction of a persistent working culture.

How do Work and Culture Interact?

The social organisation of working relations falls under 'labour constitution' which refers to the historically determined ensemble of rules, institutions, conditions and social statuses (Dukes and Streeck, 2020; Coutu, 2020). These organisational practices may span departments, occupations or professions. Social norms and values in the workplace concern how work should be done and how relations and social groups are formed around a common position, such as work and employment (Lipset et al., 1956). Even in fissured workplaces, social and work identities are still built around work relations and shared practices. Social bonds among workers within a given occupation produce and sustain efficacy as they ground normative realities, even more so when working under precarious conditions. As Dukes and Streeck (2020: 636) argue, by focusing exclusively on formal norms such as statutory and contractual occupational rules and neglecting informal social norms in a given occupation, a full understanding of the normativity of working life cannot be delivered.

An 'occupational community' concerns a 'collectivity of workers sharing a common position in work and employment that gives rise to shared social norms and relations of solidarity' (Dukes and Streeck, 2020: 619–620). It concerns work but also social life and offers a micro-perspective in line with the work of Weber (1924), which allows for understanding of collective norms and values, as well as political capacity to cope with a more fragmented and divergent work structure. Communal social ties, as well as embeddedness of work life in social life fosters the emergence of a working culture, as does supportive cooperation amongst workers in the transmission of skills to new recruits where sufficient education or training may be lacking. An occupational community likewise can act as a 'community of coping' in challenging moments and can further inform 'a curious mixture of consent and resistance to work' (Korczynski, 2003: 59).

There remain deficiencies in the literature on occupational cultures, the fixation on particular occupations, the lack of conceptual clarity and the limited range of studies in the legal setting. Research into how work and culture come to interact within wider legal aid practice is almost non-existent. There has been some research into courtroom working cultures for example (see Carlen, 1976; Welsh and Howard, 2019; Young, 2013). Wider studies have identified a broader 'legal culture' as a form of communicative as opposed to physical culture, unlike other agents working in the justice field, that is police officers and prison workers (see Chan, 2014; Chambliss, 2010; Cownie, 2004). Lively (2001), employed an ethnographic approach to explore the 'structurally subordinate positions' of paralegals and their understanding of being referred to as a 'professional' in spite of the more demeaning aspects of their role. Upholding a sense of collective professionalism was found to increase their 'moral worth'. The paralegals in the study upheld a set of norms independent of their direct occupational positions, which aided them to maintain their sense of professionalism in a role which is often marginalised. Fielding (2011: 97) likewise argues for example, that over time judges form a culture – which can be referred to as 'judgecraft' – defined as 'an amalgam of working practices' (see also Hunter et al., 2016; Mack and Roach Anleu, 2007).

Understandably, not all working environments give rise to an 'occupational community' or working culture due the individualised natures of work, lack of contact amongst employees or separation of workers depending on the design of the physical workplace. Occupational cultures are therefore often elaborate (Christensen and Crank, 2001). As a way of understanding the richness of occupational life, the concept of an occupational culture can help connect the macro and micro in the working context, but they can be difficult to define in a robust manner.⁵ Models of 'occupational culture' are expected to both interact and conflict (Johnson et al., 2009), as there are difficulties with objectively measuring culture (Bond, 2004). Allen (2001) argues that employee perceptions always mediate occupational culture, therefore, it is useful to focus on these perceptions as opposed to objective measures to explore its construction.

Nevertheless, the occupational community of the legal aid lawyer has been very much overlooked, in spite of those within it considering themselves as engaging in the same sort of work, as well as sharing and recognising job specific norms and values which extend beyond just work-related matters (Van Maanen and Barley, 1984). Lebaron and Zumeta (2003) argue that 'lawyers' cultural mode of being and behaving is shaped in multiple ways by their training in law, and their associations with other legal

professionals. While it has become increasingly difficult to conceive of shared ethical values due to the fragmentation of the profession (Francis, 2005), there remains a collective dimension linking these multiple areas of work spanning across specialism, workplace and legal aid caseload.

Increasingly precarious conditions within the legal aid world have strengthened the solidarity amongst workers within it, as they become particularly eager to keep the profession alive – conducive to legal aid work becoming more of a progressive ‘community of practice’ (Dukes and Streeck, 2020: 626). In a job which is typically very client-focused, there remains a strong presence of workers within it who are eager to help others even under adverse conditions. In this sense, occupational cultures become catalysts for worker solidarity, cultivating a sense of collectivism in an otherwise fragmented environment. Given the diversity of the occupation – and the wider disruption of the workplace – understanding the way in which work and culture come to interact in the legal aid workplace is certainly not a straightforward matter. Nonetheless as Dukes and Streeck (2020) argue, more ethnographic research on the ‘formation of occupationally and workplace-based communities’ among workers is urgently required if we are to understand what is going on ‘on the ground’ in sustaining work under contemporary conditions.

