

UK 2nd edition

The Future of Legal Services: Expert Analysis

EDITED BY HELEN ROCHE



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Contents

Foreword	VII
Executive summary.....	IX
About the authors	XI
Expert analysis 1: The innovation advantage	1
<i>By Andrew Hedley, director at Hedley Consulting Ltd</i>	
What do we mean by 'innovation' in the context of the legal sector?	1
Taking the client's perspective: Developing a service innovation approach	2
Operating model innovation.....	4
Understanding where the value lies to make better investment decisions	4
Affording innovation – Making choices to fund the future.....	4
Creating the innovation recipe for success	6
Expert analysis 2: The evolution of the market and admission of new entrants.....	9
<i>By Rachel Khiara, partner at Khiara Law LLP</i>	
The current landscape	9
Alternative business structures to date.....	9
The enabling legislation and the SRA Handbook	10
Whole business acquisitions.....	10
Joint ventures	11
The application process.....	11
The Suitability Test.....	12
Issues for listed companies and corporate groups.....	13
The future	14
Expert analysis 3: Alternative fee arrangements and competitive pricing	17
<i>By Toby Brown, director of strategic pricing & analytics at Akin Gump LLP, and Sol Irvine, partner at Yuson & Irvine LLC</i>	
Pricing in practice	17
Moving forward	18
Current efforts	19

Expert analysis 4: Financial management and due diligence – Preparation as the key to success	25
<i>By Richard Wyatt, owner of Cambridge Blue Square Management</i>	
Cash flow.....	26
Profitability	27
Business structures	29
Motivational reward structures	29
Conclusion.....	30
Expert analysis 5: Outcomes-focused regulation – Its impact to date and thoughts on likely future repercussions	31
<i>By Peter Scott, founder of Peter Scott Consulting</i>	
The encroachment of regulation.....	31
Compliance requires greater resources.....	32
The cost of managing risk	32
Financial stability	34
Using OFR to deal with ‘bad behaviour’	34
The potential for conflicts	35
The need for law firms to lay an ‘audit trail’	35
OFR as a catalyst for forward planning.....	35
Expert analysis 6: Law firm governance in a challenging environment	37
<i>By Chris Bradish, associate, Corinne Staves, senior associate, and Richard Turnor, partner, at Maurice Turnor Gardner LLP</i>	
The importance of vision, strategy, and values.....	37
Structure and process of governance.....	37
Risk management and compliance.....	40
Conclusion.....	44
Expert analysis 7: Legal project management	45
<i>By Rick Kathuria, director of the project and vendor management office at McCarthy Tétrault LLP, and Manju Jessa, senior counsel and head of the International Wealth Management legal team at RBC General Counsel Group</i>	
Self-managed.....	47
Project management office	48
Professional support lawyers	49
Expert analysis 8: The legal IT world is changing	51
<i>By Charles Christian, founder of Legal Technology Insider Ltd</i>	
A perfect storm of generational change	51
Twilight of the Windows era?	52
Cloud computing – The electricity of the digital age	52
Say hello BYOD.....	53
Say goodbye to the CIO?.....	54

Expert analysis 9: The future of KM in law firms.....	57
<i>By Mark Gould, head of knowledge management at Addleshaw Goddard LLP</i>	
The development of law firm knowledge management.....	57
Law firm context.....	58
Phase III KM: ‘It ain’t what you do (it’s the way that you do it)’	61
Expert analysis 10: Outsourcing for law firms	63
<i>By Alex Hamilton, founder and principal at Radiant Law, and Kevin Colangelo, managing partner at Yuson & Irvine LLC</i>	
The alternatives to outsourcing.....	63
What can be outsourced?	64
The benefits of outsourcing.....	64
Challenges unique to law firms.....	66
Delivering successful outsourcing relationships.....	67
Legal process outsourcing	68
Expert analysis 11: The rise of the employee value proposition.....	71
<i>By Rachel Brushfield, director of EnergiseLegal and Energise, The Talent Liberation Company</i>	
How important is the employee value proposition and experience?.....	72
The world of work is changing	74
Case study – Latham & Watkins	76
Expert analysis 12: The partnership model is dead – Long live the partnership model.....	77
<i>By Mike Jones, founding director of IV League Talent Limited</i>	
The IV League solution	78
The entrepreneurial lawyer.....	78
Not so lonely at the top.....	79
ABSs and new thinking	79
Complementary not revolutionary.....	80
Expert analysis 13: The future of client relationship management and cross selling	83
<i>By Tony Reiss, founding principal at Sherwood PSF Consulting</i>	
Choosing the right clients	84
Getting to the top	84
The relationship, not the sale.....	85
Training and practice	86
Making it happen	86
CRM and cross selling.....	87
Making cross selling happen.....	88
Conclusion.....	88

