

The path to partnership

By Linda Julian

Here are some themes, values, and issues to which referees may be guided in formulating their statement of support for the investigative, surveillance, and other support services which you provide to the insurance sector.

When asked "What is your greatest asset?" most law firms would readily respond "our people, and especially our lawyers". But the management of these valuable human resources often falls short of ideal.

This paper deals with the practical experience of human resources management (especially as it impacts on career development) for the "core" of lawyers in private practice: those in small- and medium-sized firms. It is based on a study of ten practices selected as being broadly representative of this "middle band" of the profession.

The table below locates each firm, sets out numbers of partners, associates, other lawyers, and whether there is a practice manager. It also details whether each practice has documented its vision statement, business plan, strategic human resources plan and policies, documented career progression and partnership admission criteria, and whether it uses formal appraisal procedures for managing the performance of its lawyers.

We are all acutely aware that the profession faces an increasingly competitive future as supply of lawyers outstrips demand; oversupply will increase sharply as we approach the millennium. This comes at a time when the effects of the Hilmer Report are starting to be felt with mounting pressure to deregulate and new sources of competition.

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Firms have long recognised lawyers as their key asset: they have little to sell except the time and advice of skilled professionals. The capital base of the practice is human and intellectual; almost every law firm will identify its people as its most important resource. Professionals look for careers, not just jobs. So, it is surprising how poorly the majority of practices manage their precious human lawyer resources.

Strategic human resources management pre-supposes strategic business planning and management. But few small and medium legal practices have more than rudimentary business plans - a handful have high-minded (and largely undifferentiated) practice vision statements, largely unsupported by detailed business plans, let alone strategic human resources plans or even documented personnel policies.

The legal profession is facing enormous changes: historically, to hang out a shingle was to ensure a handsome income and social standing. Now, in a crowded and increasingly competitive market, good lawyers cannot be certain of privileged lifestyles.

Career progression to partnership in this core of middle-sized firms, once almost an automatic function of "serving ones time", is no longer guaranteed. Struggling to preserve or restore profitability, partners now erect rigorous barriers to entry and are increasingly intolerant of non-performers. At the same time, small- and medium-sized practices find it hard to compete for the best new graduates and associates: talented young lawyers seek the best opportunities to build their skills.

Notably, six firms in the sample devote considerably more management attention to non-lawyer human resources. This stems from proactive non-lawyer practice managers empowered to perform human resources functions in relation to support staff.

However, because they generally believe that "only a partner can manage another lawyer" and that partners are too busy for substantial involvement in human resources, the lawyers in these six firms are managed less well. While two non-lawyer practice managers in the sample have nominal authority, they are largely powerless to act in the area of career development.

Human resources development means planned learning and development of people as individuals and groups to the benefit of the business as well as themselves. In the context of the law firm, career development also means increased specialisation or complexity of work and rewards such as progression through the ranks of employed solicitors to associateship, and finally admission to partnership. Few would argue with the proposition that, in private practice, partnership is the ultimate prize: partnership means equity participation, sharing profits, status, money, autonomy, better quality work, recognition by peers and clients, security of tenure, and membership of an elite "club". Typically, the group of firms studied performs poorly in terms of integrating people management with achievement of business objectives beyond the short term.

Not unlike other businesses, law firms tend to define their strategic business needs in turbulent times, usually following a crisis in the partnership. Such plans reflect survival strategies and include detailed financial budgets in support of profitability objectives.

Business plans often set out generalised objectives for organisational expansion into new market niches and may identify key individuals to lead practice areas. However, plans rarely mesh with any strategic approach to human resources, let alone deliberate career development for individual lawyers.

None of the firms in the sample group has a document setting out its human resources philosophy. However, all listed would give nodding support to the high-minded statements of values, philosophies, and practices so fashionable at present.

Customarily, associates serve an "apprenticeship" for partnership, taking increasing responsibility for fields of practice and clients, and extending their legal expertise. However, partnership decisions are often made in the context of crisis: six partners in the sample group were elevated from associateship after indicating their intentions to join competing law firms.

Universally, career development paths in the subject firms are undocumented: milestones and assessment criteria are ambiguous. When articulated, current partners talk in generalities like "making many extraordinary contributions to the firm" and being a "key player". Even when values like "participation in training of junior lawyers" or "development of outstanding expertise" might be espoused, most non-partners believe that assessment by the chargeable hour is the only obvious criterion for progression.

Confusing messages most often result in promotion of high-billing people who are otherwise cast in the mould of existing partners: same sex, schooling, religion, and lifestyle.

