

Skip to Navigation

## The best advice on how to prepare for a legal services revolution



Thursday 19 November 2009 by Catherine Baksi

As firms begin to emerge from the recession in 2010, they may feel they want to get their breath back before tackling the next challenges that face them. But as any law firm consultant will tell you, now is the time to get lean, efficient and in shape to deal with the full panoply of legal services reforms heralded by Clementi.

They say that firms should take a long hard look at themselves in the mirror and identify a strategy that

maximises their chances of success, whatever the future holds.

This task may seem daunting but, whatever the size of your firm, help is at hand. In much the same way that management consultants are routinely involved in reinventing businesses in other sectors, law firm consultants are increasingly helping create realistic but aspirational business goals and the strategies to reach them.

Be warned, though – it's a process that requires honesty, objectivity and a willingness to accept change. What follows is a brief overview of challenges and solutions in the new legal world from a group of carefully selected consultants in the field.

Alan Hodgart, a consultant at H4 Partners and lifelong professional services consultant, says there are two aspects to strategy: first, you need to have a position in mind that you want to achieve, which means thinking about which part of the market you want to succeed in, and second, given where you are, what do you need to do?

Often, Hodgart says, people have no position in mind. Or they do have a position, but no idea how to get to it.

'Too many strategies are not strategies at all, but wish lists that take no account of external factors, like what clients want, where the market is moving, or the competitive environment,' he says.

The starting point, says Hodgart, sounds simple: where you are now. 'Look at hard data, analyse your client base and competitors and where you are in the market place. Assess your strengths and weaknesses, and get the partners to agree on this. Once you have agreement, canvass opinion to discover their aspirations and come up with a sensible list of options.'

Most firms, he says, will have no more than two or three options. 'One option, of course, is that you could do nothing, though few firms choose this one,' he adds.

Andrew Hedley, who runs Hedley Consulting, has a 'dipstick' for recognising good strategy: 'You know if you've got a strategy when you're prepared to say no to a great idea that doesn't fit.'

Hedley, who was business development director of two UK-based international law firms for a total of nine years before establishing Hedley Consulting in 2005, maintains that strategy is 'fundamentally about choice' – which markets, which practice areas and what type of clients. 'Firms have to decide where they want to compete. They will have to accept that they can't be all things to all men,' he says. Then, on the basis of these choices, they have to engineer their firm to create the best fit for their target market.

But, he notes, firms have in the past shied away from making these difficult decisions. 'The most difficult thing is to decide what they want the business to be. Once they've realised that, the strategy to achieve it isn't hard to come up with.'

Stephen Mayson, director of the Legal Services Policy Institute, adds to Hedley's list of what a strategy should articulate: where the clients are, how the firm gets to them and how it does so with a competitive advantage.

'Most firms fudge all of that except the geographical element,' he says. 'They don't define the clients other than in a loose sense and often don't work out how many clients there are, or have an idea of how big the market is.'

Essentially, he says, firms need to do what the new entrants to the market will be doing. 'Analyse the clients and the marketplace, talk to those people you want to buy your services and analyse your competition.'

They also need to do an economic and financial analysis and a risk analysis, factoring in the impact of any changes in things like government policy.

Allan Carton, director of two related consulting firms – Inpractice and Managed Services Consultancy – says

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have taken Mayson's advice they need to keep their strategy under review to make sure that they are able to respond to changes in the market. 'Business agility is more important now than ability to change track quickly and take advantage of new opportunities is particularly important because the future is so uncertain.'

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#### Customer focus

Hedley's advice is that firms must look at themselves through the eyes of their commercial clients. 'They are demanding fixed fees and an alternative approach to business and firms need to respond to this,' he says.

'This fundamentally changes the profit model of law firms – instead of making the most money by spending the most time on work, they will move to making the most money by spending the least amount of time on a case.'

Hodgart agrees – the market wants more fixed fees, he says, which presents a challenge for partners as they haven't been trained to calculate pricing and profitability. 'It's a whole new way of managing work. But it's a training issue – it's not that they couldn't do it,' he adds.

