

# Lost to Law: Why Women Leave The Profession

By:

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# Lost to Law: Why Women Leave the Legal Profession

## Abstract

*In spite of an increasing reliance on women entrants to the legal profession, women remain under-represented in the higher levels of that profession, not least because many women leave legal practice notwithstanding the strenuous route to qualification. This empirical survey gathered qualitative data on the reasons why women chose to abandon their career in law. The factors behind such a significant decision included: personal reasons based on health, stress; dissatisfaction with the work or the workplace; and the pressures of family life and caring obligations. These factors intersect and overlap and are reflective of wider societal and cultural pressures on women. They provide a basis to question whether, as the proportion of qualified women entrants to the profession continues to rise, failure to better accommodate the needs and aspirations of women lawyers might present a systemic threat to the legal profession.*

## Introduction

The latest data collection by the Solicitors Regulation Authority on diversity in relation to firms of solicitors was conducted in 2021. Women represented at that point around 48% of the UK workforce and women lawyers in law firms stood at around 52%.<sup>1</sup> When one considers that women on average make up three quarters of non-qualified staff working in law firms, the profession is heavily reliant on women. Moreover, this looks set to continue as law schools admit more than twice as many women than men (14,520 female compared with 6,370 male admissions in 2019/20), so that (lagging a little behind) almost twice as many women than men were registered as trainees in the year ending July 2019 (4,148 female and 2,196 male trainees)<sup>2</sup>

There are now more women on the roll than men (101,492 as against 94,329).<sup>3</sup> There is a majority of women (61%) below partner level but only 35% of women solicitors are partners in their firm.<sup>4</sup> In firms of over 50 partners this figure is lower.<sup>5</sup> The Chambers UK Guide for 2021 suggests that newly ranked 'up and coming' lawyers featured more women than men

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<sup>1</sup> Solicitors Regulation Authority, 'How Diverse is the Solicitors Profession' (SRA, 2021) available at: <https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/>

<sup>2</sup> Law Society, Entry Trends (2020) available at: <https://www.lawsociety.org.uk/en/career-advice/becoming-a-solicitor/entry-trends>

<sup>3</sup> Ibid.

<sup>4</sup> SRA (op.cit. n.1) but this is up from the 2019 survey when the figure stood at 34%.

<sup>5</sup> Ibid.

for the first time (51.07%)<sup>6</sup> suggesting that the low figure for women partners in the larger law firms ought to be a cause for concern for the firms in question.

If one turns to the Bar, the entry pattern is similar with more women (54.8%) than men (45.2%) in pupillage at the end of 2018, Thereafter, however, there is divergence in the figures when compared with the solicitors branch of the profession since women make up only 38.0% of the Bar. Although the proportion of female QCs is rising and in 2019 stood at 16.2%, the proportion of women QCs is actually falling slightly when compared with the proportion of the Bar who are female.<sup>7</sup>

There are doubtless a variety of reasons for the fall away in women's representation at the more senior levels of the profession despite the significant increase in women within the profession more generally, but retention of women in the profession is undoubtedly one factor. Two thirds of barristers leaving the Bar in the Western circuit are women, most of whom have reached a mid-career point.<sup>8</sup> Jo Delahunty QC addressing the lack of senior women at the Bar suggests that women are "failed by their profession – leaking talent from an entry base line of equality to a Silk pool drained of female talent."<sup>9</sup> A similar conclusion for solicitors' firms can be found in an analysis by O'Driscoll and Cooke, who conclude that "firms are doing little to change the working cultures that cause attrition, and are instead solving the diversity problem by hiring more women at graduate level."<sup>10</sup> These researchers track the 'retention gap' for the years 2014 and 2020 and find that while numbers of women entrants are rising, those falling away before partnership level remains essentially constant, as percentage difference between female partners and female trainees does not vary.

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<sup>6</sup> Chambers, UK Solicitor Guide 2021; and see the summary at 'D&I Highlights from Chambers UK Solicitors and Bar Guides 2021: available at <https://chambers.com/guides/uk-uk-bar/d-i-highlights>

<sup>7</sup> Bar Standards Board, *Diversity at the Bar 2019* (BSB, 2020) available at: <https://www.barstandardsboard.org.uk/uploads/assets/912f7278-48fc-46df-893503eb729598b8/Diversity-at-the-Bar-2019.pdf>

<sup>8</sup> Western Circuit's Women's Forum, 'Back to the Bar: A survey of obstacles, aids and recommendations for parents returning to the Bar' (2019), available in <<https://d17g388r7gqnd8.cloudfront.net/2019/01/WCWF-Back-to-the-Bar.pdf> accessed 30 September 2021.

<sup>9</sup> Delahunty J "Women at the Bar in 2020" *Counsel* 28 September 2020.

<sup>10</sup> Olivia O'Driscoll and Anthony Cooke, "Women in Law 2021" Chambers Student , 16 February 2021 available at: <https://www.chambersstudent.co.uk/where-to-start/commercial-awareness-info/diversity-and-inclusion/women-in-law-2021> accessed 30 September 2021.

The route to qualification as a lawyer is not easy. As a law graduate you need to commit to a year of postgraduate vocational legal education, historically,<sup>11</sup> before commencing a period of training, assuming that one can find a training contract or a pupillage. There were almost 21,000 students entering University to read law in the academic year of 2019/20 but in year ending 2019, only 6344 trainees were registered with the SRA.<sup>12</sup> There were 926 graduates in pupillage in 2019, either in their first or second six,<sup>13</sup> and only around 300 of these would go on to a tenancy upon completing pupillage (within less than six months after the end of the legal year in which they completed pupillage).<sup>14</sup> This suggests that less than one third of law graduates qualify into the profession, but the percentage is much smaller because many non-law graduates qualify through a longer route which has historically included two years of postgraduate, vocational, legal education. It takes considerable effort, commitment and financial resource to qualify as a lawyer, so having expended all of these in qualifying what might drive women to abandon their chosen career?

At Birmingham Law School's Centre for Professional Legal Education and Research (CEPLER), we became interested in this issue, partly because one objective of the Centre is to provide careers' support and advice to law students, more than two thirds of whom are women, including providing schemes for mentoring and placement opportunities.<sup>15</sup> To begin to explore why women who had undertaken the journey to qualification were then 'lost to law' (as we quickly labelled our project) became a joint programme for the Centre when one of our number, Linden Thomas, became President of Birmingham Law Society at a point at which

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<sup>11</sup> Prior to the introduction of the Solicitors' Qualifying Examination (SQE), a two-part national assessment to be set and examined centrally, which came into force on 1 September 2021

<sup>12</sup> Law Society, op.cit. n. 2

<sup>13</sup> Bar Standards Board, Pupillage Statistics, available at: <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/pupillage.html>

<sup>14</sup> Bar Standards Board, Call to the Bar and Tenancy Statistics: <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/call-to-the-bar-and-tenancy.html>

<sup>15</sup> As of 2019 (the latest data available when we undertook our research), 70% of Birmingham Law School's Undergraduate students identified as female; these figures are monitored as part of our equality commitment as a holder of an Athena Swan award, see <https://www.birmingham.ac.uk/news/latest/2020/10/university-receives-two-awards-to-mark-gender-equality.aspx>, accessed 30 September 2021. This figure is slightly higher than the sector average. In 2017-2018, 68.8% of the UK students and 61.9% of international students admitted to Law undergraduate courses in England and Wales were women; see Law Society "Entry Trends" at <https://www.lawsociety.org.uk/law-careers/becoming-a-solicitor/entry-trends/> accessed 30 September 2021 and Law Society "Annual Report: Trends in the Solicitors' Profession Annual Statistics Report 2017 (June 2018) available in <https://www.lawsociety.org.uk/support-services/research-trends/annual-statistics-report-2017/> accessed 30 September 2021.

we celebrated the centenary of women being permitted to practice law in England and Wales. As part of her programme for the Presidential term, Linden committed to Birmingham Law Society increasing support for (and promoting the visibility of) women practising law, while enabling law firms and chambers to make informed decisions about the policies and practices that might encourage women to remain in the profession. CEPLER partnered with Birmingham Law Society in conducting this research.