While it may be difficult to speak of a singular, rigid and taken-for-granted culture which applies to all legal aid work, it is likely that different lawyers across both civil and criminal remits, spanning a variety of workplaces, may form ‘subcultures’, or their work may align in some way or form. This deviation becomes integral to tracing out the contours of their working lives. Therefore, rather than to trying to shoehorn existing blanket models of occupational culture, this paper proposes a new conceptual lens in which to better understand the ways in which the dynamics of culture and work fluidly interact within the legal aid profession.

Methodology

The principal method of investigation used was an ethnography, complemented by semi-structured interviews.⁶ The empirical research took form and was carried out at several locations within the South East of England⁷; full ethical clearance was obtained prior to commencing. These included multiple courtrooms,⁸ a high street solicitors’ firm located on the outskirts of the city, and a law centre⁹ with a range of participants. I entered the field on three consecutive days per week consistently throughout the year August 2016–2017, during which time I read and observed many cases. One particular firm was utilised as the main base as full access was granted for the entire research period. The firm’s funding model was sourced by fixed and conditional fee arrangements, legal aid as well as private funding, so there was a cross subsidy of legal aid work from other profitable activity. Likewise, the barristers were situated in chambers which carried out a mix of privately and publicly funded work. The law centre carried out work entirely funded by legal aid or pro bono services. The potential limitations of locating the research in the South East, were partially mitigated by engaging across the different sectors of legal aid work to gain a more holistic view. This comparative element helped to determine further the extent to which working cultures and patterns are related to

organisational structures, physical environments, and day-to-day practices. It also provided varying degrees of precariousness to observe as the various locations have differing levels of legal aid work and provisions.

The observation was complemented by thirty semi-structured interviews with various practitioners within the field: twenty-four solicitors and six barristers; eighteen civil and eleven criminal legal practitioners.¹⁰ This was done purposely in order to cross-check findings and to gain a true insight as to whether those working in the legal aid field ‘talk the talk’ but not ‘walk the walk’ (Newman, 2013). Like many ethnographic studies on exclusive subgroups, my sample was non-random and not necessarily defined by social characteristics.¹¹ Data analysis commenced over two stages in a deductive manner (Basić, 2003). Multiple coding systems were used as qualitative data analysis is an iterative process (Silverman, 2000).

Despite the possible limitations of the heterogeneity of such sampling strategy, for example, criminal and civil justice are generally regarded as very different areas of legal practice and likewise, the solicitor and barrister experiences are generally considered divergent; the choice to span across these boundaries enhanced the overall analysis of the data collected. Bringing criminal and civil lawyers together in one novel exploration of working practices, allowed for commonalities to be drawn across a diverse field. Consequently, a fuller discussion of their working culture has been developed.

Qualitative research remains an inherently unpredictable and complex process of interpretive practices (Denzin and Lincoln, 2011). While these findings are not generalisable across the country, they show what is capable of happening (Perakyla, 2004). The aim was to provide and produce results which were rich in detail and authenticity. Encapsulating this occupational world in full is a hugely daunting task; however, it is a *crucial* time to have obtained a richer understanding of what it means to be a legal aid lawyer. As Minkkinen (2021: 2) notes: ‘...by sharing a lifeworld and its meanings, she can achieve an accurate enough understanding of how that lifeworld unfolds’. The findings make an original contribution to knowledge through an assessment of how a framework labelled a ‘Shared Orientation’ functions to consolidate individualised labour in adverse circumstances. If legal aid is ‘in crisis’, then a promising coping mechanism and route out is for encouragement and facilitation of shared normative beliefs, collective solidarity and agency.

Transcending Traditional Occupational Boundaries

Heidensohn (1992) states that: ‘...all occupations develop some kind of lasting culture’. The small amount of research concerned with documenting legal culture serves as an essential reminder of the ongoing significance of ‘culture’ as an enduring theme. In line with the work of Schein (2010), and Deering (2011), elements of occupational culture apply to the legal aid world, such as the idea that an occupation upholds written rules, values and accepted behaviours. The notion that a form of working culture is transmitted to new members is also pertinent (Van Maanen and Barley, 1984). Previous work suggests a drop in ‘morale, recruitment and retention’ within the legal aid sector, so this collective imperative becomes even more important (see Kemp; 2010; Newman, 2016; Thornton, 2020). The nature of legal aid work, however,

means that a working model that cuts across different occupational groupings, crosses boundaries of barristers, solicitors, paralegals, and wider members of the justice field is needed.

