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The Future of Professionalised Work in Britain and Germany **Solicitors and Advocates**

**Christel Lane, Frank Wilkinson, Wolfgang Littek, Ulrich Heisig, Jude Browne, Brendan Burchell,
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**Anglo-German Foundation
for the Study of Industrial Society**

THE FUTURE OF PROFESSIONALISED WORK IN BRITAIN AND GERMANY

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Executive summary

Over the past two decades or so the established professions have come under challenge from a number of new developments which simultaneously have given rise to new occupations, the members of which aspire to professional status.

The acceleration of knowledge creation, increased specialisation and more rapid diffusion of information and knowledge are threatening professional exclusivity and have engendered increasing intra- and inter-professional competition. Technological change, EU regulation and internationalisation of business have further intensified competition and have created more demanding clients and new forms of service provision. Concurrently government cost cutting and deregulation of markets for professional services are undermining the security of many professions.

These developments have had different effects in Britain and in Germany because the two countries are mediated by different institutional environments and processes of professional regulation.

The comparative study of these developments in professionalised work reported here was carried out in 2000 and 2001. It covered four professions: well-established legal and pharmacy professions and emerging professions in psychological and business services. The research involved in-depth interviews with relevant British and German professional associations and other interested parties, followed by a postal survey of 9,242 professional workers, with an average response rate of 20 per cent.

This report focuses on the findings among British solicitors and German advocates. The research focused on how the developments identified above have affected professionalised work and have brought about changes in the market, work and status of professional workers, as well as in their well-being and the nature of service provision. Attention has been centred both on cross-national differences in these aspects of professionalised work and on divergences between professions within each society.

The research revealed extensive change, the pace and scope of which has been greater in Britain than in Germany. The main drivers of change in both countries were, in order of importance, increased demands from consumers, technological change, government policy, regulation, and competition within and between professions. The effect of European policy has been small.

These changes have required improved skill, knowledge and service provision, but they also have intensified work, undermined the financial viability especially of smaller businesses, and reduced the morale, satisfaction and motivation of professional workers.

Overall the level of disaffection was higher in Britain than in Germany, and significantly higher in the established than in the emerging professions. The report concludes that, in both societies, extensive pressures from clients, technology, markets and the state have left the socially privileged professional workers feeling besieged on many fronts. The increased importance of knowledge and skills in contemporary society has in no way strengthened the position of the occupations providing them. Moreover, the increased demands placed on them have lowered their sense of socio-psychological well-being.

However, significant differences have emerged between practitioners in the two countries: the vast majority of British solicitors suffered low individual morale, were pessimistic about the certainty of providing all current services in the future and made a negative assessment of business conditions in general.

These trends are likely to be the result of fundamental differences in the pattern of change in the two societies. British solicitors were one of the most disaffected professions of all those surveyed. The low level of morale among high-earning British solicitors predominantly reflects their changed relation to the state and the resulting greater exposure to deregulation and cost cutting and loss in income among partners in smaller firms, as well as their generally reduced prestige in society at large.

The German advocates tended to work in smaller businesses than their British counterparts and thus in closer relation to their clients. This has appeared to enable them to maintain higher levels of individual morale. Moreover, the German advocates appear more optimistic about business conditions, despite fewer market opportunities than were available to international firms in Britain. This may be accounted for by the relative absence of state cost cutting in Germany.

Reduction of public expenditure and increasing market competition have added to the pressures on professional workers. But the nature and extent of these effects depend on the regulatory framework within which they operate:

- The British system of granting professional status to private interest groups can be described as a regulated monopoly.
- The more legally based occupational jurisdiction, education and training requirements and conditions for practising in Germany are better defined as regulated competition.

The rationale for each is grounded in a different political economy, and each results in a divergent clustering of interests and social and economic outcomes:

- In Britain deregulation and cost cutting have been to the relative advantage of larger firms while the smaller firms have borne much of the cost.
- In Germany the structure of service provision has remained relatively unchanged, and the cost of policy change has been more evenly distributed between providers.

The research therefore raises important questions for the future of professional work. In both countries, but particularly in Britain, more account needs to be taken of the extent to which recent economic, technological and political changes have negatively affected the well-being of this key social group in modern society. The costs of change need to be more equally distributed between different organisational forms of professional practice. The strong concern, in both societies, with improved service delivery is that it has to be more informed by how different organisational forms affect professionals' relations with clients, and a better balance has to be achieved between considerations of cost, quality of service on the one hand and the well-being and economic security of professional service providers on the other.

This report is derived from a larger study which surveyed the four professionalised occupations – the law and pharmacy, and psychology and business services – in both Britain and Germany. This longer study can be downloaded from the Anglo-German Foundation's website at <http://www.agf.org.uk/pubs/publications.shtml>.

1 Introduction

This report offers an examination of the professionalised work of solicitors and advocates¹ in contemporary Britain and Germany. Its findings are derived from a larger study, which surveyed four professionalised occupations in Britain and Germany in the legal, pharmacy, human resource management and psychology services fields. The relatively large and internally diverse sample has yielded rich and comprehensive results, which may be considered unique in the contemporary literature on professions in both scale and scope of findings. The results provide an unprecedented insight into the development of the legal profession, and of professionalised occupations more generally during the decade of the 1990s, going far beyond what has been provided by the established literature on professionalised work in either country, let alone in a comparison of the situation in Britain and Germany.

Professionalised work is highly skilled and knowledge-intensive. The educational and training process, the nature of the skill and knowledge acquired and developed, and the legal and organisational framework within which it is carried out define, to an important extent, the jurisdictions different professional groups are able to establish and protect from competition. The purpose of this 'market sheltering' is variously explained. It is justified as a guarantor of quality and as providing the necessary reward to encourage excellence of service, but it is also criticised as creating opportunities for monopolisation and raising the cost of provision.

In recent decades a number of developments with pervasive effects have significantly affected professionalised work in general, including that of lawyers. Technological change, organisational development, internationalisation of business and new forms of service provision are undermining existing professions, and at the same time are creating new occupational specialisations, the practitioners of which aspire to professional status. The process of knowledge creation, specialisation and more rapid diffusion is threatening professional exclusivity and has engendered increasing intra- and inter-professional competition. Concurrently government cost cutting and deregulation of markets for professional services are undermining the security of many professions. At the same time the single European market and other pressures for internationalisation are leading to greater cross-border co-operation between professional groups and to increased international competition. These progressive trends threaten the market shelters of the professions, which have been increasingly interpreted as constituting obstacles to free trade in services.

These developments have engulfed British and German societies at different times and to varying degrees. The professionalised occupations experienced a very different historical evolution in each society, and – despite some convergent developments during recent decades – these differences endure. They are due to the fact that similar pressures on professionals from markets, technology and their clients are mediated by the different institutional environments and the differing processes of professional regulation.

¹ Sometimes referred to as 'lawyers' in this report. Appendix 1 describes the distinction between German advocates and British solicitors.

The cross-national study on which this report is based was carried out in 2000 and 2001. It has been concerned with examining the impact of the above developments on the work, employment and the socio-psychological well-being of professionalised occupations, paying attention particularly to changes during the 1990s. The research has focused on the following aspects:

1. How different modes of controlling professional occupations in the two countries have mediated the impact on professional work of changes in technology, regulatory policy, the organisation of public services, competition and the system of education and training
2. The effects of such changes on the market, work and status of professional workers
3. The implications of these changes for performance in the knowledge-intensive sectors of the service economy
4. The policy implications of these developments and the effects of different processes of professionalisation in the two countries.

Although this report concentrates on lawyers, we nevertheless provide the tabulated research findings for all four professions in both countries so as to enable readers to view the legal profession in a richer and wider context. The report is organised into three parts. Part I provides the context for the discussion of empirical findings, which are set out in Part II, and then conclusions are drawn in Part III. These are followed by Appendix 1, which offers a detailed discussion of our research methods, and Appendix 2, which provides additional data on demographic details, hours worked and earnings of professionals we surveyed.

PART I: CONTEXT AND OVERVIEW

2 The historical evolution of professions in Britain and Germany

2.1 The historical evolution of professionalised occupations

The following overview provides a brief historical perspective on the divergent evolution of knowledge occupations in the two societies. It also points to more recent changes in national trajectories, which have created some convergence. The latter, it is argued, make the broad concept of 'profession' applicable to both societies and render plausible a comparison of professional work between them.

Britain and Germany have had radically different historical trajectories of the evolution of professionalised occupations (Siegrist, 1988), particularly in their interaction with the state and in their own organisation as professional societies and chambers respectively. While in Britain professionalisation of knowledge occupations began several centuries ago, in Germany the professionalised occupations gained their independence from the state only at the end of the 19th century, when they were declared free occupations (*freie Berufe*). Although the German professionalised occupations acquired a significant degree of self-regulation, legal regulation by the state (particularly of professional education) remained much more important than in Britain, where professionalised occupations achieved a high degree of self-regulation and developed a pronounced consciousness of their status as professions.

Historically, therefore, a marked difference exists between what has been termed 'professionalisation from below' in Britain and 'professionalisation from above' in Germany. This difference in the organisation and regulation of comparable knowledge occupations had consequences for social stratification and subjective awareness of social status and group membership, as well as for the development of knowledge and education. Whereas German professionalised occupations were integrated into, and perceived themselves to be members of, the broader stratum of the *Bildungsbürgertum* (educated middle classes), the absence of the latter in Britain increased the social distinctiveness and separateness of professionalised occupations.

The peculiarity of the historical evolution of professionalised occupations in the Anglo-American social context has led some authors (e.g. Larson, 1977; Freidson, 1994) to claim that the concept of profession is only applicable in these societies. But most social scientists now view this stance as too restrictive (Johnson, 1982; Abbott, 1988; Siegrist, 1990; Burrage and Torstendahl, 1990; Light, 1995). In their view relations between state and professions, and the consequent mode of regulation, have changed over time.

Contrasts between societies in the manner of regulation, although significant, are better viewed as dynamically evolving differences of degree, rather than as static and absolute divergences of kind (Johnson, 1993). This is particularly evident in the contrast between British and German knowledge occupations over the past two decades, which show considerable convergence, due mainly to changes in the British model of professions. Additionally, the broader acceptance in Britain of a university education as a necessary foundation for performance in a modern economy, and the creation of a much broader stratum of university-educated citizens from the 1960s onwards, paved the way for changes to the model of professions in the later period.

