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# Empathise to innovate

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# Off the ladder

Rachel Brushfield considers why you should incorporate portfolio careers into your law firm's workforce and succession plans



**M**odern law firms need the right resourcing at the right time. Retaining a large pool of associates in case there is a surge in new instructions is no longer a viable or sound approach. Clients expect more for less and there is greater competition and less work to go around. Clearly, a different and more expedient approach is needed. Could portfolio careerists be the solution? This article explores their potential role in workforce planning.

Workforce planning is the management practice of ensuring that the right employees are deployed in the right way, at the right time. Both strategic and operational in nature, research has found that it is an underused lever to protect margins in the legal sector.<sup>1</sup>

With salaries the biggest cost for law firms, workforce planning needs to be a priority on the management agenda. Many firms take a transactional approach to people – paying large sums of money to recruit the right people and then paying redundancy money to exit them, in line with peaks and troughs in client work. This approach, while simple to manage, results in budgets being wasted. Portfolio careers may be the answer to both lawyers' increasing need for diversity of work and law firms' need to better manage their cost base.

## Portfolio careers

A portfolio careerist is a person who works for more than one organisation, usually in a consulting or associate capacity, rather than as an employee.

What this type of career constitutes can vary. One example is a fee earner who combines legal work with managing the firm's diversity and inclusion efforts for a year. Another example is a lawyer with an in-demand legal specialism who does paid events, writes books, has a non-executive directorship and is a trustee of a charity.

If a firm wanted access to the skills of portfolio careerists, it would need to plan ahead and book them to secure their time. This is very different from the 'always there for us' contractual nature of employment.

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## “Financial savings are a primary benefit of using portfolio careerists”

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The concept of portfolio careers is not new; it is common already among people in the arts, consultancy, not for profit, theatre and media sectors.

“Portfolio careers have been around for a while, most common is fee-earning legal work and some sort of creative project/business which are very evidently non-conflicting in nature,” comments Stephanie Abbott, knowledge management and organisational development consultant at Kitsune Consulting.

Employees who are portfolio careerists include entrepreneurial-minded independent people who relish freedom, variety, career fulfilment and new experiences. Women lawyers who need to be able to influence how they juggle family and work responsibilities can find a portfolio career very appealing.

Experienced lawyers who are approaching retirement age and are not ready to retire may find portfolio careers of interest. They provide opportunities for stimulating work without the relentless pressure to achieve high fee-earning targets.

An increasing number of people coming towards the end of their careers are looking to gradually withdraw from their firm and to get involved with other things. Flexible resourcing initiatives which create a pool of talent that law firms can access

at relatively short notice (such as Lawyers on Demand) have also spurred the rise of portfolio careers. Added to that is the rise of Generation Y and millennial lawyers, who have a different perspective on employer loyalty and seek more variety in their working life, along with better work/life balance.

LinkedIn's co-founder, Reid Hoffman, has suggested that the traditional employer-employee relationship is broken and will be replaced by a new, realistic loyalty pact between employer and employee in future. His view is that the old model of guaranteed long-term employment no longer works in a business environment defined by continuous change, but neither does a system in which each employee acts like a free agent.<sup>2</sup>

Professor Lynda Gratton predicts that, in the coming years, the majority of people will have portfolio careers.<sup>3</sup> In future, the workplace will be very different from what it is today, with more firms hiring people who have portfolio careers, creating the right team with the right skills at the right time for the appropriate project or case.

“Some operational projects are done by putting together a team comprising the firm's own resources and drawing on external expertise where these don't exist internally. This approach creates the conditions where portfolio workers can thrive and validates demand for these sorts of approaches. This is a common model already for 'behind the scenes' projects and these are now becoming directly client facing,” says Abbott.