Neil Cameron, founder of Neil Cameron Group Consulting, says many law firms do not understand the difference between pricing and costing. 'Costing is deciding how much effort it will take to deliver work and to determine the fee estimate. Pricing is determining what the client will pay for that.' The difference, says Cameron, is crucial, because it represents profit.

And price, says Tony Williams, ex-managing partner at Clifford Chance and now of Jomati Consultants, is the main consideration for general counsel and other buyers of legal services. 'Firms have to understand the profitability of their work, but this is quite a major transformation for them. The hourly rate rewarded inefficiency. With fixed fees, the risk of inefficiency is on the firm. This causes a review of how work should be done effectively,' he says.

This, according to Carton, means firms have to examine their business models and processes to look how to reduce their costs, increase productivity and remove inefficiencies. He suggests this might involve changing the structure of their teams, recruiting cheaper people, outsourcing, making more effective use of IT, automating processes and reducing administration.

Mayson says there are four elements to reshaping a law firm. The first is to consider how they create value for their clients. Firms need to know what their clients value and, as lawyers, what they do that is valuable to their clients.

'A lot of lawyers talk about "added value" without thinking about the value of what they do as lawyers.' There are good reasons for having a lawyer, says Mayson, but clients need to understand why these things are important to them – if indeed they are.

Second, firms need to think about managing for profit – how to generate a return, which involves looking at the items listed above by Carton.

'Is your expense base too pricey?' asks Mayson. 'There are all sorts of areas where firms load in cost and have fixed costs – long employment contracts with expensive people, long leases on property.'

Next, firms should consider what resources they need that are appropriate to their business profile. 'They tend to get the best quality and they want it inside the firm, rather than looking at other options like outsourcing.' But, as stated above, Mayson suggests firms should have only as many qualified people as they need, get the right technology, and outsource where they can.

The fourth thing to consider is how to finance change and/or future growth. 'Here you need to think about the degree of risk you want to take, over what period of time, and for what level of return. This also involves looking at where you get your capital from – debt, equity and, from 2011, ABSs and outside investment,' he says.

Cameron predicts that 2011 will see a competitive scramble by firms to attract outside capital. 'Firms will have to take part in a discreet beauty parade – they will have to make themselves interesting and attractive to investors,' he says. 'The key challenge is to make themselves fit and ready to be able to attract external capital and compete with new legal service providers who will enter the market.'

Investors, he suggests, will want to put their money where it will be safe and produce a good rate of return. They will look for evidence of a well-run business and will want to see good risk management and back office and operating processes. This, he says, means firms will need to become more corporate, with professional, high-calibre financial, HR and knowledge directors who are treated as partners.

'Investors will want to establish a proper board and put their own people on it, who have experience of professional management and running businesses efficiently.'

Even smaller firms, says Williams, will need a good finance director who understands the business. 'It's more of a challenge for them and they need to be smarter.'

On the issue of business structure and governance, Mayson reckons that outside investors will want a structure they understand, which, he says, will mean limited liability partnerships with professional managers.

#### Management skills

Firms have been moving away from lawyer-only management for some time, he says, and alternative methods

of managing firms are becoming more accepted.

But should firms go down the chief executive or managing partner route?

The advantage of having a chief executive, says Mayson, is that you get professional management – someone who knows how to run a business and can take the burden away from lawyers, who are released to do what they do best.

The downsides can be that they lack sufficient understanding of the business of law, and can treat the firms as their own and fail to ensure they have the partners of the business with them: 'If that distance becomes too great the manager loses their mandate.'

Mike Henley of PA Consulting Group observes that legal professionals are often reluctant to be managed by people who are not from their peer group. Therefore, those in management positions in law firms currently tend to be people who have been successful lawyers but may not necessarily be capable managers. This, he says, creates a gap in the management skills that firms require. He suggests there is room for the CEO in law firm structures, but senior managers will have to be prepared to accept the person and the change that the law firm needs to make.