Despite some remaining differences between the organisation and regulation of professions in the two societies and the continuing low subjective identification with aspects of the concept of profession in Germany, there now exist sufficient similarities to justify the use of the concept of profession in both Britain and Germany. Hence this will be the practice adopted in this report.

2.2 Regulation of the professions in Britain and Germany

Most definitions of the term 'professions' see regulation of professional expertise and hence of professional jurisdiction, as well as of technical and ethical standards of performance, as integral to professionalism (Abbott, 1988). But the form regulation takes and its degree and scope differ significantly between Britain and Germany.

Professions are regulated by the state – usually by laws, statutes and court decisions – and by the binding rules of professional societies in Britain and chambers in Germany. Such regulation covers a variety of professional activities, but the most basic forms are those that recognise and protect a profession's claims to expertise in a given area of knowledge and skills and lay down basic rules for practice. Imposition of technical and ethical standards mainly occurs through professional self-regulation. British professional societies, through the prescription of entry qualifications, may secure a limited monopoly by bestowing chartered status on their members. However, only state regulation – by giving legal protection to a professional title or an area of expertise in exchange for professional self-control over standards of practice – can establish a professional jurisdiction and hence secure full professional status (Abbott, 1988).

It is therefore possible to distinguish between *established professions*, with legally protected titles or areas of expertise, and *emerging professions*, where a degree of exclusivity of expertise short of full market closure has been achieved or is being aspired to. In both Britain and Germany lawyers fall into the former category, with detailed codes of practice that are subject to the imposition of an extensive range of performance standards and stringent monitoring and enforcement mechanisms.

In Germany state regulation is almost exclusively legal regulation, whereas in Britain statutory regulation is most common. In Germany the legislative as well as ministerial bureaucracies and courts, mostly at the level of the federal states (*Länder*), are involved in different ways. While legislative bodies define both professional tasks and their distribution between different professions, ministries monitor the application of the law. But it is important to note that chambers have administrative independence and that

professions are monitored only in relation to their adherence to due legal process and not to the substance of their activities. Professional freedom is cherished and recognised by both sides. Furthermore legislative bodies engage in extensive consultation with chambers and other organised professional interest groups before formulating and passing laws.

In both countries the courts may intervene to change the rules introduced by professional societies or chambers, and both have recently seen such interventions. In Germany the most notable and far-reaching of these has been a reconceptualisation of advocates' professional code of law (*Berufsrecht*), which was seen as being in conflict with the constitutional freedom of occupation (*Berufsfreiheit*).² It abolished highly restrictive rules, which confined advocates' activity to a local court and their practice to a single locality.

In summary, there are still fundamental differences between the two societies both in the way in which regulation is distributed between state and professional associations and in the manner of state regulation. Despite recent changes Britain retains a higher degree of self-regulation.

The most notable difference is that in Germany professional education remains fully under the aegis of the state, whereas in Britain professional societies influence the content of relevant degree courses and retain full control over specialised education and training. However, professional control over training in Germany, currently under discussion, would constitute a radical departure from established practice, requiring a contractual partnership between state and profession.

2.3 British solicitors: a general profile

Solicitors give legal advice, prepare documents and contracts and conduct litigation. In the late 1990s, 80 per cent worked in private partnerships as either partners or employees (Law Society, 1998a), and the remaining proportion work in large public and private organisations and in state agencies.

Law is a very old profession and have gradually adapted their work and organisation to modern requirements. The Law Society, their professional association and governing body, was founded in the 1820s and received a Royal Charter in 1831. It is an independent and mainly self-regulating body, which both represents and regulates solicitors. Although membership is voluntary, the Law Society's jurisdiction extends to non-members. It has custody of the Roll of Solicitors, where every solicitor has to be registered. The Law Society, with the concurrence of the Lord Chancellor, Lord Chief Justice and Master of the Rolls, may make regulations about the education and training of solicitors, thus controlling entry to the profession. It regulates all aspects of solicitors' practice, conduct and discipline and shapes policy for the profession as a whole, as well as representing the profession vis-à-vis the state.

² The concept of *Berufsfreiheit* concerns occupations which independently and autonomously deliver higher-level services requiring specific higher occupational qualifications or personal talents. The services are provided for the benefits of clients but are also in the public interest.

Solicitors have legal protection of their title but do not have a monopoly on the provision of legal services, so that people without this title may give legal advice. Since the 1980s solicitors have had to share various functions with other professional providers, such as conveyancers, and with semi-professionals, such as legal executives, who can now conduct litigation. On the other hand solicitors, once they have acquired the necessary training, can now appear as advocates in any court – a role previously reserved for barristers.

Solicitors must undertake three stages of training:

- A first degree in law (or a degree in another subject, followed by the Common Professional Examination, taken after a one-year conversion course)
- A vocational one-year legal practice course
- A two-year salaried training contract with a firm of solicitors.

The number of solicitors in Great Britain increased steadily over the past decade, reaching 100,957 in 2000. The size structure of law firms has been changing, with both large firms and sole practitioners increasing in relative importance at the expense of medium-sized firms (Law Society, 1998b and c). Although small firms still form the overwhelming majority, large firms with more than 25 partners dominate in terms of market share and fee earning, and in the late 1990s they employed 44 per cent of assistant solicitors (Law Society, 1998a; Smith, 1999: 3). The top ten law firms have a combined 46.8 per cent of total turnover (Law and Economics Consulting Group (LECG), 2000: 47). The large firms, mainly engaged in corporate work, began to internationalise from the late 1980s onwards and, together with American firms, now have the greatest international presence in terms of number and geographical spread of foreign offices (Beaverstock *et al.*, 1999).

2.4 German advocates: a general profile

German advocates combine the activities of English/Welsh solicitors and barristers. They are part of the larger group of lawyers (*Juristen*) but work in private practice alone, with one or more partners, or – much more rarely – as employees in a legal practice. Advocates in private practice used to be a relatively small section of the legal profession, outnumbered by those in public office and in legal departments of private corporations. But more recently they have increased in relative importance, and currently 80 per cent of qualified lawyers work in private practice. In 1985 West Germany had around 48,000 advocates; by 2001 a total of 110,367 had registered with the chambers in the united Germany. With the dramatic increase in the number of qualified lawyers and reduced employment opportunities in public- and private-sector organisations, many young lawyers have been forced to open their own practices.

Advocates must complete a law degree of four to five years' duration, culminating in the 'first state examination' (*erstes Staatsexamen*). This is followed by two years of training (*Referendariat*) in either the public or the private sector, leading to the 'second state examination' (*zweites Staatsexamen*). Successful completion of both entitles to admission to the legal profession. Despite the shift away from public-sector legal work, the content of both the law degree and the training course continues to be dominated by the

requirements of public office. As only one of the four obligatory components of the *Referendariat* is spent in a private practice, new advocates receive insufficient theoretical and practical preparation for work outside the public sector. (The inadequacy of this arrangement has recently been recognised, and the training period spent in an advocate's practice has been extended.)

As there are no restrictions on the numbers of students admitted to study for law degrees, the number of law students in Germany has been rising steadily throughout the 1980s and most of the 1990s, outstripping the available jobs and creating fears of a 'lawyer flood'. This development has had an impact on earnings. Average fee income of advocates declined during the late 1990s for both sole practitioners and partnerships. However, the decline has been much less notable in practices that are growing and extending their market (Statistische Analyse Rechtsanwälte, 1999).

At the same time a process of specialisation has begun, designed to counteract market crowding. This also reflects greater differentiation within law and demands for higher quality service. The introduction of the title *Fachanwalt* (advocate with specific expertise, such as family, labour or tax law) serves to divide up the market and to attract clients with specific requirements. Advocates gain the title through further study and certification, handled by the association and chambers of advocates. Despite considerable support for such specialisation from advocates, the federal chamber's rule-making assembly has decided not to extend this development beyond the existing seven specialisations because of the detrimental effect of excessive specialisation on small practices.

Advocates enjoy a legally enshrined monopoly on the provision of legal services although in practice encroachment from other service providers is now prevalent. Until the late 1980s they were also subject to highly restrictive rules, which confined advocates' activity to a local court and their practice to a single locality. A constitutional court verdict of the 1980s declared unlawful the profession's own status order on the grounds that it obstructed the freedom of occupational activity. As a result the confinement of legal practices to only one locality was outlawed in 1989, and in 2000 the restriction to appear in only one designated court was lifted.

These changes have initiated a process of internal restructuring of the profession, leading to the formation of supra-local practices. This facilitated mergers and firm growth and increased concentration. Nevertheless, small firms still predominate. Only around 10 per cent of advocates work in practices with more than ten partners, and the largest of these are much smaller than the largest law firms in Britain (Lace, 1999: 165). The number of employed advocates is still low, while the model of the independent advocate working alone or with partners, in direct contact with and with responsibility only to the client, remains popular.

Another significant change has been the opening of law practices to related professions with similar constitutions, such as accountants, leading to the creation of multi-disciplinary practices. This has permitted law firms to expand their range of activities and has encouraged growth. In recent years the first mergers with US and English law firms have taken place, focused mainly on the lucrative market for corporate and international law.

PART II: EMPIRICAL FINDINGS

3 Professional interests and loyalties

The debate amongst sociologists and economists focuses on whose interest professionals and their associations serve. An idea of a compact between highly qualified occupations and those they serve, mediated in varying degrees by licensed private associations and the state in Britain and Germany, rests on a model of direct service. One extreme view claims that they serve the general interest, which they should be allowed to protect by excluding the unqualified (e.g. Carr-Saunders and Wilson, 1933). A contrasting but also one-sided view contends that they serve their own special interests by exploiting any protection from competition they have been granted (e.g. Larson, 1977).

The compromise position recognises that the professions have the power to serve both their own and the public interest. However, many professional services are no longer provided by independent professional practices, but by organisations which mediate between professional workers and those they serve. Moreover, as organisations grow and become more hierarchical, additional interest groupings develop, including those of managers, employees and colleagues.

To explore the relative importance to our professional respondents of these different interest groupings we asked them where their greatest loyalties lie. The results are given in Tables 3.1a and b.

