

Professional Development for Lawyers

RACHEL BRUSHFIELD



Professional Development for Lawyers

is published by Ark Group



UK/EUROPE OFFICE

Ark Conferences Ltd
Paulton House
8 Shepherdess Walk
London N1 7LB
United Kingdom
Tel +44 (0)207 549 2500
Fax +44 (0)20 7324 2373
publishing@ark-group.com

NORTH AMERICA OFFICE

Ark Group Inc
4408 N. Rockwood Drive
Suite 150
Peoria IL 61614
United States
Tel +1 309 495 2853
Fax +1 309 495 2858
publishingna@ark-group.com

ASIA/PACIFIC OFFICE

Ark Group Australia Pty Ltd
Main Level
83 Walker Street
North Sydney NSW 2060
Australia
Tel +61 1300 550 662
Fax +61 1300 550 663
aga@arkgroupasia.com

Online bookshop

www.managingpartner.com/bookshop

UK/Europe marketing enquiries

Robyn Macé
rmace@ark-group.com

ISBN: 978-1-908640-59-8 (hard copy)

978-1-908640-60-4 (PDF)

Reports Commissioning Editor

Evie Serventi
eserventi@ark-group.com

US marketing enquiries

Daniel Smallwood
dsmallwood@ark-group.com

Copyright

The copyright of all material appearing within this publication is reserved by the author and Ark Conferences 2012. It may not be reproduced, duplicated or copied by any means without the prior written consent of the publisher.

Reports Publisher – International

Fiona Tucker
ftucker@ark-group.com

Asia/Pacific marketing enquiries

Steve Oesterreich
aga@arkgroupasia.com

ARK2211

Chapter 1: Introduction – Professional development in the law

THIS REPORT focuses on professional development and includes topics such as business development, client relationship management, soft skills, and project management.

Definition of professional development

Professional development consists of existing skills that need development and new skills that need to be acquired to best equip a lawyer to serve their clients and succeed in the modern changing legal market.

Professional development offered by firms is an important factor to attract and retain the best employees, both lawyers and non-lawyers. The younger generation, Generation Y, and the Millennials expect to have training and to be developed.

Market context

Professional development trends are influenced by trends in the financial performance of law firms. Figure 1, taken from a survey by Altman Weil in 2012, has been compiled from research with law firm leaders and sums up at a glance what factors are driving permanent change.

Continuing professional development compliance

Full time practicing solicitors have to do 16 hours of professional development each year to keep their legal and technical knowledge valid and up-to-date. Increased changes in the law and the need for business, project management, business development and management skills for example, have led

'Yes' – Permanent trend	2009 response	2012 response	Change in %	Magnitude of increase
More price competition	42.4%	91.6%	+49.2	2.2x
More commoditised legal work	25.5%	83.6%	+58.1	3.3x
More non-hourly billing	27.9%	80.0%	+52.1	2.9x
Fewer equity partners	22.8%	67.6%	+44.8	3.0x
More contract lawyers	28.3%	66.2%	+37.9	2.3x
Reduced leverage	12.1%	57.7%	+45.6	4.8x
Smaller first-year classes	11.4%	55.4%	+44.0	4.9x
Lower PPP/slowdown in PPP	13.2%	47.7%	+34.5	3.6x
Outsourcing legal work	11.5%	45.5%	+34.0	4.0x
Lower/hold line on associate compensation	9.5%	21.5%	+12.0	2.3x

Figure 1: Ten factors driving law firm change 2009–2012¹

to questions about the need to update the system for modern times. 'What gets measured gets done', as the focus on measuring chargeable hours in the legal profession demonstrates.

Solicitors are required to attend the SRA management course stage 1 before the end of their third CPD year. At least three of the following topics must be covered:

- Managing finance;
- Managing the firm;
- Managing client relations;
- Managing information; and
- Managing people.

Lawyers are recommended to take responsibility for their own professional development and match their own development objectives with those of their firm.

CPD points need to be recorded but there are no detailed criteria available about what mix of CPD to complete, by level, or the benefit it brings to the individual, the firm or clients. With firms needing to get more from less people, and lawyers needing to be 'fit for purpose' for more competitive market conditions, measurement of the quality of CPD, and how it helps an individual achieve their development objectives or give a better service to clients, makes sense.

Individuals can currently make up their CPD points by writing articles, delivering in-house training, and attending internal and external trainings, seminars and conferences. Some training is compulsory, for example, anti-money laundering.

The Law Society approves suppliers for CPD and specific courses and trainings need to be submitted to The Law Society with a fixed charge to receive CPD approval. The Law Society also approves the assignment of CPD for internal courses provided by a number of law firms.

The Bar Standards Board in the UK led by Derek Wood QC is leading the professional review at The Bar to consider changing how barristers continue their professional development after qualifying. There is a consultation period with possible changes being introduced in 2013. Discussion about doubling the number of CPD points from 12 to 24 and introducing 'veritable' CPD, e.g. attending trainings, and 'non veritable' CPD, e.g. reading reports, have been mentioned.

CPD for solicitors must be 25 per cent accredited, e.g. it must be:

- A distance learning course; or
- Accredited face to face coaching or mentoring over 1 hour.

Seventy-five per cent can be non-accredited in the form of:

- Participation in non-accredited courses;
- Working towards professional qualifications;
- Short coaching and mentoring sessions;
- Work shadowing;
- Listening/watching audio-visual material produced by an authorised provider;
- Distance learning;
- Writing on law and practice;
- Research;
- Preparing or delivering training courses; and
- Working towards a NVQ.