When an individual becomes a legal aid lawyer, they have to be prepared to carve out their own approach rather than seeking a template way of operating due to the individualised nature of the work, as well as the deficient levels of education and training.¹² Boon (2005: 254) notes that, 'the 'liberal' focus of law degrees leads to limited opportunities to educate for the realities of professional life'. Legal aid work is not given much attention within the remits of education or training, and therefore legal lawyers have to 'find their feet' themselves very early on.

Different legal specialisms also mean different working environments. Heterogeneous working spaces also impact how legal aid work is experienced. For example, a housing solicitor who works in a high-street firm and a housing solicitor who works for a law centre, will experience vastly different working practices. They may think and interact in a completely different manner. A solicitor's firm often consists of range of other legal specialisms, whereas a law centre operates in a different, more charitable sphere seeking to address broader socio-structural issues.

Solicitors tend to be employed by a firm or organisation; barristers tend to be self-employed and affiliated with a set of chambers which can likewise uphold varying cultural attributes. Barrister P, and Barrister A, both specialising in criminal law, refer to the role as 'individualised' because of their self-employed basis. Consistent with this, both respondents expressed the prospect of being able to 'do whatever they like', 'whenever they liked', as they were not necessarily tied to a traditional employment relationship, unlike some of the solicitor respondents within this sample. As Barrister P suggests: 'just because we're self-employed, it doesn't mean that we don't share concerns and practices. It is even more vital that we do so in *our* positions'. Those self-employed still face the same challenges as a result of their wider marginalisation, and equally require support from their peers. Solicitor J, places emphasis on the need for both individualism and collectivity in their work:

Lawyering is both an *individual*, as well as a *group commitment*...It's the only way you can pull through and succeed at the same time

What becomes apparent is that whilst legal aid work is a unique practice, there remains a collective element to it. Solicitor G, highlights the impossibility of categorising those practicing together because 'each person deals with their cases individually'. Solicitor A, stresses that, 'where historically, lawyers have all been shoved together under one branding, important variations within the profession have been ignored'. Several lawyers in the sample highlighted the ignorance of attempting to 'homogenise' their work.

Respondents likewise told a consistent story, of the desire to be 'recognised' in way which truly encapsulates the profession. In the words of Solicitor N, 'we are not like any other occupation really'. Solicitor L stated that 'being all in it together' makes it easier to get by in the job.

There's definitely an ethos of people helping each other out in this field; there's a real thing of... if you're in a position to help someone sort of further down the ladder from you, who may be trying to get established themselves, then you'll naturally just help them... and I always just say, '*don't thank me, just do the same to someone else when you're in that position*' and that's just how this occupation works.

Solicitor R's indication of a collaborative working model in the excerpt above shows that they consider a form of working culture exists, a stance held by the majority of respondents in this research. The need for an accurate representation of legal aid working culture is twofold: (1) to address the gap in scholarship, and (2) for the benefit of the practitioners in the field, as it was in their interest to identify a suitable form of working culture. Two-thirds of the legal aid practitioners in this research sample identified a form of working culture, which the vast majority suggested is fluid, adaptable and unique in its nature. They found it difficult to define specifically; Solicitor A, reflects on this:

Yes, I would identify a working culture, but I wouldn't say it's a *standard* working culture like you would get in say a police station. I can't necessarily describe it in clear terms, but it's definitely there, and it's definitely unique.

Given the confirmation that some form of 'occupational community' exists by the participants in this research, what follows is a novel exploration of their working culture which considers the dual fragmentation of the occupation. Internal fragmentation encapsulates the varying specialisms, varying caseloads, different job titles and different workspaces. External fragmentation refers to the increased fragmentation and marketisation of wider justice services, as well as occupational marginalisation.¹³ An attack on the legitimacy of legal aid lawyering makes the lawyers undoubtedly more entrenched in their professional ideology (Sommerlad, 1996), and emergent from this research is a distinctive attitudinal component present in the data which helps generate this model of working culture.¹⁴ Emergent from the data is a working culture, I propose is best thought of as a 'Shared Orientation' as to be fully explored in the next section.

The Emergence of the Shared Orientation Model

Solicitor M, emphasised the term 'orientation' as something shared amongst the different bodies practicing within the remit of legal aid. Described as the *lay of the legal aid land*, an 'orientation', can be described as an informal mechanism that both affects and explains how the occupation functions existing beyond the walls of formalities, that is procedures, rules and regulations, as well as education and training. Solicitor M stated that such 'orientation' is learnt on the job, as those in the field transmit and/or pass it down to newcomers. As observed, some lawyers may cling on to this imperative tightly, whereas others may dip in and out depending on their job title, funding model, client base, working environment, as well as stress levels. In this vein, an 'orientation' is a shared working model which emphasises diversity rather than conformity, shifting away from more blanket conceptualisations of occupational cultures as outlined earlier (Figure 1).