Table 3.1a
Greatest loyalties: Britain (%)

| Most loyal to: | Pharmacists | HR managers | Lawyers | Counselling psychologists | Total |
|---|--------------------|--------------------|----------------|----------------------------------|--------------|
| My clients | 30.2 | 22.1 | 41.5 | 56.4 | 37.6 |
| Myself | 24.8 | 31.0 | 18.0 | 26.9 | 24.6 |
| My colleagues | 12.6 | 8.3 | 16.4 | 2.6 | 10.0 |
| the people who work for me | 9.4 | 12.4 | 9.3 | 1.0 | 8.0 |
| My profession | 11.9 | 7.2 | 3.8 | 7.2 | 7.2 |
| My employer | 6.8 | 13.1 | 7.1 | 1.3 | 7.7 |
| My supervisor | 1.4 | 4.5 | 0.5 | 3.0 | 2.3 |
| The organisation which uses my services | 2.5 | 1.4 | 2.7 | 0.3 | 1.3 |
| Others | 0.4 | 0.0 | 0.5 | 1.3 | 1.7 |

Table 3.1b
Greatest loyalties: Germany (%)

| Most loyal to: | Pharmacists | Business and HRM consultants | Lawyers | Psychological psychotherapists | Total |
|---|--------------------|-------------------------------------|----------------|---------------------------------------|--------------|
| My clients | 47.3 | 69.6 | 80.0 | 75.4 | 66.7 |
| Myself | 16.8 | 12.5 | 9.4 | 19.2 | 17.6 |
| My colleagues | 1.8 | 0.0 | 3.5 | 0.4 | 1.4 |
| My profession | 1.8 | 1.8 | 1.2 | 1.2 | 1.4 |
| The people who work for me | 3.0 | 8.9 | 1.2 | 0.0 | 2.7 |
| My employer | 23.4 | 3.6 | 1.2 | 0.4 | 8.3 |
| My supervisor | 1.2 | 0.0 | 0.0 | 0.0 | 0.3 |
| The organisation which uses my services | 1.8 | 0.0 | 0.0 | 0.8 | 0.8 |
| Others | 2.0 | 3.6 | 3.5 | 2.7 | 0.8 |

The two most important categories for the lawyers in both countries were 'clients'. Very few German lawyers indicated a primary loyalty to colleagues, the profession, the people who worked for them, employers, supervisors and organisations which used their services, while in Britain, loyalties to some of these groups were more prominent. In Germany, however, 80 per cent of lawyers prioritised clients over every other category compared with only 41.5 per cent of their British counterparts.

4 Professions and the size of employing organisation

These inter-country differences in the pattern of loyalties can to some degree be related to the differences in the size of organisations employing them and to differing employment status. Table 4.1 shows stark national differences in the size of employing organisations. In Germany 88.4 per cent of lawyers worked in organisations with ten or fewer employees, compared with 37.2 per cent in Britain. British lawyers (47.3 per cent) were most likely to work in firms of between ten and 99 people.

Table 4.1
Size of employing organisation (%)

| Numbers in employment | Pharma- cists | | Management services | | Lawyers | | Psychologists | | All | |
|--------------------------|------------------|------|------------------------|------|-------------|-------------|---------------|------|------|------|
| | B | G | B | G | B | G | B | G | B | G |
| Less than 10 | 21.4 | 65.3 | 14.1 | 76.9 | 37.2 | 88.4 | 37.0 | 93.5 | 27.3 | 81.0 |
| 10–99 | 12.7 | 19.2 | 5.0 | 17.5 | 47.3 | 8.9 | 9.4 | 0.8 | 18.8 | 11.6 |
| 100–499 | 7.7 | 3.2 | 13.1 | 1.6 | 12.2 | 2.8 | 3.7 | 1.5 | 9.3 | 2.4 |
| More than 500 | 58.1 | 12.3 | 68.0 | 4.0 | 3.2 | 0.0 | 49.8 | 4.3 | 44.5 | 5.1 |

5 Changes in professional work

5.1 The degree of change

In most professions the degree of change perceived to have taken place in professional work differed significantly between the two societies. Of the British professionals, 75 per cent judged the preceding ten years (the 1990s) to have been a time when they had experienced a large amount of change in their work, whereas among their German counterparts a more moderate 45 per cent reported this degree of change. Among lawyers this difference in perception of change was particularly pronounced, with 80 per cent of British but only 32 per cent of German lawyers reporting a large amount of change in work.

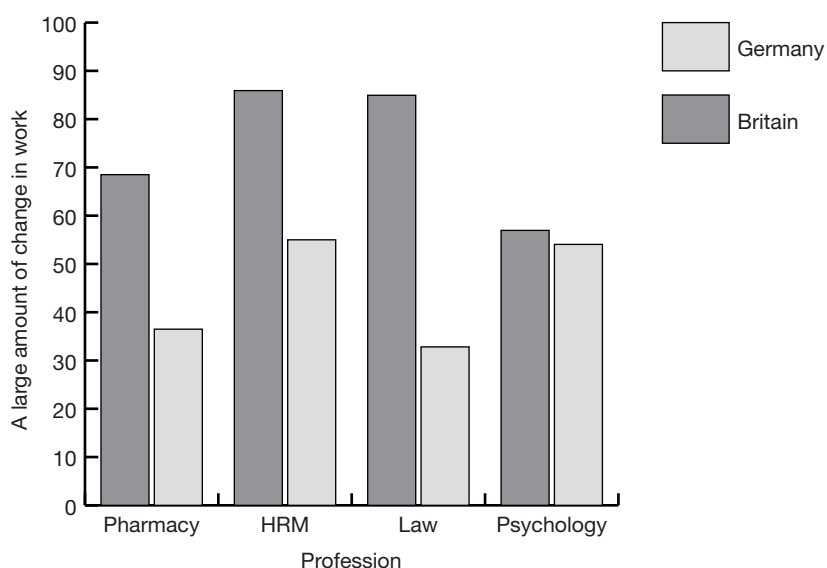


Figure 5.1
Changes in professional work

5.2 The drivers of change

To identify the sources for the perceived levels of change, we asked questions about the impact on their work of possible causal factors (Tables 5.1a and b). British solicitors considered the following four, in descending order, to have had a large impact on work: increased demands from consumers, technological change, increased competition from within the legal profession and government policy. It is interesting to note that although *inter-professional* competition figured less prominently in the survey responses of solicitors to this question (only 23.6 per cent of respondents), qualitative responses

Table 5.1a
Impact on professional work of drivers of change: Britain (%)

| | All | Pharmacists | HR managers | Lawyers | Counselling psychologists |
|---|------|-------------|-------------|-------------|---------------------------|
| Large impact^a from: | | | | | |
| Increased demands from consumers | 63.7 | 71.2 | 76.2 | 71.3 | 35.4 |
| Technological change | 57.2 | 57.4 | 73.8 | 70.3 | 26.1 |
| Changes targeted at profession in: | | | | | |
| Government policy | 48.7 | 50.0 | 59.2 | 60.3 | 21.7 |
| Regulation | 32.3 | 26.6 | 35.4 | 48.2 | 18.1 |
| European policy | 30.7 | 32.8 | 58.2 | 15.4 | 8.7 |
| Increasing competition from: | | | | | |
| Within your profession | 42.3 | 46.2 | 28.5 | 66.0 | 28.0 |
| Other professions | 27.4 | 36.5 | 14.5 | 23.6 | 35.3 |
| Non-professionals | 19.6 | 25.7 | 11.0 | 23.4 | 18.1 |

Note: ^a Measured on a scale of 1 (no impact) to 5 (huge impact). Percentages given are responses of 4 and 5.

Table 5.1b
Impact on professional work of drivers of change: Germany (%)

| | All | Pharmacists | HRM and business consultants | Lawyers | Psychological psychotherapists |
|---|------|-------------|------------------------------|-------------|--------------------------------|
| Large impact^a from: | | | | | |
| Increased demands from consumers | 44.0 | 48.4 | 67.4 | 43.8 | 16.1 |
| Technological change | 36.3 | 40.1 | 54.7 | 39.5 | 7.2 |
| Changes targeted at profession by: | | | | | |
| Government policy | 36.0 | 55.7 | 13.1 | 16.2 | 58.0 |
| Regulation | 42.1 | 39.0 | 25.6 | 30.1 | 73.3 |
| European policy | 17.1 | 38.7 | 7.2 | 14.6 | 5.3 |
| Increasing competition from: | | | | | |
| Within your profession | 33.5 | 40.3 | 35.5 | 46.2 | 14.4 |
| Other professions | 26.1 | 17.5 | 27.1 | 28.8 | 31.0 |
| Non-professionals | 19.9 | 32.8 | 15.4 | 17.5 | 4.1 |

Note:^a Measured on a scale of 1 (no impact) to 5 (huge impact). Percentages given are responses of 4 and 5.

nevertheless indicate that competition with conveyancers is a troubling issue for at least a significant minority. Qualitative data also indicate that the relatively high numbers of respondents referring to government policy as a primary driver of change is likely to be linked to the much increased government intervention in the internal affairs of solicitors in recent decades.

For German advocates a much more distributed pattern emerges, with increasing competition within the legal profession as marginally the most important driver, closely followed by increased demands from consumers and technological change. In their qualitative comments advocates saw competition as arising from market crowding and from the recent emergence of larger legal practices.

6 Impact of change on professional work

The professionals were further asked to identify the impact of the important drivers of change on important features of their work. We enquired about the impact of change on the skills and knowledge required, quality and efficiency of the services provided, discretion exercised, costs and prices and viability of services, and how they related to the demands made of respondents in their work.

6.1 Skills and knowledge

There is an overwhelming perception among the British and the German professions that external drivers of change have led to increases in skills and knowledge required (Figures 6.1 and 6.2), with a tiny proportion noting a decrease in each profession. Lawyers in both countries conform to this pattern.

It is notable that such a wide perception, in both countries, of increases in knowledge and skills required stands side by side with recognition that new technology has been an important driver for change at work. Thus, in the views of professional workers, technology is not associated with the routinisation and deskilling effect with which it is still widely coupled in the sociology of work. The professions view the importance of technology more in the way it transforms markets, changes the boundaries between professions and widens the area of competition (qualitative interview data).