As part of this initiative CEPLER committed to undertake a programme of qualitative research to explore further factors behind women's choices to leave the profession. This paper provides an explanation of the methods employed in the research, including some background on the women who agreed to provide oral accounts of their departure from the profession. The paper then organises the responses and analyses six significant reasons offered by those women as to why they left the legal profession, namely; supporting a partner/spouse; health; falling out of love with the work; law firm structures; stress; child care issues. It may be apparent from reading this list that these issues are not mutually exclusive so that there is obvious overlap between (say) supporting a spouse and child care or between health and stress, but before going on to examine these factors, we wish to outline the methodology underpinning the research. Earlier research found reasons for a higher level of departure of women from the legal profession in the USA to be for complex and multi-faceted reasons.<sup>16</sup>

## **Methodology**

In order to gather data, we placed notices in the Birmingham Law Society Monthly Bulletin magazine seeking links to women who had left the profession, post-qualification. We also sent the notice out via email to the Society's members. Most of the women we were seeking to participate in our study probably neither read the Bulletins nor received the emails of Birmingham Law Society but we asked the Society's members to put us in touch with former

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<sup>16</sup> Robert Gordon, Lucy Ricca, Susan Robinson and Anna Jaffe, Grace Chediak and Mackenzie Tudor, 'Retaining and Advancing Women in National Law Firms' (Stanford Law School, Women in Law Policy Lab Practicum, May 2016) available in <<https://law.stanford.edu/publications/retaining-and-advancing-women-in-national-law-firms/>> accessed 30 September 2021.

women colleagues no longer practising as a lawyer. We also secured some coverage in the national legal press, discussing the issue of women 'lost' to the legal profession and Linden Thomas wrote a blog post on the topic for The Law Society of England & Wales. We used such coverage as an opportunity to promote the study and invite participants. We reached out to a number of local and national organisations which, we anticipated, would be in contact with, or have people in their networks who would be in contact with, women who had left the profession.<sup>17</sup>

We also engaged in snowballing, asking those women with whom we did make contact to direct us to other women in a similar position.<sup>18</sup> Finding women who, firstly, fell into this category and who, then, were willing to be interviewed proved harder than we had envisaged. We ended up with 22 semi-structured interviews. That is to say, interviewers had a topic list to use as a guide to a recorded conversation about the experiences of working within the law and of leaving legal practice. The majority of interviews were not face to face but conducted by telephone or over the computer, not least because, going into 2020, the Covid 19 pandemic intervened and made this the practical way to proceed. It should be noted that this is a limitation of the research, the timing of which co-incided with a national lockdown and all that followed in terms of home working. We are aware that, as a result, many law firms have made radical changes in their delivery of legal services which will not be captured by this research. For many firms such adjustments continue and we hope that the content of the report and views captured from our interviewees relating to their hopes, post pandemic, can feed into this agenda for change.

In line with the ethical approval for the project, permission to record each interview was sought, and assurances were given as to anonymity and the security of storage and access to the data collected. These assurances have to some degree influenced the writing up of the research, given that the personal information disclosed contained much information that could potentially reveal the identity of the interviewee. This may explain some omitted text

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<sup>17</sup> We are particularly grateful to the Midlands Women's Circuit Forum and the Reignite Academy for their support.

<sup>18</sup> For a fuller description, including limitations of this method, see Parker, C Scott, S and Geddes, A (2019) Snowball Sampling. SAGE Research Methods Foundations; copy available at <http://eprints.glos.ac.uk/6781/1/6781%20Parker%20and%20Scott%20%282019%29%20Snowball%20Sampling%20Peer%20reviewed%20pre-copy%20edited%20version.pdf>, accessed 30 September 2021.

from quotations given. Post recording, the interviews were transcribed to produce transcripts which were then coded using a software package (NVivo). This allows for easier navigation and tracking across the data in the transcripts. It allows the creation of 'nodes' or themes which can be populated with content from the transcripts. This coding work, and some of the interviewing, was conducted by PhD students, to whom we are most grateful, the aim being to allow them to gain further experience in research methods.

There are some limitations in the data. The sample is smaller than we would have wished, interrupted in part by the dislocation created by early experiences of the pandemic lockdown. The dataset can however be added to over time in that we could collect more of the personal histories to add to the existing dataset. Because the practising lives of our interviewees stretched over 30 years, and the interviews form oral histories, there is no requirement to collect the data within a particular timeframe. On the other hand, this is a limitation of the data; it records experience across a considerable time frame in a rapidly changing profession. A further limitation is one of geography. Unsurprisingly, given the route to finding interviewees, many of these had practised in the Midlands of England. This may affect the type of firm in which they practised and it is also possible that working practices in the profession do vary across regions. Birmingham graduates are over represented in the sample (at four, three from Birmingham Law School) with a further three having completed vocational legal education at Birmingham. Whether this may have affected their appetite for law is hard to say! Nonetheless, these accounts do offer useful insights in to life in and after law and experiences which drove choices to leave law.

In terms of the respondents, there were four barristers and 18 solicitors, and only qualified lawyers were included in the sample. Five of the respondents were educated privately, with the remainder educated at state schools,<sup>19</sup> though there was one interviewee educated overseas and a small number for whom the status of the school was not clear from the interview. Most were law graduates but six respondents had studied a subject other than law at undergraduate level (three with modern languages, one each with history, sociology and

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<sup>19</sup> This is fairly representative; 21% of solicitors are educated at fee paying schools (three times the UK average) see: Solicitors Regulation Authority 'How Diverse is the Legal Profession?' March 2020 available at <https://www.sra.org.uk/sra/equality-diversity/key-findings/diverse-legal-profession/> accessed 30 September 2021.

philosophy). Five respondents graduated from Oxbridge; of the remainder just over half had studied at Russell Group universities. Only four respondents came from post 1992 universities. To some degree, this perhaps reflects patterns of recruitment into law firms, over the period in which our respondents entered law, which may be gleaned, to some extent, from our age profiles (below) of those leaving law.<sup>20</sup>

Of the barristers, two worked in regional chambers, one in London chambers and one who moved from a London to a regional set. Of the solicitors five had been based in London, three in City firms, one in a West End firm and one in criminal law practice in North London. Then, other than one each in the North West, North East (in medium sized firms) and South East of England (in a smaller firm), the remainder (10) came from the Midlands of England. Seven of these worked in the regional office of nationally represented firms. Two worked for large firms which later merged into much larger national/international firms. Only one private client lawyer worked in a smaller practice. All four barristers worked primarily in crime, mixed in one case with personal injury and in another with child care. Of the solicitors there were seven civil litigators, two private client lawyers, and two company commercial specialists (one corporate and one IT). Commercial real estate was particularly well represented with six working in this area (including one of the litigators). There is some suggestion in our data that this may reflect gendered choices of practice areas, indicated perhaps in terms of the single corporate lawyer,<sup>21</sup> but given the limitations mentioned above, this is rather speculative.

