

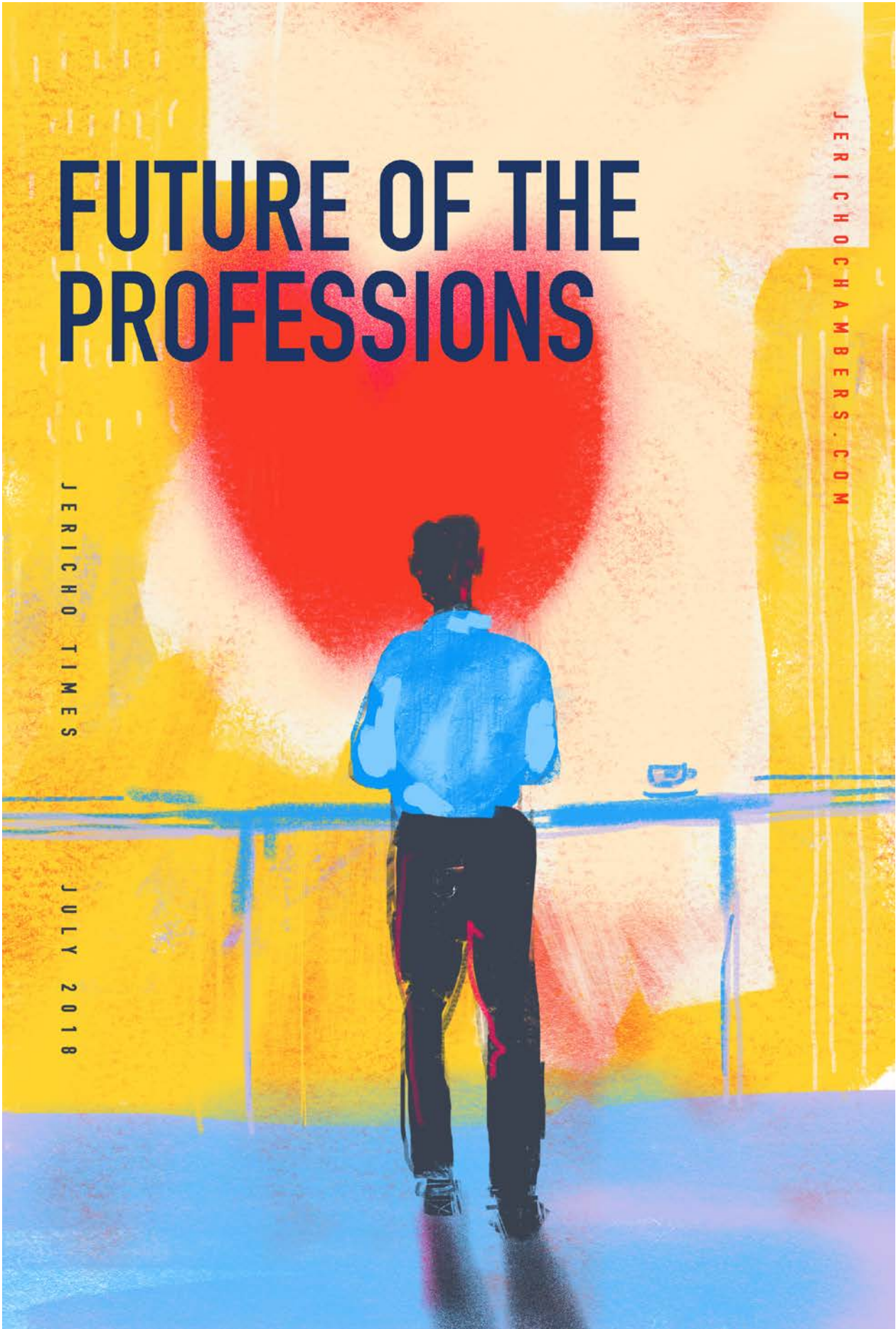
July 2018 edition

# FUTURE OF THE PROFESSIONS

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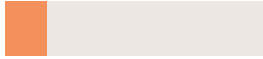
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Edited by Eve Harris and Matthew Gwyther,  
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CHAMBERS

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# 1. INTRODUCTION

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Welcome to the summer edition of Jericho Times.

“Future of the Professions” was inspired by the review, in our March essays, of Professor Laura Empson’s brilliant book *Leading Professionals: Power, Politics & Prima Donnas*. We are thrilled that Laura has written the first article in this collection – exploring esoteric knowledge, vocation, autonomy and ethical standards. As so many organisations struggle to find a better balance between integrity and commercial gain, purpose and profit, this is an important opening contribution. Elsewhere in this edition, we consider how this thinking translates across many professional sectors – from accountancy to law and the non-profession of journalism. We look at the state we’re in. What can we learn from history (the first, not the fourth, industrial revolution) and how can professions and professionals arbitrate between the bureaucratic state and unfettered free markets? Some of what you’ll read is punchy stuff.