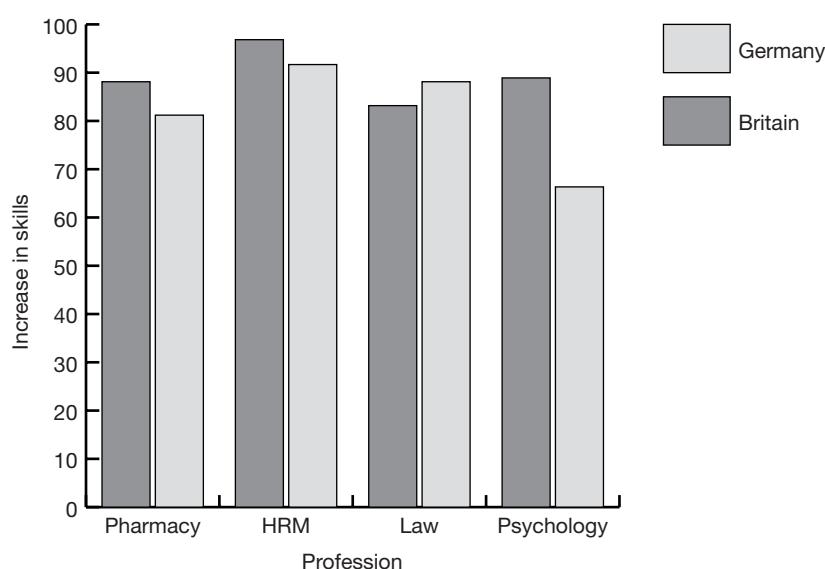


Figure 6.1
Increase in skills

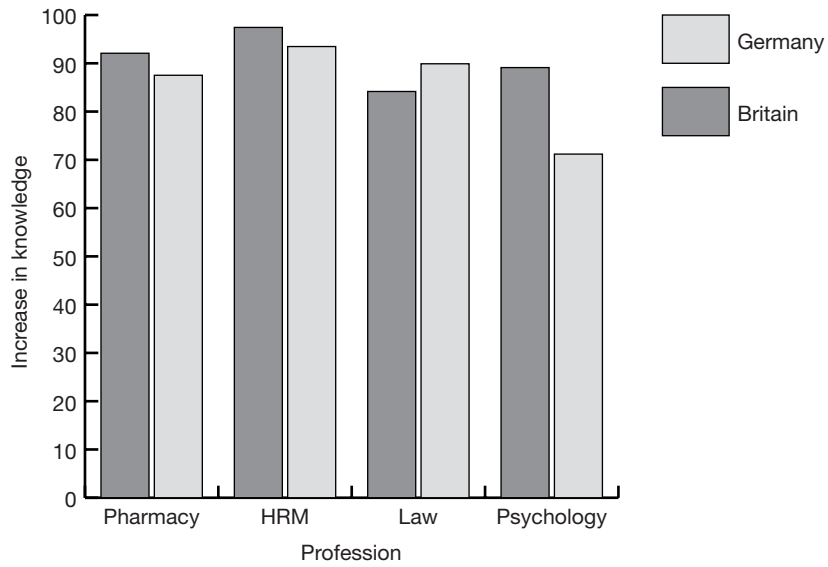


Figure 6.2
Increase in knowledge

6.2 Quality and efficiency of services

Figures 6.3 and 6.4 reveal that the general perception of respondents in both countries was that quality and efficiency of their services had also increased. This was reflected in the responses of lawyers, although slightly less so for British solicitors in terms of increased service quality – possibly due to the fact that their services still attract a very high volume of client complaints.

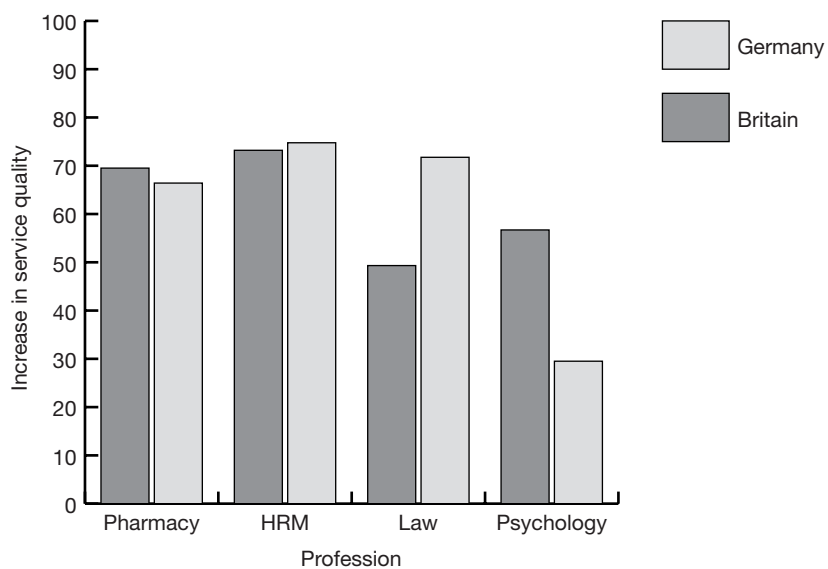


Figure 6.3
Increase in service quality

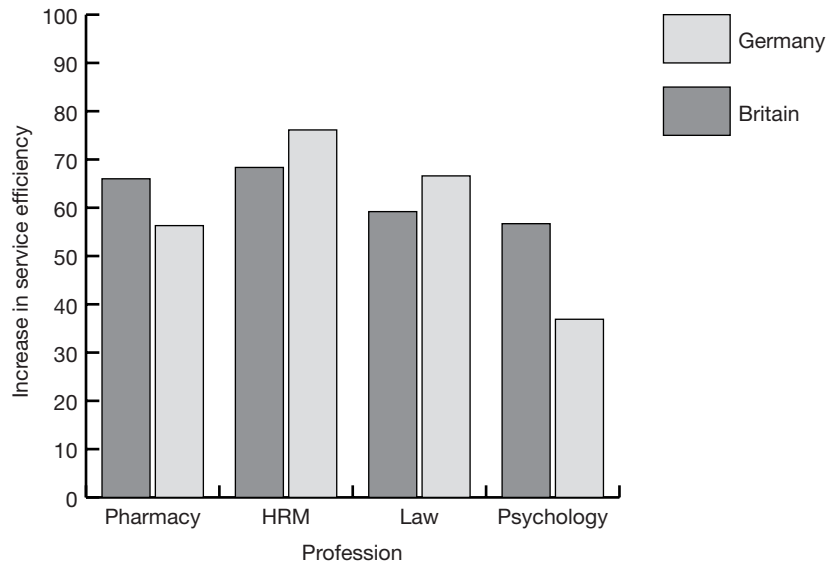


Figure 6.4
Increase in service efficiency

6.3 Discretion

It might have been expected that the increase in skills and knowledge required would have been accompanied by a comparable increase in the discretion exercised – in particular that, given the absence of hierarchy and a bureaucracy, more discretion would have been left in the hands of German lawyers. However, as Figure 6.5 shows, this does not appear to be the case among the legal profession in Germany or Britain: only 32 per cent of British solicitors and German advocates perceived an increase in discretion.

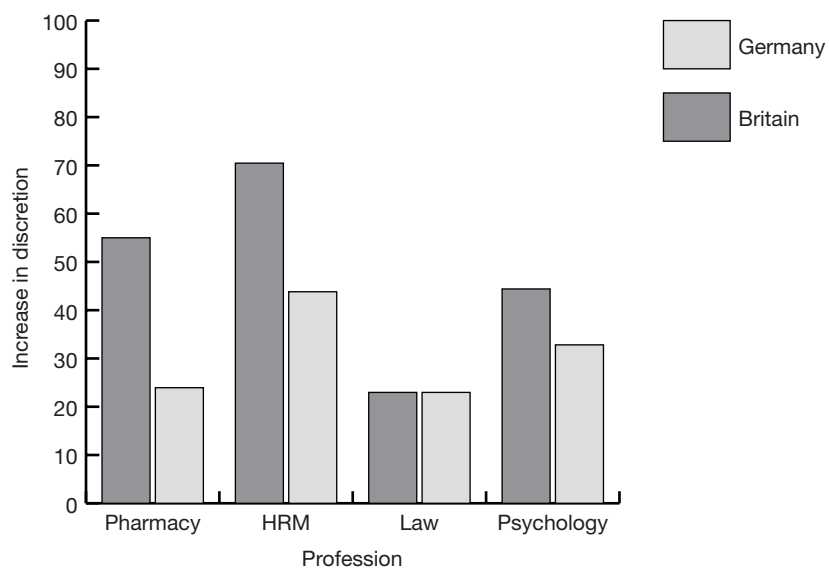


Figure 6.5
Increase in discretion

6.4 Costs, prices and financial viability

The respondents were also asked about the impact of change on costs, prices and the financial viability of the organisations in which they were employed. Figure 6.6 shows that the cost of providing services has either remained the same or has increased for the vast majority interviewed in each profession, although the proportion is slightly lower in Germany. In Britain the difference between costs and price movements is in fact greatest for solicitors, 26 per cent of whom suffered reductions in the price of their services (Figure 6.7). One factor explaining the falling earnings of some British solicitors is the revision of the Legal Aid Scheme (Law Society, 1998a and b). Additionally, opening up the

