11 Strategies to unlock the merger dividend

Andrew Hedley

Panjat Pinang is one of the most popular traditions in Indonesia. It is a unique way of celebrating the country's Independence Day and involves, quite literally, climbing a greasy pole. Tall nut trees are felled, denuded of all branches and bark, and placed vertically in the ground. A wheel containing prizes is placed at the top of the pole and the bare trunk has grease applied.

Since the poles are both high and very slippery, one person working alone would have no chance of reaching the top. People combine into teams with an agreement to share any prizes that they secure. Teams climb the poles by creating human pyramids and clambering on each other's shoulders in order to reach the top. Of course, many fail and simply slide down the greasy pole to start again.

In some respects, many law firm mergers are remarkably similar to a corporate game of Panjat Pinang. The allure of the prize at the top of the greasy pole drives combinations, sometimes unlikely ones, with firms being subsumed within a new corporate mass. At the same time, competitors are pursuing similar strategies. Whilst progress may be initially promising, over time most firms slide back down the greasy pole to a point which, in relative terms, is akin to where they first started.

This is because many mergers achieve little more than creating a larger-scale version of the pre-existing firms. The merger is seen as a means to improve efficiency and reduce unit costs but little else.

Improvements in efficiency are necessary but not sufficient. Whilst, initially, efficiency gains may be dramatic, diminishing returns will soon be encountered. What happens when the lemon has no more juice to be squeezed from it? Tinkering with partner numbers, sometimes surreptitiously, sometimes with an axe, will make a difference but is it a sustainable approach?

It is vital to think more widely than transient efficiency improvements into ways in which an enduring merger dividend can be delivered.

11.1 The building blocks to unlocking the merger dividend

In addition to operational improvements, the merger strategy and implementation plan should also consider more wide ranging changes to the firm's modus operandi in order to make the business fit for the future. These are the aspects which are concerned most centrally with creating a new firm which is better, with more capabilities, agility and ambition than the two which preceded it. By getting these aspects of the merger right, the merged firm will experience a multiplier effect. The core building blocks include:

- culture and values;
- leadership and management;
- strategy and direction;
- client service strategy;
- a focus on key clients;
- flexible resourcing;
- business process re-engineering; and
- the six-month window.

11.2 Culture and values

At the core of the long-term success of any merger is the ability to build a unified culture and shared sense of purpose. Even in the most unbalanced of law firm marriages, it is a foolhardy managing partner who ignores cultural fit and doesn't take action to resolve deep-seated cultural differences in defining a new set of values for a new firm. Dealt with early, any cultural mismatches can be resolved quickly and effectively. Left to fester, they become all pervasive and difficult to purge.

One of the first acts of a smart management team post-merger is to engage the whole business in understanding their current values and cultures before moving on to define their future aspirations. To make these exercises real, there must also be a clear line of sight between the firm's values and the way in which it conducts itself, its relationship with its people, and the philosophy with which it works with its clients. A process for arriving at such a set of values and subsequently making them meaningful in the firm, is illustrated in Figure 11.1.

At an early stage of any merger process (ideally pre-merger but, if not, then as a first action post-deal) a comprehensive culture and values audit of each firm should be undertaken. Understanding the cultural traits of two merging entities is important for a number of reasons, for example:

- assessing the gap between the firms on key cultural dimensions;
- understanding concerns that may not be apparent on the surface but which are driven by deeper cultural factors;
- creating an implementation plan that addresses these differences in a proactive way; and
- evaluating how management style and communications may need to be tweaked in order to fully engage people in both antecedent firms.

Subsequently, the firm can move on to define the values that will be needed for the future and how these will be manifested in the expectations and behaviours seen in the firm.

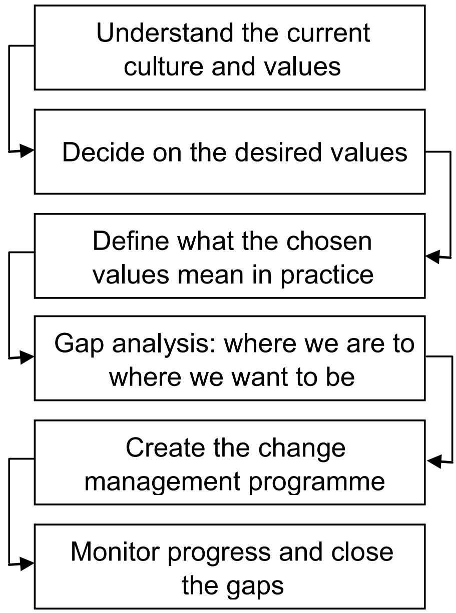

Figure 11.1 Stages in defining and embedding the firm's new values

It is then through the embedding of these cultural expectations and behaviours in the firm's reward and recognition systems that the somewhat ephemeral concept of culture becomes real and is given traction within the organisation.