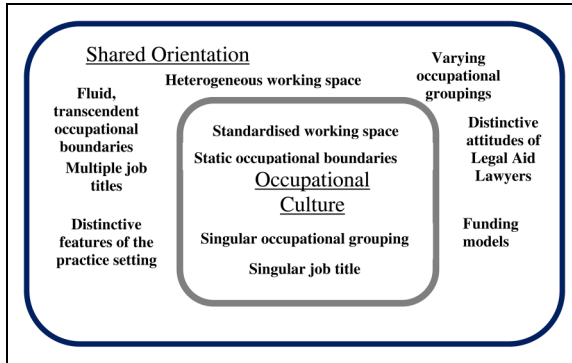


Figure 1. Diagram outlining the common features of a shared orientation, highlighting the differences to occupational culture.

This fluidity is important as Solicitor N, states:

I might do my job one way, but the person sitting right next to me in the office might do it differently, and that's absolutely fine. Different cases undertaken vary in terms of legal requirements, and all of our clients bring different needs to the table.

Solicitor J, reflected on the role of a working culture: 'multiple cultures may exist within the workplace, depending on firm, organisation, law centre, courtrooms, or even whether you are based in an urban or rural area', echoing the work of Schein (2010). Solicitor M, spoke about the unusual position of legal aid lawyers, 'it's like being alone in a crowd you know, we all have similar tendencies and do share morals and values surrounding justice and the desire to want to help those in need, but we are all on our own paths really'.

The complex array of organisational and performance spaces generates a large amount of cultural heterogeneity. As a conceptual model, the shared orientation model identified in this research accommodates these fluid occupational boundaries. It is sustained by both teamwork and individualism. For some, working alongside others can be tense and unnecessary, and for others it can be productive and necessary. Occupational boundaries can be defined as, 'the process of setting and negotiating boundaries which differentiate between fields of knowledge and expertise' (Kuna and Nadviv, 2018: 849). Legal aid lawyers face a very multi-faceted working environment in the sense that they sit on the peripheries of the legal profession yet uphold a dual responsibility to act on behalf of both their clients as well as the state, which means they have to negotiate both boundaries. Additionally, they face an increasingly complex web of controlling bodies and regulations that influence their everyday practice, including *The Ministry of Justice*, *The Legal Aid Agency*, as well as *The Law Society*. The 'modern' legal aid lawyer who thrives (or survives) in this field, is one who still engages in some form of collective in spite of these negotiations.

A shared orientation upholds four broader functions, which include its ability to: (1) offer unity as a way of functioning in a multi-faceted and fragmented occupation; (2) fortify support systems and collegial relationships in the face of diversity; (3) transcend personal and professional occupational boundaries; and (4) offer a way of ‘finding your feet’ beyond the remit of formal education and training. The fluidity and varying levels of engagement with the shared orientation are influenced by macro barriers, including management practices and increased pluralisation of the legal aid workforce (Figure 2). Solicitor T encapsulates this fluidity in a positive light:

While my working culture is extremely important to my firm and me, it might not be important to the firm down the road. Likewise, their working culture might be very different to ours, and *I like that*. We *enjoy* that sense of being different to each other. It makes things more exciting.