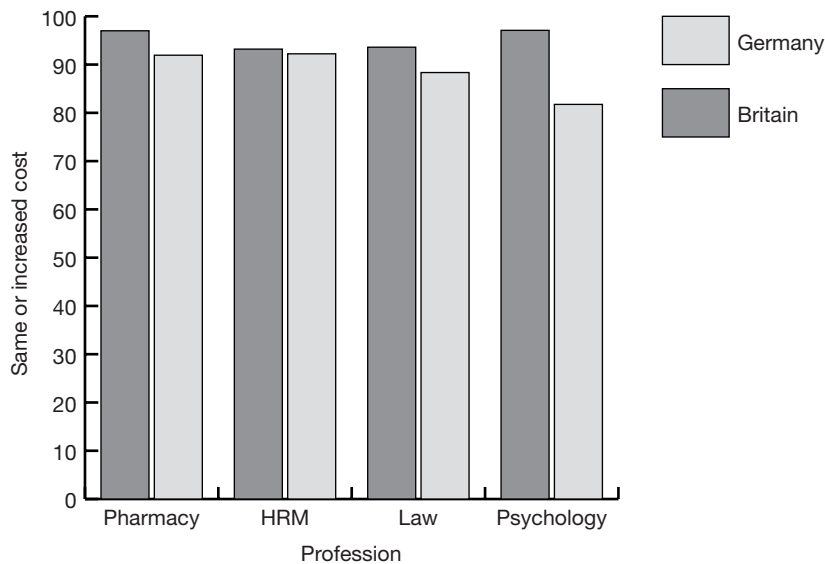


Figure 6.6
Changes in cost of services

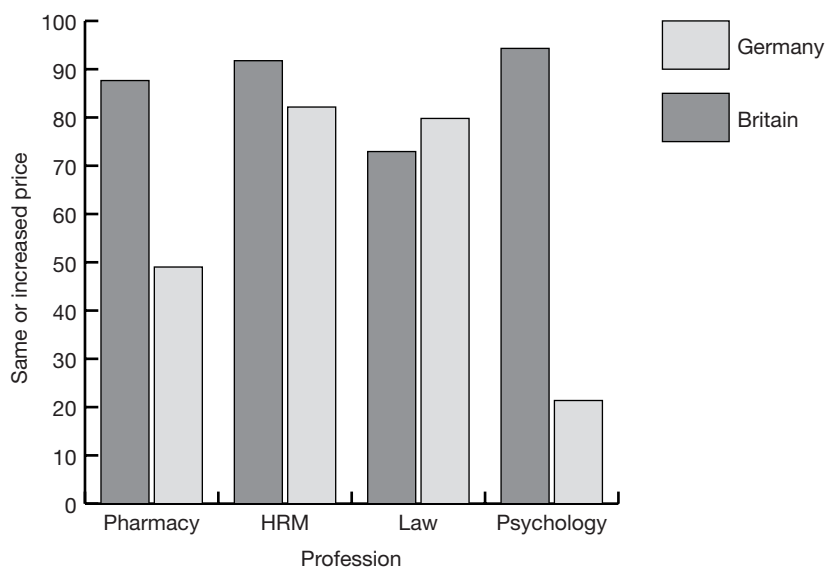


Figure 6.7
Changes in price of services

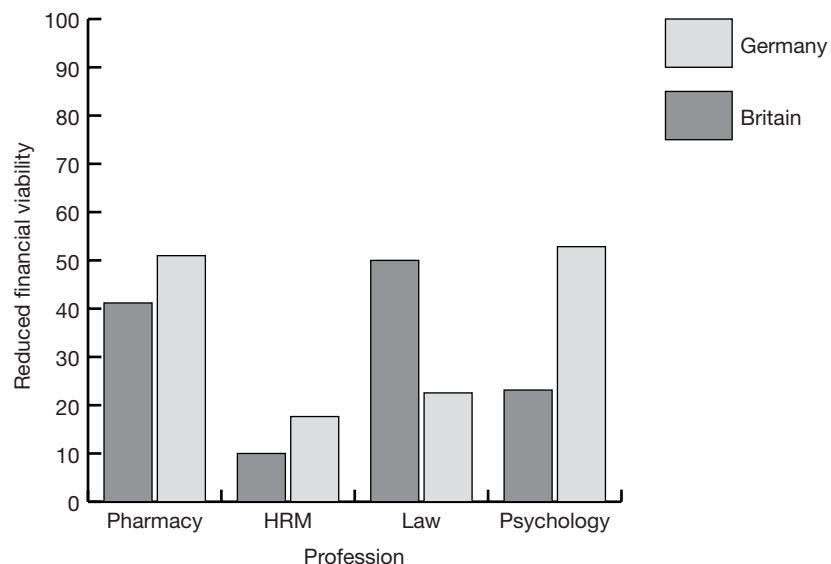


Figure 6.8
Reduced financial viability of employing organisations

market for conveyancing and increased competition from large practices has no doubt squeezed the fees earned by small legal practices.

These divergent cost and price movements contributed in varying proportions to the reduction in the financial viability of organisations employing the lawyers we surveyed (Figure 6.8). Twice as many British as German lawyers (51 per cent compared with 23 per cent) reported a reduction in financial viability of legal practices. In view of the alleged overcrowding of the market for advocates as business stagnates (Walentowski, 1999) the higher financial viability of German legal practices is surprising.

6.5 Work demands

The decline in financial viability of a significant proportion of legal practices in both countries has not been due to a reduction in work effort. On the contrary, in both countries a very large proportion of lawyers found their work to have become far more demanding (Figure 6.9), with more British lawyers reporting an increase in work demands.

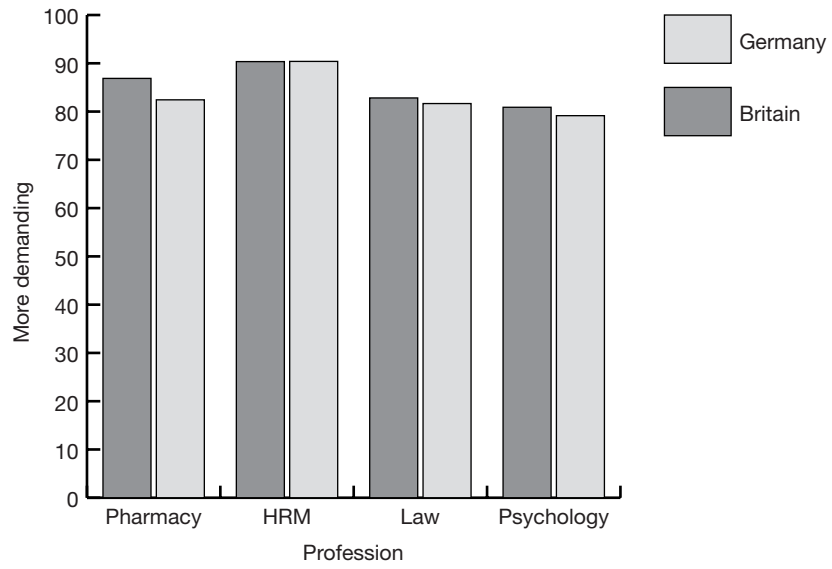


Figure 6.9
Changes in level of work demands

7 The impact of change on socio-psychological well-being of the professional workers

7.1 Prestige and motivation

While high prestige is generally recognised as an important social attribute of professionalised work, our study found that two thirds of British solicitors perceived the prestige of their profession as having declined (Figure 7.1). This no doubt reflects not only the impact of drivers of change, but also the extensive adverse publicity in the media and elsewhere over the high level of client complaints and the apparent inability of the Law Society to respond (Law Society, 1998c). Loss of prestige among solicitors may also be connected with the high level of dissension in the Law Society prior to and during our survey.

Questions were also asked about trends in motivation to explore the effects of the drivers of change and their impact on work and financial viability (Figure 7.2). Motivation had been maintained or had increased for more than 80 per cent of our sample of German advocates, but for less than 50 per cent of British solicitors. This means that more than 50 per cent of British solicitors were demotivated by the changes that had impacted on them over the previous decade.

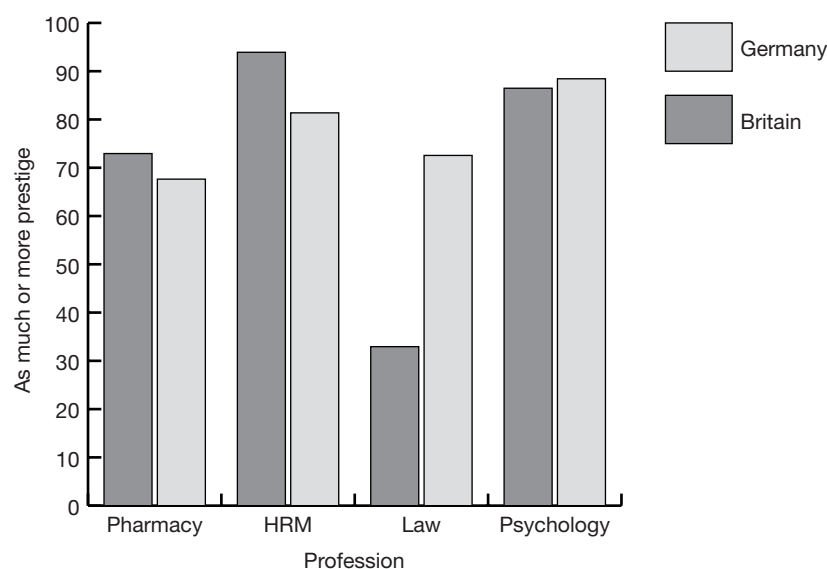


Figure 7.1
Change in prestige

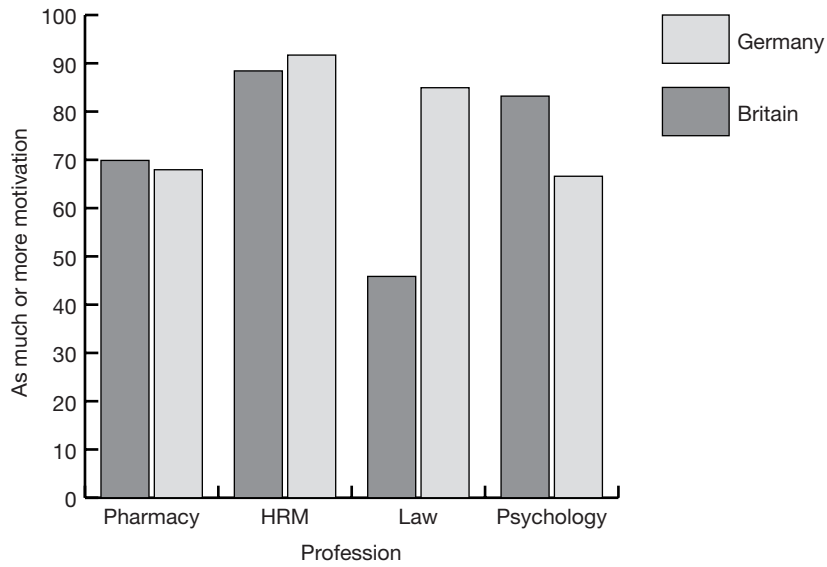


Figure 7.2
Change in motivation

7.2 Work satisfaction

Levels of satisfaction are also important gauges of well-being in work, and we asked questions both about levels of satisfaction in work and about recent changes in levels of satisfaction in the professions. These data show a greater level of job satisfaction in general among German than British professions, with 72 per cent and 61 per cent respectively stating that they were satisfied or very satisfied with their work. The difference was particularly extreme for the legal profession in the two countries, with nearly 70 per cent in Germany and only 40 per cent in Britain professing to be satisfied or very satisfied in their job (Figure 7.3).

