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Equality for innovation

Law firms that increase their focus on diversity and inclusion can expect greater business innovation, says Rachel Brushfield



Multifaceted business problems in a global market require multifaceted and multidimensional approaches. A diverse team helps this to happen. Diversity and inclusion provides a wide angle lens on clients' problems and business challenges.

The skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas and viewpoints. Inclusive excellence recognises and values the different backgrounds, life experiences, academic backgrounds and world views of all staff, regardless of their race, job title, age, nationality, marital status or sexual orientation. Diversity is a fuel and catalyst to create innovation, develop closer relationships with clients and stimulate career fulfilment for staff.

Innovation is the process of translating an idea or invention into a service that creates value for clients. Innovation can be evolutionary, with continuous, incremental advances, or revolutionary, disruptive and new. Many law firms have been reactive rather than proactive in developing innovation, as was the case with flexible working.

“Diversity of thought creates innovation”

Diversity means variety and difference, and the grain of sand that can create innovation is often an insight that something is not working as well as it could. Innovation comes from breaking norms and rules, and understanding the norms and rules of different cultures helps to achieve it.

Law firms have a narrow non-diverse definition of talent; rainmaking or fee earning is seen as the most important attribute for talent to succeed in the law. Diversity of thought creates innovation, yet law firms have a narrow view of what diversity actually means.

People are assigned to be responsible for and measure how many women, black, gay, disabled and disadvantaged people are recruited by the firm. While diversity and inclusion (D&I) initiatives put the spotlight of change on a profession that is primarily homogenous, male, white and from old universities, isn't that missing the point?

True diversity is the acceptance and inclusion of difference. All have a role to play: 'people rich' countries like India, 'resource rich' countries like the USA, extroverts, introverts, fee earners, non fee earners, low PQEs, high PQEs, long serving staff, lateral hires, analytical brains, creative brains, intellectually intelligent,

WHY YOU SHOULD PRIORITISE DIVERSITY AND INCLUSION

- ✓ Diversity and inclusion has shifted from being a moral stance to a business requirement
- ✓ Clients are increasingly international and expect law firms to reflect this
- ✓ A failure to create and maintain inclusive cultures will cause talent to leave and clients to be lost
- ✓ Diversity and inclusion fuel innovation by leveraging the differences and similarities of all staff

practically/common sense intelligent and emotionally intelligent, good looking, less good looking, the cleaner and the managing partner, black, white, parents, single people, gay, straight, rich, poor, graduates of elite universities and new universities.

The legal profession needs innovation. Diversity of views feeds innovation and reflects clients' increasingly multinational jurisdictions. Pluralism of thought and perspective is important to create innovation.

In itself, diverse perspectives are not enough. Innovation is a team effort and involves listening skills, letting go of being 'right' and clarifying and developing ideas rather than owning them. This is essential to fully realise the benefits of diverse viewpoints and develop interactive behaviours.

Stimulating innovation

So, what is innovation, how does it happen and why is D&I useful?

Innovation is the creation of something different from what has been done before. Innovation can be a product, service, process or business model. When growth is high and competition low, innovation is less likely to occur in established professions and markets. Innovation happens from putting seemingly unconnected ideas together – looking laterally and making links.

Law firms are primarily comprised of left brained, intelligent, male, white, elite experts from top universities, a non-diverse mix that is likely to reduce rather than promote innovation. The

“The established ways of thinking and doing things do not create innovation”

INHIBITORS TO INNOVATION IN LAW FIRMS

- ✘ No one is responsible for innovation
- ✘ No one measures it – what gets measured gets done
- ✘ It is not seen as a priority – the significance of differentiation in the new legal market is not fully understood
- ✘ The reductive thinking training of lawyers is the opposite of the expansive thinking that creates innovation
- ✘ The belief that the current legal market will revert to what it was pre-recession
- ✘ A copycat risk-averse approach that prevents pioneering approaches
- ✘ The critical 'picking holes' nature of lawyers' intelligent minds kills embryonic ideas
- ✘ Lawyers thinking in black and white when innovation involves subtle shades of grey
- ✘ Hierarchical bureaucratic structures that stifle innovation, particularly in young lawyers
- ✘ Narrow specialisms that prevent lawyers from developing lateral insights across markets
- ✘ Short-term thinking, when innovation required longer term thinking
- ✘ A traditional profession – innovation and newness is the opposite of tradition
- ✘ Partner collaborative decision-making slows down innovation when it needs to be increasingly nimble
- ✘ Individualistic lawyer mindsets and attachments to being right – innovation is often a disparate collection of different ideas formed together

established ways of thinking and doing things do not create innovation. A wide variety of different people working on a problem is a better way to solve it because there are a multitude of different perspectives examining it from all angles.

Individual differences are business assets. Diversity and inclusion now matters to the clients that law firms serve. Clients such as Sara Lee and Boehringer Ingelheim will end or limit relationships with firms that do not make D&I a business priority.

Conformity is the opposite of innovation. If the law is naturally conservative, reactive, inward looking and risk averse, an injection of diverse perspectives is even more essential to create innovation from expansive thinking and to counter the reductive thinking that is drilled into lawyers from their training.

The internet has opened up the potential for more innovation-creating niches from smaller players. These have the potential to create attrition against the traditional heartlands of law firms. They are more nimble in their approach and have faster decision making processes than larger and more traditional law firms. Law firms need to ensure that they use diversity of thought, not only to create better problem solving, but to perform it faster too.

Drivers of change

For many decades, law firms have adopted the mentality of 'if it's not broken, why fix it?' This mindset has inhibited innovation. It has been clients reducing the number of law firms they use and wanting greater transparency and fee certainty that has been the catalyst for change.