Jericho’s client work – on Responsible Tax; the Human Future of Work; Housing, Transport and the Built Environment; the Digital Economy; and, most recently, on The Caring Society, Charities and the Professions themselves – witnesses these challenges every day. In the new settlement that is emerging between business, government and civil society, the independent professional, expert voice has never been more vital, yet so under threat. Some like to argue that “we’ve had enough of experts”, while others see only a technocratic answer to the current democratic crisis. Meanwhile, as two Jericho work-streams will explore this autumn, some professional institutions and firms may now be facing their watershed moments – existential crises of behaviour and accountability and/ or deep structural flaws and ticking time-bombs that threaten their financial stability and vibrancy, in what is soon-to-be post-Brexit Britain.

We live in interesting times. Welcome to the start of the conversation on future of the professions. Please join in.

Robert Phillips, Jericho Chambers, July 2018

*Introduction*

# WHAT DOES IT MEAN TO BE A PROFESSIONAL?

*Professor Laura Empson, Cass Business School, London*



## *Laura Empson*

LAURA EMPSON IS PROFESSOR IN THE MANAGEMENT OF PROFESSIONAL SERVICE FIRMS AT CASS BUSINESS SCHOOL, LONDON, AND A SENIOR RESEARCH FELLOW AT HARVARD LAW SCHOOL. HER MOST RECENT BOOK, PUBLISHED BY OXFORD UNIVERSITY PRESS, IS *LEADING PROFESSIONALS: POWER, POLITICS, AND PRIMA DONNAS*.

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Recent examples of wrongdoing by investment bankers, accountants, lawyers, and consultants are at odds with our understanding of what it means to be a professional. We are not surprised when a business or a businessman turns out to be “dodgy”, but we expect much more from our professionals. Many of the people reading this article will be proud to think of themselves as professionals, and believe themselves to be imbued with professional ideals. However, you may not be able to relate to the ‘purpose’ statements springing up on the websites of many professional service firms, promising to do everything from ‘building trust in society’ to ‘building a better working world.’

*As cases of professional misconduct and grandiose purpose statements proliferate, what exactly does it mean today to be a ‘professional’?*

The concept has a long history, and has been the subject of academic debate for more than a century. Over time its meaning has evolved, and some fundamental aspects of professionalism are now coming under threat.

Historically there were three recognised

professions: divinity, law, and medicine, known as the ‘learned professions’ because they were associated with advanced academic study. Individual professionals needed to acquire esoteric knowledge in order to practice their profession, and this acted as a barrier to entry. This emphasis on an exclusive body of knowledge is foundational to more modern professions, such as architecture and engineering, though not aspirant professions such as consulting. However, it is under threat. Artificial intelligence and machine learning are now capable of automating many tasks and processes that were once the core activity of junior professionals. Now robots are performing intricate surgery and computers are capable of making better decisions than the professionals they have replaced, what does it mean to be a professional?

Linked with esoteric knowledge is the idea of vocation. This concept is mostly used today in the context of low-remuneration/low status “caring” professions, such as teaching or social work, where women predominate. But what about professional vocation more generally? It may have become a meaningless concept for many professionals, but it need not be. This was brought home to me very forcefully during the recent national strike of university staff. Academics cancelled lectu-

res and went without pay for 3 weeks to protest at changes being made to their employment conditions. However, every academic I know continued to work hard on their research, whilst receiving no pay. Why did we do this? Because our research is precious to us, an integral part of our identity, and something we believe is worth doing to the best of our ability, whatever the circumstances. I wonder how many accountants, lawyers, consultants and bankers would feel impelled to work long hours if their organisations stopped paying them?

*The commercialisation of most professions means that, in too many professional service firms, professional work has become about the money earned, rather than a worthwhile endeavour in its own right. We should not be surprised, therefore, when professionals transgress their professional ideals in the pursuit of higher returns.*

Which brings us to the another defining characteristic of professionals, autonomy. The professions have

traditionally defended themselves from state regulation, arguing that professional standards are best enforced by the people who understand them best. At the same time professionals have enjoyed a degree of autonomy from their employers in order to develop a customised service for their clients, and autonomy from their clients in order to ensure that their advice is “correct”. Individual professionals, traditionally at least, were expected to say ‘no’ to a client and indeed to their organizations when asked to do something that transgressed their ethical code. This was one reason why we used to trust professionals. But once the disciplining effect of a professional conscience is subcontracted to the regulators, as it has been in recent decades, we risk undermining one of the defining characteristics of professionals.

Ever since Hippocrates first formulated his oath for doctors, high ethical standards have been at the heart of what it means to be a professional. But corporate scandals – and the role that accountants, consultants, lawyers, and bankers have played in these scandals – have cast doubt on how robust these ethics remain in many professional service firms. The increasingly extreme commercial pressures with which professional organisations must contend mean it is too easy to



marginalise professional ethics, and only realise this has happened when it is too late. Individual professionals' ethics (their gut feeling about what is right) are getting lost in the mix of their firm's business imperative and their clients' expectations. Professionals compete to outdo each other in providing a level of client service which goes "above and beyond...", but above and beyond what exactly? In their quest to "superplease" their clients, professionals risk losing their professional soul.

