

# “How do you think Brexit will affect junior lawyers?”

## Introduction

*“For all it’s uncertainty, we cannot flee the future”- Barbara Jordan*

In the aftermath of Brexit, uncertainty is rife in the economic, political and institutional spheres.<sup>1</sup> Junior lawyers are unable to predict how their meticulously planned careers may change. It is unequivocal that Brexit will engender sweeping changes across all sectors, with the Law Society highlighting that it would generate “*an unprecedented and complex range of legal issues*”,<sup>2</sup> but the precise nature of these remain elusive. The term ‘junior lawyers’ encompasses an expansive cohort from diverse backgrounds at different stages of their legal careers, from LPC student to qualified solicitor. Consequently, it is difficult to generalise and, for the purposes of this essay, I will focus on junior lawyers who either intend to, or already do, practice in the private sector. The effects this group experiences as a result of Brexit are inextricably connected to the manner in which legal clients react to the leave vote. The prevailing hypothesis within the legal sector, that Brexit may cause a bonanza of legal work in the short term but that diminished long term prospects could undermine English and Welsh firms, will be examined in relation to junior lawyers.

## Type of Brexit

*“Brexit means Brexit”- Theresa May*

A fundamental source of the uncertainty junior lawyers face originates from being left ignorant as to the form Brexit will take.<sup>3</sup> Although insisting ‘*Brexit means Brexit*’,<sup>4</sup> the prime minister has refused to expand upon the exit strategy planned,<sup>5</sup> leaving businesses and professionals, including junior lawyers, unable to predict and prepare for consequences. The

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<sup>1</sup> IMF, *Uncertainty in the Aftermath of the U.K. Referendum*

<sup>2</sup> The Law Society, ‘Brexit means ‘unprecedented and complex’ challenge for UK law’ (*The Law Society*, 24<sup>th</sup> June 2016)

<sup>3</sup> Global Counsel, *BREXIT: the impact on the UK and the EU June 2015*

<sup>4</sup> Ashley Cowburn, ‘Theresa May says ‘Brexit means Brexit’ and there will be no attempt to remain inside the EU’ *Independent* (London, 11<sup>th</sup> July 2016)

<sup>5</sup> Ashley Cowburn, ‘PMQs: Theresa May refuses to confirm if UK should stay in EU single market’ *Independent* (London, 7<sup>th</sup> September 2016)

media have promoted the hard or soft distinction,<sup>6</sup> whilst economists have considered the more complex models Brexit could take, including the Norwegian model of joining the EEA and the bi-lateral Swiss model.<sup>7</sup> Allen & Overy partner, Damian Carolan, argues that the effect of Brexit on junior lawyers, “will largely depend on the exit model that the government negotiates with the EU”.<sup>8</sup>

## Clients and the Demand Shock Model

*“We understand that our success and the future of our firm is inextricably linked to the success of our clients”- Shepherd, Finkleman, Miller and Shah<sup>9</sup>*

The success of junior lawyers is intimately connected with the fate of legal clients, as a greater demand for legal services justifies law firms’ ability to employ more young professionals. Resultantly, Brexit could benefit junior lawyers in the short term with precedents of similar economic and political upheaval<sup>10</sup> generating speculation of a “Brexit bonanza for lawyers in unravelling the legal complexities”<sup>11</sup> of exiting the EU. Law firms have immediately received a “flood on enquires”<sup>12</sup> from clients seeking guidance on Brexit’s consequences in areas from IP to contract disputes.<sup>13</sup> This typifies a ‘Shock to Aggregate Demand Model’, where a shock event temporarily increases demand of services<sup>14</sup> and “induces hiring”<sup>15</sup> to accommodate this, thus prima facie benefitting junior lawyers.