The emergence of alternative business structures in the UK has provided an injection of competition and fresh thinking. For risk-averse sectors, change only happens when pain is experienced: shrinking PEP and partner numbers is that pain for law firms. The breaking down of legal services

“Individual differences are business assets”





“Conformity is the opposite of innovation”

and commoditisation of parts of them (such as LawVest’s Riverview Law) and provision of flexible legal resources (such as Berwin Leighton Paisner’s Lawyers on Demand) has been driven by clients.

Clients are increasingly multinational and want their law firms to reflect their own employee and target audience mix. Governmental directives to increase the number of women at senior levels are also playing a role in increasing the number of female partners in law firms. This is useful in putting the spotlight on diversity and inclusion, but inclusive excellence means the acceptance of and appreciation of all differences and a belief in the value it brings.

Changing business models

Many law firms are focusing on improving fee earning today rather creating better fee earning tomorrow. Running a business in uncertain times requires nimbleness to adapt to different clients’ problems and markets. One size does not fit all. Business model innovation is growing, and greater agility is needed to stay ahead and defend this advantage.

Many law firms only look at what other law firms and professional services firms are doing and ask the views of senior fee earners who are primarily white males enjoying the fruits of their previous efforts. Different perspectives from looking laterally at other market sectors, types of organisations, countries and non-elite viewpoints can only improve the likelihood of innovation happening.

The risk-averse lawyer personality of seeing things in black and white and the traditional nature of law firms means that greater efforts are needed to increase innovation.

In law firms, compensation drives behaviour, so law firms need to create compensation models that reward innovative behaviour and penalise inefficiency. A system of monetary or non-monetary rewards for improvements is essential. Everyone needs to be encouraged and rewarded to be innovative. A culture of openness is essential to enable innovation, not one where failure is criticised and can hurt a career.

IMPROVING FIRMWIDE INNOVATION

- ✓ Create a time code and guidance for spending time on innovative thinking
- ✓ Reward people who come up with ideas; have an annual prize for the best innovative idea
- ✓ Create cross-cultural webinars for brainstorming ideas
- ✓ Make one person responsible for driving innovation and then rotate innovation champions, seconding both fee earners and non-fee earners to this role
- ✓ Explicitly make innovation a strategic priority
- ✓ Include entrepreneurial thinking as a competency against which fee earners and non fee earners are measured
- ✓ Ensure innovative thinking is demonstrated by the firm’s leaders
- ✓ Arrange lunchtime sessions to discuss and question how established things are done
- ✓ Create mixed teams of men and women to benefit from men’s natural propensity to drill deeper into issues and women’s to create connections across different topics
- ✓ Conduct unconscious bias training to make people aware of their biases
- ✓ Create a taskforce responsible for innovation, with a mix of ages, gender and race
- ✓ Ask a diverse mix of people to individually define a problem that needs an innovative solution and then create a composite definition from all of their contributions
- ✓ Ask different offices to define the root cause of a global client problem using the ‘five whys’ problem-solving technique, and compare and contrast the results
- ✓ Use crowdsourcing to elicit the views of a diverse external pool of talent to create innovative ideas

Diversity of thought

A modern attitude to diversity and inclusion is a useful way to attract and retain talent and clients, as well as create competitive differentiation. It is wise to have a mix of employees that reflect the wonderfully diverse and eclectic global mix of the modern business world, and thus create much-needed innovation. Law firms that embrace the fact that diversity of thought creates innovation will steal a march on the competition.

By adopting the multiple perspectives that a diverse and inclusive culture creates, a well-rounded solution can be co-created. Modern innovation requires simplified and decentralised decision making, as well as an incisive, learning-focused culture that embraces differences and is tolerant of failure. Purpose, persistence and a long-term view is required to succeed. ^{mp}

Rachel Brushfield is a career, talent and learning and development strategist and coach at EnergiseLegal (www.energiselegal.com)

ATTITUDES TOWARDS DIVERSITY AND INNOVATION

Helpful beliefs

- ✓ Everyone's opinion has equal value and merit
- ✓ All members of staff deserve to be listened to
- ✓ Change is good and innovation a priority to create a competitive advantage
- ✓ Innovation is everyone's responsibility
- ✓ More heads are better than one and the more diverse the better

Unhelpful beliefs

- ✗ Developed countries have more sophisticated ideas than emerging markets
- ✗ Partners have better ideas because they are senior and have more experience
- ✗ The views of support staff aren't important because they are not fee earners
- ✗ Older workers are set in their ways
- ✗ Innovation is not part of my job

SELF-REFLECTIVE QUESTIONS ABOUT DIVERSITY AND INNOVATION

- ✓ Who is responsible for innovation?
- ✓ What conscious or unconscious bias exists in our law firm?
- ✓ Are our efforts in diversity and inclusion a 'must' or a 'want'?
- ✓ How 'yeasty' is our culture to foster innovation?
- ✓ Are our D&I initiatives paying 'lip service' to look good with clients or heartfelt because they are the right thing to do?
- ✓ How does our firm demonstrate inclusive excellence?
- ✓ To what extent have we liberated everyone's talent in fostering innovation?
- ✓ How do we encourage and appreciate our staff for their unique contribution?
- ✓ Who is responsible for innovation in our firm?
- ✓ How can we link D&I and innovation?
- ✓ How does our culture support or hinder innovation?
- ✓ What people and resources feed innovation?
- ✓ How do we reward initiative and innovation?
- ✓ How do we find out what innovation our clients want?
- ✓ What needs to change in the firm to foster an innovative mindset?
- ✓ How can we measure innovation?
- ✓ What processes and systems need to be removed, changed or created to increase the likelihood of innovation happening?
- ✓ How democratic is innovation in our law firm?