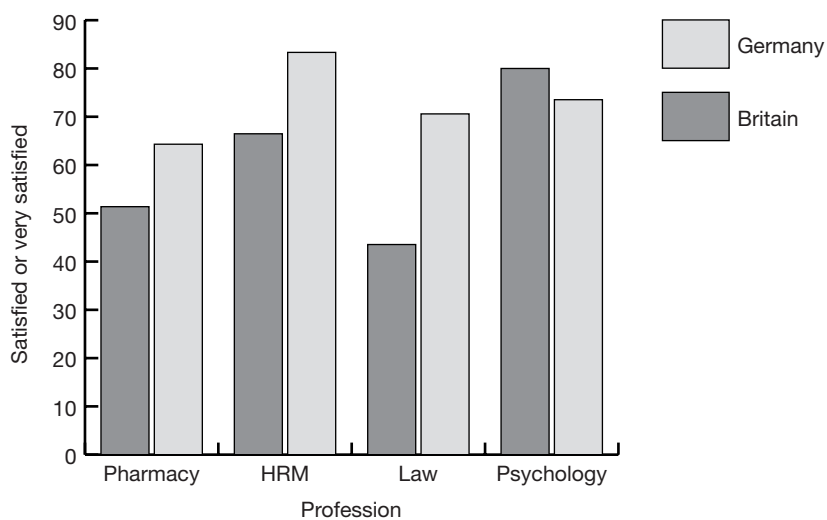


Figure 7.3
Levels of job satisfaction

The question of changes in satisfaction within professions was addressed in two ways. The respondents were first asked how their own satisfaction as a professional had changed over the past ten years, and then about how the satisfaction of people in their profession in general had changed. The responses to these questions are summarised in Figures 7.4 and 7.5. Figure 7.4 mirrors Figure 7.3, with satisfaction being maintained or increased to a greater degree for German advocates than for their British counterparts. Dissatisfaction became much more apparent when respondents were asked to reflect on the satisfaction of people in their profession, with lawyers in both countries alleging the existence of very low levels of general satisfaction.

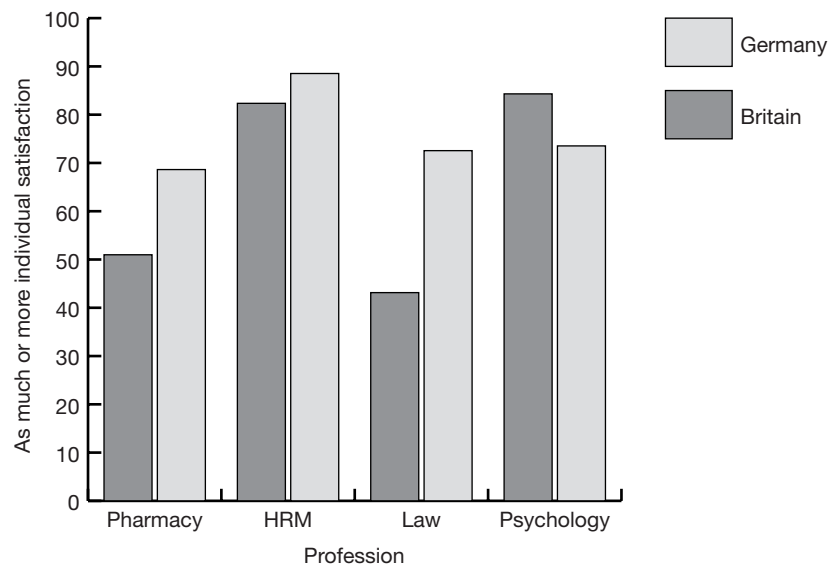


Figure 7.4
Change in individual satisfaction

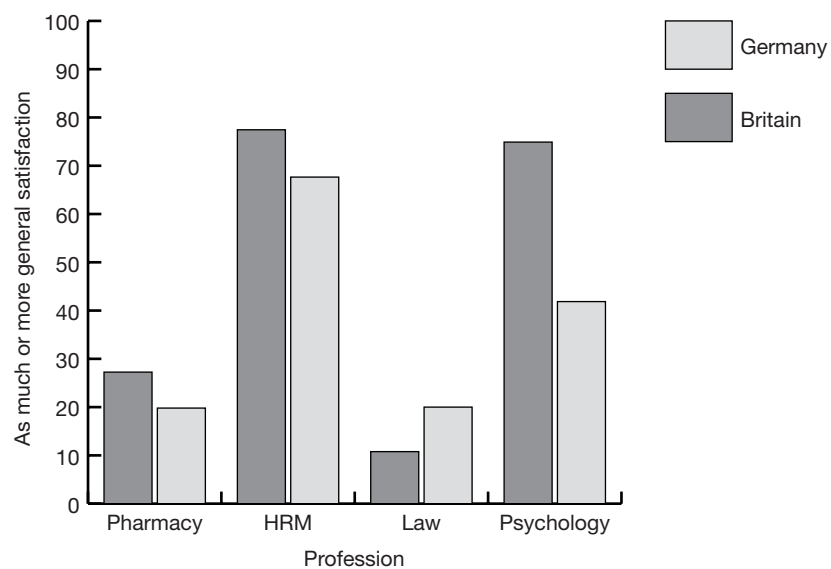


Figure 7.5
Change in general satisfaction within profession

7.3 Morale

The questions about changes in morale were also asked in relation to both the individual and the profession as a whole, and the pattern of responses was very similar to that for satisfaction. Figures 7.6 and 7.7 show that 77 per cent of German lawyers reported similar or increased individual morale, compared with only 33 per cent in Britain. However, positive responses diminished dramatically when respondents were asked to report on the change in morale within the profession as a whole: here less than 20 per cent in both countries were positive, although the proportionate difference between Germany and Britain remains.

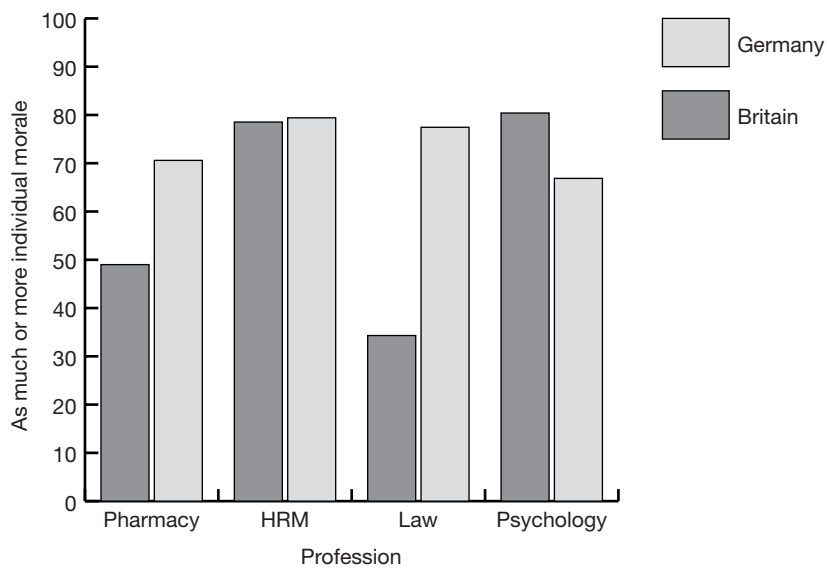


Figure 7.6
Change in individual morale

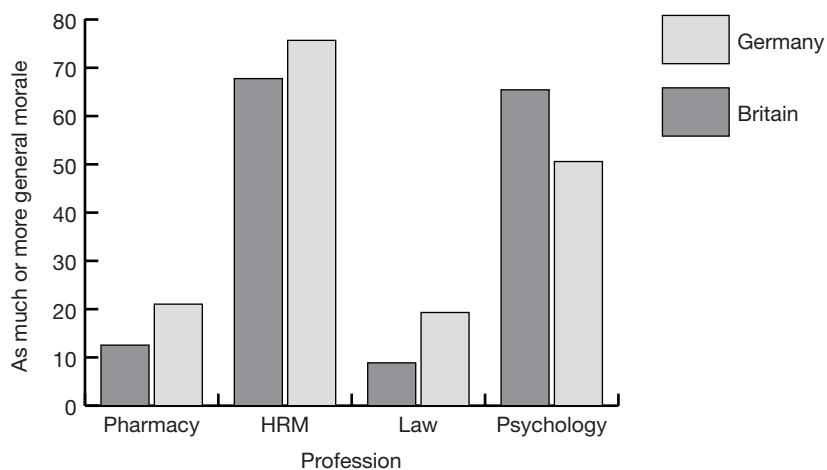


Figure 7.7
Change in general morale within profession

7.4 Employment security and future prospects

Employment insecurity during the 1990s was judged to have increased by a slightly larger proportion of the German than the British professions. Nevertheless, as Figure 7.8 shows, almost two thirds of lawyers in both countries were certain that their current work positions were secure. On the other hand, as Figure 7.9 illustrates, a large proportion of our sample in both countries owned their own businesses. This level of business ownership may have contributed to a more pessimistic outlook on business conditions, with a relatively high proportion of partners/sole practitioners in legal practices believing that business conditions had worsened during the 1990s despite high levels of