Yet, predictions that demand for legal services in the UK will ebb away once the Brexit dust settles, with many legal clients indicating they may re-locate into Europe,<sup>16</sup> could restrict long term opportunities for junior lawyers, consistent with the general hypothesis. Fears of

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<sup>6</sup> The Economist, ‘What is the difference between a “hard” and “soft” Brexit?’ (*The Economist*, 5<sup>th</sup> October, 2016)

<sup>7</sup> Dhingra S and Sampson T, *Life after Brexit* (LSE Paper)

<sup>8</sup> John Hyde, ‘Lawyers rush to reassure clients after Brexit shock’ (*The Law Society Gazette*, 24<sup>th</sup> June 2016)

<sup>9</sup> Shepherd, Finkelman, Miller & Shah LLP, ‘Our clients’ (*SFMS*)

<sup>10</sup> Kristy Finlayson, ‘The Brexit effect for young lawyers’ (*Solicitors Journal*, 15<sup>th</sup> August 2016)

<sup>11</sup> Law Society ; UK legal services sector and the EU report (October 2015)

<sup>12</sup> Chris Johnson, ‘Seven ways Brexit will impact international law firms’ (*Legal Week*, 27 June 2016)

<sup>13</sup> Jane Croft, ‘Lawyers prepare for Brexit bonanza’ *Financial Times* (London, 24<sup>th</sup> June 2016)

<sup>14</sup> Investopedia, ‘Demand Shock’ (*Investopedia*, 2016)

<sup>15</sup> Andrew Rose, ‘Inflation and the Philips Curve’ (*Berkeley Haas*)

<sup>16</sup> Martin Arnold, ‘Brexit set to push VTB’s Europe hub out of London’ *Financial Times* (London, 11<sup>th</sup> October 2016)

post-brexit, large scale redundancies continue to haunt junior lawyers,<sup>17</sup> with Simmons and Simmons' decision to reduce staff numbers strengthening these concerns.<sup>18</sup>

## Opportunities for New Junior Lawyers

*"If you are resolutely determined to make a lawyer of yourself, the thing is more than half done already."* - Abraham Lincoln<sup>19</sup>

As a result of a 20% rise in law students between 2012 and 2014,<sup>20</sup> Des Hudson issued a warning over the "huge oversupply"<sup>21</sup> of law graduates, with many failing to secure training contracts. However, predictions suggest that Brexit will reduce the number of law graduates, with young European students being put off by potential increased tuition fees and the possibility of being unable to practice in England and Wales after graduating.<sup>22</sup>

Furthermore, the legal recruitment landscape may be altered in favour of English and Welsh junior lawyers, substantiating the supposition of increased short term opportunities. Firms who have traditionally hired as many as 20% of trainees from Europe may have to recruit domestically<sup>23</sup> depending on restrictions imposed on foreign workers after Brexit, with 25% of employers indicating they will employ more British graduates if unable to hire EU ones.<sup>24</sup>

## Junior Lawyers with City Firms

*"We follow financial services. If they stay, we stay. If they move, we move"*<sup>25</sup>

As the Law Society emphasized in its October 2015 report, "Legal services do not exist in a vacuum"<sup>26</sup> and this is particularly pertinent for City firms. Financial services constituted 44%

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<sup>17</sup> John Hyde, 'Lawyers rush to reassure clients after Brexit shock' (*The Law Society Gazette*, 24<sup>th</sup> June 2016)

<sup>18</sup> Jane Croft, 'Brexit: law firms set for the great EU demerger' *Financial Times* (London, 6<sup>th</sup> October 2016)

<sup>19</sup> Basler R, *The Collected Works of Abraham Lincoln* (Wildside Press, 30<sup>th</sup> October 2009) p. 327.

<sup>20</sup> UCAS, 'Applications and acceptances for types of higher education course – 2015' (UCAS, 2016)

<sup>21</sup> Sam Griffiths, 'Glut of graduates threatens hope of career in law' *The Sunday Times* (London, 23<sup>rd</sup> June 2013)

<sup>22</sup> Jane Croft, 'Will Brexit block EU students from UK law schools?' *Financial Times* (London, 20 November 2016)

<sup>23</sup> Alex Aldridge, 'London law firms to cut back on EU trainees following Brexit' (*Legal Cheek*, 27<sup>th</sup> June 2016)

<sup>24</sup> Kristy Finlayson, 'The Brexit effect for young lawyers' (*Solicitors Journal*, 15<sup>th</sup> August 2016)

<sup>25</sup> The Law Society, *EU and the Legal Sector (October 2015)*

<sup>26</sup> The Law Society, *EU and the Legal Sector (October 2015)*

of the transactional work for the Top 50 firms between 2009 and 2014<sup>27</sup> and this sector is particularly vulnerable to the Leave vote. Brexit threatens to eliminate financial service businesses' ability to 'passport', which will consequently force many to relocate into European cities and endanger London's position as the Global financial centre.<sup>28</sup> Volatility within financial services following Brexit has already reduced city law firms' profit margins<sup>29</sup> and junior lawyers face pay freezes, like those at Berwin Leighton Paisner.<sup>30</sup> There is also a real risk that junior city lawyers will be asked to permanently relocate to their firms' European offices in parallel with financial services clients, emphasised by the Law Society of Ireland's reporting a surge of solicitors looking to practice in the Republic of Ireland.<sup>31</sup>