In terms of date of call/admission, we had only one interviewee predating 1990 (1987), 11 in the 1990s (including three in 1994 but the rest spread evenly), six in the noughties and four since 2010. As for the age at which our interviewees left their law career,

AGE RANGE	NUMBER OF LEAVERS
30 or under	3 (2 x29 and 1 x 30)

<sup>20</sup> Though bear in mind when reviewing these that the respondents may have departed from law some years ago.

<sup>21</sup> Carrie Menkel-Meadow suggests a pull/push effect whereby women are pulled into certain types of work (such as family law) and pushed out of the more highly lucrative work; See Carrie Menkel-Meadow, "The Comparative Sociology of Women Lawyers: The "Feminization" of the Legal Profession." (1986) 24(4) *Osgoode Hall Law Journal* 897-918 at 908.



31 – 35	9
36 – 40	0
41 – 45	5
46 – 50	2
Over 50	3 (51, 52, 56)

So slightly more than half of our sample would have left within 10 years of qualification and the first half of their thirties seemed to be a crucial period for a good number of our interviewees, which we can explore later in our analysis of the data.<sup>22</sup>

### Reasons for leaving

Unsurprisingly, there were a range of reasons for quitting the legal profession and it is a challenge to present these fully, not least because often factors combined prior to the decision being made. Nonetheless, it seemed a useful analytical tool to try and distil interview passages from the transcripts which best captured the primary reason behind each of the career changing resolutions.<sup>23</sup> Doing so made it easier to group these so as to produce a cluster of factors best represented in our sample, though it is necessary to add a word of caution because there were generally multivariate elements at play.

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<sup>22</sup> It has been argued that the mid 30s is almost the worst age at which to leave, given that it is the point at which women might ‘harvest’ the fruits of their qualification and experience – see Jane R. Bambauer & Tauhidur Rahman, “The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers?” (2020), 10 *U.C. Irvine Law Review*. 799-854 at 802.

<sup>23</sup> Interestingly these reasons map fairly closely with those of a 2019 American Bar Association study: see Roberta D. Liebenberg and Stephanie A. Scharf, ‘Walking Out the Door: The Facts, Figures, and the Future of Experienced Women Lawyers in Private Practice’ (American Bar Association, 2019) available in <<https://www.americanbar.org/content/dam/aba/administrative/women/walking-out-the-door-4920053.pdf>> accessed 30 September 2021; hereafter the ‘ABA Study’.

## Supporting/prioritising career of partner or spouse

Beginning with the least common reasons, the work of a spouse or partner may have become incompatible with continuing work for the woman lawyer. Here are the two most prominent examples:

- *I got married and my husband [was based] in Portsmouth which is why I could continue to work ...in London. But then they actually sent him to Cornwall. (I.13)<sup>24</sup>*
- *My husband was posted abroad (I.15).*

Neither of these are simple stories. For example in the first case above the interviewee then adds: *“I wanted to have my husband and I wanted to have children... [which] wasn’t at all compatible with being a City lawyer.”* In the second case above, the woman lawyer did attempt to return to legal practice on returning from abroad but found that the pace of change, especially in areas such as IT, combined with a lack of support, meant that this was not successful, forcing her to look elsewhere for a career.

It is also striking in other interviews, mainly grouped under the ‘childcare’ head below, how often choices need to be made between the continuing employment of one or other of the partners in a relationship and how frequently this appeared to end in the woman making the professional sacrifices: *“My husband was working, he’s not a solicitor, but he had a very responsible job, he still does, and he worked very long hours and we sort of looked at, you know, the person who could take a step back, and that was me(I.10).<sup>25</sup>* One interviewee remarked: *I’ve given up my work and [I wonder] whether we should have looked to him giving up his work and him being the person who provided the nurture in the relationship (I.18).* Describing this type of decision, a woman lawyer whose husband was also a solicitor explained: *“For me to imagine how both of us could be London full time, him working the long hours he did, we had no choice over [it] and me not really having flexible time in the firm [it]*

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<sup>24</sup> We have indicated the interview from which each quotation was taken to offer the reader some indication of how the data was utilised so that I.13 indicates that the quotation was taken from Interview 13.

<sup>25</sup> One factor here may be the gender pay gap, which could mean that of the two partners less income is lost by the woman giving up full time work; for further examination of the gender pay gap see: Influencing for Impact: The need for gender equality in the legal profession, Women in Leadership in Law (Law Society, March 2019) available in <<https://www.lawsociety.org.uk/support-services/research-trends/gender-equality-in-the-legal-profession/>> accessed 30 September 2021.

would be really trouble, yeah”(I.20).<sup>26</sup> One woman found her relationship broke apart when, after 20 years of marriage, her husband had an affair and left. She looked back on her earlier decision to leave the profession while attempting to support her husband under pressures of coping with a dying mother and a young child: *“My husband’s business took off and the financial imperative for me to go back wasn’t there and he’d got used to having me around to enable him to build his business up, so it made sense for me not to go back at all”*(I.22). The same interviewee remarked on this disparity within law firm employment: *“A lot of the times their [male partners’] wives stay at home. So, the men have got the support in the home for cleaning and cooking and the children and everything else.”* Then she remarks on her own experience within the firm: *“It was a complete lack of understanding of childcare. That’s the kind of culture you got.”* One woman described a career in law as: *“A wonderful job for someone who has a wife at home to run every other aspect of their life”* (I.17).<sup>27</sup>

## Health

One issue that becomes clear on analysing the data is that there was little leeway if either the lawyer or a member of the lawyer’s family became ill, so while we have headed this section ‘Health’ it is also about a corresponding lack of flexibility within legal practice where health issues arise.<sup>28</sup> Mental health is dealt with below under the ‘stress’ heading, but other health problems intervened:

- *“I developed a chronic illness ...incompatible with working at a massive corporate firm”* (I.5).
- *“My sister got really sick...there was no flexible working and it was exhausting and I*

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<sup>26</sup> In an early study only 8% of men cited family responsibilities as a reason for leaving the profession - Joan Brockman, 'Leaving the Practice of Law: The Wherefores and the Whys' (1994) 32 Alta L Rev 116

<sup>27</sup> It has been argued that focussing on this family v work problem actually deflects attention from the wider structural and institutional issues that constrain women in the profession: Fiona M Kay and Stacey Alarie and Jones Adjei, 'Leaving Private Practice: How Organizational Context, Time Pressures, and Structural Inflexibilities Shape Departures from Private Law Practice' (2013) 20 Ind J Global Legal Stud 1223.

<sup>28</sup> Personal or family health issues were cited by 42% of the sample in the ABA study (supra n 23) of reasons for leaving law firms.