The increasing incursion of regulators onto professional autonomy may be one reason why many professional service firms have dedicated time and attention in recent years to articulating their sense of 'purpose', developing inspiring phrases to explain how they contribute to society and make the world a better place. But how meaningful are these purpose statements in relation to the day-to-day professional work? And how necessary are they, given that the ideas encapsulated within them are supposedly at the core of what it means to be a professional?

*Is it time for professional service firms to ditch the pretentious purpose statements and reconnect with a more profound and primal commitment to what it really means to be a professional?*

'Professional service firms and purpose' was the subject of a recent discussion held at the Centre for Professional Service Firms at Cass Business School. Professor Laura Empson and Jericho Chambers' Robert Phillips provided the provocation.

It was argued that the current trend for defining 'purpose' seemed to be a mash-up of two older management trends: the focus on 'vision' and 'values'. The rhetoric around purpose suggests that professional service firms are no longer focused on making money but on some higher calling. But how does this sit with the fact that some professional firms are also selling their change management services to clients by emphasising the business case for "purpose-led" change?

Are these purpose projects an attempt by professional service firms to keep regulators at bay by displaying their ethical credentials; just another management fad that consultants have developed to sell to gullible clients; a cynical attempt to attract idealistic millennials; or an attempt by exhausted and disillusioned professionals to give meaning to their lives? 'Or,' to be more positive, just maybe something significant shifting, and we are on the cusp of a reinvention of what it means to be a professional. There are, after all, some isolated examples of professional service firms – or activist pockets within them – genuinely leading with "purpose". These are now in danger of being overwhelmed by the intensifying populist clamour from media and policy-makers against professionals and their firms.

# WHY THE PROFESSIONS ARE BEING PULLED FROM THEIR PEDESTAL

*by Paul Morrell*

3.



*Paul Morrell*

PAUL MORRELL IS A CHARTERED SURVEYOR, AND FORMER GOVERNMENT CONSTRUCTION TSAR. THE ARTICLE BELOW IS BASED ON AN ARTICLE ORIGINALLY PUBLISHED IN MANAGEMENT TODAY.

*To regain their standing, professionals must take (progressive) action.*

*Fifty years ago, the professional classes were revered by society. But long-held restrictive practices and a reluctance to accept reforms have contributed to a gradual loss of public trust and respect. They must act if they are to remain relevant.*

In March 1966, I was about to head off to university to read for a degree that would lead on to a professional qualification to be a chartered surveyor. There was an element of parental pressure in this, from a father who swore that it would offer job security for life – a preoccupation for someone who came of age in the 1930s. He was right; but now any promise of a right to a living has long gone, swept away by 50 years of gradual but relentless change. With an enfranchised, educated and well-informed public, a right to challenge has replaced any earlier expectation of deference.

So while members of the professions have long regarded themselves as important to society and different (by which they probably mean 'better') from those without letters after their name, it is becoming ever less clear exactly how they are different, and what exactly they contribute to a society that regards them with ever more suspicion.

So just what are the distinctive qualities of a profession that separate it from 'just another job'? Speaking in a House of Lords debate in 1992, Lord (Henry) Benson, a former senior partner of Coopers & Lybrand, offered a list of the distinguishing characteristics of a profession that is hard to better. These included:

- Control by a governing body, which ensures fair and open competition, directs the behaviour of its members, sets adequate standards of entry-level education and continuing competence, and sets ethical rules and professional standards.
- Rules and standards which are higher than those established by the general law, and are designed for the benefit of the public and not for private advantage.
- A membership which is independent in thought and outlook, but subordinates its private interests in favour of support for the governing body, and observes its rules and standards.
- Disciplinary action if rules and standards are not observed, or in the event of bad work.
- Providing leadership.

To these I would add, at institutional level, an obligation to develop and disseminate

a genuine body of knowledge and, at individual level, the requirement to exercise judgement.

But the characteristics that the professionals themselves keep coming back to relate to ethics and service of the public interest. Exactly what a commitment to ethical conduct means, however, remains confused. Even FIFA has a code of ethics.

*Although the professional codes are full of good words like integrity, competence, independence, transparency and so forth, the record shows that it's pretty hard to get thrown out of an institution without actually breaking the law or some more introspective procedural rule of the institution's. In the meantime, the implicit claim to some form of moral superiority is both arrogant and misplaced.*

There is also something going on in business, which further blurs the distinction between the professions and the rest. Just as the professions seek to become more business-like.

*Business itself is at least making noises about moving in the other direction, recognising that the single-minded pursuit of shareholder returns is probably not good for its long-term health.*

Frequently challenges the interests of society, and in extremis may compromise capitalism itself. So CSR and 'greenwash' may be evolving into a more genuine sense of responsibility.

