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## Legal tribe

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# Career-diverse workforce

## Rachel Brushfield considers the challenges of managing a diverse workforce of freelance, portfolio-career and full-time lawyers

A full-time headcount in a variable and uncertain legal profession is illogical. The shift to influence by individuals, driven by Gen-Y culture, is starting to permeate the legal profession, creating a win-win-win for clients, employers and employees alike. This article examines the shifting nature of the employer/employee relationship, the benefits and challenges, and the impact on managing an agile diverse workforce.

Today, many firms are perceived to be driven by short-term profits and strategies, rather than long-term organisational sustainability.

"This is having a direct impact on employee behaviour toward their employer," notes Andrew Hick, a director at Cavendish Hawk. "Many young lawyers believe their leadership teams to be overly self-interested."

Managing a diverse workforce is a complex task, but it has compelling benefits. It involves the re-examination of long-established working policies, roles and ways of working.

Comments Michael Bradley, managing partner at Marque Lawyers. "The massive generational shifts in the workplace are threatening the law firm model. The nature of the relationship between people and work must change. The old understanding of why we work is broken.

"The whole point is to move away from fixed notions of 'normality'. The business world has rigidly enforced conformity for a very long time, to everyone's disadvantage, and now it's time for us to grow up and accept difference in all its glorious forms."

Law firms and corporates are starting

to embrace the benefits of agile and diverse workforces (see box: Pioneers of career-diverse workforces).

"For those clients dipping their toes into making agile hires for the first time, they have been pleasantly surprised by the quality of candidates; the range of different types of lawyers willing to work on an agile basis, ranging from current or former partners at top-tier firms through to associates," says Lynnsey McCall, office managing partner at Major Lindsay Africa.

However, integrating agile workers requires a rethink of HR policies.

"I am seeing an increasing demand for changes/reviews of policies regarding flexible working, flexible retirement, recruitment and workforce planning," notes Lindsay Allen, a senior HR leader.

## New workforce model

A desire for better work-life balance and greater fulfilment and meaning is driving the change in law firm resourcing. Millennial and other lawyers increasingly want to work in different and more flexible ways. Small firms are generally more nimble than larger firms and tend to be more receptive to these changes. Of course, with smaller teams, there is a greater impact if things don't go smoothly.

The law is becoming a less attractive option as a career, and firms need to fundamentally rethink ingrained and out-of-date policies, processes and attitudes.

"The traditional employer-employee relationship died over a century ago with the advent of employment rights and the demise of the language of masters and servants," comments Simon Nash, HR director at Carey Olsen.

"The psychological contract is the unspoken contract between the employer and employee – the expectations of what is wanted in exchange for what is given. Having a workplace where all types of people are valued and celebrated is an important part of the mix of things that people are looking for from work."

Traditional resourcing of lawyers is changing fast.

"An increasing number of lawyers are working flexibly, on a consultancy basis or via an alumni network, as a growing number of firms embrace a more career-diverse workforce," says McCall.

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## "A desire for better work-life balance and greater fulfilment and meaning is driving the change in law firm resourcing"

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Alumni are a lower-risk and more agile option for firms than building up internal resources that carry overheads.

"Some law firms are inspired by the McKinsey model in which their people opt in and out all the time, depending on their personal circumstances. Considering the alumni network like a valuable pool of talent is very new in the legal industry, but we are now starting to see some innovative

## PREPARING FOR A CAREER-DIVERSE WORKFORCE

### Do

- ✓ Pilot a talent shortage practice group
- ✓ Look outside the legal sector for best-practice examples
- ✓ Give partners training to manage more complex workforce planning
- ✓ Assess the benefits to your business of a career-diverse workforce
- ✓ Learn from the new-style law firms and ABSs
- ✓ Quantify the benefits to engage the detractors
- ✓ Develop timely and appropriate communication
- ✓ Introduce an employee referral scheme to source agile talent
- ✓ Weave plans into your firm's diversity and inclusion strategy
- ✓ Offer personal coaching to increase partners' self-awareness
- ✓ Do unconscious bias training to help loosen entrenched attitudes
- ✓ Link financial savings with providing budgets for key projects

### Don't

- ✗ Forget to involve all employees in discussions
- ✗ Dismiss this out of laziness or consensual unconscious bias
- ✗ Forget to tell clients and utilise modern and diverse practices
- ✗ Dismiss re-evaluating partner roles and workforce planning
- ✗ Ignore your readymade pool of trusted alumni
- ✗ Forget the important role of technology and online communities
- ✗ Dismiss partner concerns out of hand
- ✗ Let traditionalists kill the idea at the first hurdle
- ✗ Forget to measure the cost of talent drain
- ✗ Fail to put in place confidentiality agreements and terms and conditions

initiatives emerge in law firms," comments Rebecca Normand-Hochman, a partner at Venturis Consulting Group.