In some cases this will also raise the spectre of how to address the key player whose behaviour runs absolutely contrary to the desired culture of the new business. Best practice is unequivocal on this point – culture and values are sacrosanct and no individual can be allowed to gerrymander them for their own ends. The reality, regrettably, is far less straightforward, but such behaviour will need to be addressed. Firms not prepared to do this will find their culture being subdivided into warring fiefdoms defined by geography, practice area or the personality of a partner. This is particularly dangerous for a merged entity in which the tendency to tribalism may already be evident.

Success will come from the leadership team being seen to be strong advocates and adherents to the firm's values and, where necessary, changing their own behaviour in order to benefit the business as a whole. Strong and successful mergers are founded on getting this cultural framework right and building strong cohesion across the firm.

For more on issues of firm culture, see **Chapter 8** above.

11.3 Leadership and management

Never before has providing leadership of a law firm been so onerous or important. Giving a clear sense of direction, imbuing confidence and demonstrating resilience are the hallmarks of the leader. Add to this a need to both engender and facilitate change, and the challenge of leadership becomes clear.

Sitting alongside the requirements of the leader are those management tasks associated with running increasingly complex firms operating in dynamic markets. For the management team of any newly merged firm the challenges will be acute. They will instantly be faced with a larger organisation to lead and manage, in addition to dealing with all of the integration and change management issues which will be evident in the initial post-merger period.

Effective leadership during this formative period will shape the future success of the merged firm.

Looking ahead, it is clear that firms will increasingly need their most talented people to step forward for these crucial leadership roles. This creates a tension on two levels which may be a deterrent to the most able candidates making themselves available:

1. Such people are often central to important client relationships; their enthusiasm to cede this role may be limited.
2. The time pressures on a full-time senior or managing partner necessarily means that one's legal practice is put to one side. As a result there may be no ongoing role in the business at the conclusion of any significant tenure – departure from the firm may be almost inevitable. In some cases this can lead to incumbents displaying behaviours which are more about self-preservation than making the best decisions for the business, which is highly undesirable.

A trend is developing in even the very largest firms that partners in management positions retain a significant level of client work (generally of a relationship nature) alongside their management positions, thus making a return to practice more feasible at the end of their tenure as well as keeping some of the firm's best client-facing people active in the market.

If such an approach becomes common practice, the implications on the management structures of firms may be far reaching. In such a scenario, the rise of chief operating officer (COO) and chief executive officer (CEO) positions appears inevitable to provide the management infrastructure that will be required. This could be particularly relevant for a newly merged firm which would have the option of employing an experienced CEO as an agent for change, working alongside the partners, to ensure that integration is both swift and effective to maximise the merger benefits. It is entirely feasible that we will see the emergence of a breed of post-merger CEOs whose de facto role is to galvanise firms in the period immediately following a merger.

It is important to differentiate here between leadership and management. A non-lawyer CEO may be a very effective manager but it is likely that the culture of most professionals will desire a lawyer as their leader. One can imagine an approach akin to the relationship between the civil service and the government of the day evolving, in which policy and direction is provided by those elected by the partnership (i.e. the managing and senior partners) with delivery being the responsibility of the permanent staff under the auspices of a CEO or COO.

11.4 Strategy and direction

All firms lay claim to a strategy but, in truth, few have a compelling vision of a distinctive market position from which they can build sustainable competitive advantage. Fewer still possess the means by which to take their firms on this journey.

Repositioning is a compelling intellectual argument but difficult for any law firm to achieve in practice, especially over a short timescale. Most will move in a series of small steps and a merger provides a step-change opportunity to bring about a significant strategic repositioning.

It is, however, an unfortunate truth that for many, strategic freedom will be limited and, in challenging economic conditions, firms will converge around a limited number of strategic positions. While there will be a small number of firms that deliberately adopt a lowest cost producer position, the vast majority will develop strategies based around differentiation of one form or the other.