This in turn makes the professions' claim to serve the public interest even harder to pin down. Has any member of any institution ever been sanctioned for failing to put the public interest above their client's or their own? When, like the doctors, professions deal directly with a single client, then there is rarely a conflict between individual and collective interest.

That is not, however, the case when the end result of the service is not just the advice, but the product of that advice – a cigarette, a car or a building perhaps.

A building does not have to start melting people's wing mirrors, to understand that it will have far-reaching environmental consequences. Almost everyone who

works in the built environment is concerned about this – but not all of their clients are, and certainly not to the extent of wanting to spend more than they are legally required to. That gives rise to the most difficult question of all: What do you do, as a professional, when your principles point one way, and a client's needs or wants point in another? Responses to this tend to divide into two.

The majority, in what we might call the 'we have to eat' camp, say that people do the best that they can to persuade the client to do things in a particular way, but if they're not persuaded then the payer calls the tune. Others, in the 'touch pitch and be defiled' camp, argue that one measure of true professionalism is not just those things that you will do, but also the things that you won't – and that should include not working in certain places in the world (Azerbaijan, China, Israel and Qatar all being recent candidates), or for certain clients (armaments, oil, tobacco), or on certain types of project (such as prisons or housing developments that can be labelled 'gentrification').

In reality, there has to be a limit to the extent to which institutions and their members are responsible for solving all the problems of the world. Many of them are essentially matters of personal conscience; and while some practitioners may decline a commission they don't like the smell of, others argue that this puts them at a disadvantage relative to members who do not share their concern, or are just less squeamish. They consequently seek collective action, but it is a curious kind of conscience that accepts self-de-

nial only when all others are denied too.

How, on the other hand, does one prevent what the governor of the Bank of England called 'ethical drift' – a gradual erosion of standards as they slide towards a bad place that no responsible professional would have set as a destination? Whatever the answer, the shift in the status of the professions has to be acknowledged as tectonic, and it would take an equal and opposite (and unlikely) coincidence of forces to shift things back again.

It would be wrong to call this a crisis. The change is too gradual for that. The professions perform a valuable role, and they have shown themselves to be adaptable. The change is nonetheless inexorable, and has the potential to amount to an existential threat. So if they are to continue to enjoy a special status in society (and, let us be honest, in the marketplace), then they need to come up with a progressive plan.

*If they can get their act together, though, there is an opportunity for the professions to find a new position for themselves that captures the best of the values of their past, while being relevant to 21st-century circumstances.*

Valuable to their members, society and the challenges we face. This opportunity lies in regaining control of the very things that are claimed to differentiate their members: forward-looking educational standards; benchmarking the expertise

of members (perhaps through a public feedback system like TripAdvisor); a transparent and enforced code of ethics; moving from a tendency to exclusivity (centred on members' interests) to one of inclusivity (centred on a defined duty to serve the public interest); the development and dissemination of a relevant body of knowledge; and a demonstration of leadership on some of the great issues of the day.

Of course, the professions (or their institutions) could choose to stick to their own, often inward-looking, programmes, and pay no attention to the longer-term trends affecting their status. Nothing dramatic will happen immediately as a consequence of that, they will probably survive.

*Professional service firms run the risk of irrelevance. People with specialist skills will find other ways of proving their credentials, and alternative structures through which they can both practise and find fellowship.*

That would be a wasted opportunity – and one that would represent a betrayal of the very public interest that they claim to serve. The alternative proposed does not call for lobbying government for expenditure on anything that would create work for members; nor for the promotion of a single pet solution.

Instead it calls for imagination, innovation and information based on a genuinely advanced body of knowledge, pointing out to policy and decision-makers the different ways in which these problems might be solved, and the implications of each.

This is the territory claimed by the professions, and if they could occupy it justifiably, then that would be in the public interest.

# 4. OLD ROOTS, NEW PROFESSIONAL SHOOT

*by Harry McAdoo*



*Harry McAdoo*



*To be really 'modern', professionals should look to the Victorians.*

*Professional bodies were originally established as radical solutions to a set of quite profound societal challenges. Yet over the years some of that radicalism has been lost. The question they need to ask themselves today: can they reinvent themselves for the 21st Century in terms that reconnect with that founding spirit?*

In William McGonagall's much-maligned poem about the 1879 Tay Bridge disaster he reflects that 'sensible men' (presumably Chartered Engineers) could have told you that the "central girders would not have given way... had they been supported on each side with buttresses". Despite its lack of linguistic finesse, the poem does nevertheless reflect a growing public recognition that trained experts could bring valuable (and on occasion life-saving) perspective.

Professional bodies were established to ensure uniformity of this expertise. Members acted as gatekeepers and standard setters, capable of ensuring public confidence through the development of frameworks. Within these professional services could be sold and regulated, and recourse could be taken when things went wrong.

The societal benefit here was often significant. Take the 1858 Medical Act, which created the General Medical Council. The legislation was an attempt to put in place a systematic approach to patient safety for the first time.