"The challenge is to find flexible career models that suit the law firm's culture."

HR teams also need to find time to

update policies to ensure consistency and alignment.

"Most organisations may have changed the basis for employment but have not yet considered or completed the underlying terms and conditions of employment to

**PIONEERS OF CAREER-DIVERSE WORKFORCES**

**Corporates with career-diverse workforces**

- ✓ Microsoft
- ✓ BBC
- ✓ Unilever

**Law firms preparing for career-diverse workforces**

- ✓ Gunnercooke
- ✓ Halebury

make this a long term, sustainable 'new normal' way of working (e.g. fundamental changes to remuneration (pay by output, not by the hour), pension arrangements, intellectual property rights etc.), let alone wider the societal impact such as needing a permanent role to secure a reasonable mortgage," says Allen.

**Myriad benefits**

There are a range benefits to having a diverse workforce, with alumni, freelance and part-time workers as part of the mix. These include:

- more strategic workforce planning;
- more balanced and diverse viewpoints;
- greater innovation and new opportunities;
- improved talent retention and engagement;
- lower overheads and greater profits;
- less wastage of budgets; and
- reduced stress and absence.

"The benefits of this approach are a balance of people types, behaviour types, viewpoints and greater teamwork," says Andrew Manning, CEO at Professional Service Management (UK).

Adds McCall: "The two most significant benefits are retention of talent and cost savings. By offering the opportunity to work in non-traditional ways, those individuals that either can't or don't wish to fulfil a 1,600-2,000 chargeable hours target can still be engaged effectively.

"It is far better to get a longer-term return on the significant investment that is

made in training and developing lawyers in the early stage of their careers than to have them exit. Also, by having a more flexible workforce, there is a direct impact on fixed costs and thus profitability."

A career-diverse workforce brings fresh thinking too.

"With a workforce that looks more like our clients, we are more likely to develop the long-term relationships that lead to better business and get the very brightest lawyers we need to open up segments of the employee market," says Nash. "A monoculture is dangerous. We need a variety of life experiences to challenge the way we do things and spot new opportunities."

**"Clients are more likely to view this new approach to law firm staffing in a positive light"**

Another benefit of having an agile and diverse workforce is that it helps to better manage the thorny issue of utilisation.

"A career-diverse workforce might allow a firm to better negotiate the peaks and troughs of client work at lower cost and with reduced risk, in the process securing both greater profitability for the firm as well as the loyalty of key personnel by increasing employee engagement," says Hick. "It should also allow the firm to better

anticipate some of the challenges on the horizon, which will affect their clients and which might ultimately affect them."

The default response of many firms is that not having a permanent team of staff in the office will cause problems and make clients unhappy.

"I frequently hear reservations by law firms about the ability to successfully fulfil client's expectations. There is also an assumption that truly talented individuals would only want to operate in a traditional manner and pursue the holy grail of partnership," says McCall.

However, clients are more likely to view this new approach to law firm staffing in a positive light, as in-house talent management policies are often ahead of private practice.

"At Roche, personal development is a priority. This is for all of our workforce; we have a flexible resourcing policy, it includes over 50 nationalities and many consultants such as former medics, who bring huge value and experience to our healthcare business," says Funke Abimbola, managing counsel at Roche UK.

"I recruit on potential and attitude. Anyone who recruits through the distorted screen of unconscious bias is missing out on a wealth of wonderful talent ready to add value to their business. Their loss, other's gain. We expect the same from the firms who service our needs."

For many lawyers, career and life fulfilment can be enhanced by modern workforce planning practices.

"It simply isn't possible to lazily pretend that everyone is the same and to deal with them accordingly. A career-diverse workforce forces the organisation to consider everyone's individual value and contribution, and to tailor their arrangements to get the best mutual result. That's a massive positive," says Bradley.

"It also encourages everyone to think about their own life and to engage actively with the big questions about what success and fulfilment mean to them and to be open with the organisation about this."

Other benefits include: a broader skill set to draw on, a greater range of expertise, better cross-functional working, easier acquisition of information from different organisations and sectors to inform organisational strategy and an improved ability to provide 24/7 client service.