Of the 55 partners in the sample group, only 5 are female; while 8 out of the 20 associates are female, half of these have been assigned non-billable responsibilities for support personnel (unfortunately, a notorious career dead-end for female lawyers).

For those who don't fit the standard mould, there is little opportunity for apparent progression. For example, female mature-age entrants to legal careers are often relegated to the relatively unglamorous and poorly-rewarded family law area on the basis of their apparent "suitability" for these work assignments. There are three such examples in the sample group.

Lack of diversity among partners and associates in all of the subject firms is notable; in seven of these practices, this is likely to limit their future ability to service increasingly diverse clientele.

Career development for partners themselves is almost always overlooked: a partner is rarely regarded as a candidate for significant further investment.

In only two of the sample firms have there been organised efforts to cross-train a partner from one practice area to another. The outcome is staleness and dissatisfaction among a band of senior lawyers "trapped" in partnerships rather than contributing enthusiastically. Lack of professional stimulation and boredom with routine work is a common complaint reported by partners in the 40-plus age group. This has an insidious effect on the whole firm.

Legal practices need highly motivated professionals to compete effectively: productivity and quality are highly correlated with commitment to the task at hand. Perhaps the most important criterion against which to assess the effectiveness of current approaches to career development in law firms is their ability to attract and keep the lawyers they need to meet the technical and service requirements of clients.

"Prize" clients in the market shop for lawyers rather than law firms, making stability of personnel a key issue. Remember, astute clients follow lawyers.

Another important factor, also difficult to measure, is the impact of these human resources policies on firm profitability. However, we have strong evidence of a high correlation between client retention and high firm profitability.

In most of the subject firms, there is infrequent discussion of career progress, and almost no certainty. Consequently, employees are unable to map their progress. Even though firms in the sample group would not agree that they have an "up or out" system, effectively it operates this way since career expectations of individual lawyers will lead them to seek better opportunities elsewhere if their progress is halted. This is supported both by historical precedent (whereby just about everyone made it to partnership if they served their time) and by the current fashion of only promoting the elite.

Firms in the sample group have had difficulty dealing with lawyers who do not excel in the full range of partner skills. None of the sample firms has provided alternate career progression for passed-over associates by either seconding them to in-house jobs with key clients or facilitating outplacement of this "alumni" into other suitable corporate or consulting positions.

Partners are the pivotal stakeholders in their own career development, the development of their peers, and other lawyers in the firm. Once a partner, there is less encouragement to learn truly new things - rather, most partners are so busy keeping up with changes in the law and running their practice groups that they cease investing in their own careers by further developing their expertise. Inattention to development of incumbent partners produces many unintended outcomes.

Morale problems and manifest dissatisfactions among both partners and associates are the consequence of failures to actively embrace career development planning. Stale, cynical, billable-hour driven lawyers rarely develop ideal client relationships or succeed in the vital area of cross-selling, a key component of practice profitability.

Highly mobile partners, especially those with outstanding expertise or truly portable client bases, frequently vote with their feet. What is customarily tagged as "greed" may often be disillusionment about the prospects of continuing with the same work in the same environment for all time, without any promise of expanding skills and knowledge into new areas.

Associates and solicitors report that it is generally left up to individuals to take charge of their own career development. Lawyers who make it through the path to partnership are certainly tough, assertive, and committed to work. With little certainty about progression, partnership aspirants are kept "on their toes". But the ambiguities inherent in an environment where admission criteria are shifting and hopefuls are kept in the dark about prospects mean that the best and most marketable lawyers frequently leave to pursue more certain opportunities.

Another unintended consequence of leaving non-partner lawyers to career development on their own time is that they devise schemes aligned with personal interests.

For example, an associate in one of the medium-sized subject firms pursued his interest in sport by planning a new practice area dealing with player contracts. By leveraging off his contacts, and tapping into existing commercial law and intellectual property areas, he sought firm support for postgraduate education to support the new venture, plus time to write articles for publication and to address sporting associations. Instead, partners reacted with "it's not our style", and "why haven't you made your budget this month?". Not surprisingly, the deflated associate became mutinous and took his sports law venture to a more appreciative firm. Inflexibility in accommodating both career and practice development plans proved a costly mistake.

Associates with portable client bases find offers from other firms attractive. Commonly, prospective employers or partners will readily recognise the true worth of the associate, and "sweeten" offers with highly-prized opportunities like cross-skilling, introduction to high-profile clients, sponsoring post-graduate education, and even overseas secondments. Three firms in the sample lost four senior lawyers (two partners and two associates) for these reasons during the two-month study period alone.