The accountancy profession was established in its modern form following a number of different Companies Acts, intended to give investors greater protection in the

event of insolvency. Audit was first conceived as a solution to the growing a-symmetry of financial information between investors and company boards. With 139 years of hindsight the 1879 Companies Act, which mandated bank audits, seems pretty progressive.

Royal Charters were handed out to the accounting, architectural, engineering, legal and medical professions in recognition that their respective institutes served the public interest, and that their members would operate to higher ethical as well as technical standards.

*This pact between the State and the professions was generally successful well into the 20th Century, not least because these organisations stuck with what they did best; developing, regulating and representing a particular branch of applied expertise so the public could have confidence that they were not buying quackery.*

In 1992, during a House of Lords' debate on the professions, Lord Rogers of Quarry Bank gave a neat summation of this pact:

*"The modern professions... were established on the basis of an unwritten social contract. By insisting that their members should be properly qualified and by enforcing discipline, the professions said that they would ensure a service to their clients and ultimately to the public which was marked by competence and quality. In return they would be free from day-to-day interference and not obliged to compete in the commercial rat race."*

While this social contract still exists, it is not the immutable thing it once was – and neither are the professions held in the same regard. Why?

A number of well-documented scandals over recent decades – from Shipman to Enron – have raised legitimate

questions about the ability of the professions to self-regulate.

Many of the professional institutes themselves have been dwarfed by the partnerships their members have built, creating significant tension between the commercial and public interest. As Professor Laura Empson has argued, at some point in the last 20-30 years professionals began to see relentless client service as a substitute for independence and objectivity. It no longer mattered that you might be judged wanting by your peers provided your clients kept buying.

Moreover technology has democratised professional training and development, networks and thought leadership, all of which were once USPs for these institutes.

*Why would an aspiring millennial sign up to what might seem a rather anachronistic Victorian throwback when she could do an Ivy League degree on line for free, tap into any number of diverse social networks and get thought leadership in bite-size chunks from McKinsey and the Harvard Business Review?*

Where does this leave the professions?

But the picture is not all bleak. The commercial partnerships that were created on the back of the professions have global brand strength and still attract many more applicants than there are places on offer. All the same, for the 19th Century professional body seeking its 21st-Century reincarnation, the landscape looks increasingly challenging. In lots of instances, independent regulatory oversight has replaced the traditional self-regulatory model. Memberships are aging and stagnating. A once successful annuity business model increasingly no longer provides sufficient resource to meet changing member needs. The public is also now less trusting of experts – and institutions generally – not least because of the so-called ‘expectation gap’ between what they

think they are buying and what they are actually getting. And yet...

If we return to McGonagall's observation about the importance of "sensible men" (and women).

*In an age of increasing moral subjectivity we need expert and independent voices with the ethical and technical authority to keep us honest.*

Are modern professional bodies capable of standing up to the plate here? The answer is yes – provided they are brave enough to rediscover some of their Victorian radicalism.

That means being clear about the fundamental value your profession now brings, articulating that value in compelling terms and ensuring your members then deliver. Accountants are there to underpin economic confidence, journalists to keep the State in check, medics to bring about universal improvement in our quality of life. If as a professional body you are not speaking to these universal challenges and how you are tackling them the chances are you are sweating the wrong issues. The prize for getting this right is not just public confidence in a renewed social contract, but also a happy membership. Both of these – I believe – are worth the effort.

# LAWYERS: THE MILLWALL FC OF THE PROFESSIONS?

5. *by Robert Phillips*



## *Robert Phillips*

ROBERT PHILLIPS IS CO-FOUNDER OF JERICHO CHAMBERS, A VISITING PROFESSOR AT CASS BUSINESS SCHOOL AND AUTHOR OF TRUST ME, PR IS DEAD. SOME OF HIS BEST FRIENDS AND CLOSEST FAMILY ARE LAWYERS.

*The legal profession is walking a reputational tightrope. Seven strategies for getting to the other side.*

Football fans are familiar with the chant of Millwall FC: “no-one likes us and we don’t care”. It’s been sung with pride since the 1970s. The same mantra might be applied to lawyers – envied by many, but disliked in equal measure.

A 2014 Princeton survey ranked lawyers alongside prostitutes on trust. The study, mapping competence against empathy, makes uncomfortable reading. Its author Professor Susan Fiske noted: “if lawyers would like to stop being seen as cold, ruthlessly efficient machines, they should pay the same amount of time to their social interaction with clients as they do their billable hours”.

Harvard Professor Frances Frei concurs, seeing empathy, along with authenticity and logic, as one of three cornerstones of trust. When people have an “empathy wobble”, she argues, they’ll have a “trust wobble”, too. However logical or powerful their arguments, a lawyer’s lack of empathy will be their trust undoing.