At one extreme there will be highly focused niche players, offering a defined range of services to a limited and well-defined market. With the right strategy, such firms will gain a pricing advantage and build high-value brands; they also, of course, run the risk of putting all of their eggs in one basket should dramatic market changes affect their areas of focus.

The majority of firms will adopt a multi-dimensional differentiation model that identifies attractive segments of the market (by geography, sector, business type, service line or a combination) and build awareness and appeal to such defined groups. This will be overlaid with a service proposition based on client intimacy. This is centred on the proposition that 'we understand your specific needs and respond to them better than any other firm'.

It must also be clearly understood that the key to success is not in the stating of the strategy but in its delivery. We should expect to see much more rigour in the implementation of strategy going forward as economic conditions compel determined action.

A newly merged firm provides an opportunity to adopt a clear strategic position. The momentum of the merger, if properly harnessed, can be used to make previously impossible improvements in client relationship management and business development.

For a more detailed treatment of strategy and direction, see **Chapter 10** above.

11.5 A determined focus on clients

In order to sustain success, a merged firm needs the ability to develop its revenues streams (both in terms of quantum and quality) in a way that its antecedents could not. It needs to respond to client opportunities and unlock the latent potential of its client base as well as attracting new clients through its improved market standing, stronger brand and increased capabilities.

The development and implementation of a client service strategy, supported by a key client programme is a way in which this can be achieved. These two initiatives serve the dual purpose of creating a forum in which new colleagues can interact as well as maximising revenue generation activities. Both initiatives hinge on a clear understanding of what aspects of service and delivery are most valued by clients, both today and in the future. It is critical that this understanding is framed in terms of the competition, both current and emerging.

Having an in-depth understanding of the other firms which are competing for a slice of the action is hugely important. These are the specific players that your differentiation and client service strategy needs to centrally consider since it is with this relatively small group that you will fight most of your battles, win most of your clients and inevitably lose a few skirmishes along the way. It is likely that, following a merger, the competition will have changed; if not wholly then certainly in certain aspects.

Taking this competitive view of the market also allows firms to develop much more focused, tactical responses to specific opportunities. To be effective at this level often means differentiating through being one per cent better at a host of small things rather than having a couple of ‘silver bullet’ differentiators (which many firms seem to spend most of their time searching for but which are as elusive as the pot of gold at the end of the rainbow). When combined, these small differences allow a firm to stand out from the pack in a way which is valuable to the client and hard for competitors to replicate.

In this approach to differentiation there is no stand-out single point of competitive advantage but rather a host of smaller factors which, when combined, make the firm simply better than the pack with which it is competing.

It follows that, to create enduring success, firms must have excellent competitive and client intelligence. Too few firms undertake regular competitor analysis – benchmarking their performance across a range of variables, both financial and non-financial. Firms also need to ensure that their competitive intelligence is always to the point, allowing decisions to be made quickly and with high levels of certainty. This is even more the case when a firm is facing changes in its competitive position following a merger.

Typically, research which examines a wide range of purchase criteria within groups of clients will consider the relative importance of various aspects of service attributes, benchmarking the clients’ views as to how law firms perform against them. By linking importance to performance, it is possible to identify areas where clients’ needs are satisfied (or even over-satisfied in some cases) and those in which improvements would be both desirable and create relative competitive advantage.

Moreover, the weight (or score) attached to each of these service factors provides a basis for making well considered differential investment decisions which are aimed at delivering improvements in the areas of most significance to clients. It is also opens up the possibility of gap analysis to identify potential opportunities for differentiation, as well as areas that need to be strengthened. This approach can be mapped as illustrated in the diagram in Figure 11.2 with service factors being conveniently analysed on the basis of client importance and relative competitive performance.