*just couldn't do it" (l.19).*

In the first of these cases, the woman concluded that *"it wasn't worth pursuing that area of my career for my health"* but this wasn't helped by *"tables that go round that say this is how many chargeable hours everyone has worked this month and mine would always be one of the lowest ones because of all the conditions and that sort of pressure also built up on how I felt people saw me in the company as well."*<sup>29</sup> As for the woman with the sister who fell ill, she describes the event as *"a catalyst"* for her departure and says: *"Working in Birmingham, I'd often make plans to kind of go and see my family and then I'd just be like 'oh I'm not going to make it tonight' or 'I'm not going to be home 'til ten o'clock' or whatever and just have to cancel everything. And they couldn't be my priority and I felt like they needed to be my priority at that time."*

These women left law primarily because of the intervention of ill health but it was a factor in other interviewees' stories, such as this: *"Within six weeks of my daughter being born my dad was diagnosed with cancer...So when my original [planned] two year career break came to an end, I didn't feel like I had a break because my dad had just passed away at that point and I thought I really haven't had any decent time with the kids"* (l.4). One of the barristers in the survey had a child with complex medical needs that made practising life impossible: *I was having sometimes a couple of medical appointments a week, for weeks on end, and you just can't, there's no way that any court could fit around that"* (l.17). A second barrister in the survey met similar issues of child health: *"[My son] had a lot of health problems when he was young so, at that point, I was sort of making the decision that actually I can't go back for the foreseeable future, because he needed me at home and wasn't coping."* As she goes on to remark: *"It's such a fantastic job but the court comes first...and that doesn't fit very well when you have children and particularly when you have children with disabilities or additional needs because...they to me would come first"* (l.7).<sup>30</sup>

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<sup>29</sup> Early studies have pointed to a correlation between a 'long hours' culture and health issues within the profession – see the ABA study supra n 23 and also Lisa Webley and Liz Duff, 'Women Solicitors as a Barometer for Problems within the Legal Profession - Time to Put Values before Profits' (2007) 34 *Journal of Law & Society* 374

<sup>30</sup> For an analysis of this problem from the USA, see *A Career in the Courtroom: A Different Model for the Success of Women Who Try Cases* (DRI The DRI task force on women who try cases, New Orleans, Louisiana) available in <[http://www.dri.org/docs/default-source/dri-white-papers-and-reports/women-in-the-courtroom-\(2004\).pdf?sfvrsn=6](http://www.dri.org/docs/default-source/dri-white-papers-and-reports/women-in-the-courtroom-(2004).pdf?sfvrsn=6)> accessed 30 September 2021.

### Falling out of love with the work

For five women in our survey, in various forms, they simply no longer wished to continue working within law.<sup>31</sup> Here are those reasons captured in their own terms:

- *“I’d lost my mojo”* (l.1).
- *“I was bored”* (l.4).
- *“I wanted to help people who were in need but to be honest the job just wasn’t what I expected it to be”* (l.6).
- *“I just stopped loving it”* (l.11).

In each case, of course, there is need for a more nuanced understanding of these statements. The first one, for example, comes from a highly experienced barrister who on a *pro bono* basis handled a death penalty case in another jurisdiction leading to the release of the two defendants on appeal. Having spent considerable time on this case, she found herself *“going back to the usual child sex cases, which is what I was doing all the time and, again, this is not an uncommon story for women to be syphoned off into that area...So at that point I was like ‘I really do not want to carry on being a barrister, I don’t enjoy the work that I’m doing, it’s too stressful’*. In the case of the ‘bored’ lawyer above, she had (at the age of 40) *“sort of come to the end of a road and there was no time to learn anything new because of course every six minutes you’re time recording, so you couldn’t just go off and look at things that were interesting and learn new skills.”*<sup>32</sup> In considering moving away from her practice in real estate, she states: *“I did look at different areas ... the only area that really interested me was corporate law and that was something that I was certain wouldn’t fit with a family life”*.

The third interviewee in this category had entered law to help people and had consciously chosen to qualify into claimant personal injury work but had found that a law firm *“is not an altruistic organisation that is there just to support people; fundamentally the goal is to make*

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<sup>31</sup> The ABA study (supra n 23) suggests that women lawyers are less satisfied than male colleagues, possibly as a result of finding it harder to develop and progress to higher levels within the law firm.

<sup>32</sup> Unsurprisingly, perhaps earlier studies have shown that job satisfaction is a key factor in retention – see for example Fiona M Kay and Stacey Alarie and Jones Adjei, *The Diversification of Careers Paths in law: Tracking Movement out of Private Practice Among a Recent Two Decade Cohort of Law Graduates* (Report to the Law Society of Upper Canada) available at [https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/f/fiona\\_kay\\_diversification\\_report\\_jan\\_2015\(1\).pdf](https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/f/fiona_kay_diversification_report_jan_2015(1).pdf) accessed 30 September 2021

money.” The level of personal support which she wanted to offer her clients clashed with the firm’s desire to ensure where possible that costs expended were recoverable. In her words: *“I get the costs were more recoverable and our spreadsheet looked better, but I didn’t feel like I was providing the level of service that I should have for these people who really were going through the worst time of their lives.”* This was our youngest leaver who “disillusioned” quit law at the age of 28 years old. Finally, the woman who just stopped loving it told us: *“I didn’t hate it, I didn’t find it stressful, I just wasn’t loving it anymore”* and left legal practice aged 43. Although this woman didn’t find the job stressful, met all targets, and was a successful real estate lawyer, she resented greater and greater calls on her time including for client networking events<sup>33</sup> when she would *“I prefer to be with my real friends and my family at home instead of having to do that.”* She also grew tired of the greater and greater demands posed by clients and concluded that: *“the whole ethos was changing and it was just becoming much more demanding generally and I just thought no, life’s too short.”*

Although one interview went so far as to say *“I didn’t enjoy the profession at all. I didn’t enjoy the work. I had a deep loathing and suspicion of, actually, the profession”* (I.10). This was unusual. There were many people in the survey that had not fallen out of love with the profession and interviewees at times at pains to say: *I hope the interview doesn’t come across as me completely putting down the legal profession”* (I.9).; and there were comments such as: *“[It is a] fantastic profession but I think you have got to be able to find the balance”* (I.3). Many interviewees did not regret their career in law, were grateful for the skill sets which it gave them for a career elsewhere and remained proud of their qualification and achievements. Indeed, there was a tendency to reflect that it was the interviewee that did not quite fit, rather than that the professional environment was always at fault: *“I don’t think all the blame for that lies with Law, the legal profession or the firm I was at. It probably speaks as much about me and what I want to achieve in my life”* (I.9).

### Law firm structures

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<sup>33</sup> This issue is prominent in studies from the USA including the ABA study (n.23) in which over half of women cited pressures in marketing as a source of dissatisfaction and particularly in the DRI Task Force research (supra n. 30) which reported women seeking to avoid the drinking/sporting culture which many marketing events entailed.