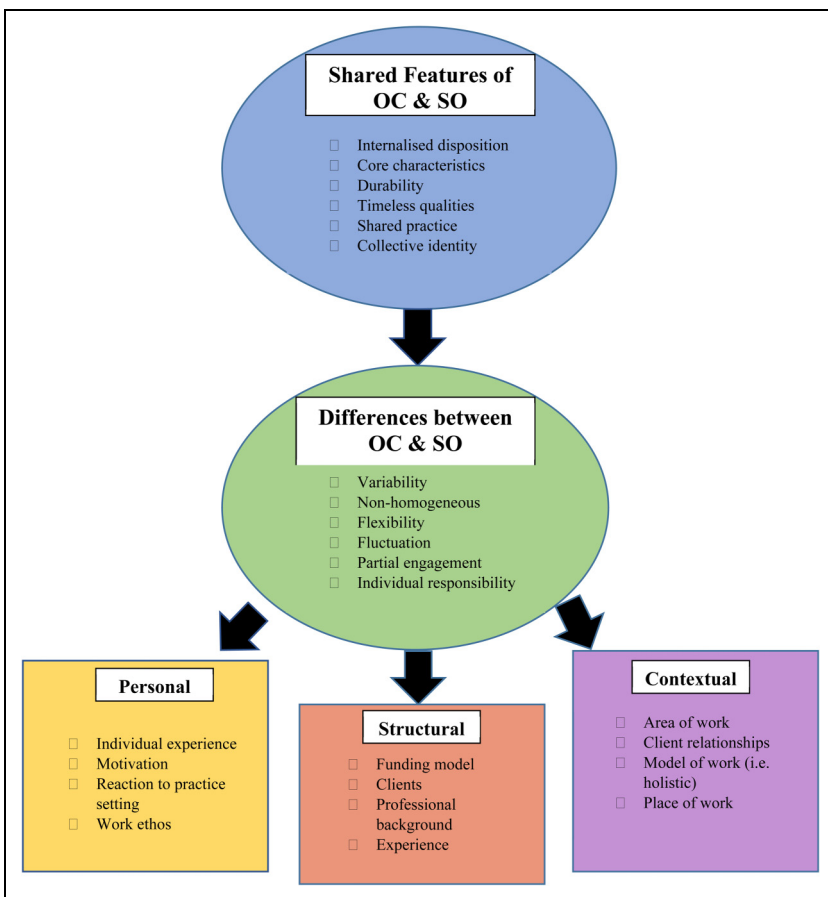


Figure 2. Similarities and differences between occupational culture (OC) and shared orientation (SO).

The diagram above explores the differences and similarities between occupational culture (oc) and shared orientation (so) models for purposes of clarification, building on the scholarship outlined previously. Both can be defined as shared internalised dispositions, in the sense that they occur once the individual is within a given field and not during the formal stages of education and training. Both models have core characteristics which become timeless qualities as they are handed down through generations, from the more experienced professionals to the less experienced. Both are durable against macro changes to the field and allow stronger identities to be formed in the face of diversity. However, the shared orientation, as a concept, is far more variable and non-homogeneous to accommodate distinctive features of the practice setting. The following distinctive features: the physical working environment, funding model(s), client base, client relationships, holistic approaches, as well as ethical models, generate the existence of the shared orientation. As does the attitudinal component present in the data, that being the *distinctive* attitudes of legal aid lawyers.

Core Characteristics of the Shared Orientation Model

Collaboration featured as a core characteristic of this model. Barrister A referred to the orientation as ‘the glue that holds the occupation together’. Participants regularly cited that ‘knowledge sharing’ among peers was significant to the success of their everyday practice. This can be contrasted with private lawyers, where competition for promotion, status and clients impedes people from sharing knowledge. In line with the words of Solicitor N, the legal aid industry is particularly ‘knowledge heavy’ due to the holistic nature of the work which calls for elements of both legal and socio-capital knowledge. The learning process undoubtedly continues as a tenancy or a training contract is secured because of this knowledge-reliance. Solicitor T compared this to driving: ‘while you are safe enough to get on by yourself, thanks to a basic grounding, you are not perfectly able to drive’. The encouragement of knowledge sharing was observed within both the firm and the law centre. Respondents were particularly keen to make their colleagues feel comfortable in a reciprocal as opposed to obligatory manner. In a ‘knowledge-driven’ profession, this was even more important as Solicitor J summarises, those practicing in legal aid often get ‘thrown in the deep end’:

...when you qualify, no one really shows you how things are done... You only get one advocacy assessment on your LPC¹⁵, one interviewing assessment and the next thing you know you’re on your feet representing people. We literally get thrown in the deep end.

It is the absence of obligation here that makes the consensus work. A level of connectivity was likewise observed amongst the barristers in the sample: ‘for me, it’s all about coming together and sharing our knowledge. I’ve never been a solicitor, but if I can help out then of course I will’ (Barrister R). This internalised disposition featured broadly across the wider sample, and was therefore not specific to solely barristers, solicitors, civil or criminal circles.

Knowledge demands have been exacerbated by ever-changing protocols and legalities, as well as the increasing levels of paperwork and administration. Solicitor L

emphasises the ability to help each other out when you get stuck stating that: ‘He’d don’t know what he’d do without his colleagues’. He further stressed the importance of having events like breakfast meetings to help keep each other up-to-date, and to allow colleagues to ‘vent’ if needed. The shared orientation model in this sense, provides hope that people do not ‘throw in the towel’ when faced with difficulties.

Thornton (2020: 250) reasons, ‘the tension between what one values and *wants* to do versus how one actually *has* to do’ can lead to ‘frustration and low morale’. Newman (2013) reported a culture-shift away from client-centred values. Evidently, there remain a number of indirect factors which have affected the way the job must be done. Solicitor M noted: ‘I can’t explain how important it is to stay close to your team members. Treat them like family, together we are stronger. I for one, couldn’t survive in this profession any more alone’. The appreciation of each other’s working practice, *keeps them going*.