Changes to professional standards/ requirements – The LETR review

The profession-wide Legal and Education and Training Review² (LETR), set up by the Solicitors Regulation Authority (SRA), the Bar Standards Board, and the Chartered Institute of Legal Executives Professional Standards is the most fundamental review of legal education for 40 years. The review aims

to create 'an independent, strong, diverse and effective legal profession' and will take account of the future demands on legal services and the contextual changes that will influence the shape of the legal services market in the future.

Recommendations will be shared by the end of 2012 after a rigorous and thorough process reviewing:

- Knowledge, skills and attributes;
- Equality, diversity and social mobility;
- Evidence for key issues;
- Workforce development; and
- Thought leadership contributions.

LETR is looking into the future content of training and learning for those working in the legal sector (including solicitors, barristers, in-house counsel, legal executives, licensed conveyancers etc.) and what skills they require to meet the challenges of providing legal services in the changing market conditions of the twenty-first century.

This review forms part of key changes to ensure that standards within the profession are 'robust'. It covers regulated and non-regulated services and all legal services education and training including:

- Academic stages of qualification;
- Vocational training and education; and
- Continuing professional development.

The review will be conducted in 4 key stages:

1. **Literature review and analysis** – Past review of the system of legal education and training in the UK and internationally, including looking at lateral markets;
2. **Contextual analysis** – The factors and issues that will influence and affect the shape and structure of legal

services in the future (the roles, skills, knowledge and experience necessary to provide high quality and competitive services in the legal services market of the future);

3. **Workforce development** – Potential future structural change; and
4. **Recommendations** – The main challenges and changes that will affect the future legal services sector and the legal services education and systems necessary to underpin that structure.

The new scheme will ensure it is 'properly monitored, proportionate, targeted, and based on the principles of outcomes-focused regulation and actively helps solicitors to progress their careers and remain competent'. According to SRA head of training Di Lawson: 'We do not currently specify how solicitors should meet their annual 16 hour CPD requirement, how we assess the relevance of the CPD undertaken or even ask solicitors to do so themselves. The current compulsory scheme was introduced in 1985 and only minor amendments have been made since that time.'

A common view in the profession is that 16 hours CPD is no longer enough and, with the changing skills and competencies needed, more hours and criteria that are defined more clearly and measured will serve the needs of lawyers and clients well. Individuals need to keep a record and need to be able to explain the rationale and benefits behind it. Attending sessions just because they have CPD points, especially towards the end of the CPD year, is not necessarily the best way for a lawyer to develop themselves for the benefit of themselves, their practice groups, their law firm or clients.

There is a common view that graduates of law schools are not equipped with the

necessary skills to be able to practice. The specific professional development needs of different target audiences are explored in Chapter 3.

Certain points along the lawyer career path have steeper learning curves than others, e.g. 0–2 years PQE, becoming a salaried partner, and becoming an equity partner with all the responsibility the role entails. Managing direct reports well is a crucial factor for a law firm realising its full potential and yet this competency does not currently form part of the CPD system. Lawyers are a firm's most expensive and valuable resource and leveraging this asset to its fullest needs to be a priority for firms to ensure they are able to compete effectively against new market entrants.

In addition, the growing number of paralegals who provide legal advice at lower cost, giving clients better value, need to be treated as a specific target audience. 'The legal market is going to change dramatically over the next few years and if the legal profession doesn't entertain change, it will happen without them and in spite of them.' (John Flood, professor of law, University of Westminster).³

Some of the ideas being considered by the LETR include:

- Abolishing the qualifying law degree and replacing the training contract with 'supervised practice';
- Multiple routes to becoming a lawyer;
- Introduction of business principles and commercial rationale at an early stage;
- More formal and rigorous drafting skills;
- Greater consistency and uniformity across law schools;
- Integrated training combining LPC and a degree;
- More emphasis on soft skills training such as public speaking and networking;

- Greater verification of competence with assessed CPD, authorisation and quality marks;
- A more focused CPD structure by practice area or level; and
- Client focus to encourage lawyers to explore more how they can develop ways of working that will benefit existing clients and attract new ones.

According to Professor Stephen Mayson, director of the College of Law's Legal Services Institute: 'The current system is not fit for purpose enough for the demands of the market. However incremental changes won't be enough. I am not suggesting that we should throw the baby out with the bathwater but the baby has grown up, the bath is too small and the water needs changing.'⁴ A business critical question for the LETR is: 'What is the purpose of professional development of lawyers?' The review results are due in December 2012.

References

1. Law firms in Transition survey 2012, Altman Weil Inc., PA, USA, available at: www.altmanweil.com/dir_docs/resource/1667e5c8-b99e-4557-93ac-73174118ea29_document.pdf.
2. Legal Education and Training Review (LETR): <http://letr.org.uk>.
3. Langdon-Down, G., 'Legal Training: the best routes to become a lawyer', *Law Society Gazette*, 29 March 2012. Available at: www.lawgazette.co.uk/features/legal-training-best-routes-becoming-a-lawyer.
4. Quoted in: Langdon-Down, G., 'Legal Training: the best routes to become a lawyer', *Law Society Gazette*, 29 March 2012. Available at: www.lawgazette.co.uk/features/legal-training-best-routes-becoming-a-lawyer.