Expert analysis 14: The in-house lawyer – A changing role	89
<i>By David Ferri, head of legal at PayPal (EMEA)</i>	
A changing role	90
An increasingly regulated world	91
Changes felt externally	92

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Mike Jones is the founding director of IV League Talent Limited. He created the IV League concept to offer law firms an entirely new way of attracting top legal talent, but also to offer senior lawyers a different career opportunity. In addition, Mike is founder of Intrinsic Values Limited, a consultancy that partners with professional services organisations to leverage business development opportunities. Prior to this, Mike enjoyed a successful career of over 20 years in financial and professional services, holding senior sales and marketing roles with several leading organisations including Ernst & Young, St James's Place Capital, Tite & Lewis and Zurich Financial Services. Mike was the first sales director appointed by a law firm and since then he has built a reputation as one of the most influential business development consultants in the professional services sector.

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Expert analysis 11: The rise of the employee value proposition

By Rachel Brushfield, director of EnergiseLegal and Energise, The Talent Liberation Company

THIS ARTICLE explores the employee value proposition; what it means in the changing legal market, why it is important, what internal and external factors affect it, and how it is a tool to attract and retain the best talent.

Major trends affecting the legal market include increased competition, increased specialisms, the spotlight on client relationship management, the commoditisation of certain types of law, mergers, increasing price transparency and fixed pricing, and law firms focusing on efficiency, and needing to achieve more with less. There are also a surplus of lawyers for the number of jobs available, and less partner places and equity rewards to share. These trends increase the need for law firms to have the right people in place to attract the clients they want and to build the firm's reputation, and for these people to work efficiently and effectively.

Firms need their employees to willingly give more than they are contracted to. That is, they need lawyers to commit discretionary effort as a result of feeling motivated and engaged by how they are treated, and with the prospects they see for themselves in future in the firm. The employee value proposition (EVP) as part of the overall talent management strategy is therefore a strategic imperative.

The EVP is what the employee gets from working at a particular firm. It is a combination of their employment contract; how much they are paid, benefits such as pension and perks, and facilities at their disposal like canteen and car park space. However it is also the psychological contract, hard to pin down and measure but vitally crucial to influence and manage, that ultimately affects the firm's profitability and client experience. The psychological contract is about how people feel at work. This is affected by a multitude of factors: the environment in which they work; how they are treated; the extent to which their values are honoured; how motivated they feel by the work they are given and the responsibilities assigned to them; and the quality and quantity of the management and development received by them. The EVP needs to articulate 'the deal' for all staff and should include the firm's approach to career development, rewards, support, and the way the culture of the firm plays out in practice – i.e. the employee experience. 'The EVP needs to be informed by what existing staff think. It is likely to be different for associates and partners' according to Melinda Wallman, partner at Major, Lindsey & Africa.

Many firms have their values on their websites but their actions and behaviour do not match up to them or there is inconsistency across the firm. For younger lawyers especially, and to attract quality

lateral hires, firms need to 'live their brands'. The employer brand is what will attract talented individuals to want to work for the firm. 'A clearly articulated employee value proposition can be of great assistance in the "attraction" part of the talent management strategy', according to Charlie Keeling, global HR director at Clyde & Co. Perceptions about the firm and the EVP and employee experience is what will make them want to stay and create good word of mouth via social media – therefore feeding back into the employer brand. In the words of Charlie Keeling: 'The employer brand needs to be high level and deal with what the firm stands for, e.g. strategy with specialist sector focus, strong branding, robust performance, and the employee proposition should then define things through the eyes of the employee, e.g. interesting and challenging work, a performance – not time – served approach to rewards, individual benefits, supportive culture with mentoring etc.' At the same time, the employer brand can be hugely affected by employees and the firm's EVP. 'It is impossible to have an authentic employer brand without understanding and defining clearly what the employee value proposition really is', according to Stephanie Abbott (director of knowledge, learning and development at Mayer Brown JSM).