On-the-meter charging has dogged the profession for many years – subverted, at the other end of the spectrum, by the significant shift to contingency fees and “payment by results” and with no clear way out of the conundrum via a fixed-fee alternative. The taxi driver analogy works, too, when considering the historic “cab rank rule”, whereby barristers (in the UK) are obliged to take the brief offered.

*When it comes to trust, two forces clash head-on. If money becomes the primary driver or when private interest is pitted against public interest, trust scores understandably dip. There are – in trust terms – irreconcilable tensions and should be recognised as such.*

Professor Laura Empson, author of the excellent *Leading Professionals: Power, Politics & Prima Donnas* identifies a 25-year drift away from “integrity” and towards “excellence in client service”. A set of London barristers was recently discussing the wording for their website: some argued that it should champion their deep legal skills and professionalism, while others wanted to emphasise brilliance at delivering for clients. Great client service - described by the American Bar Association as “the new normal” – may support higher revenues but it does not necessarily result in increased trust. “Serve the law”, Empson observes, “and you serve the profession.” Professional integrity and commercial reality may therefore never be easy bedfellows.

The client service that Russian oligarchs, their organisations and their money have enjoyed in London over the last two decades has been remarkable. The UK legal profession has prospered not just on floating Russian companies but also in arbitrating major and minor disputes on commercial, defamation and matrimonial issues. Russian citizens may feel they get a fairer hearing in front of British judges. But a perceived lack of squeamishness about what many see as following the money has brought understandable criticism elsewhere.

Linklaters, one of the UK’s top partnerships, was recently singled out over its work on deals involving Russian companies close to Vladimir Putin. The Foreign Affairs Select Committee said others should now judge whether the firm had become “so entwined in the corruption of the Kremlin and its supporters that they are no longer able to meet the standards expected of a UK-regulated law firm.” Linklaters declined to appear before the Committee that levelled this charge.

Of course, not all lawyers are the same, either by practice or geography. We need to caution against lazy language, crass comparisons and dodgy data. The trust scores attributed to Magic Circle corpora-

te lawyers are likely to contrast considerably to those given to Human Rights advocates, juniors at the criminal defence bar scraping by in regional criminal courts or those pitching battle in county courts over party wall claims.

There is also something to be said for the relationship between trust and transparency. 81% of the UK general public finds lawyers “opaque and intimidating”. 87% of the UK legal profession thinks the same. Unfortunately, transparency, like trust, is another simple word for a complex idea.

In the UK, data tells us that judges (80%+) are twice as trusted to tell the truth as “lawyers” (mid-40’s in percentage terms). This makes little sense. Judges are legal professionals, after all – however much the Daily Mail screeches that they are “enemies of the people”. Chances are, the trust score here again diverges because of the cash factor. Judges, at a guess, are seen to be “above” grubby money-making. They are elite salarymen and women. When it comes to trust, moral and ethical principles count, however perversely the public chooses to articulate that morality.

*Morality remains a thorny issue for lawyers. It is woven through the system at every stage but is frequently ill-explained or obscured by either process or personality.*

As one barrister commented: “laws themselves have a moral dimension and lawyers have to apply those



laws ethically and judges required to apply them in accordance with legal principle.” This is perhaps easier for a practising lawyer to articulate, than for the average person on the Clapham Omnibus to understand.

The picture is not the same globally because systems are inherently different elsewhere. In Germany, for example, judges and lawyers are trusted pretty much on a par. The same applies in the Netherlands. OECD data ranks the UK close to the Netherlands when it comes to public trust in the judicial system, at 63%. In the US, this number falls to 43%. It is lower still in Portugal and elsewhere. As I have argued elsewhere, on these terms, the search for “more trust” in broad-brush terms may be meaningless. Lawyers, like other professions, should focus on trustworthiness instead.

*Trustworthiness has practical and ethical filters: competence and reliability; honesty and benevolence. The trustworthy professional must demonstrate – and be accountable – to all four of these behaviours.*

Above all else, though, one word stands, like a Millwall battalion, between lawyers and “trust”. That word is “sorry”.

The legal profession’s inability to allow its clients to just say a “proper sorry” means that it will probably languish forever, mid-table, in the second division of trust. Clients being advised to say sorry – as a panel discussion at The Law Society earlier this year reinforced – is Just Not On, especially if it exposes that client or an organisation to potential liability, litigation or

risk. I get this (from a legal perspective). But no-one can expect to be trusted if they are not prepared to apologise properly or support those that need to do so. We all know how it feels – to paraphrase the wisdom of Dr Rowan Williams – when someone you love dearly says (annoyingly) “I’m terribly sorry that you feel like that” when only a proper sorry will do.