For some respondents, however, there were structural or inter-personal elements of the law firm environment<sup>34</sup> that were instrumental in their departure as the following five summaries might indicate:

- *“I was working full time and being paid part time”* (I.3).
- *“They had an ‘up or out’ policy”* (I.9).
- *“Things began to deteriorate between us [interviewee and supervising partner] for one reason or another”* (I.10).
- *“I felt that my values were no longer aligned to them [her law firm partners]”* (I.14).
- *“I became pregnant; my plan was always to go back in some shape or form but...they wouldn’t sponsor part time.”* (I.20).

There are a range of issues here, two of which (the first and the final) are connected with childcare. So in the case of the first, this experienced litigator tried hard to keep her career alive while bringing up children. Her arrangement was that she could leave each day at around 3.30 pm, with her remuneration adjusted accordingly, but it was impossible in practice to discharge all of the work needed on her files within that timeframe.<sup>35</sup> She describes it as follows: *“As a single parent, litigation isn’t very forgiving, you know, I’m taking work home or the court doesn’t care that I need to be home by four o’clock, you know, they could still be sitting, counsel want to have conferences after they’ve been in court all day, so I’m coming [back] into Birmingham at half five.* As for the final quotation in the bullet points above, this is from a lawyer married to another lawyer, both working in London, whose firm insisted on a full time return to work (in 2010). This was impossible for her because: *“I knew I couldn’t rely on him [the husband lawyer] for child care so if anything happened, if my daughter needed to be collected earlier or she fell ill, there was no family to rely on and I couldn’t ask him, because he couldn’t pick her up...so, we thought that probably best if I stayed at home.”*

The second quotation in this category concerns a solicitor in a multi-national law firm based in London who at ten years post qualification experience realised she was not going to make

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<sup>34</sup> It has been suggested that inequalities endure even in high-skill environments supposedly committed to the offering of equal opportunities: see: Jennifer Tomlinson, Daniel Muzio, Hilary Sommerland, Lisa Webley and Liz Duff, ‘Structure, agency and career strategies of white women and black and minority ethnic individuals in the legal profession’ (2013) 66(2) *Human Relations* 245.

<sup>35</sup> For arguments that women pay a disproportionate price for flexible working see: Carroll Seron, ‘Afterward: A Comparative Look at the Status of Women in the Legal Profession’ (2013) 20 *Indiana Journal of Global Legal Studies* 1359.

partner. This meant the end of her term at that firm because they did not retain associates above her level of qualification. She describes the workings of this policy as follows: *“You're on the kind of fast track to partnership, always going up, but if you do anything, anything that puts a black mark on your copybook, anything that's going to stop that from happening, then at that point you go out. And they have like a rolling almost redundancy voluntary severance type process. It happens, I don't know, two or three times a year. And people basically get quietly managed out.”*<sup>36</sup> This woman quit at the profession at that point in her mid-30s rather than try again elsewhere. In her words: *“There was no chance of having a boyfriend or a family – and that was part of the fact why I left law – because I hadn't actually had a boyfriend in three years! And the biological clock was ticking in my 30s and, yeah, so those were considerations that kind of play heavily on your mind.”*<sup>37</sup>

In terms of inter-personal relationships within the firm, these had an impact as with the woman (above) whose relationship with her supervising partner to the point that her letter of resignation was greeted by him in the following way, according to her description: *“if you f\*\*\* with me, I will f\*\*\* you over, you don't know who I know’* “. The final case in this category involves a partner in dispute with the partnership about the treatment of one of her clients which she regarded as having been handled ‘*very badly*’. She describes the episode as follows: *“I was appalled ... there was a certain incident of falling out over a client and I was very unhappy with the strategic direction, not even the strategic direction, I was unhappy with the behaviour of some of my partners”*. Shortly thereafter a client approached her with a job offer outside law which she accepted.

Relationships within the firm were important for most interviewees and, as seen above, could influence their career choices but, interestingly, there are a number of examples in which the closeness of personal relationships was not sufficient to dissuade these women from making tough decisions when they faced other structural, personal or health related problems. This was true for one of the ‘falling out of love’ interviewees, who describes leaving even though

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<sup>36</sup> For an analysis of ‘up or out’ policies in law firms see Lee R, *“Up or Out’ – Means or Ends? Staff Retention in Large Law Firms”* in Thomas P A *Discriminating Lawyers*, Cavendish, 2000 pp183-200.

<sup>37</sup> In our study the juxtaposition of career and pregnancy was frequently mentioned as it is in other literature – see Robert Lee *Firm Views: Work of and Work in the Largest Law Firms* (1999) (Law Society) (Research Study No 35) and the DRI Task Force research (n.30) in which 52% of respondents indicated that choices relating to parenthood had been influenced by career considerations.



from experience within four law firms, she knew that her firm was as good as it gets: *“everything was as perfect as it could be, I felt I had a wonderful boss, I had a brilliant team, it was a really supportive firm, it was a great place to be”* but, in her words: *“to make partnership, I really needed to step up a gear in terms of the numbers of hours I was putting in and I wasn’t prepared to do that”* (I.4).<sup>38</sup>

### Stress

As stated above we have placed some of the mental health issues in this section rather than the section on illness (above) because the interviews in question refer to the pressures of the work and the stress that this caused. Here are the interviewees in their own words:

- *“My mental health had decided that it was not the right place to be so I packed my job in”* (I.2).
- *“I stopped working as a Solicitor because my mental health couldn’t withstand the stress”* (I.18).
- *“I got the chance to go and live abroad, but I was really unhappy at work...it just wasn’t sustainable”* (I.12).
- *“I didn’t enjoy the job and looking at the people who were more senior than me. I didn’t think that I would enjoy the job that they were doing either”* (I.21).

The first of these is a somewhat harrowing story of an experienced lawyer in her 30s changing firms and finding the new culture difficult to accommodate. With young children below school age, who were not sleeping well, adapting to a new firm became much more of a challenge than she had ever envisaged: *“I couldn’t make my brain work to work out where I could find things or how to negotiate the finance system and you think it sounds ridiculous, but I just couldn’t.”* The attempted solution of an agreed four day week seemed to increase rather than relieve the pressure because the expectations of new clients, with whom she had little relationship, did not reduce accordingly. In her absence: *“they’d instantly email the senior partner ... in the team and you’d go ‘I’m in tomorrow morning, you know, it’s manageable, it wasn’t a critical thing, you know’, but all of those things make you feel on the back foot.”*<sup>39</sup>

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<sup>38</sup> This point of realisation that the overload is just not worth it is a phenomenon described in Nancy J Reichman and Joyce S Sterling, 'Recasting the Brass Ring: Deconstructing and Reconstructing Workplace Opportunities for Women Lawyers' (2002) 29 *Capital U L Review* 923.