## Benefits and challenges

A common concern among law firms is that retaining portfolio careerist lawyers will damage their client relationships. However, clients will benefit from a firm's ability to 'ramp up' and 'ramp down' its services using a flexible workforce. Portfolio careerists are also better able to provide clients with a broader perspective

## INTRODUCING PORTFOLIO CAREERS TO YOUR LAW FIRM

### Do

- ✓ Clearly define accountability and responsibility for managing portfolio careerists
- ✓ Invest in a high-end user-friendly resource management system for line managers and HR
- ✓ Conduct a viability study, together with scenario planning
- ✓ Discuss the planned approach and get buy-in across the firm
- ✓ Pilot the utilisation of portfolio careerists to test viability
- ✓ Think through restrictive covenants (such as working for competitors)
- ✓ Explore the benefits of utilising mature portfolio careerists as mentors
- ✓ Create transparent and confidential contracting
- ✓ Quantify the potential savings in recruitment fees
- ✓ Test for talent shortages in business-critical areas
- ✓ Measure the potential savings in female talent drain
- ✓ Plan ahead to optimise the utilisation of flexible resources
- ✓ Reevaluate the role of internal recruitment and external agencies

### Don't

- ✗ Assume that it is only the younger generations that want portfolio careers
- ✗ Ignore the cost savings of having portfolio careerists
- ✗ Underestimate the importance of trust
- ✗ Assume ad hoc workers are less loyal or committed
- ✗ Miss out on the benefits linked to succession planning
- ✗ Go for the easy option and not consider using portfolio careerists
- ✗ Neglect your employer brand and how you attract the talent you need and want
- ✗ Forget about alumni talent with whom trust has been established/proven
- ✗ Forget to create a clear policy to manage portfolio careerists

from having worked in diverse ways. They present an opportunity for an injection of fresh thinking.

For the majority of firms, there will initially be suspicion, concerns over

quality and commitment and, for the enlightened minority, a quicker and easier way to resource matters without having to go through rigorous costly and time-consuming recruitment approval processes.

The benefits to law firms of accessing portfolio careerists include a bigger global talent pool, access to highly skilled and specialised lawyers on demand, and the ability to retain and motivate senior people who don't want to be or won't make partner. Financial savings are a primary benefit of using portfolio careerists – firms will no longer pay for employees they do not need and cannot guarantee will be able to utilise.

"Firms want lawyers who are commercially minded; portfolio careerists are lawyers who also run their own business," says Abbott.

## "Successful utilisation of portfolio careerists requires a high level of trust"

Portfolio careerists are naturally entrepreneurial in thinking. They embrace change and uncertainty and are comfortable with taking responsibility for marketing and developing themselves. They can therefore help to shift a firm's culture and encourage others to take responsibility for their own development and careers.

Practice areas which are seasonal in nature or have significant peaks and troughs in client work may find the benefits of having a pool of portfolio careerists outweigh the drawbacks of a potential talent shortage.

However, there are some challenges associated with depending on portfolio careerists. These include finding the right resource with the right skills set at short notice, addressing concerns regarding portfolio careerists' loyalty to the firm, and tackling conflicts of interest and confidentiality. Finding the right way to reward both employees and flexible staff may also be an issue.

"Enlightened leadership and practice group heads are needed, along with realism about any conflicts of interest, so culture is key. The creation of a business case by an aspiring portfolio careerist is essential," says Abbott.

A greater level of sophistication and effort will be needed in managing legal talent.

As Mark Withers, managing director of Mightywaters Consulting, notes: "Traditional

firms often stick to what they know and are used to – they prefer a straightforward and easy option, even if it costs more money. It’s about power and control.”

**Market forecast**

So, what is the forecast for law firm portfolio careers in the short, medium and long term?

In the next 12 months, there will likely be little change, just ad hoc use of non-employed resources when short-term demands require it.

In the next two to five years, there will likely be some portfolio careerists. These will primarily be partners who are coming towards the end of their careers and gradually winding down their work at the firm as they pick up other activities to pursue post-retirement.

In the longer term (five-plus years), there will be growing use of flexible resources, some employed directly by the firm and others via resource agencies.<sup>4</sup>

Scarcity and necessity may be the primary drivers. Initially, the use of portfolio careers may occur on an occasional and requested basis when:

- a firm doesn’t want to lose talented young high-potential lawyers;
- lawyers have rare and in-demand legal specialisms; or
- lawyers have very strong and important client relationships.