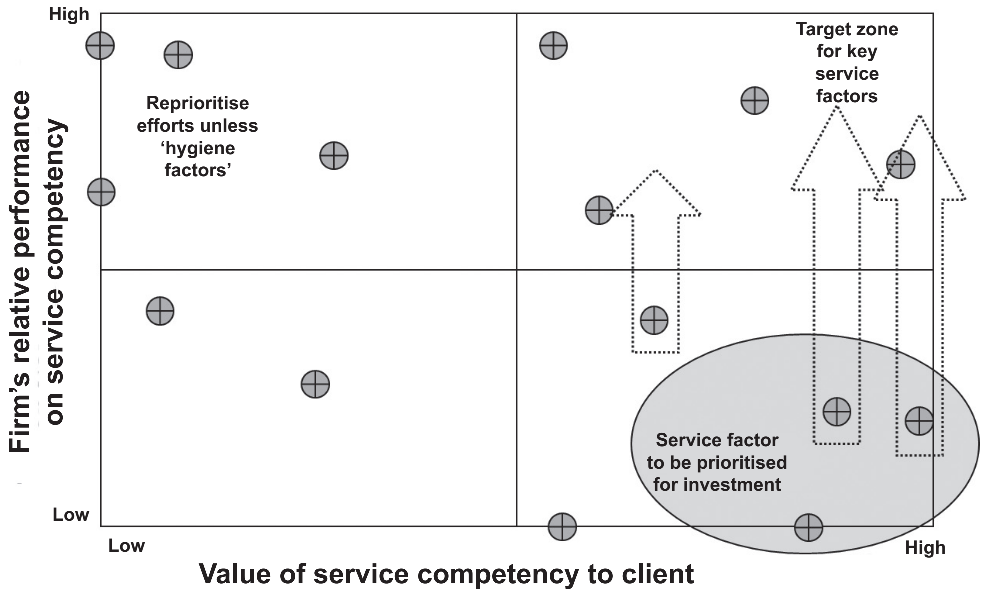

Figure 11.2 Mapping service competencies to client value © Hedley Consulting

On the face of it, the service factors which should be prioritised for investment and improvement are easy to identify – they are those in the bottom right-hand corner of the diagram. These are important to the client and in which the firm has a relative competitive disadvantage. Whilst this is correct, there is a further nuance to consider.

In the top left-hand corner of the grid are those factors which are of low importance to the client but in which the firm performs strongly. It would be easy, at least with a superficial view, to come to the conclusion that these are factors which can be readily abandoned. Saved resources could then be diverted to improve performance in areas of more apparent significance. On closer examination, however, experience suggests that some of these issues will be 'hygiene factors' – aspects of service that are taken for granted and have little value until they go wrong. Any decision to reduce or eliminate investment in such areas should therefore be considered with this in mind.

11.5.1 Client service strategy development

A key aspect of unlocking any merger dividend is the development of a firm-wide client service strategy. This looks both externally (giving clients confidence in the service that will be received) and internally (by providing a programme around which people can gather and new teams can be built). A generic model for the development of a service strategy is set out in Figure 11.3, which formalises the process by which a new approach may be structured, tested and adopted.

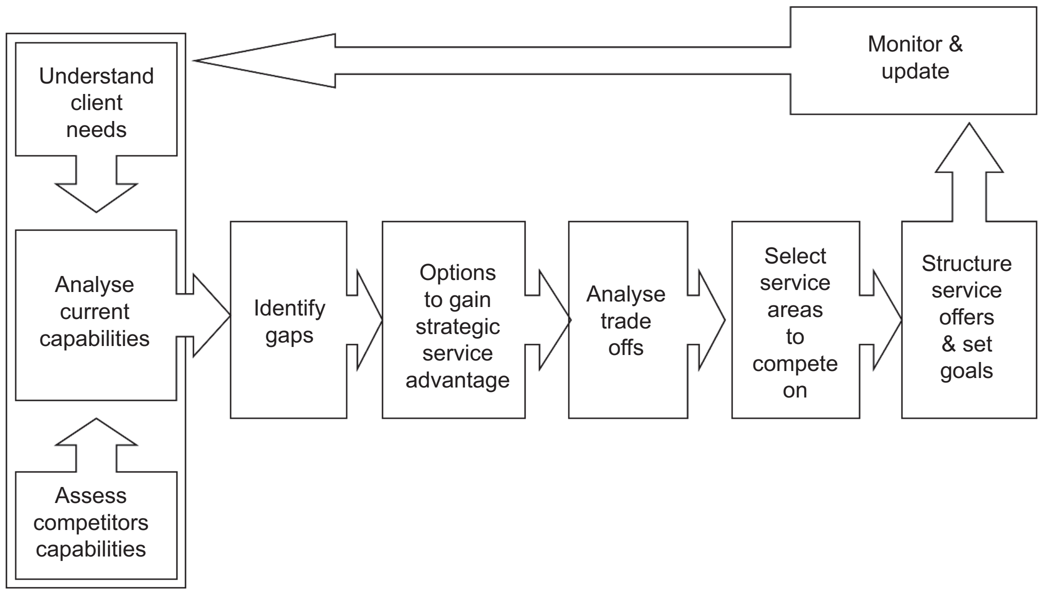

Figure 11.3 Stages in developing a service strategy

As in other areas of strategic development, a competition-based orientation is a key component of the approach since this will form the relative benchmark against which a firm's performance will be judged in the mind of the client.