A danger also exists that the five firms within the top ten global firms by gross revenue who are headquartered in the UK<sup>32</sup> will be perceived as biased in favour of Britain's interests. Consequently, clients may choose to avoid instructing them in areas such as European trade and investment, real estate and IP and this may affect trainees' seat choice.<sup>33</sup> However, the pounds collapse against the dollar of almost 15% since Brexit<sup>34</sup> has made English and Welsh law firms' fees more competitive than before June 23<sup>rd</sup><sup>35</sup> and will generate more work for junior lawyers.

The short term benefit for junior lawyers interested in European law is illustrated by firms like Clifford Chance training specialist Brexit teams<sup>36</sup> due to a deficiency in EU specialists,<sup>37</sup> corroborating the prevailing hypothesis. Junior city lawyers will be at the vanguard of legal work resulting from Brexit, with firms establishing websites dedicated to the potential repercussions on clients<sup>38</sup> and some even setting up Brexit hotlines, like Dechert.<sup>39</sup> Yet, this deluge of work may only be ephemeral with junior lawyers facing a "glut once all the work has been done".<sup>40</sup> Thankfully for junior lawyers, Brexit will provide opportunities to work

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<sup>27</sup> The Law Society, *EU and the Legal Sector (October 2015)*

<sup>28</sup> The Law Society, *EU and the Legal Sector (October 2015)*

<sup>29</sup> Catherine Belton, 'Brexit uncertainty likely to weigh on top UK law firms' profits' *Financial Times* (London, 24<sup>th</sup> October 2016)

<sup>30</sup> Estelle Shirbon, 'Pay freeze at London law firm an early sign of Brexit damage' (*Reuter*, 15<sup>th</sup> July 2016)

<sup>31</sup> John Hyde, 'Lawyers rush to reassure clients after Brexit shock' (*The Law Society Gazette*, 24<sup>th</sup> June 2016)

<sup>32</sup> The Law Society, *EU and the Legal Sector (October 2015)*

<sup>33</sup> Kristy Finlayson, 'The Brexit effect for young lawyers' (*Solicitors Journal*, 15<sup>th</sup> August 2016)

<sup>34</sup> Mike Bird, 'Pound Drops to Three-Decade Low Against Dollar on Brexit Concerns' (*The Wall Street Journal*, 5<sup>th</sup> October 2016)

<sup>35</sup> Chris Johnson, 'Seven ways Brexit will impact international law firms' (*Legal Week*, 27 June 2016)

<sup>36</sup> Norton Rose Fulbright, 'Brexit- Meet the team' (*Norton Rose Fulbright*, March 2016)

<sup>37</sup> Alex Aldridge, 'London's megafirms train up youngsters in EU law as they boost Brexit teams' (*Legal Cheek*, 22<sup>nd</sup> January 2016)

<sup>38</sup> Allen & Overy, 'Brexit Law- the way ahead' (*Allen & Overy*)

<sup>39</sup> Dechert LLP, 'Brexit Resource Center' (*Dechert LLP*)

<sup>40</sup> Alex Aldridge, 'London's megafirms train up youngsters in EU law as they boost Brexit teams' (*Legal Cheek*, 22<sup>nd</sup> January 2016)

across numerous legal sectors allowing them to expand their bailiwick and adapt into these practice areas in the longer term,<sup>41</sup> negating fears of declining long term opportunities.

## Junior Lawyers with Regional Firms

*“The regional dimension of the UK/EU relationship has received relatively little attention in the public debate around the implications of ‘Brexit’”<sup>42</sup>*

Media and academic debate concerning Brexit’s effect on the legal industry has concentrated around the consequences for international law firms, due to a perception that clients of Regional law firms are smaller businesses who are traditionally less exposed to overseas markets.<sup>43</sup> However, the experience of junior regional lawyers after Brexit should not be neglected, especially as leaving Europe may create an adverse climate for clients of regional firms.