How important is the employee value proposition and experience?

In the changing legal market, the client is king. Increased competition has magnified the focus on client needs, customer relationship management, and how to create differentiation to win business and retain or attract clients. Firms think nothing of spending time on the client experience and how to influence and manage it, and the current law firm model relies even more so than in the past on efficiency – which

means senior lawyers making margin from the time and effort spent on client projects by more junior lawyers. Law firms sell the services of people, and therefore attracting, developing, and retaining quality people should be strategic priorities. Yet managing the employee value proposition does not receive sufficient time and attention considering the impact it has. As the legal market continues to globalise and segment, lateral movement of lawyers will increase between firms. A high proportion of lateral hires are unsuccessful, which costs firms a huge amount in wasted recruitment fees.

The 2012 Major, Lindsey & Africa lateral partner satisfaction survey¹ shows that compensation is one of the least important factors in a lateral's choice of a new firm. The most critical factor is the firm's ability to support the expansion of a lateral's practice. Melinda Wallman who is a partner at Major Lindsey & Africa commented: 'The best law firms in the world operate as one firm, which requires collaboration. When people have the same value and vision and when they are rewarded for working as a team, it results in a collaborative culture. That counts for a lot in a firm's EVP.'

'Platform' will become increasingly important to law firm partners who seek firms that differentiate themselves from others, e.g. by practice group strength, geographical focus, or client focus. 'Platform' is the springboard from which lawyers are able to do their work to a greater or lesser extent – how supported or inhibited they are by other lawyers, how much the firm is collaborative and collegiate in reality, or divisive and competitive. The employee experience is about personal job satisfaction and career fulfilment and younger lawyers will vote with their feet if they do not get it. Talent drain is a huge waste of time, money, and knowledge, and one that firms can ill afford.

Speaking on this topic, Stephanie Abbott said: 'In law firms, a lot of the employee value proposition is to do with culture, identity and peers. A sense of belonging and purpose is more important than rewards, which tend to be similar across the industry. This is often the unspoken differentiator – the quality of the work and people in a law firm.'

As a people business, not only is talent essential to a law firm's competitive advantage, people make up a huge cost (coming to, on estimation, over 40 per cent of total costs). In an increasingly commoditised market, where intellect and legal specialism are the keys to securing higher margin work from clients, talent is everything. In a people business like professional services, the employees are the crown jewels. Why then do law firms not treat them so? Many law firms see employees as expendable, and the churn of this precious commodity and the annual shedding of people is seen as part of the workings of a law firm to balance the books.

Law firms are a group of bright individualists working collectively in a structure of collaboration to a greater or lesser extent. Achieving integration can be a challenge as individual lawyers and practice groups, as well as partners with different tenure, have their own agendas. Each individual practice group has different talent needs and may be at a different place in the career lifecycle. Yet it is vital that the firm has a coherent strategy to talent and integrated people management policies. Discussing and agreeing anything people-related is time not spent fee earning and therefore is seen as a second priority. This can have a significant impact over time, but measures are not always in place to link back people metrics to business metrics, and results from

investment in people development can be longer than the annual business cycle.

The premium practice areas of a law firm are dependent on attracting and retaining the best legal brains, and they require a segmented strategy with different approaches for different segments. It is wise to manage and track the perceptions and fulfilment of employees, especially high potentials and talent seen as essential to deliver the firm's strategic plan. Different elements of the EVP can be adjusted so that employees work harder, are happier, give more of their effort, beyond their contractual hours, and act as a natural advert to attract future talent and enhance the firm's reputation. Often these cost little but take thought: sharing data; asking for opinions; involvement in decision making; exposure to senior management; a modern approach to flexible working and a focus on output.