A career diverse workforce also brings an added dimension to diversity and inclusion.

“Confirmation bias has a role to play in the diversity and inclusion debate,” notes Hick. “Bias is known to be stronger with more confidently-held beliefs. It may give rise to ‘false consensus effect’, which is the gross overestimation as to the degree to which others see things from your point of view, value the same things as you and want the same things. A diverse group is better able to provide a ‘devil’s advocate’, thereby avoiding the pitfalls of ‘group think”

### Challenges of managing diversity

There are a wide range of challenges to the adoption of a more diverse workforce. These include the need for a more sophisticated and detailed approach to talent management and workforce planning, greater self-awareness and confidence on the part of partners, a high level of trust in agile employees, thinking through team briefings, strong communication so that everyone is kept up to speed, and the need to re-evaluate traditional reward and recognition policies.

“Firms have to understand and accommodate a wider type of individual; but that is what most organisations have done for years,” says Manning.

A career-diverse workforce requires a paradigm shift in thinking.

“Many firms see diversity as a threat and a problem to be managed in the same way as they deal with other perceived ‘problems’ like pregnancy, flexibility and their employees’ mental wellbeing,” comments Bradley.

“In truth, diversity is just one of the components of constant change which are the reality of running a business. Once you accept and embrace it, it becomes a positive. It’s just administratively easier to put everyone in the same box and apply a rule-based approach to managing them. This appeals to the management class and to people who are focused on maximising their personal financial return from the business.”

There are also specific challenges to managing an agile and ever-changing workforce.

“Challenges include handling an increased number of enquiries regarding team development/conflict arising from

‘inequalities’ under these new ways of working and from managers asking how to manage ‘less than straightforward’ teams,” says Allen.

“Other challenges are managing concerns that some of this new ‘diverse’ workforce are only in that position whilst looking for permanent, full-time work and will get ‘tempted away’, managing unconventional working arrangements (e.g. a three-way job share).”

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## “Career and life fulfilment can be enhanced by modern workforce planning practices”

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But, the merits of individualism cannot be underestimated.

“Treating all employees as individuals may seem harder at first, but its benefits make it richly rewarding in measureable business outcomes,” says Nash.

### Technology and space

Technology is a hugely important enabler when managing a career-diverse workforce. Cloud file storage, intranets and client and firm files that can be accessed from employees’ homes are vital to enable 24/7 working. Online communities are growing in popularity and are a useful modern tool for sharing interests and information.

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## “A career-diverse workforce requires a paradigm shift in thinking”

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“The technology pretty much already exists, although it will continue to be enhanced exponentially, but most firms haven’t yet worked out how to harness it for good,” says Bradley.

Workspaces will also need to be rethought to accommodate an agile workforce made up of four generations.<sup>1</sup>

“Our new office, which is primarily open plan to facilitate collaboration across generations and PQE levels, has been designed for a career-diverse mix and includes breakout areas and technology on the move to appeal to Gen-Y/ millennials,” says Jenni Emery, director of people at CMS Cameron McKenna.

### Time for change

Workforce planning in the legal profession is on the brink of huge change. Gen-Y lawyers are changing the way that law firms resource. Once they rise to management positions, the pace of this change is likely to escalate. Firms have much to gain from embracing a career-diverse workforce.

“Employers who do not embrace a career-diverse workforce are missing out on a whole swathe of experienced and talented lawyers, and will lose out to more forward-thinking firms that do,” comments Catherine O’Reilly, director at CORE Search.

A competitive first-mover advantage can be realised by early adopters.

“The best magic-circle firms are already reaping the benefits of employing individuals who see the world through a wider lens and have policies in place to enhance this further going forward,” says Hick.

Long-held processes, policies and ways of working will change, but the rewards will include greater innovation, productivity, profits and workforce planning, enabling firms to weather the peaks and troughs of client and market demand.

“When Gen-Z hits the workforce, the generation after Gen-Y, born from the late 1990s, they will be saying ‘what do you mean 9-to-5?’” comments Bradley.

“I can’t imagine that, 10 years from now, our workplace will look physically very much like it does today. The future belongs to people who demand more from their working lives than ‘just a job’ – and the organisations which those people create.”

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### Reference

1. See ‘Designing productivity: Why law firms need activity-based office layouts’, Giuseppe Boscherini, *Managing Partner*, Vol. 17 Issue 9, June 2015