UK regions which rely on EU economic support for agriculture, business and start-up regeneration, like the £3900 million Wales and the South West received over the last two years,<sup>44</sup> will be debilitated unless the UK government offers equivalent support.<sup>45</sup> Furthermore, regions who depend on mining and manufacturing *“are more skewed towards the EU markets, and more vulnerable to to disruption of trade if the UK is no longer part of the single market”<sup>46</sup>* with many regions exporting over 50% of their goods to the EU in 2014.<sup>47</sup> Such threats undermine the demand for regional legal services and junior lawyers will find it increasingly difficult to justify their firms need for them, supporting the theory that Brexit will diminish their long term opportunities.

## Specialized Junior Lawyers

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<sup>41</sup> Alex Aldridge, ‘London’s megafirms train up youngsters in EU law as they boost Brexit teams’ (*Legal Cheek*, 22<sup>nd</sup> January 2016)

<sup>42</sup> Tom Hunt, Scott Lavery, Will Vittery and Craig Berry, ‘UK Regions and European Structural and Investments Funds; SPERI British and Political Economy Brief No. 24’ (*The University of Sheffield*, May 2016)

<sup>43</sup> Andrew Bounds and Chris Tighe, ‘Small businesses explain impact of Brexit vote’ *Financial Times* (London, 29<sup>th</sup> August 2016)

<sup>44</sup> Tom Hunt, Scott Lavery, Will Vittery and Craig Berry, ‘UK Regions and European Structural and Investments Funds; SPERI British and Political Economy Brief No. 24’ (*The University of Sheffield*, May 2016)

<sup>45</sup> The Law Society, *EU and the Legal Sector* (October 2015)

<sup>46</sup> John Bachtler and Carlos Mendez, ‘Brexit, EU Cohesion Policy and Regional Development in the UK’ (*European Policies Research Centre: University of Strathclyde*, June 2016)

<sup>47</sup> Tom Hunt, Scott Lavery, Will Vittery and Craig Berry, ‘UK Regions and European Structural and Investments Funds; SPERI British and Political Economy Brief No. 24’ (*The University of Sheffield*, May 2016)

*“You specialize in something until one day you find it is specializing in you”- Arthur Miller<sup>48</sup>*

Junior lawyers more advanced in their legal careers have often specialized in a particular practice area and are apprehensive how Brexit will alter their chosen sector. Most specialized junior lawyers will be affected to an extent as some commentary estimates nearly 65% of English and Welsh law created between 1993 and 2014 was influenced by the EU.<sup>49</sup> However, predictions within the legal sphere indicate junior lawyers who specialize in competition or employment law will experience the most significant changes.<sup>50</sup> Yet, the prevailing sentiment across legal providers is that the government cannot “*expunge all EU-derived law from the statute books the minute we leave*”,<sup>51</sup> not least because they lack the resources and capabilities to make sweeping changes.<sup>52</sup> Moreover, the Prime Minister will “*seek and need to maintain strong trading relations with Europe*”<sup>53</sup> so is unlikely to make wholesale legislative changes and consequently specialized junior lawyers are unlikely to experience any comprehensive instantaneous changes.<sup>54</sup>

## Opportunities for Junior Lawyers Abroad

*“Sail away from the safe harbour. Catch the trade winds in your sails”- Mark Twain*

Junior lawyers hoping for secondments in their firm’s European offices may be thwarted by a restriction on the freedom of movement following Brexit.<sup>55</sup> The Law Society highlighted legal services could lose the benefit of European directives, like the 1998 Lawyer’s Establishment Directive, enabling them to practice freely across Europe<sup>56</sup> and junior lawyers may lose the opportunities to work abroad that older generations enjoyed.

For junior lawyers already established in foreign offices, it is theoretically possible European countries could revoke the right of English lawyers to work in their country, but due to the “*attractive and practical business choice*”<sup>57</sup> English law provides, this seems unlikely.