<sup>39</sup> This accords with a common theme in the literature that flexible working does little to change perceptions of 'open-ended availability' see 'Influencing for impact' (n.25) and Kay et al, 'Leaving private practice' (n.26)

Having said that, once the solicitor made known the extent of her problems, *“they were phenomenal, they were absolutely amazing”*. This came too late, however: *“you just go ‘how can you be so good there as I’m walking out the door and yet nobody looked out for me?’ “*

The second quotation above is from an experienced legal aid practitioner specialising in child care law, who *“wasn’t willing to tolerate the workload which I was carrying and the impact which that had on everything about my life.”* This solicitor described her workload as follows: *“At the point that I stopped working I had worked every day for about six weeks and I was working from about 7 in the morning until about 10 or 11 at night, and then 12 hours at the weekends, you know, over the weekends.”* So this experienced solicitor stepped away from her job at just over the age of 50, saying *“I mean I love working, I do love working, but living with that stress was awful.”*<sup>40</sup> The third solicitor in this section (above) who moved abroad had tried to move to part time working but her employer had resisted this and she secretly thought that running her litigation on a part time basis in a small firm: *“...virtually was impossible.”* So she ‘leapt’ at the chance to move abroad never thinking that it would be the end of her legal career though she never made it back into law on her return.<sup>41</sup>

The final bullet point may indicate that this was someone who left the profession while not yet 30 years old but who observed considerable stress around her. Having qualified and having taken some time away, in her words: *“I went from thinking that law was the most important thing in the world [laughs] I then I realised when I came back that there were a lot more important things and the level of stress I could see people putting themselves under wasn’t the life I wanted.”* This interview is full of observations by this young woman lawyer of the pressures that she observed: *“People were very stressed, including me, matters that really, when you take a look back, aren’t that important, you know?”* She tells of going for dinner with a well-respected woman partner who cried throughout the meal, observing that this partner’s workload was unmanageable, but that no-one helped her out.<sup>42</sup> She tells of a

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<sup>40</sup> This type of account accords with the observation of Jean McKenzie Leiper that lack of time outside of work is a significant cause of stress – Jean McKenzie Leiper, *Bar Codes: Women in the legal profession* (Vancouver: UBC Press, 2006);

<sup>41</sup> Which accords with a finding that career interruptions commonly lead to an exit from private practice – see Kay et al ‘Leaving private practice’ (n.27) and see data elsewhere in this study.

<sup>42</sup> As Webley and Duff (supra n.29) point out, working under such conditions of stress is not merely a threat to health but to ‘quality, client service, access to justice, and professionalism’.

conversation with another woman partner who asked whether chest pains were normal and whether she ought to have these checked out. When on the recommendation of her junior colleague the condition was checked out, it was both real and stress-related. Several of the interviews tell similar stories of observing colleagues and questioning whether the career was worth the stress. Interviewee 2 (from the first of the bullet point in this section) tells of a conversation with a partner returning from a long haul vacation: *“I remember her saying to me, she’d gone on holiday ... with the kids, and she said ‘oh yeah, it was great, I was able to lie by the pool and there was a place, I could plug my laptop in on the sunbed.”* She describes this as: *“the defining moment that you just go ‘I don’t want my life to be like that’. I don’t want that.”*

### Child care

Throughout a majority of the interviews, child care arrangements play a part<sup>43</sup> but for these final five interviewees, the inability to make child care work was unequivocally the reason for giving up on the profession:

- *“I stopped work when I had my first child and I didn’t go back”* (I.7).
- *“I had a child and wanted to see him occasionally”* (I.16).
- *“I had children and it all became more complicated”* (I.17).
- *“I wanted to be able to balance family life with work life”* (I.9).
- *“I could not get the work/life balance...They (teenage children) need you around in a different way and they are more demanding”* (I.22).

The first three women above were barristers. As the legal aid solicitor observed in another interview: *“It’s a nightmare being an advocate and having children”* (I.18). The barristers’ accounts prove just how true this is. In the first of the three cases, the woman barrister recounts how she had an early warning when she was three hours late for her engagement party, having been waiting in court on a matter which was eventually adjourned. Her husband to be actually said to her: *“‘what would you do if it was children’, [because] you know, he could*

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<sup>43</sup> Child care responsibilities are a major reason for both men and women quitting the profession; men and women carers are significantly less likely to remain in the same practice in five years than their colleagues of the same gender with this effect more marked for men than women – see Kenneth G. Dau-Schmidt, *Gender and the Legal Profession: The Michigan Alumni Data Set 1967-2000* (2008) American Law & Economics Association Annual Meetings Paper 135. Having said that women are overwhelmingly more likely to take the career gap to act as a carer: Kay et al ‘The Diversification of Careers Paths’ (supra n.32).

*cover some things but he travels for work, travels internationally and the logistics just weren't going to work"* This proved to be the case. Having thought that it might only be a matter of delaying a return to work, it wasn't so easy: *"Although my initial position was keeping my options open, sort of personal circumstances meant that it wasn't really an option."*

The second barrister left after 10 years' call in her mid-30s having taken a maternity break and then not returning. She had tried to keep working during pregnancy and found this difficult enough because of the unpredictability of the caseload, almost exclusively in the criminal courts. A common theme in responses concerned the availability, or lack of availability, of family nearby to assist with child care. Here, without any family back-up in the area working around the court's timetable looked impossible. In the words of this barrister: *"It took me quite a long time to have children and...given that it had taken me a while to get here, I want to spend... as much time with them as possible."* This was born out of experience that: *"The job became everything really and it was difficult to have a personal life around that."* The third of the barristers in this section had two children in two years, managing to continue to work after the birth of the first but then hitting difficulties when the second child had complex medical needs. Our respondent did try to take some one day cases but: *"You end up just losing so much work and you're self-employed, so all you're doing is still paying [chambers] rent and not earning any money."* The career break lasted eight years but on her return life at the Bar had changed: *"Legal [aid] cuts had meant that ... you were expected to do an awful lot more work for an awful lot less money, with an awful lot less support. To do work to the standard I thought was appropriate, there simply wasn't the time ... and I found that really, really problematic."* This woman left after two years on discovering that she had *"fallen out of love with the job of being a barrister"*.

Note that in all three of these histories from the Bar, there are intersectional factors. All three women had to address health issues, two with children with medical needs and one in becoming pregnant. There were other factors such as legal aid cuts and the lack of adequate child care arrangements. For these women in particular solutions such as nursery provision were not a failsafe because in the words of the final interviewee above: *"I was a Barrister [in] a court based criminal practice, I had to be available for court and court listings do not move, you cannot ask for a day off, you cannot ask for a listing to be moved, you cannot ask to leave*

*early, they just won't do it."*

These intersectional factors were true of the fourth interviewee in this section who left after getting married knowing that she *"wanted to have a family."*<sup>44</sup> This respondent also mentions, however, the stress in her life when she *"could only see more of the same and it getting even more pressured if I'd stayed."* This lawyer found that *"the novelty of what I [earlier] perceived to be the work hard, play hard culture had worn off and I just wanted to get a bit of balance back and a bit less stress in my life.* No longer enjoying corporate law at the age of 33, she left the profession shortly after getting married. The final case history in this section concerns a litigator who had remained in practice during her children's younger years, following a well-planned strategy: *"[what] I used to do was bring work home and when they were in bed I used to do it after they've gone to bed which was fine."* This turned out to be less easy as her children grew up and were around in the evenings: *"People think, when your children are younger it's harder but I found the opposite."* When her teenage daughter became ill, our interviewee: *"left work and concentrated on getting her sorted out. Umm, and it was meant to be temporary for a few months and then I was going to reassess whether I went back into law or did something else. Umm, but then I never got back into work."*<sup>45</sup> This was a highly experienced litigator, with a career in well-known commercial law firms in London, who left in her late forties, and who reflecting on her time in practice said: *"I think you had to be twice as resilient as a woman, and on top of that you had to do the homecare stuff."*