In a group discussion initiated by this author on LinkedIn, it was asked: 'What one word best sums up how to engage employees effectively?' The words shared were: 'purpose', 'connection', 'impact', 'interaction', 'meaning', 'listen', 'dialogue', 'honesty', 'trust', 'empowerment', 'involvement', 'respect', 'ownership', 'transparency', and 'recognition'. How many law firms have a strategy for making this happen through the EVP in reality and track it over time? The employee value proposition is the responsibility of everyone in a firm; the firm's leadership, the partners, learning and development, organisational development, human resources and marketing, but what gets measured gets done. How many firms track the employee journey and the perceptions that are created from what happens or does not happen? Is the law firm model fit for purpose to create happy and motivated employees? Is it a structure which creates engagement, promotes initiative and

proactive endeavour which benefits clients and motivates employees? A firm's leader is critical to the employee proposition being delivered in reality.

Now, more than ever, law firms need to manage their employees and carefully handle the psychological contract, and yet few firms make it a priority, have an individual responsible for it and create an integrated strategy to influence it. The client experience is what clients feel as a result of all their interactions with the firm and the client proposition is why they choose firm A over firm B. The employee experience is no different. Law firms need to think about what territory they want to occupy in the hearts and minds of their employees and how they can create these perceptions.

Many firms do 'knee jerk' reactions to the supply and demand of lawyers, rather than approaching talent management and the role of the EVP within it strategically. Firms pursue profit to attract and develop the best talent but sometimes need to compromise their talent management strategy to maintain profit levels, e.g. having to respond to rapidly changing market conditions by restructuring and retrenching staff. How people are treated when being asked to leave can have a huge impact on the collective psychological contract and word of mouth, and negative comments can spread virally within minutes via social media, undoing years of carefully planned and orchestrated work to create a fine employer brand. Witnessing others being fairly treated can have a big impact on the employee experience and so how individuals are treated when made redundant can stay a long time in people's memories. This is something to bear in mind in the tough times ahead for law firms in the UK. As well as this, the alumni of a firm can be a rich source of future business and referrals,

and so decisions about the EVP, employee experience, and the psychological contract can have a long term impact on client business and profit.

Most employees primary experience the psychological contract through their individual supervising partner who, feeling pressured to fee earn, often do not make people management a priority, because of short-term thinking created by the law firm model. Six minutes of attention with a partner's mind on client work does not motivate and engage an associate who is hungry for learning and development and fearful of the future. Postponing individual supervision and not making an annual performance appraisal a priority creates bruises on the psychological contract.

The world of work is changing

What people want from work is changing. The beliefs and values of the various generations of lawyers are very different. The financial rewards for years of toil and hard work are not as compelling as they used to be, if they are there at all. And yet, the efforts of lawyers, and the hours they put in are an essential ingredient on which law firms' success depends. Younger lawyers, Generation Y and the Millennials seek more variety, more responsibility, and involvement in decision making. They expect a law firm to develop them and demonstrate its values. They are less loyal than their predecessors and they do not want a job for life, but a satisfying and rewarding job for now. This is a paradigm shift in thinking. In future, law graduates may choose the law firms, not the other way round.

Lucian Tarnowski, founder of Brave New Talent (a social platform of online talent communities where organisations

and people connect, communicate, and collaborate around relevant professional topics), sees a real need for employers to focus on the EVP and improve their image using technology: 'There is a mismatch between the "old school" sophistication of technology in work that employers use and what employees adopt in their personal lives, the "new school". This can disengage employees pre-employment and law firms need to make more time to develop the candidate experience on-line to attract the best legal talent to them.'

The future 'super league' of truly global firms servicing the best multinational clients will be competing for the best legal brains. These firms will need to take the EVP to a whole new level to ensure that they attract and keep the best legal talent, and therefore attract and keep the best clients. Best practice professional development will evolve into creating the crème de la crème of training to attract and develop the best lawyers.

More and more employees want something more or different from what traditional law firms provide – and not just the younger generations discussed above. As someone involved in career change work with individuals, I have seen first-hand a consistently growing trend for talented individuals to choose to leave large bureaucratic organisations to pursue a portfolio career, to set up their own business, or to change direction completely. Career structures in law firms are out-of-date and need to change. Failure to adapt will mean that the legal profession does not attract the talent it needs.