Career development practices of the firms studied contribute to unbalanced lifestyles. There is substantial evidence that lawyers working hours have grown over the last decade, and in the medium-sized firms sampled, partners now typically report in excess of 55 hours each week; keen senior associates report up to 75 hour working weeks. While long hours and only occasional holidays may be tolerable for a time, most find this unsustainable over the longer term. Relationship problems, burn-out, and poor attitudes to staff and clients are often products of overworked lawyers and result in sudden "unexpected" resignations.

Four firms in the sample have experienced such "out of the blue" resignations in the last twelve months. The former partners and associates are now active competitors.

In the context of the firms sampled, professional development is defined (far too narrowly) as greater technical skills.

Our extensive client research reveals that client satisfaction depends more on quality of relationships, lawyers understanding their business, and careful management of matters, than on straight technical skills (which most clients cannot judge). In developing lawyers, more emphasis is needed on interpersonal skills, communication, and business education.

Firms in this small- to medium-sized group are so busy surviving, dealing with demanding clients, and coping with an increasingly complex statutory and regulatory environment that they can find a plethora of reasons for inattention to career development of lawyers at all levels.

The most junior lawyers are not too badly served by current practices: so absorbed are they in applying pre-qualification learning and discovering fundamentals of client and matter management that professional development proceeds apace even without careful planning. The law firm environment provides advancement by osmosis.

Partners rarely take the time to find out what really drives their employees: they wrongly assume status and money. Our research shows that the foremost need of junior employed lawyers is an appropriate mentor relationship within the firm, followed closely by education and training opportunities leading to professional progression.

First- to third-year lawyers know that it's too early to be thinking about formal promotion: recognition by way of more autonomy and more interesting work will suffice.

From about the fourth year onwards, as they begin to specialise, lawyers become increasingly concerned about formal advancement. This coincides with sharply increased mobility as opportunities in private practice and commerce expand dramatically. Certainty of advancement in the current environment is mandatory to keep the best performers.

Firms rarely train lawyers for roles as associates and partners: those who make it today have usually been lucky enough to "catch on" to what is required.

At its very best, this informal approach is effective: through mentoring from an exceptional partner role model, the "apprentice" can absorb a rich culture which embraces a wide range of technical skills, business attributes, professional attitudes, and other desirable behaviours. Among the sample group, only two such "super-partners" are apparent, and both of these belong to one firm. However, those attributes which are poor fit for future are just as readily transmitted.

What these firms need in the next wave of leaders is client relationship managers, business developers, team leaders, trained managers, and those who can develop innovative new services to replace the repertoire of reducing-margin, commodity products which remain prominent.

It is unsurprising that so many lawyers are poor managers when one realises how few have had the benefit of formal management education. While a reasonable number of younger members of the profession have some undergraduate business education, only a handful of lawyers hold postgraduate management qualifications.

Law firms are likely to continue to be a somewhat bizarre combination of modern management, feudalism, entrepreneurs, and survival according to the law of the jungle whichever their frame of reference remains almost solely what they've seen in law firms.

All of the firms in this broadly-representative sample would benefit from a better appreciation of contemporary trends in human resources management and professional career development practices. This should be followed by selective application of these techniques to improve their long-term practice effectiveness.

PRACTICE IDENTIFIER	PRACTICE LOCATION	PARTNERS	ASSOCIATES	OTHER LAWYERS	PRACTICE MANAGER	VISION STATEMENT	BUSINESS PLAN	STRATEGIC HR PLAN	PERSONNEL & HUMAN RESOURCES POLICIES	PARTNER-SHIP CRITERIA	APPRAISALS
AB	NSW Country	3	0	1	N	N	N	N	N	N	N
EF	NSW Country	3	0	0	N	N	N	N	N	N	N
HI	Sydney Suburban	2	0	2	N	Y	Y	N	N	N	N
PQ	NSW Country	1	0	2	N	N	N	N	N	N	N
ST	Sydney CBD	5	1	2	Y - partial	N	Y	N	N	N	N
TU	Sydney CBD	4	2	3	Y	Y	Y	N	Y - partial	N	Y - partial
BC	Hobart CBD	6	4	6	Y - partial	N	Y	N	N	N	Y - partial
CD	Sydney CBD	11	4	19	Y - partial	Y	Y	N	Y	N	Y
LM	Melbourne CBD	12	5	13	Y	N	Y	N	Y	N	Y
MN	Sydney CBD	8	4	7	Y	Y	Y - partial	N	N	N	Y - partial