### What might have made a difference?

The interviewees were asked what if anything might have induced them to stay. Five responses suggested that nothing would have made a difference. This was particularly true for those falling out of love with law and for those who saw structural problems with the law firm, some of the latter believing that changing firms might just bring more of the same. An

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<sup>44</sup> This type of thinking ahead has been found elsewhere a study of over 2000 US in-house counsel showed that 43% of the sample considered looking for another role or position in anticipation of becoming a carer (in comparison with 25% of the men: Veta T. Richardson and Robin Myers, Cause and Effect: Why Women Leave the Legal Profession (Association of Corporate Counsel, January/February 2017) available at <<https://www.acc.com/sites/default/files/2019-03/Cause-and-Effect-Why-Women-Leave-the-Legal-Profession.pdf> accessed 30 September 2021

<sup>45</sup> The research suggests that any career gap makes it more likely that a woman will leave legal practice – see Kay et al 'Leaving private practice' (n.27).

example would be the 'up or out' departure where the woman had this to say: *"I came out of practice twelve years ago but actually, kind of, those factors came about in the ten years prior to that, and I'm pretty sure that if you spoke to a female senior associate in the same position as I was when I left in a private equity team, those would still be concerns on their list right here, right now"* (I.9). This accords with a number of responses that better and more structured career development (three references to this) and better staff development (two references)<sup>46</sup> might have made a difference.

Three interviewees said that they might have settled for a less relentless target driven culture<sup>47</sup> and two suggested that there was a need for more capacity in the teams within which they worked and that if this had been there they might have been able to continue. Two respondents thought that mentoring would have been helpful<sup>48</sup> and two thought that had it been easier to switch specialisms in law, they might have been prepared to try again in a different area of practice. In two interviews, women who had left practice following a maternity or other break from which they never returned, suggested that better return to work support mechanisms could have made a difference.

Unsurprisingly, perhaps, in the light of reasons for leaving better support for working with a young family was the primary wish from four interviewees. One of these wishing to leave was offered promotion: *"So even when they offered me promotion and everything that went with that, it wasn't enough to keep me."* When pressed by the interviewer whether there was anything that might have changed this, she answered: *"Maybe they could have been a little bit more flexible about women in the workplace and particularly women with families."* As it was, she also said that: *"I could only see more of the same and it getting even more pressured if I'd stayed"* (I.9).

Closely allied to this was a call for more flexible working made explicitly by six interviewees.

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<sup>46</sup> Women believe they receive less access to career development opportunities – see Liebenberg and Scharf, 'Walking Out the Door' (supra n.23)

<sup>47</sup> It is suggested that time related performance metrics particularly disadvantage women who may have caring and other responsibilities: Gordon et al Stanford law project at n.16.

<sup>48</sup> Lack of mentoring is reported as disadvantaging women in earlier studies see DRI Task Force (n.30) and Reichman and Sterling (n.38)

Not everyone was explicit in terms of how that flexibility might look. One suggested room for occasional sabbatical leave to counteract the unremitting work pressure. Another said that home working for two days each week may well have resolved her child care/family difficulties and the private client lawyer remarked that, for much of her caseload, home working was entirely possible. By the time of some of the interviews, homeworking had become the norm. One woman commented: *"I think this Covid is going to really change things for women to allow work at home a bit more, without having to justify or feel bad about it"* (I.20). Indeed in the pandemic, to judge by our sample, there must have been solicitors all around the country working from home for law firms that had always stated that this could never work.

### **Life after law**

So what happened to our interviewees on leaving law and how did they now feel about the choice they made? One striking thing was that four of the sample were looking, some more actively than others, to return to law. This included both women in the 'Employment issues for Spouse' category (above). One respondent whose children's ages would now allow a return to legal work said this: *"I am comfortable I've decided to stay at home looking after my children and as a result I have two very articulate bright sturdy children...but...I have a daughter [and] for me [it] is very important that she grows older she sees her mum have something other than being a mother, a wife being at home, so it is important to me to set some, I wouldn't say a role model but some sort of role she can see women can be more than mothers and wives and daughters* (I.20). All four potential returnees were finding this challenging, and as we saw above, they would welcome a greater level of assistance for those seeking to return after a break.

Seven of our sample remained as full time, primary carers (not only for children but for sometimes for other family members). Some did act as school governors or trustees of charities, rather than working even part time but were entirely content with their situation, at least for the moment: *"We got a happier house probably...my daughter used to go to nursery from seven in the morning 'til six at night. It didn't really do her any favours...I wouldn't be at the fair on a stall for the PTA on a Friday afternoon. I just wouldn't be there; I wouldn't*

*be able to do those things, and, at the moment, I'm enjoying doing that.* Asked if she would return to law in the future, the answer was: *"I think not. I think I'll go and do something else"* (I.2).<sup>49</sup> Many of the 'childcare' leavers spoke of the financial impact, but many saw this as offset to some degree by other benefits: *"In terms of my children and my family and my ability to care for them, definitely a massive benefit, but financially and in terms of my career, it's been a disaster from that point of view"* (I.12). A barrister respondent now happily employed elsewhere suggested that such benefits outweighed any losses: *"So even if all the childcare in the world was in place, I had children and I got to spend time with them when they were young at home and you can't really replace that"* (I.7).

A sizeable part of our cohort was engaged now in teaching, often law teaching. This may be a result of the media across which we sought participants, though the expansion in vocational legal education across the years of our study may also partly explain this. On the whole the experience was positive: *"egalitarian and diverse"* (I.17); *"there just isn't that ego"* (I.3). One thought that she worked almost as hard as a teacher but another described the difference as follows: *"I literally shifted from struggling to get out of bed in the morning to jumping out of bed and looking forward to what I was going to be doing that day"* (I.9). One barrister found her vocational teaching not as exciting or challenging as court room practice, but its predictability suited her childcare needs. There was one final interviewee who had ended up in a managerial role in higher education which she found: *"a huge benefit, personally, financially, with a much more rewarding, more challenging and harder career but very invigorating to have a second career"* (I.14).<sup>50</sup>

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<sup>49</sup> Research suggests that only 44% of female lawyers feel they can succeed in their career and personal life and almost half of them consider that it is a challenge to prioritize work-life balance alongside a successful career. Marc Brodherson, Laura McGee and Mariana Pires dos Reis, 'Women in law firms' (McKinsey&Company, October 2017) available at:

<https://www.mckinsey.com/~/media/mckinsey/featured%20insights/gender%20equality/women%20in%20law%20firms/women-in-law-firms-final-103017.ashx> accessed 30 September 2021

<sup>50</sup> This is not to say that all is well in terms of equality in higher education, for example there is a gender pay gap of over 15% (Rachel Pells 'Gender pay gap: UK universities report slow progress' *Times Higher Education* 8 April 2019), only 28% of UK professors are women (HESA, 'Higher education staff statistics Uk 2019/20' available at <https://www.hesa.ac.uk/news/19-01-2021/sb259-higher-education-staff-statistics> accessed 30 September 2021), and in a recent USA review of the top ten law schools only 30% of the faculty in these schools were women: Eric Segall and Adam Feldman 'The Elite Teaching the Elite: Who Gets Hired by the Top Law Schools?' (2019) 68(3) *Journal of Legal Education* 614 -622



Four people are employed in roles still relating to law: two in legal recruitment/careers, one in PR, but largely within law, and one a self-employed coach to women lawyers. So along with the law teachers, there was a cohort of people using to some degree their knowledge of law and the legal profession. As one interviewee remarked: *“Former colleagues ...used to say ‘oh I hate the job...but what else could I do’ and I always [said] ‘that’s ridiculous, what you mean is what else can you do that pays you £100,000 a year’* (I.1). This is not to say that everyone now worked at reduced salary because at least three out of the 14 interviewees in full time employment reported, without being asked, now earning more than they believed they might earn in the legal profession. Three people were self-employed (two being ex property lawyers now working in property management). The greatest change was perhaps someone who retrained in sports psychology and was building a career in sports management, proving in the words of another interviewee that: *“there is life beyond what you are conditioned to think is the only path for you”* (I.4).

