



Vampire partners

The risks of ignoring succession planning

Avoiding burnout

Stress management tips for high-pressure firms

Talent quicksand

Why your law firm should develop new career paths

End of the road

Options for partners approaching retirement

Talent quicksand

Is the traditional career model for lawyers dead? Rachel Brushfield and Mitch Kowalski explore why law firms need to break away from linear career paths

The traditional career model for lawyers in law firms is clear, straightforward, well established and relatively easy to operate. However, it's also exceptionally myopic, focusing primarily upon fee-earning ability and rainmaking, resulting in a non-diverse and inclusive view of talent. It ignores valuable contributions to the firm's long-term sustainable success by lawyers who have other talents and may not be interested in joining the partnership.

The conflicting agendas of partners at different levels of seniority creates divisive decision making that is not always beneficial to the health and agility of the firm in challenging and uncertain markets. Millennials do not want to wait at the foothills of the pyramid hierarchy to be involved in decision making; forcing them to do so also inhibits and stifles much-needed entrepreneurial oxygen for change.

Law firms need to update the legal career model from its current one-size-fits-all model and make it more flexible and targeted for different competencies in order to better recruit and retain the growing number of millennials entering the legal workforce.

The traditional path

Traditionally, lawyers could depend upon a linear career path from law school to associate to partner. But then law firms grew to enormous proportions and began to focus on things like leverage and profits per partner. Few student lawyers took notice of the fact that leverage and the pyramid structure created more room at the bottom than at the top. However, since the global economic crash of 2008, the very nature of legal career paths has come into question.

As Stephen Mayson, professor of strategy at the Legal Services Institute puts it, "the pyramid structure of the traditional law firm works well in boom times, but when there is less champagne to pour, many glasses in the stack are left empty".

In their seminal book *Tournament of Lawyers*, Galanter and Palay refer to young lawyers' climb up the pyramid as a tournament in which only the fittest survive to grasp the brass ring of partnership.

This tournament "creates an environment where your closest work friend is your biggest competitor and ensures that only the most driven fee

generators will make it to the top," notes Sarah Goulbourne, co-founder of boutique UK law firm Gunnercooke.

"In theory, this should mean that only the lawyers who are best at serving clients will make it to partner roles," she says. However, the atmosphere it creates within a firm is one which can be "tense, competitive and utterly miserable to work within" and one that is "not conducive to building an empathetic service for clients".

"There is no business reason for a law firm to adhere to a rigid hierarchy where a lawyer must make partner or perish"

Goulbourne's partner, Darryl Cooke, minces fewer words. "The traditional collegiate partnership structure is becoming almost as unattractive to associates as it is to clients. Having seen some fairly sizeable firms go under at the significant cost burden to junior partners caught in the middle, younger lawyers are beginning to question whether partnership is the end goal it once was."

Peter Carayiannis of new Canadian law firm Conduit Law goes further. "Young lawyers in many BigLaw practices feel, rightly or wrongly, that older partners are pulling up the ladders behind them."

Like Cooke and Goulbourne, Carayiannis is one of a growing number of mid-career lawyers who have opted out of partnership in traditional firms and instead created new-model law firms; he welcomes the impending death of the tournament.

"The entire notion of up or out is outmoded," he says. "No profession such as law should have such tunnel vision when it comes to a lawyer's career path. Clients have different needs and lawyers have different skills. The best reason to practice in a firm is to leverage skills and to service clients, but that doesn't mean a singular track."

Rubsun Ho, who co-created boutique Canadian practice Cognition, agrees with Carayiannis. "There is no business reason for a law firm to adhere to a rigid hierarchy where a lawyer must make partner or

perish. We all know hardworking, intelligent lawyers who have no desire to pursue partnership and who would gladly work for a comfortable salary – one need only to look at the expanding in-house bar to see how many smart, business-savvy lawyers fall into this mould."

Switching to an in-house role for improved work-life balance has been the traditional choice of many mid-career lawyers. But, even they are now finding that the working hours are growing longer, while the pay rises and prospects for further development are lower than anticipated.

