

Merger talks

A successful merger provides the funds and stability for expansion. But there are risks, says **Mark Hubbard**

IN BRIEF

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- Conversely, larger sets can afford to do things that most smaller sets can't.
- A merger calls for and (ideally) provides the resources for a chambers to establish a new identity.

Looking around Lincoln's Inn it is easy to see that, where there were once many small barristers chambers—traditionally a silk or two, half a dozen juniors and a clerk being the norm—there are now fewer, bigger sets. Following Charles Purle QC's transfiguration into Judge Purle QC on 21 June 2007, mine has 42 barristers, six of them silks, five clerks and as many support staff.

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INCREASED MERGERS

Although the rise in the size of Chancery sets is partly the result of a steady stream of arrivals from the other side of Fleet Street, where, after crime stopped paying, bags have become less mixed, the big sets of today are almost all the result of mergers.

Ours took place in 2000, when sets of roughly equal size at 1 New Square and 12 New Square joined forces to form New Square Chambers. Serle Court Chambers

and 1 Hare Court merged the same year to form Serle Court. Landmark, Hogarth and Maitland chambers then formed on mergers—and in Hogarth and Maitland's case proceeded to conduct further mergers—and the latest large chancery set to form is Radcliffe Chambers, which brought together sets at 11 Old Square and 11 New Square. And so, just taking this group of mergers into account, between 2000 and 2006, 14 sets became six.

As getting barristers chambers to merge is a bit like trying to breed hedgehogs (except that barristers tend to be much more prickly), this consolidation demands an explanation.

EXPLANATIONS

When sets merge the explanations put out, mostly now drafted by marketing and PR professionals, whose appearance at the Bar is another sign that a new spirit is abroad, tend to follow a predictable pattern: mergers provide "strength in/and depth" or "synergy" and much is made of the expanded head count—by which I mean more heads, not larger ones. But does size matter?

ECONOMIES OF SCALE

The economic argument can be quite compelling. Running a modern chambers, with a team of clerks, support staff, client facilities, IT, an online library, a website and a marketing budget is an expensive business. There often are (or should be) significant economies of scale to be achieved on a merger. Conversely, larger sets can afford to do things that most smaller sets can't.

There is also often something to be said for the strength-in-depth argument. If a

chambers is large enough there is likely to be someone with relevant experience available to cover a hearing or to do an urgent bit of paperwork if a solicitor's first choice is too busy. This, it is hoped, keeps work in chambers rather than going to, and then staying with, a competitor.

Bigger sets, even if they cover a broad range of work, are more likely to have enough members with enough in common to make collaborative marketing possible. Our merger resulted in one group being prepared to put on seminars in the Caribbean and the Far East to promote their trusts practices, while others got together to write a book on the law of freedom of information. A third group is now putting on seminars up and down the country on the new Companies Act. None of this would work if, as is often the case in smaller sets, only one or two people do the same thing or are free at the same time.

IDENTITY ISSUES

A merger both calls for and (ideally) provides the resources for a chambers to establish a new identity. The object of the exercise being to create a new and appealing "brand", without losing any of the goodwill earned by the sets that are merging. Experience has shown that it is worth doing this properly and with professional help. Now that just about every notable lord chancellor and jurist has been pressed into service as the title of a set of chambers, and all in the last few years, there

RADCLIFFE CHAMBERS

Hedley Marten, head of Radcliffe Chambers, the merged Commercial Chancery set comprising 11 New Square and 11 Old Square, comments:

"11 New Square and 11 Old Square merged just over a year ago to form Radcliffe Chambers, with 45 members (soon to be 47). The marriage has been such a happy one that it is difficult to remember how short a time ago it was that the merger took place. There are sound reasons for this: we chose each other with care and the profile of our respective practices coincided remarkably well. While neither set needed to merge with anyone, we each recognised that there would be strength in size and depth. This has proved to be the case, with work and turnover of the merged set growing rapidly.

We all knew that the creation of the new set would involve immense hard work and this was the case. The sheer volume and depth of necessary detail cannot readily be overstated. We were fortunate in the quality and skill of the various members of our respective sets who brought the merger to its successful conclusion. Many busy and exceedingly able colleagues made a most considerable sacrifice.

It was this very strong commitment from each party to the merger that ensured success. This commitment was shared by the clerks who have worked together quite superbly throughout and a great deal of the credit must be given to them.

It was not, however, an entirely smooth operation: there were some practical and logistical problems in relation to accommodation and some other matters, which could and should have been avoided. They did take some little time to resolve, but resolved they were due to the understanding and the commitment of our members and clerks.

Looked at in its totality the merger has been an unqualified success."

is more than a little room for confusion. New Square Chambers opted for simplicity in name and logo (a red square) and everything that stood still long enough was painted "chambers green".

DIFFICULTIES

This is, of course, not to say there are no drawbacks. The first difficulty will, of course, be in getting sufficient consensus at each set to the proposed merger. There is no point trying to achieve a merger at the cost of cohesion, which is often more fragile than people think. Then there are all the governance issues: Democracy or oligarchy (usually the latter); one head of chambers or two (usually two); and one senior clerk or two (usually one, or, more radically, although sometimes only for a while, none). Further, there may be redundancies to make, and there will almost certainly be accommodation issues to resolve. Many a proposed merger fails to get over one or more of these initial hurdles.

THE RIGHT MOTIVES

But what about sets that get over these stumbling blocks? How do they fare? In some cases badly. If the mix is not right or the motives for merger are muddled, things can go wrong quickly. Some large newly-merged sets have folded and there has been at least one merged set that promptly de-merged again shortly afterwards.

If the only purpose of a merger is to cut costs—or at least the costs borne by each member of chambers—the result is likely to be disappointing: running two middle-sized mediocre sets together just to cut the rent is likely to produce only a big mediocre set, and to make it proportionately harder to do anything to improve quality.

COST OF MERGING

Also, any financial benefit in terms of reduced (or expanded) chambers expenditure needs to be set against the costs. Direct financial costs of consolidating accommodation, clerks rooms and clerking and IT systems—seemingly no two sets of chambers ever buy the same phones. Indirect costs in terms of time spent on the merger project

and of the more-or-less inevitable disruption both physically and, where staff change or are re-assigned on merger, to client relationships. More intangible losses often include the loss, or fear of the loss, of some of the social intimacy which often pervades sets with decades of stability—or at most organic growth—behind them.

Successful mergers are those which aim to produce either a large specialist set, like Landmark, which can then make a stronger claim for market dominance, or which, like the New Square Chambers merger, produce far more momentum than they absorb. And, despite all the potential drawbacks and pitfalls, mergers are, in the main, a success.

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