### **Received wisdom**

We asked in interviews whether there was advice that our women would pass on to would-be entrants to the profession in the light of experience. We did have one respondent who opted out, saying *“I wouldn’t advise anyone, male or female to go into it (the profession) now”* (I.11). Another respondent pointed out that training was long, salaries were not uniformly high and that the responsibility could be crushing meaning that it might rank poorly against diverse opportunities in the modern job market. Against this we had many responses that the career was *‘brilliant’*, (I.4) *‘fantastic’*(I.7) and *‘wonderful’* (twice – I.9 and I.14) leading to the comment that: *“Law remains a very exciting career, can be very varied, very rewarding, hard work, but no I would never discourage anyone from going into Law* (I.14) This was accompanied, however, by much advice to explore the profession, its demands and diverse areas of work and to realise that: *“It’s a calling not a career”* (I.1).

Some interviewees stressed the need for support either through mentoring or less formally through one’s colleagues.<sup>51</sup> Home support was also considered vital from: *“Somebody that you can truly partner with, who understands the nature of the job ...and the stress”* (I.3).

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<sup>51</sup> This mirrors findings from the ABA study, supra n.23.

Closely related to this was a whole raft of advice about setting boundaries, that is to say making clear to others precisely what you wanted from the work and were prepared to give by talking about: “what you want from your job, what you enjoy, what you don’t enjoy [through] very open and honest conversations” (I.4). One woman advised that it was necessary to “*think about your motivations and set expectations from the beginning.*” She relayed the example of a friend who is now a highly successful lawyer and who: “*has children and she manages it very well. But she’s... always... stuck to a routine, she stood up to bosses and counterparts in a way that I never did, kind of set the expectations...*”(I.21).

Choice of work area was raised frequently: “*It’s childcare [law], it’s family [law], its conveyancing – all the ones that earn big money, corporate, are very macho; you can’t do it with those hours*” (I.22).<sup>52</sup> From respondents who had worked in the corporate departments, they pointed to transactional work being highly client driven and time pressured to the point that: “*Having children and being a City lawyer were incompatible*” (I.13). This was all very closely related to matter of work/life balance and one woman told us that of the successful women partners she knew, they had all chosen their work areas carefully: “*I don’t want to say are easier to navigate because these issues cut across all disciplines or areas of law firms – but kind of sometimes they’re a bit more kid friendly*”(I.8). It was all about, in one response, assessing “*whether your personality matches the demands and have absolutely no shame in deciding that the relentless demands aren’t something that [you] want*” (I.18).

This leads us to the final issue of work/life balance, mentioned in so many of the interviews, because, as stated in one: “*it’s tough and the scales aren’t balanced*” (I.19). One piece of advice was: “*Don’t think that you can have it all*” (I.6) and another confessed that the solution to the balance between a long hours’ culture and the demands of childcare had defeated her. There were respondents, however, who thought that women were charged with “*[looking] after well-being, balancing other sectors of your life and not giving all of themselves to the job*” (I.17) and that they could examine “*the balance you want in your career as against the work that you are expected to do*” (I.10). This involved, as we saw above, the setting of boundaries and many interviewees mentioned undertaking due diligence before a job move

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<sup>52</sup> On the gendered nature of practice areas see further Carrie Menkel Meadow (n.21).

to “try and see the difference between the talking and the doing” (I.2) where flexibility was promised. In the nature of our study many of our sample had found such flexibility elusive.<sup>53</sup> We end with this final account: “There are a lot of women in the law in the junior level, but they go away before getting senior, we need people entering that ...when she ...wants to have a family and set a line, things must [be] changed... I was very, very good at what I did... as a trainee ...very good as a solicitor and it is a shame that they couldn’t say to me that makes me flexible... we don’t move that from you, you can work from home and come in on these days and we will retain you and will build on you and invest in you...but I think Covid will do a good thing, I think they will have to, their hands will be forced into it” (I.20).

## Conclusion

Working as a lawyer, advising and assisting people at times of crisis or crucial decision-making, can be stressful and demanding. Yet there is no reason to feel that women are less resilient than men; in fact the opposite may well be the case.<sup>54</sup> Yet even though women now form a sizable majority of those qualifying into law, they remain disproportionately under-represented on the top of the legal profession, and instead leave the profession at an earlier point than men. This continuing trend may perpetuate a male ethos within the workplace and law firm culture. Our data show that women face professional challenges including struggles between life and work, lack of support, and excessive workloads often alongside other caring responsibilities. This suggests that the experience which leads to women quitting law is rooted in the gendered culture not just of the legal profession but of society more generally.

While we located from our interview data six factors that led to women workers being lost to the legal profession, we saw, time and time again, that these factors intersected and took on a cumulative force. Overlapping in their nature, the factors behind wastage of women professionals are not likely to be capable of quick of easy fixes, especially when these are

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<sup>53</sup> And it has been suggested that career breaks and part time working do impair the career trajectories of women lawyers: Clare McGlynn, ‘Strategies for Reforming the English Solicitors’ Profession: An Analysis of the Business Case for Sex Equality’ in Ulrike Schultz and Gisela Shaw (eds), *Women in the World’s Legal Professions* (Hart, 2003) 159–174.

<sup>54</sup> [Zarulli, V., Barthold Jones, J. A., Oksuzyan, A., Lindahl-Jacobsen, R., Christensen, K. & Vaupel, J. W. “Women live longer than men even during severe famines and epidemics” \(2018\) \*Proceedings of the National Academy of Sciences of the United States of America\*. 115, 4, E832-E840](#)

reflective of wider societal inequalities. Nonetheless, we hope that the data gathered provides a better understanding of the 'lost to law' phenomenon to help establish an empirical base for understanding the connections and interplay between work culture, personal struggles and the legal environment.<sup>55</sup> These matters require consideration from a holistic perspective that recognises barriers that exist outside of the law firm and which face women and not just women lawyers. Where in that context, personal, economic and cultural factors intervene to bar the progress of women in the profession, a professional responsibility to respond arises. The need to adequately address this issue becomes more acute as the demographics and profile of the profession suggests an increasing reliance on women lawyers.

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<sup>55</sup> Hannah Brenner, 'Expanding the Pathways to Gender Equality in the Legal Profession' (2014) 17 *Legal Ethics* 261.