"Many private practice lawyers thought the grass was greener in house. That grass has now turned yellow," notes Charlie Keeling, global HR director at Clyde & Co.

Partnership criteria

Perhaps the most damaging element of the tournament is that many associates perceive partnership criteria as being too subjective.

"A little competition never hurts, but where people are competing based on nebulous, ill-defined criteria, it creates an environment where you have a collection of lone wolves always looking out for their own personal interests ahead of those of the team," observes Ho. "It is difficult to see how excellent client service can be achieved by a team comprised of a number of individuals competing with each other for that client's business."

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A more balanced, transparent and understandable approach is needed to avoid such criticism – perhaps one that also rewards behaviours that contribute to the long-term viability of the firm such as through client engagement, employee motivation, efficiency, mentorship and innovation.

In an effort to deal with flattening revenues, many firms have now changed

their reward structures; partners are being asked to leave, some have been demoted from equity partner to salaried partner, and far fewer associates are being elevated to partner.

Increasingly, the most essential criteria for becoming partner has changed from billing unnatural amounts of hours to rainmaking. Carayiannis sees a flaw in this philosophy. "I was once told that, to build a team with character, you have to have characters. Any good team needs people to fill the spots at every position. You can't make a great team with ten Wayne Rooney's – great teams have great position players."

Ho agrees. "Being a good lawyer doesn't necessarily equate to being a good rainmaker, and the best rainmakers aren't always the greatest lawyers. There is no other business where the agents of productivity – the people actually doing the work – are expected to be the primary salespeople as well!"

While the traditional career model is easy to operate, the price of simplicity can be high. The model allows little or no flexibility for family, illness or the desire to be more than a fee-earning hamster on a wheel.

"There is nothing controversial," says Carayiannis, "about the fact that well-adjusted, well-rounded professionals can and will have different life goals at different points of their lives."

"It's no longer a woman's issue. People in their 30s and 40s often have young families and sometimes elderly parents. They should be given the respect and the room to satisfy all of their commitments. This doesn't mean that people don't have to make compromises, but the workplace should not be at war with a balanced family life."

New-model firms

It's no wonder, then, that mid-level associates have become increasingly disenchanted with their lot. The carrot of partnership that was dangled in front of their noses before 2008 has been moved ever further away – or snatched away all together. Meanwhile, those who wish for a more balanced career are left out in the cold, despite having excellent technical skills.

So, if the prize of partnership is no longer attractive to young lawyers and the

traditional career model is too rigid for many lawyers, what next?

"Support passion rather than suffocate it"

The answer seems to be new-model firms; ones which find it easier to create more satisfying career paths for their teams as they are unencumbered by the barnacles of legacy. They do not have older partners suggesting that young lawyers have to 'pay their dues' in the time-honoured fashion of the tournament. They are also not encumbered by now wholly-unrealistic expectations with regards to lawyers' salaries and prestige.

"In future, sophisticated firms will still recruit the best and brightest but will develop different career streams, giving them greater flexibility with lawyers specialising later," notes John Lucy, HR director at Berwin Leighton Paisner.

At new-model law firm Riverview Law, VP for North America Andy Daws says the focus is on making sure that "everyone is not only in the right role now, but that we have an understanding of where they want to be in two, five or even ten years' time, which might be in a different part of the business entirely."

"If one of our lawyers develops an interest in advanced data analytics, or excels at project management, we want to support that passion rather than suffocate it. That kind of cross-fertilisation brings many advantages and enriches the organisation enormously."

For Cooke, new career paths and new model firms are not a flash in the pan. "Every other service industry in the world is getting more responsive and quicker, and is making its services more accessible – legal services are no exception," he says. "New and innovative ways of delivering legal services will continue to develop and this will be as much dictated by the client as by lawyers themselves."

Ho agrees. "Alternative legal service providers have barely scratched the surface in terms of the amount of work they can produce. At the same time, these alternative providers will never fully displace traditional firms."