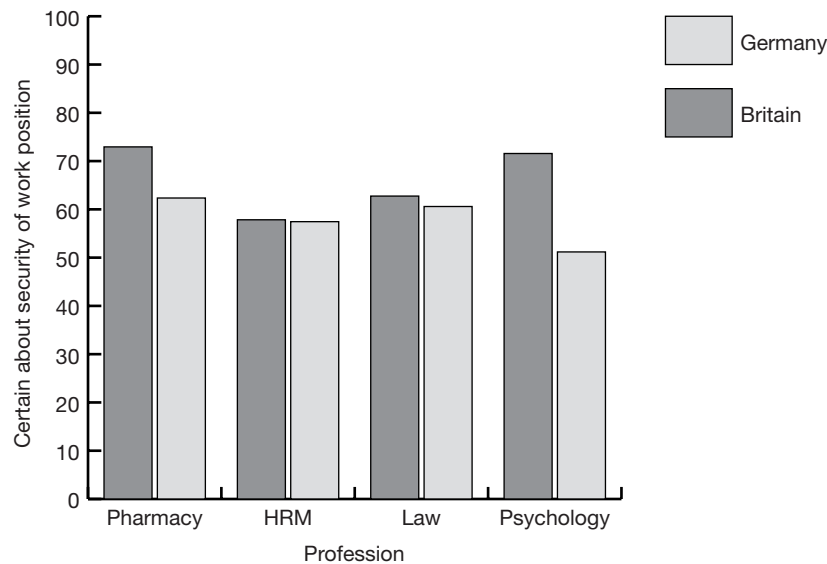


Figure 7.8
Certainty of security of current work position

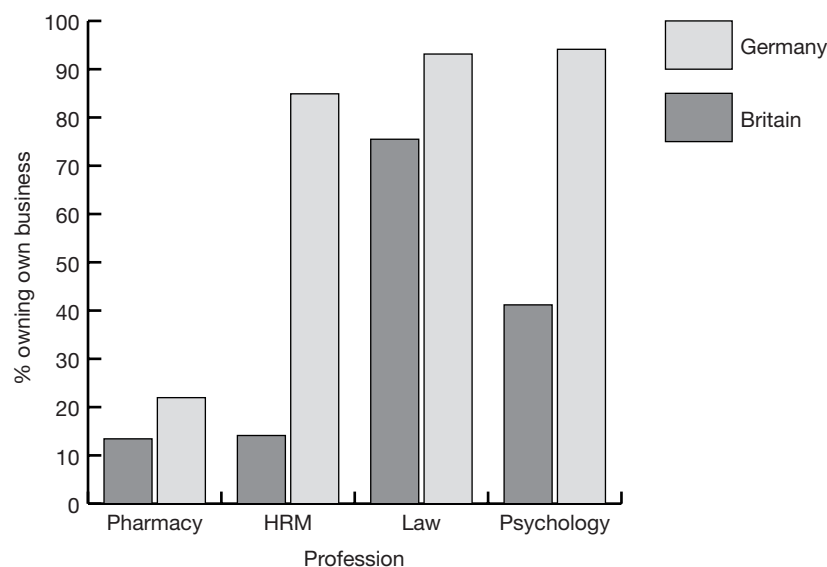


Figure 7.9
Business ownership

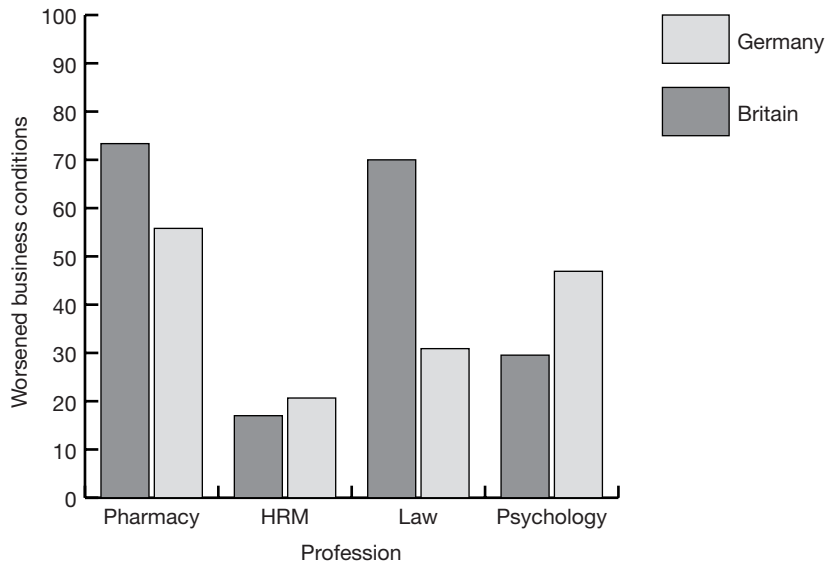


Figure 7.10
Worsened business conditions

employment security in both countries. These proportions were much higher in Britain than in Germany: 71 per cent of British solicitors reporting worsened business conditions, compared with only 31 per cent in Germany. This is a counterintuitive finding, given the expansion of international markets for legal services for British but not for German lawyers. Qualitative research suggests that this question may have tapped the pessimism among British lawyers in smaller firms, where state reduction in legal aid income has had a negative impact.

However optimistic or otherwise professionals were about their future employment security, there was a large consensus of over 70 per cent in both countries that continued specialised training would be needed (Figure 7.11). However, certainty about the need to

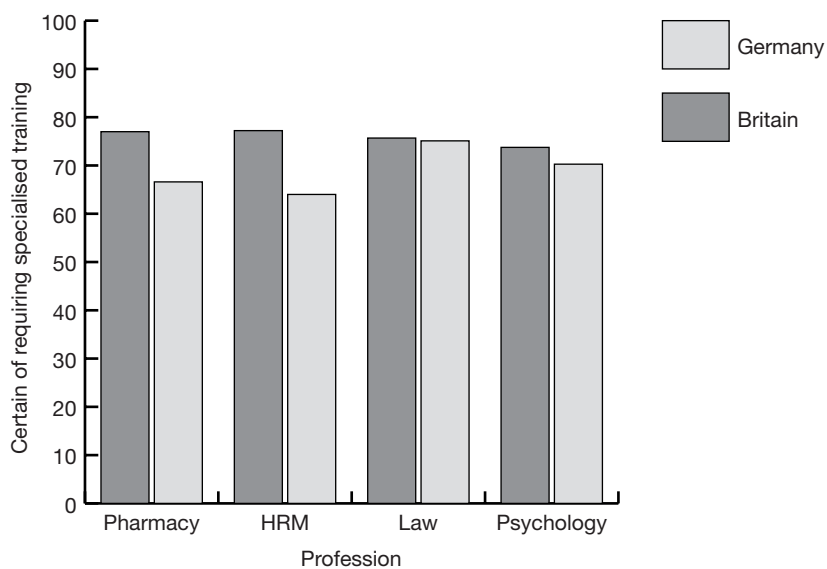


Figure 7.11
Certainty of needing continued specialised training

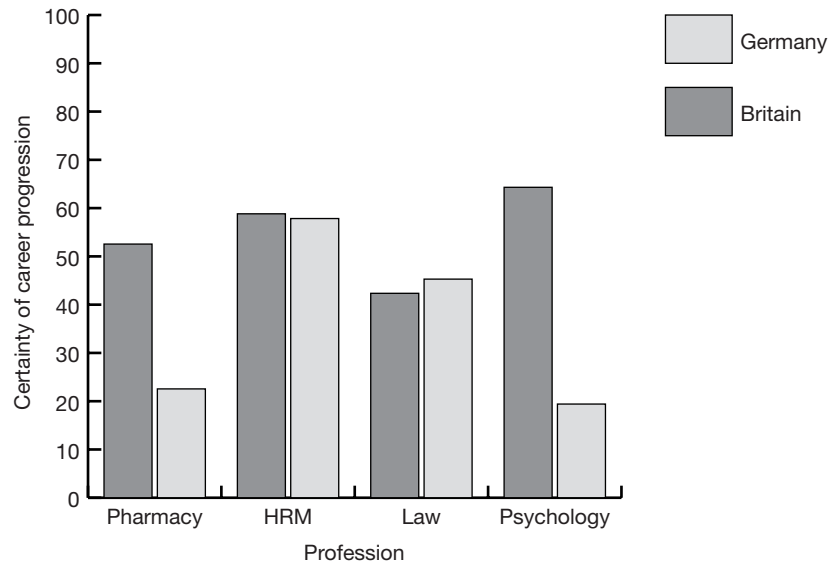


Figure 7.12
Certainty of career progression

upgrade skills and knowledge was not matched by a certainty about future career progression (Figure 7.12). Only around 40 per cent of lawyers in both countries had any degree of certainty about career prospects. More than 30 per cent of German advocates were uncertain about their ability to provide the current range of services in the future, with a phenomenal 84 per cent of British solicitors affected by this level of uncertainty (Figure 7.13). Finally, uncertainty about the future is further reflected in the low degree of certainty about the future prosperity of the organisations in which our respondents worked. Less than 50 per cent of German and British lawyers were certain of their organisation’s future prosperity (Figure 7.14).

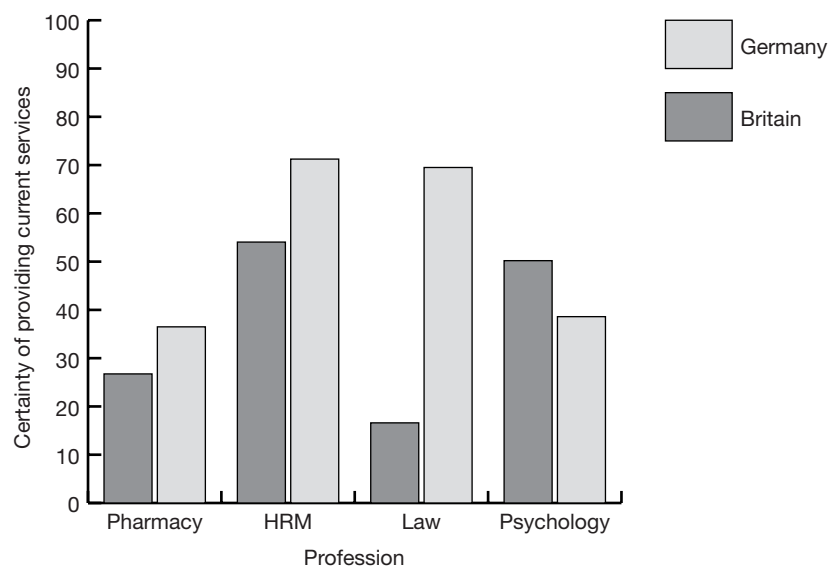


Figure 7.13
Certainty of providing all current services

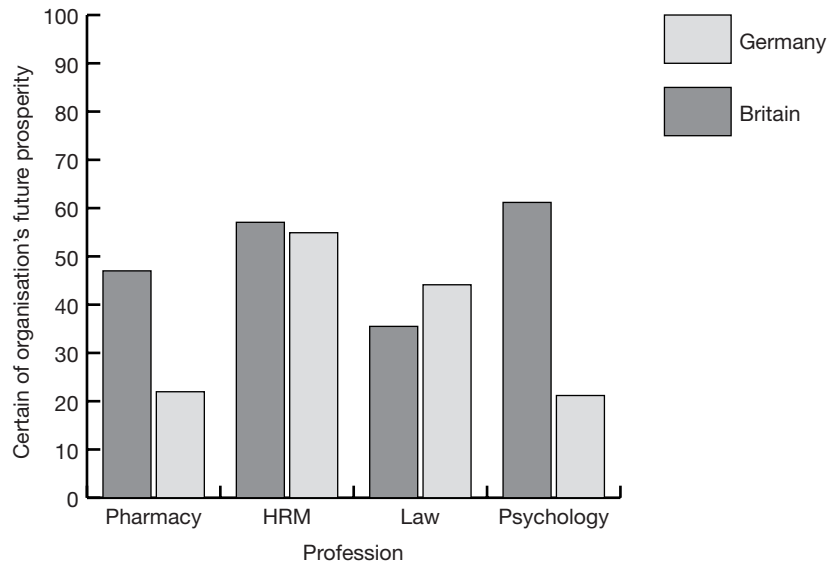


Figure 7.14
Certainty of future prosperity of employing organisation

PART III: CONCLUSIONS AND POLICY IMPLICATIONS

8 Conclusions

This report has illustrated a picture of extensive change in the field of professional legal work during the 1990s in Germany and Britain. In both countries lawyers reported greater demand for professional skills and knowledge and general increases in work effort and service efficiency. However, significant differences have emerged between practitioners in the two countries: the vast majority of British solicitors suffered low individual morale, were pessimistic about the certainty of providing all current services in the future and made a negative assessment of business conditions in general.