I offer seven suggestions on how the legal profession might address some of the trust challenges it clearly faces:

1. It’s all down to you and how you behave. Don’t blame lawyers’ trust deficit on everyone else and/ or external circumstance. Certainly don’t hide behind the mythology of the post-truth or post-trust age. Think instead about how, as trusted advisors, you can work with clients to be part of the solution, not the problem, while maintaining professional integrity.
2. If you want to be more trusted as a leader, as in any walk of life, don’t do bad things. Equally, don’t lend support to those who do bad. Or at least don’t expect to be trusted if you do.
3. As a lawyer, try being warmer, more open, more empathetic. It won’t hurt (or maybe it will).
4. Be transparent at every stage of the client process – from pre-instruction through to evaluation. Especially on fees – not just on the finer points of law.
5. Better explain that morality is woven into everything you do. Radically improve your communications’ skills.
6. Act in the Public Interest. Or accept the trust consequences if you don’t – or if you choose to put “money” or private interest first.

Above all:

7. Learn to say sorry – properly and more often.

In reputation terms, the legal profession has had a lucky ride over the past decade. Its role in supporting some of the perpetrators of the Global Financial Crisis went largely unnoticed, as “spiv” bankers took most of the flak. Now, public ire has turned to the auditors and accountants in the wake of a series of high-profile scandals and collapses. But, with the starting salaries touted by some of the big law firms currently following the hyper-inflated model of the investment banks in their heydays/ low-days, the legal profession is walking a reputational tightrope. In an asymmetrical, polarised world of political populism, angry mainstream media, social media trolls and an overbearing rush to judgement everywhere, it may take only one or two flash incidents to open the reputational floodgates.

Just ask the Millwall fans what it’s like to be hated for decades. But, there again, Millwall supporters really don’t seem to care.

# JOURNALISM IS NOT A PROFESSION

6.

*by Matthew Gwyther*



## *Matthew Gwyther*

MATTHEW GWYTHYER IS A PARTNER AT JERICHO CHAMBERS AND AN AWARD-WINNING JOURNALIST. HE WAS EDITOR OF MANAGEMENT TODAY FOR 17 YEARS, AND CURRENTLY PRESENTS *IN BUSINESS* ON RADIO 4.

*Nevertheless, just because it isn't a profession and just because its business model has been shot to pieces doesn't mean to say journalism lacks importance.*

Journalism is not a profession – there are no qualification letters after our names. I'm not even sure if it's a calling or even a trade. Sure there are many journalists on a *mission* like a priest but then so is a dog in search of a bone. One should, anyway, mistrust journos on a mission – they tend to ignore inconvenient truths that refuse to fit in with their world view. The best journos err towards scepticism rather than zealotry. For those remaining who are entirely economically reliant on journalism, however, it must be more than a pastime. It is what it is: telling stories for a living.

In Evelyn Waugh's 'Scoop' the hacks aren't terribly 'professional', more a mixed pack of feckless, unprincipled and cunning scribblers, hacks and ink-slingers. It's a mark of their acknowledged lower standing – but not necessarily low self-esteem – that journalists often quite happily call themselves *hacks* which is defined as 'a writer producing dull, unoriginal work.' Call a lawyer a hack and you'll see him in court.

A mark of a profession is a barrier to entry. You cannot remove a gallbladder without your FRCS or audit BHS without your ACA. The general idea is that these letters signify you have undergone training and reached a certain level of proficiency in the trade and – if you fall short of the required standards – you will get struck off. That's the theory, anyway.

However, there is a reason why Adam Smith made the point: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices." Smith was, incidentally, writing in a largely pre-profession era with many quack medics, dodgy lawyers and bodging master builders. It's in the interests of professions to put up barriers because

it means they control the numbers who share the pie.

You have to pay to get access to a lawyer, a doctor – usually via your taxes – or an architect. And, if you are unable to sort your problem out yourself – as is the usual reason for seeing one of these professionals – you’d be well advised to take their expert advice. You wouldn’t really want an amateur to take your appendix out. (The fact that within a few years the procedure will be conducted by a robot with lower failure rates than a human surgeon is another story.)

Always a low entry-barrier activity, in journalism things have turned quite ugly since the arrival of the digital world. The hurdles are now the lowest they have ever been – blogs and vlogs are easily creatable and accessible.

*The fact that the vast majority are comprised of unmitigated pap, never mind ‘fake news’, is neither here nor there. They get the eyeballs and the ‘likes’ that The Independent didn’t. Facebook and Google have got rich and Rupert Murdoch got (relatively) poorer. The Guardian lost £45 million last year which doesn’t look very professional at all.*

You no longer require a journo, professional, trained or otherwise to tell you what’s going on in the world. So the digital world has ripped journalism’s business model apart. Newspaper and magazine sales have plummeted, old fashioned ad

revenue has done the same. And it hasn't been replaced by digital cash because so much is available free.

Nevertheless, just because it isn't a profession and just because its business model has been shot to pieces doesn't mean to say journalism lacks importance.

*There's a counter-argument that with a wave of populist fervour sweeping across the world fact and reason plus their twins News and Comment have even more value among lies and the irrational.*

Eighty-one per cent of the public say they know fake news when they see it and one would hope that among proper, discriminating journalists that figure is even higher. There's some evidence that 'serious, heavyweight' publications that won't allow you access unless you pay for them are enjoying a minor renaissance – more information here (behind a pay wall) on the Trump Bump in online subscriptions. No three-hundred-and-fifty-quid a year for your FT.com, no serious commentary on what's really going on.