Being ‘liked’ by our own colleagues and being part of a ‘collective’ makes us feel wanted, makes us feel like we actually belong to something and that our work is actually being appreciated (Solicitor J).

This coincided with the thoughts of Barrister P and Solicitor N who spoke about the need to be ‘resilient’ on the inside ‘to stick together in the face of adversity’. The shared orientation model in this sense offers a ‘central core’ to an otherwise ‘hollowed out’ profession as outlined further by Solicitor J. More so, it also acts as a form of coping mechanism in an occupation where very little formal support systems exist:

Police officers who deal with indecent images or rape or something along those lines, I think they do get sort of a degree of counselling or assistance. Defence lawyers just a case of, well, living it, go and deal with it.

While many individuals cited and/or displayed camaraderie in practices for reasons including socialisation, moral support, motivation or morale raising – in practice this was not always upheld by all lawyers in the sample however. A couple of participants presented a glowing, idealised picture, yet my observations sometimes contradicted with that. This highlights that in some cases, camaraderie can be presented as a performance front. Goffmans (1959) dramaturgical perspective emphasises the importance of setting on the appearance and manner of one’s behaviour. ‘Front stage’ behaviour reflects internalised norms and expectations, whereas ‘back stage’ behaviour is often uninhibited or free of expectation. Evidence of this was also observed in the firm, as colleagues diverged between more public and private conversations. Solicitor M likewise spoke of a sense of predestined fatalism which almost goes hand in hand with representing the ‘underdog’.

But the key argument to emerge here was that most of the lawyers tended to support each other when other people might not, potentially making them more susceptible to external pressures. Solicitor S, stressed the importance of motivating each other and keeping each other afloat, against those who ‘damn the profession every single day’ reminiscent of the narratives of fragmentation presented in earlier sections.

Financial restrictions placed on the occupation acted as a significant motivator of the existence of the shared orientation. Online and social networks have been fortified in response to legal aid cuts. The importance of these networks was confirmed by Barrister P, who spoke about the pressures of trying to stay abreast: 'it's me and my colleagues that keep cobbling it all back together'. Barrister A reasons further: 'historically, lawyers have always upheld some sense of cohesion. In the face of adversity, legal professionals have always rallied together to avoid stagnation.' As noted, occupational cultures have previously been used in a progressive manner against an external threat from the 'outside'. This resonates with Bennett's work in the legal context:

The legal profession sometimes behaves as if it is waiting for a knight in shining armour to rescue it from the forces of the marketplace.... But the practice of law is not a fairy-tale, and there is no knight in shining armour coming to the rescue. There are only we, its members. If the legal profession is going to save itself, we are the people who must do it. We are the wounded king, and our profession is the wounded kingdom. (Bennett, 2001: 12)

Despite the pressures or the perception of a stacked deck, there remain some positive values. Three-quarters of the sample stated that a form of collaboration was encouraged by senior staff across the board of firms, law centres as well as chambers, to uphold their united concern for justice in spite of external challenges. Solicitor B summarised this, 'definitely politics comes in, like everyone feels very much the same way, that society is unjust and that we want to make some form of positive contribution to that. Kinda charitable right?' This charitable sense was shared by twenty-nine out of the thirty participants.

External pressures can push for standardisation of working practice (see Rutherford, 1993; Tata, 2019). Newman's (2013) likening of criminal defence work to a 'sausage factory' and uniformed production line highlights the impact stringent regulations are having on the profession. The shared orientation model aligns to the commitment to justice, as it allows and enables the formation of networks to encourage continued campaigning, the promotion of interests for new entrants, and the ability to publish joint briefings, reports and responses to wider legal changes allowing them to still generate impact in spite of increased standardisation. Yet, some participants for example continued to adopt more of an 'informal' approach to their practice in terms of mannerisms and language employed, relying on humour and light-hearted exchanges, whereas others would practice in a more formal remit.

Socialisation processes likewise featured as a core characteristic. Picturing the world of the legal aid lawyer in the form of a loose cultural web can further bring to light the 'core set of assumptions, understandings and implicit rules that govern day-to-day behaviour in the workplace' (Deal and Kennedy, 2000: 501). This was true for Barrister A, who affirms the existence of 'unwritten' rules:

These rules aren't going to be found anywhere on paper, but you can get an awful lot just by watching, you've just got to open your eyes to it. There are different rules for different firms and chambers, so they can only be learnt once you immerse yourself within that specific working environment.