It is impossible to give all employees a unique EVP tailored to their own needs, wants, values and motivations, and therefore talent needs to be segmented, but financially in the current market – with lean HR/L&D teams – this is not realistic. Lawyers do not like being open with their peers and do not relish difficult

conversations of this nature. Singling someone out can be divisive regarding the partnership track and officially law firms want everyone to be seen to be treated equally. Professional development is becoming more selective and rewards more targeted – performance based, not time served.

The legal profession is traditional, hierarchical and often bureaucratic with a clear pecking order of responsibility which demotivates more junior lawyers hungry for it. Many firms do an employee engagement or satisfaction survey to measure how employees are feeling. To what extent this data feeds directly back into developing the EVP and into creating a healthier psychological contract is debatable. Often this is because the EVP and psychological contract are multifaceted concepts affected by a multitude of factors and no one person is responsible.

The law firm model is out of date and no longer fit for purpose. There is a danger that the best talent needed to secure a firm's competitive advantage will be put off by the rewards tomorrow strategy, the long hours, hierarchical and bureaucratic structure, and will choose a different career.

At some point in the future, when the economic cautionary fog of the downturn lifts, the shoe will be on the other foot – the employee will hold the ace card. The smart firms will take steps now to ensure that they have a strong and healthy psychological contract and robust EVP and employee experience. They will ensure their talent management strategy is up to date, with rewards and culture that meet the needs and desires of tomorrow's lawyers, not yesterdays. Failure to do this now will result in talent drain, just at a time when firms need their existing talent to step up to create new growth. Firms need the next generation of talent to choose their firm and be the leaders and rainmakers of the future.

Case study – Latham & Watkins

Global law firm Latham & Watkins is a great example of the employee proposition at work and its role in engagement as well as attracting, developing, and retaining the best legal talent. The firm employs more than 2,000 lawyers across 31 offices around the world and its gross revenue was more than £1.35 billion in 2011. Latham & Watkins is known for its committee-driven management structure and empowering associates at an earlier stage of PQE than the average firm.

Generation Y, born 1980 to 1999, and the Millennials, born after 2000, are hungry to develop and grow, to get involved in projects and decision-making. Associates in a law firm now often fit within the Generation Y and Millennial generations. For over thirty years, Latham & Watkins has had a policy of involving associates in management decision-making through its extensive committee system. Latham & Watkins set up its Associates Committee in 1970, which was ground-breaking at the time and remains a key differentiator for the firm. This initiative was started by the managing partner at the time, Clint Stevenson.

The Associates Committee contributes to decisions on strategy, remuneration, and recruitment, and comprises 25 partners and 25 associates, with the mix being representative of the geographical spread of the firm's offices. The Associates Committee makes recommendations to the Executive Committee on partner promotions, policies affecting associates and associate compensation, including bonuses.

An associate's role participating on any of the committees takes time and includes acting as a sounding board for fellow associates, whilst needing to maintain a profitable practice. Initiatives that have occurred as a result of the Associates Committee's decisions include the firm's PRO-RATA program, which gives associates returning from parental leave an option to work a reduced pace schedule for six months without seeking prior approval.

Involvement in the firm's broad committees system provides associates with manifold 'hands on' training and career growth opportunities, as well as greater responsibility and practical experience in the management of the firm. Responsibilities such as evaluating business cases give associates significant accountability and input which motivates them. There are also associates on the firm's diversity, ethics, pro bono, recruiting, technology, and training and career enhancement committees, among others.

Latham & Watkins believe that its structure and inclusive approach leads to lower attrition, supports the firm's efforts to recruit high quality associates who are united by a shared collegial spirit and team ethos and who are engaged in the growth of the firm. The firm's policy of involving associates in decision-making acts as a powerful recruiting strategy for the best legal talent. It also helps to build the firm's brand as an employer who values diverse views and fosters an inclusive environment.

Many firms do not share Latham & Watkins' openness with information and commitment to a transparent decision-making culture. The firm's committee system embodies these values and helps associates see how their role and contribution fits within the overall strategy.

References

1. See: www.mlaglobal.com/community/thought-leadership/lateral-partner-sati/02dc05ea-b842-b69f-e7ff-ffd63a79ea90.