Successful utilisation of portfolio careerists requires a high level of trust and therefore is only likely to happen in certain firm cultures.

The legal profession is risk averse, so the benefits will need to be proven and the risks mitigated.

“The use of portfolio careerists challenges the traditional silo model which partners love and revere, the ‘my staff/my team approach’, and partners are generally resistant to change,” comments Charlie Keeling.

In the short term, there is likely to be growing curiosity about portfolio careers and a few requests to have them, which will have a ripple effect over time.

Demand for portfolio careers is likely to come from both ends of the career spectrum. Younger lawyers with an entrepreneurial streak may want time to travel or set up an online business, rather

than be tied to one firm indefinitely for all of their working hours.

Lawyers in their 50s who postponed their retirement during the downturn may find a portfolio career appealing too, as it enables them to scale back their fee earning and still keep a vested interest in the firm.

**Practical considerations**

Practice group or department heads are the best people to manage portfolio careerists, as they are at the sharp end of resourcing. HR will need to monitor the workforce, track and compare costs and so on. Few firms currently have a policy which covers portfolio careers, so it is likely to be a discretionary decision that comes from the practice group or department head.

“Workforce planning tools such as a robust resource management system which records the skills, experience, availability, and cost of portfolio careerists, will be needed, managed by professional work allocation schedulers,” says Keeling.

**“Demand for portfolio careers is likely to come from both ends of the career spectrum”**

The psychological contract becomes more complex with different and fluctuating employer and employee relationships, internally and externally. The preferences of employees and employers will need to be understood and balanced.

Embracing individualisation is key – both parties will need to work harder for a ‘win-win’ and individuals will need to be mindful of the firm’s need to make profit. Employers will need to understand they cannot meet all of the career expectations of talented individuals and be prepared to share them with others. Trust breeds loyalty.

“Portfolio careerists may strengthen the psychological contract, but may also weaken it, with a range of relationships to nurture,” comments Andrew Manning, CEO of Professional Service Management.

Firms that are early adopters of portfolio careers as part of their workforce planning can build a compelling employer brand, saving significant recruitment fees. They can enhance the psychological contract by

having a portfolio career policy which attracts and retains the best talent.

Initially, employees may be nervous of the trend, seeing it as a way of farming out work to ‘agency workers’ and thereby reduce their career prospects. Over time, employees and partners may well see the benefits to the firm and thereby their own job security.

**Opportunity cost**

There is a danger, should the legal profession stick to traditional inflexible employment, that modern freedom-seeking individuals may side-step the law as a career choice and seek careers elsewhere, resulting in a talent deficit.

Gen Y and millennials are a growing proportion of decision makers in law firms. The increase in non-lawyer firm management and alternative business structures will result in a cultural shift in how firms view portfolio careers.

“As this trend progresses I would expect it to become less of an issue as portfolio careerists demonstrate their ability to manage confidentiality and conflicts,” says Keeling.

Law firms’ understanding of portfolio careerists and the role they can play in workforce planning is in its infancy. Innovative firms that grasp the nettle and embrace the concept not only have an opportunity to better manage labour costs, but can also steal a march on the competition by attracting and retaining the best talent.

In future, portfolio careerists will become one constituent of a future resource model, alongside flexible workers, home workers, secondees and outsourced staff. Portfolio careers are not for every firm, but the rewards to the business, clients and individuals are priceless. <sup>mp</sup>

**References**

1. See *Law Firms’ Survey - 2014*, PwC, 2014
2. See *The Alliance: Managing Talent in the Networked Age*, Reid Hoffman, HBR Press, July 2014
3. See *The Shift: The Future of Work is Already Here*, Lynda Gratton, HarperCollins Business, 2011
4. See ‘The flex revolution’, Manju Manglani, *Managing Partner*, Vol. 17 Issue 1, September 2014

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