Several participants referred to these ‘unwritten rules’. In the UK we do not have a written constitution therefore much of our law – that is common law – is ‘common sense’ rather than codified, so stands to reason that the wider legal aid arena follows suit. ‘Unspoken strategies are essential if you want to progress. It’s not about sticking to the book necessarily, it’s about picking up on the nuances that are going to allow you further inside the walls of the profession’ (Barrister R). Being part of the ‘pack’ was important: ‘if you are a newbie, you need to pick these rules up pretty quickly, don’t hang about. Look at those who have been in the profession a long time, and learn from them’ (Solicitor J). The sense of passing down shared characteristics was pivotal to the maintenance of the shared orientation. An example of an unwritten rule in the solicitors’ firm was that ‘if you’ve got work to do, then you just stay late and finish it as cases can’t wait’, and ‘if you know, you *know*’. Solicitor R, labelled this as a form of ‘insider culture’, maintaining that: ‘image is important, to our clients especially. What goes on ‘inside’, compared to the public image we portray is very different’.

Chambliss (2010) concept of the insider-outsider legal culture is relevant here. On the outside, whilst the wider firm practices to meet the needs of the public’s imperative, such as joining in the wider fight for justice; within each specialism or department, they may also uphold separate smaller internal orientations. The partner of the firm noted that she encourages her team to work holistically in the housing department, whereas in the crime department they are told to take a narrower view on cases. This dual dimension is not only crucial to the functioning of the firm, however, to the firm’s image which is observable to the community exercising transparency. This could be attributed to the intention or desired outcome to warrant higher levels of trust from the clients. This desired ‘image’ differed for each workplace. As Solicitor A, highlighted:

...and that’s why we can’t all ascribe to a *singular* working culture, because we might all be striving for a different image. We have different specialisms, and different internal goals within our firms, therefore this needs to be taken into consideration, and far too often it’s not.

While the existence of working cultures in their various forms existed, these were ‘not forced’ by any means. One of the partners in the firm observed that she did not have to spend 30% of her day aiding her colleagues for example, she opened her arms because she chose to do so to increase her job satisfaction. This sense of *always having an open door* was more outwardly evident amongst the female solicitor pool. Heidensohn (1992) argues that gender is pivotal to the formation of a working culture. The number of women working in the legal aid sector in England and Wales continues to show an upward trend. Seventeen out of the thirty participants in this research sample were female. Rosener has argued that women are more likely to utilise their socialisation experiences as women in the form of a ‘transformational’ leadership style to reach the ‘top’. This involves transforming self-interest into a vested interest in the group goals. Females also tend to focus on skills such as charisma, contact-building or interpersonal skills (Rosener, 1990), evidenced when observing two of the female partners at the firm.

An essential function of a working culture is its ability to transcend work and social boundaries. Three-quarters of the participants in this sample stressed the importance of socialising with others practicing within the legal aid remit. Solicitor M, enjoyed the

fact that she had a social lounge and bar built within the basement of their firm. Participants also highlighted social events such as five-a-side football leagues against other firms, summer parties as part of wider legal aid networks. Two of the barristers in the sample however, stressed that they would not tend to interact with those outside of their own chambers.

Davey et al. (2001) found that alcohol consumption plays a key part in high-pressured jobs, sometimes in a negative manner. Solicitor A stated that he felt like he 'didn't fit in' because he did not drink, but he typically went along to social events any way because he felt they were integral to strengthening relationships with his colleagues at the law centre. Solicitor S stated that the ability of a culture to strengthen collegial relationships can also assist with external relationships within the wider justice system. Solicitor E, a partner of a firm specialising in family law spoke of a system she set up at her own firm which involves a local trainee police officer coming into her firm to show them what it is like 'on the other side' of cases, in an attempt to facilitate more positive relationships in their community. For others, relationships were slightly more difficult to build both internally and externally.

Humour was typically used to appease problematic relationships, particularly amongst the barristers in the sample. Solicitor J, echoes this: 'I feel so much more at home when I recognise the others in court, a bit of banter helps so much'. Humour has likewise traditionally been used in police and prison officer working cultures as a form of communicative performance (see Holdaway, 1983). Humour was more likely to be employed by those practicing within the criminal remit. This could be attributed to the more extreme nature of their cases and the stricter rules of the courtroom, acting as a form of release. Different legal aid lawyers engage and interact socially at varying levels.

While it is argued here that collaboration, shared values, active socialisation processes and working relations are not entirely exclusive to legal aid lawyers or likewise exhaustive in their list, these features remain core to *their* working culture.

We are our own kinda tribe, and I really like that. (Solicitor M)

Conclusion

There is no doubt that legal aid lawyers are facing a more demarcated, fragmented and difficult occupational terrain due to sustained under-cutting. This paper has presented a new model to better understand the working culture of legal aid lawyers in light of this.