'The senior members must accept that the CEO must have the normal powers of a CEO in a business, which will lead to less consensual decision-making than is common in the running of a law firm,' he says.

Williams observes that the level of ability and expectation of law firm management teams has increased over the last five to 10 years. 'Firms are doing different things, and as they get bigger and more complex, they need appropriate professionals, but it is important they give those professionals the respect and authority they deserve.'

Carton agrees: 'It's important to respect your senior managers – they must be in positions of real authority.' But, he adds, the managers must make sure they collaborate at every level with each other and the lawyers.

When addressing all these strategic issues, Williams says there are three key things firms should be looking at right away: pure basic hygiene, making sure cash is coming in and people are performing well, which gives a strong block to build on; market position, which means what clients a firm has now and what kind of future clients it wants; and how those clients' needs are changing and how the firm can meet those needs.

Then firms must examine the legal sector and look where the profession is going. This, Williams suggests, involves serious business planning with real hard actions – where to invest and where to close or divest.

Firms need to differentiate themselves, identifying their peers and putting themselves into practice groups. But he cautions that firms need to be brutally honest about who their peers are and what market they are in.

'Differentiation on pure legal skills is a waste of time – they are taken as a given. Get the basics right and demonstrate a passion to develop your practice and client relationships.'

Mayson says that one reason firms are failing to take necessary strategic action now is regulatory uncertainty: 'They keep blaming the Solicitors Regulation Authority for not having prescribed detailed rules about what will be permitted in the future.' But this pseudo-uncertainty (the SRA can't guarantee what the results of regulatory reform will look like in the market, after all) should not deter firms, and the reality is that any business the market needs, which delivers in an ethical way, will be allowed by the regulations.

#### Hearts and minds

So how can consultants help firms grapple with these issues? Hedley says: 'We take firms through a process to help the leadership teams define realistic and stretching objectives and be clear about them.' He works through focus group meetings, backed by analysis of hard information from the firm and research. There are two stages he goes through with a project team in an evaluation process. 'We look at the internal competences, resources, current client base, aspirational client base and the competition in the market. Then we create a clear set of objectives and options as to how to achieve them.'

This is as much an art as a science. 'It's a process involving engagement and communication,' he says. 'It's intellectual, but also about hearts and minds.'

Hodgart says he takes firms through their options and paints a picture of what these options would mean for them, while Mayson stresses that consultants can help by bringing rigorous thinking and objectivity to the process, as well as realistic market advice.

In addition, says Mayson: 'While most partners can agree a strategy, they are bad at making it happen. Outsiders can help put the plans into action.'

Williams agrees on the importance of firms being able to put themselves in context with the rest of the market, and how external consultants can help drive change. 'We can bring a broader perspective of that market, and bring a reality check for the firm on its position and reputation, as well as that of their peers. And when firms go through this process it's important that they don't simply come up with a document that they simply forget about. We can help them develop an action plan and execute it.'

Mayson highlights other factors that firms need to think about in terms of being better structured, prepared and run, pointing out the 'elephants that have been sitting quietly in the room' throughout this article – the impact of

rising professional indemnity insurance and the role that volume suppliers of legal services will have in shaping the market.

'What will happen in the market will be driven by new entrants and the institutions that control volume access to work, such as insurance companies and the Legal Services Commission. They have so much power over how work gets to lawyers. Firms that don't have their heads around this will struggle.'

#### Top tips for change

- Focus. Hard.
- Listen to your clients – to what they want, how they want it and how they want to pay for it.
- Consider the competition – understand where your competitors are strong on things that add value for clients.
- Scan the market and understand how it is changing.
- Be clear about what you're good at and play to your strengths.
- Be prepared to make difficult choices.
- Work with hard facts, not opinions – your strategy will be meaningless if it is not based on facts.
- Make things personal – align your plans with the people in your firm and make sure they know what their role is and reward them when they do it well.
- Understand your strategy and business model, and make sure the partners are with you.
- Once you've started the process, finish it – don't let it drag on for too long.

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