However, alternative legal services providers will inevitably introduce alternative careers for those with legal expertise. "Traditional law firms will continue to do high-end bespoke work where they can add value with their breadth, scale and expertise, while alternative providers will find ways to leverage technology and business principles to do the other work more efficiently and cost effectively," says Ho.

New career paths

The requirement to design new career paths to recruit and retain top talent has not been lost on long-established law firms. Bernadette Daley, a UK partner at Mayer Brown, points to the importance of flexibility for a new generation of lawyers. "Younger lawyers want career paths that are more tailored to them as individuals, with more flexible career options in terms of working styles and roles, titles and duties," she notes.

London Business School professor Lynda Gratton and LinkedIn co-founder Reid Hoffman have suggested that the world of work is becoming much more assignment based. This has led to the development of portfolio careers, in which individuals use their varied interests and skills to have more than one career path. One need only look at the success of Axiom and Lawyers on Demand to understand that we are now living in the age of the nomadic lawyer.

The traditional law firm model was not designed to handle pools of lawyers who can be used as a flexible just-in-time resource. But, it is not inconceivable that, by 2020, specialist legal knowledge and sector focuses may enable lawyers to be in demand on their own terms, rather than having to comply with rigid law firm structures.

However, in order to succeed in this environment, lawyers will need to be much more nimble and flexible in their approach to their careers, define distinctive personal brands and seize opportunities as they arise at different stages of their lives.

What is often overlooked by traditional law firms is that reinventing the legal career model is not solely about retaining talented lawyers. In the war for talent, new career models and opportunities create sustainable competitive advantage in attracting new talent.

As Andy Loach, COO of the transaction services team at UK law firm Addleshaw Goddard notes, “more progressive firms are starting to utilise professionals who are not lawyers, recognising the contribution they can make in creating a competitive advantage in the new legal market”.

New career models and opportunities also create a compelling employer brand and an attractive culture for lateral hires, which is reflected in the bottom line by minimising the costly loss of lawyers who don’t fit within the traditional partner mould.

The legal profession is experiencing exponential change and challenge. “The ground has shifted. Some firms now find themselves on perilous quicksand. Others will disappear down a chasm, never to be seen again,” says Michael Bradley, managing partner at Marque Lawyers.

Unless traditional law firms can provide a compelling alternative for today’s young graduates, they may decide they would be better served in looking for roles in new-model firms. As Daws concludes, “this is not only where the future growth will be, but where they’ll often find a much more developed sense of organisational culture leading to diverse career pathways and a greater sense of teamwork and purpose”.^{mp}

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PROS AND CONS OF THE TRADITIONAL CAREER MODEL

Pros

- ✓ Clear career milestones
- ✓ Structured professional development
- ✓ High starting salary is attractive
- ✓ Status of making partner is aspirational for some
- ✓ More socially inclusive with higher apprenticeship schemes

Cons

- ✗ Conflicts with family obligations
- ✗ Inflexible linear career paths
- ✗ Out of touch with intergenerational needs
- ✗ Myopic focus on rainmaking
- ✗ Designed for boom times
- ✗ Does not accommodate portfolio careers
- ✗ Unconscious bias against working mothers
- ✗ Out of touch with mutuality rewards

TIPS FOR DEVELOPING NEW CAREER PATHS

Do

- ✓ Ask lawyers what they need and want
- ✓ Create new roles that play to individual strengths
- ✓ Consider how careers are developed in other PSF sectors
- ✓ Have a fair and transparent promotion process and policy
- ✓ Allow lawyers to step off the ladder without penalty
- ✓ Make career conversations a priority
- ✓ Focus on output and long-term value creation, not hours billed
- ✓ Create a healthy, inclusive non-toxic culture
- ✓ Make inclusiveness a lived priority, not just a policy

Don't

- ✗ Avoid performance management conversations
- ✗ Assume one size fits all
- ✗ Ignore the value of non-rainmaker contributions
- ✗ Presume that all lawyers have the same motivations
- ✗ Forget about the career paths of non-legal talent
- ✗ Underestimate the power of social media