A shared orientation model provides a way to better understand the unique and multi-faceted workspace of the legal aid lawyer, involving varying caseloads, differing levels of employment and diverse working environments. Driving this conceptual model is (a) the distinctive features of the practice setting, but also (b) the attitudinal component present in the data from the legal aid lawyers themselves. The shared orientation model offers unity as a way of functioning in an otherwise fragmented profession through its preservation of working ideals, it captures the cultural heterogeneity of the work, and acts as an informal coping mechanism.

Overall, it is clear that those practising within legal aid share some similar tendencies across the board including knowledge-sharing, collaboration, camaraderie, and socialisation processes just to name a few. The wide-ranging sample in this research spanning across solicitor-barrister and civil-criminal remits was beneficial to the construction of the shared orientation, as it would have been harder to justify if fragments of the profession were explored in isolation. A shared orientation offers insight into how the wider profession unites beyond individual specialisms, positions and workplaces. The formation of this conceptual model speaks to the deficiencies in the literature and offers a nuanced insight into this often-hidden occupational world. Findings indicate enduring cultural features that originate in relations/from the practical craft of legal aid work in resistance to legislative and policy innovation. This study is the first of its kind to provide an exploration of the working culture of legal aid lawyers in the current context. Future empirical work based on the shared orientation model will achieve a deeper understanding of this complex field spanning criminal, family and social welfare contexts alike.

Its value, however, lies not only in the field of law but in its applicability to wider geographic, economic and demographic domains. As the macro context becomes precarious to an increasing extent, for example in light of COVID-19, the ability of a shared orientation to withstand external pressures, respond to marginality and provide a coping mechanism merits further exploration.

The shared orientation model will also prove valuable in the study of other complex occupations, where a blanket model of occupational culture may not suit. For example, other large professions which have multiple categorisations, that is, criminal justice, medicine, social work or education just to name a few.

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Notes

1. The Coalition Government cut £751m from the £2.2 billion legal aid fund through the LASPO act. The year prior to LASPO, legal aid was granted to 925,000 cases. The year after its implementation, legal aid was granted to 497,000 cases.
2. This study was carried out prior to the COVID-19 pandemic; however, it is clear that the pandemic has since caused further disruption (see Law Care's 'life in the law survey' 2021 and Resolutions' 2021 report on working practices and well-being). While these studies further ground and situate my study; my upcoming research will explore the impact of COVID on the profession specifically.
3. While the research informing this paper was carried out specifically within the context of England and Wales, as Abel et al. (2020: 33) highlights, it remains clear that 'the contemporary legal field is everywhere splintered' and the very meaning of the field remains contested, spanning global boundaries.
4. Whilst wider elements of my research touch upon NPM, this will not form the main focus of this paper
5. Referring to 'macro' here as structural influences such as formal working practices, regulations from the Legal Aid Agency, economic provisions, governmental control. 'Micro' here refers to

- working practice on the ground-level, including: informal working practices, working and social relations, norms and values, as well as interactions and behaviours.
6. The empirical research was conducted as part of my PhD study:
 7. South East referring to London, Hertfordshire and Kent. The main firm used in this research was based in the city, while some of the court spaces were in smaller towns. While regional differences were not a focal point of this research due to time restrictions, this is an area for future focus. Small areas of focus are likewise typical in detailed, qualitative studies (see Newman 2013 and Thornton 2020).
 8. Observations were carried out in two Magistrates' Courts, one County Court, and three Crown Courts across five different locations within the city, and in outer towns. I conducted the equivalent of 35 days of observation spread across the two Magistrates' and Crown Courts. I additionally spent one day a month throughout the entire year with the Duty Housing Solicitor in the County Court.
 9. I spent 5 days carrying out observations at the Law Centre due to access restrictions, but used this location predominantly to gain interviewees.
 10. My research sample was gathered by means of opportunity across both the civil and criminal remits. This was due to the shrinking nature of legal aid. I recruited my participants via email, word-of-mouth or Twitter, an online social media platform.
 11. 16 out of the 30 participants were female/ 14 out of the 30 participants were male/ 26 of the 30 participants were white/ 28 of the 30 participants identified as middle class
 12. Highlighting issues of (in) adequate training and preparation for working with clients demonstrated that the participants were alert to potential failings beyond their control early on in their careers. This inadequacy further indicates how their personal investment may not be matched by professional or institutional provision, a gap which continues to widen.
 13. Occupational marginalisation refers to the sub-ordinate positioning of the LA profession. The LA profession tends to sit on the peripheries of the wider legal profession as a result of the way in which it is perceived by wider society, as well as the rest of the legal profession.
 14. This refers to the perception present in the data that legal aid lawyers are a separate profession to their private counterparts, their marginality, their holistic orientation, and their subscription to an alternative ethical paradigm.
 15. 'Legal Practice Course.

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