These trends are likely to be the result of fundamental differences in the pattern of change in the two societies. British solicitors were one of the most disaffected professions of all those surveyed. The low level of morale among high-earning British solicitors predominantly reflects their changed relation to the state and the resulting greater exposure to deregulation and cost-cutting and loss in income among partners in smaller firms, as well as their generally reduced prestige in society at large.

The German advocates tended to work in smaller businesses than their British counterparts and thus in closer relation to their clients. This has appeared to enable them to maintain higher levels of individual morale. Moreover, the German advocates appear more optimistic about business conditions, despite fewer market opportunities than were available to international firms in Britain. This may be accounted for by the relative absence of state cost-cutting in Germany.

9 Policy implications

The responses of professions to the consequences of increased consumer demand and technical change, their jurisdictional conflicts and the emergence of new highly skilled and knowledge-intensive occupations aspiring for professional status have been mediated by governments' own policy agendas.

In both countries the legal profession has recently been deregulated, although to a much more significant degree in Britain than in Germany. In Britain there is no centralised control of legal fees, and deregulation has taken the form of opening up the market for conveyancing and other legal services. At the same time legal aid, designed to make legal services affordable to those in need, has been scaled down and 'no-win, no-fee' legal provision has been legitimised. These measures have had a seriously adverse impact on small legal practices and encouraged increasing specialisation and concentration in large firms.

In Germany, where legal charges are fixed, deregulation has taken the form of lifting limitations on practising to a single geographical location and one court. In addition, greater specialisation has been allowed, but strictly subject to additional certified qualifications, although restrictions have been placed on this division of legal labour. Deregulation in Germany has led to moderate growth in the size of firms, although average firm size remains far below that of English law firms, and sole proprietorships and small partnerships remain the norm.

It may be suggested that the British system of granting professional status by chartering private interest groups can best be described as regulated monopoly, while the more legally based verification of occupational jurisdiction, educational and training requirements and conditions for practising in Germany is better defined as regulated competition. The rationale for each is grounded in a different political economy, and each results in a divergent clustering of interests and social and economic outcomes.

As a result, although both the British and German systems have been subject to similar policy pressures, the outcomes have differed significantly. In Britain deregulation and cost cutting have been to the relative advantage of larger employing organisations, while the smaller firms have borne much of the cost. In Germany the structure of service provision has remained relatively unchanged, and the cost of policy has been more evenly distributed between providers.

It is not possible to judge with any degree of certainty from our data what the effects of these changes have been on the efficiency of service. There is a large measure of agreement among the professionals in both countries that this has improved. There is evidence that the German firms show a stronger client orientation and, because of their smaller size, have managed to stay closer to them. Also, there is a difference between the two countries in the perception of socio-psychological costs of change. In both countries socio-psychological well-being of professionals has suffered, but significantly less so in Germany. This may suggest that greater organisational continuity and continuing proximity to clients both go some way to compensate for material loss.

Our research suggests that structural differences in service provision are reflected in the interests and loyalties of professionals. In Germany, these are directed more exclusively towards clients, whereas in Britain loyalties to employers, managers and work groups play a more important part and thus are bound to dilute loyalty to clients. Depending on what one considers to be the most important objectives in terms of service provision and the professional profile, these findings prompt some imperative considerations for the future of professional work.

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Appendix 1: Research methodology

A1.1 Research design

The empirical work project was conducted at two levels:

- Interviews were carried out with representatives of the professional associations: two to four interviews in each of the four professions in each country, lasting two to three hours. In some cases follow-up visits were made. This was supported by documentary analysis relating to the practices, history and regulation of the professions and a critical review of the relevant socio-economic literature.
- A postal survey of individual professionals was carried out, with 1,000 questionnaires sent out in each profession in each country.

With the advantage of national research teams in each country, including bilingual members on each side, comparable questionnaires for the postal survey of the professionals in each country were constructed. Similar aide-memoirs were also used in each country for the extensive interviewing of professional associations, and a member of each national team participated in some interviews in the other country.

A1.2 The postal survey

A survey of individual professional workers formed the central part of the empirical research. The main research questions covering the various aspects of professionals' working lives had been developed with the research proposal, but results from our interviewing of professional associations were also used in the questionnaire design. Great care was taken to ensure that the German translation of the English questionnaire was as close as possible, but because of inter-country differences it was necessary to adapt some questions and include others.

Extensive piloting and pre-testing of the questionnaire was carried out in each profession in both countries before the questionnaire was finalised. It consisted of ten main sections:

- A. Job satisfaction and loyalty (including effort, work demands)
- B. Basic information on employment
- C. Qualifications (and continuing development)
- D. Levels of discretion (regulation in one's work)
- E. Impact of change (including work satisfaction, morale)
- F. Occupational relationships (including competition)
- G. Employment security
- H. Professional associations

- I. General (demographic) information
- J. Further comments.

Most of the questions were formulated to be relevant to all of the professions, but *each profession* had a customised version of the questionnaire which included a few questions relevant only to that occupation. The research design is *comparative* not only between countries, but also between professions in order to capture the wide variety of developments.

Most of the questions were 'closed', except for a few questions where more complex and less channelled responses were required. The final section consisted of open questions inviting more general comments on all aspects of the questionnaire. It was estimated that the questionnaire would take 30 minutes to complete.

A1.3 Sample selection

1,000 questionnaires or more were sent out to lawyers in both countries. In Britain respondents were selected from the databases of the Law Society. The achieved samples are shown in Table A1.1. In Germany, due to data protection restrictions, professional association databases were not made available. Instead, the German team used the nationwide Yellow Pages to randomly select addresses. Consequently, the German advocates sampled had a bias towards self-employed professionals who list themselves in the Yellow Pages. However, the picture of professional work is nevertheless well represented. The overwhelming majority consists of small practices of partners.

Table A1.1
The British sample

| UK professions | Population sampled | Sample size | Response |
|---------------------------|--|--------------------|-----------------|
| Counselling psychologists | Members of the counselling psychology section of the British Psychological Society | 1,242 | 317 |
| Lawyers | Members of the Law Society under 60 years | 2,000 | 121 |
| Human resources managers | Members of the Chartered Institute of Personnel and Development | 1,000 | 299 |
| Pharmacists | Members of the Royal Pharmaceutical Society of Great Britain | 1,000 | 294 |

In the case of the UK lawyers we asked for a set of address labels of lawyers under the age of 60 (to avoid retired members). Unfortunately, due to an error in the Law Society office, we received a set of labels of lawyers *over* the age of 60. When these were sent out, 262 replies were eventually received (after sending out a second questionnaire to the whole sample), with 194 of respondents over the age of 60; in the other cases the questionnaire was, presumably, completed by a retired lawyer's replacement. A further 1,000 questionnaires were distributed to the new list of lawyers, under 60 years of age, of which 121 were completed. After exploratory analyses of the data it was decided to

Table A1.2
The German sample

| German professions | Population sampled | Sample | Responses |
|---|--|---------------|------------------|
| Psychological psychotherapists (<i>psychologische Psychotherapeuten</i>) | Self-employed practitioners, from Yellow Pages Germany | 1,000 | 302 |
| Lawyers (<i>Rechtsanwälte</i>) | Law offices (<i>Anwaltskanzleien</i> – proprietors and employees), from Yellow Pages Germany | 1,000 | 147 |
| Business and human resources consultants (<i>Unternehmensberater</i>) | Mostly self-employed, proprietors of small companies, from Yellow Pages Germany | 1,000 | 128 |
| Pharmacists | 500 pharmacies (proprietors, also employees), from Yellow Pages Germany, 300 members of <i>Apothekerkammer Niedersachsen</i> , 200 pharmacists (employees, members of the Federal Association of Employees in Pharmacies, BVA) | 1,000 | 194 |

add in the 68 under-60s from the first batch of lawyer respondents who were very similar in most respects (except being slightly more likely to work in larger organisations) to give a total sample of lawyers of 189.

The figures for the German sample are given in Table A1.2.

These response rates are relatively high for postal questionnaires (response rates for unsolicited postal questionnaires are often closer to 5 per cent). The often extensive responses to the final open-ended questions also suggested that the professionals had found the questionnaires to be interesting and relevant to their working lives.

A1.4 Data analysis

The numerical data from the returned questionnaires were entered into Statistical Package for the Social Sciences (SPSS). The research teams in the UK and Germany coded the open-ended questions separately. Thereafter, comparative statistical analysis and qualitative interpretations were undertaken.

Appendix 2: Demographic details, education, earnings and working hours

A2.1 Education, gender and age

The respondents were highly educated, almost all having first degrees.

Slightly more of the British respondents were women: 51 per cent compared with 47 per cent in Germany. However, in both countries, only 25 per cent of the lawyers were women.

The age structure of the overall sample was similar in the two countries. In Britain 11 per cent were aged below 30, 61 per cent between 30 and 50, and 29 per cent were over 50. In Germany these proportions were 5 per cent, 66 per cent and 30 per cent respectively. The age structure in each profession broadly conformed to these patterns.

A2.2 Earnings and hours of work

A third of both British and German professionals earned more than £40,000, although 27 per cent of Germans earned less than £20,000, compared with only 15 per cent of British. In both countries lawyers (along with management consultants) were the most highly paid professions. In Germany 37 per cent and in Britain 57 per cent of lawyers earned more than £40,000.

The differences in earnings partly reflect differences in hours worked: 67 per cent of British and 62 per cent of Germany lawyers worked more than 45 hours a week.