The tricky economics are one thing. But the best thing about journalism is its fre-

edom. As an activity, journalism cannot and should not be licensed by the state or any professional body, any more than art or political protest should. The reason for this is the same freedom-of-expression argument that means pontificators on any street corner, never mind just Speaker's Corner, must be allowed to mouth-off without the interference of the state, providing no laws are being broken.

There is rather good Huffington Post piece by James Anslow on why journalism isn't a profession. Anslow writes: "Journalism is an activity which, when pursued with vigour and executed with skill in a spirit of disruptive yet creative mischief, should represent the antithesis of 'professionalism', of regulation. It should be the enemy of any contracted code of behaviour outside those codes imposed on all citizens and enforced by criminal and civil law."

And the criminal and civil law does, on occasion, catch up with journalists. The News International hacking scandal may have led to the complete, costly waste of time that was the Leveson Inquiry but collars were felt and scalps had. (And the process, via the civil courts, isn't finished yet.)

Many Americans would think journalism is a profession and treat it very seriously.

Some even liken it to taking holy orders. That's why they still – despite their straitened circumstances – believe in employing hoards of fact-checkers. To sin is to err from the facts. This seriousness is also why they watched the possibility of the press being regulated by government here in the UK with absolute horror. Leave that kind of repressive, anti-democratic behaviour to the Chinese, Turks and Russians.

Deep down every US hack wants to be Woodward or Bernstein. You only have to watch the recent BBC documentary series on the pious and driven members of the New York Times Washington bureau in their daily battle against Trump to see this. The problem is, however, more the NYT huffs and puffs, the more the red-necked gammons of middle American cling to their hero.

*Much journalism is now an echo-chamber – nobody changes their mind.*

Over here, by contrast, there are still many practitioners who regard journalism as a bit of a caper. What is *The Sun* if not a bit of a 'larf,' at least until you find yourself the undeserved subject of its violent attention. But it is a caper that does on occasion speak truth to power. "News is something someone wants suppressed.

Everything else is just advertising", said Lord Northcliff.

*"Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter", said no less a figure than Thomas Jefferson.*

They may not be professionals but those who labour at the heart of our best newspapers, magazines and TV are just as smart as a partner at Linklaters or Goldmans. (And, probably, better company with their looser, gossipy ways.) Their problem is that journalism is unruly. As Simon Jenkins has written, "The press does not operate with any sense of proportion, judgment or self-restraint because it is selling stories, not running the country". This may sound horrible, irresponsible but that is the way it must be. And when you get journalists who wish to run the country you wind up with Boris Johnson and Michael Gove.

Journalists have "power without responsibility – the prerogative of the harlot throughout the ages", as Kipling and later Stanley Baldwin put it. But do you think



accountants, lawyers, and chartered surveyors are invariably more 'responsible' these days than hacks? Was the building 'professional' who signed off the cladding on Grenfell Tower or Carillion's audited accounts more responsible than a leader writer on *The Times*, *Grazia* or *The Wall St Journal*?

Of course journalists can do calamitous things – naming suspected paedophiles, for example – but then, being irresponsible, they always have and always will. They can and have wrecked the lives of entirely innocent individuals. The laws of defamation and breach of privacy do what they can to keep this in check.

Indeed, the very fact it isn't a professional activity may be greatly to the advantage of journalism as professions have been much discredited over recent decades.

The professions have come down from their pedestals to our lowlier level – trust levels among lawyers and accountants languish in the pits where hacks have always dwelled. With the possible exception of NHS doctors and teachers who have been the least contaminated by ardent 'client service' and the profit motive many professionals have joined journalists in the sin bin.

Welcome to our world, guys where as Hunter S Thompson wrote: "Journalism is not a profession or a trade. It is a cheap catch-all for fuck-offs and misfits – a false doorway to the backside of life, a filthy piss-ridden little hole nailed off by the building inspector, but just deep enough for a wino to curl up from the sidewalk and masturbate like a chimp in a zoo-cage." Great place to be.

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# THANK YOU

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Thank you for taking the time to read this edition of Jericho Times.

We hope you enjoyed it.

Jericho was created to work with clients at the inter-section of business, government and civil society – and to help them navigate towards meaningful change. We are a consultancy – with provocative points of view and a commitment to a better society and the common good. This autumn, in addition to existing programmes on the Future of Work is Human, Responsible Tax, Housing, Transport and the Built Environment and the Digital Economy, we are launching major projects on the professions and professional service firms. These will look at, among other things, the fragility of existing business models and the urgent need for new forms of institutional accountability (and good governance) that are fit for purpose in the mid-21st century.

We like to challenge and inspire in equal measure. If you are interested in working with Jericho and/ or have a Big Issue that requires further exploration, please get in touch.

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