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<sup>48</sup>Hunter G, *Who me? Worthwhile? Yes, You!* (Wipf and Stock Publishers, 2009)

<sup>49</sup> Tim Philpott, *7% of 75%?: The EU’s influence over British law* (Business for Britain)

<sup>50</sup> Slaughter and May, ‘Brexit Essentials: The legal and business implications of the UK leaving the EU’ (*Slaughter and May*, March 2016)

<sup>51</sup> Taylor Wessing, ‘Brexit- the potential impact on the UK’s legal system’ (*Taylor Wessing*, June 2016)

<sup>52</sup> Ross Hawkins, ‘Senior civil servants warn over Brexit resources funding’ (*BBC News*, 9<sup>th</sup> September 2016)

<sup>53</sup> Taylor Wessing, ‘Brexit – employment law and HR implications’ (*Taylor Wessing*, June 2016)

<sup>54</sup> Echaore-McDavid S, *Career Opportunities in Law and the Legal Industry* (Facts on File, 31<sup>st</sup> October 2002) p. 53

<sup>55</sup> Kristy Finlayson, ‘The Brexit effect for young lawyers’ (*Solicitors Journal*, 15<sup>th</sup> August 2016)

<sup>56</sup> The Law Society, *EU and the Legal Sector* (October 2015)

<sup>57</sup> Jack Moulder, Natasha Seel, Suki Rees and Ee Ling Goh, ‘Working in an international law firm’s European office post-Brexit’ (*Law Careers Net*, 19<sup>th</sup> July 2016)

## Junior Lawyers with Disabilities and from Minority Backgrounds

*“Misunderstanding arising from ignorance breeds fear, and fear remains the greatest enemy of peace”- Lester B Pearson*

Junior lawyers from minority backgrounds in England and Wales have been exposed to an increased risk of harassment and violence, with hate crime rising 42% in the immediate aftermath of Brexit<sup>58</sup>, undermining the hypothesis that short term Brexit effects will benefit all junior lawyers.

The rights of disabled junior lawyers may also be detrimentally affected unless pressure is put on the government to seal the disability gap that leaving the EU will create.<sup>59</sup> Fiona McGhie, Irwin Mitchell Public Law expert, suggests that although the UK ratified ‘UN Convention on the Rights of Persons with Disabilities’ will protect young disabled lawyers’ rights in areas such as education, Brexit will remove their ability to rely on the ‘European Charter of Fundamental Rights’ that protects areas such as ensuring fair and just working conditions.<sup>60</sup>

## Effect on Junior Lawyers Personal Lives

*“Older men declare war. But it is the youth that must fight and die” -Herbert Hoover*

Fears of a post-Brexit recession espoused by some banks<sup>61</sup> have not come to fruition<sup>62</sup> but junior lawyers are still overshadowed by predictions that the UK’s GDP will be 3.5% lower in 2030 compared to what it would have been had the UK remained in the EU.<sup>63</sup>

Getting on the housing ladder remains as arduous as ever for junior lawyers; although housing market activity slowed in the immediate aftermath of the referendum<sup>64</sup> it has recovered and house prices continue to rise sharply with prices now 5.2% higher than in the same period last year.<sup>65</sup>

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<sup>58</sup> NPCC, ‘Hate crime undermines the diversity and tolerance we should be celebrating’ (NPCC, 8<sup>th</sup> July 2016)

<sup>59</sup> John Pring, ‘Hard Brexit ‘will open up bigger disability rights gap’ than a softer EU exit’ (Disability News Service, 10<sup>th</sup> November 2016)

<sup>60</sup> Fiona McGhie, ‘How does the Brexit Vote Affect The Rights Of Disabled People’ (Disabled People Against Cuts, 24<sup>th</sup> June 2016)

<sup>61</sup> David Scott, ‘The difference between a ‘hard’ and ‘soft’ Brexit (Business Insider UK, 6<sup>th</sup> October 2016)

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<sup>65</sup> Rupert Neate, ‘UK house price surge defies expectations, says Halifax’ *The Guardian* (London, 7<sup>th</sup> November 2016)

## Conclusion

*“We need diversity of thought to face the new challenges”- Sir Tim Berners-Lee*

The inconclusiveness of this commentary reflects the wide-spread societal confusion Brexit has generated. Until Article 50 is triggered and the terms of Brexit become clear, it is impossible to validate the prediction of a short term bonanza of legal work for junior lawyers followed by a drought of opportunities. However, it is irrefutable that, whatever form Brexit takes, insightful and astute junior lawyers will be required to guide the legal sector through turbulent waters. Furthermore, the immediate negative effects of Brexit on disabled, LGBT and minority groups must not be allowed to permeate into the legal profession and efforts must be increased to create an inclusive environment for all.



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