11.6 Key client management

An important initiative within any post-merger client service strategy is the adoption or creation of a key client management programme. Such a programme provides an excellent opportunity for new colleagues to work together in a team environment, to share knowledge and to develop new streams of business with the firm's largest and most significant clients.

It is important to appreciate that the level of relationship management implicit in a fully fledged key client programme is very high. Consequently, the numbers of clients targeted will typically be low. Indeed, in the first instance, the establishment of a pilot group of only two or three clients may be the best way for a firm to learn about the methodologies that need to be employed, develop the systems that will be required to support a wider initiative and get a grasp of the resource implications.

It is far better for a firm to leverage success in a small number of cases to engage wider participation in the programme going forward than have to explain away failure when too large a number of clients have been attempted in the initial tranche. For most firms, it is likely that the key client programme will initially comprise between six and 15 clients as a maximum. It is unlikely that the number of clients in a genuine programme will ever be more than 20 if the firm is to be effective in its efforts.

Firms which excel have learned that 'less is more' when it comes to effective key client management.

11.6.1 Selecting key clients

There are a number of ways in which a client base can be analysed. For example, when considering clients for inclusion in a key client management programme, criteria which may be considered include:

- current highest fee yielding;
- currently most profitable;
- critical to our future desired market position;
- excellent potential for cross-selling services;
- enhance the firm's brand perception and reputation;
- international business interests/acquisitions;
- dynamic and growing market sectors;
- strong relationship/profitable track record;
- high organic growth clients; and
- acquisitive clients.

Typically, a number of these criteria will be factors in the client selection process for a key client programme. However, where such a programme is a post-merger initiative, further criteria will also feature. These will include identifying those clients which provide the best opportunity for cross-firm working in the sense of introducing partners from each of the antecedent firms to each other in a team-building and knowledge-sharing environment.

11.6.2 A holistic approach to key client management

Like client relationship management more generally, its more targeted version cannot be viewed in anything other than a holistic fashion. This is advantageous for a merged firm in that it drives collaboration across the entirety of its practice groups and support departments.

Approached correctly, the initiative will impact across all areas of a firm. Taking this broader perspective and mapping the potential impacts across the firm gives rise to the diagram at Figure 11.4 below. It can be seen that, to service a key client effectively and to develop a more broadly based client-centred approach within the firm, all areas of the business have a part to play.

Moreover, to be successful, it is also inevitable that behavioural change will be needed. For some the change required will be minor but for others it will be very significant; the firm will need to put in place appropriate support systems to facilitate this process.

It should also be recognised that there is a distinct possibility that the changes required will prove too difficult for some and these individuals may choose (or be encouraged) to leave the firm. In the long run this is likely to be the best result for both the individual and the business. Once a firm has committed to adopting a client centric approach, these are thorny but necessary issues to deal with and send strong messages of intent and resolve to everyone in the firm.

Management resolve will be required to deliver the full benefit of a key client programme in a post-merger environment. It will be important to ensure that the enlarged business develops appropriate systems and performance expectations. It would not necessarily be appropriate to simply take the rules that worked well for a smaller enterprise pre-merger and apply them wholesale to the larger one that has been created. The same applies to the behaviours of partners and staff. Any expectation that growth and success can be achieved without a preparedness to adopt different working practices and attitudes is almost certainly fanciful.

11.6.3 The key client team

When considering the make-up of a key client team, the issues of size and composition are often the cause of much internal debate. In terms of the size of the team, it is suggested that a group of between 10 and 15 be assembled. Whilst this may be considered a large number, it should be appreciated that, with many client opportunities spread across practice areas, a team of this size is inevitable if all of the possible opportunities are to be exploited. It is also likely that, for unavoidable reasons, not every team member will be able to attend every meeting. In practice, the likely attendance at a team meeting will be around 10 people.

With regard to the composition of the team, members should be drawn from across both antecedent firms and from three primary constituencies:

- those currently involved in the client relationship;
- those for whose practice areas there is a clear and present opportunity to develop services;
- an account manager who will generally be drawn either from the firm's business development team or will be a senior associate, able to treat the key client initiative as a career development opportunity.

In terms of the spread of levels of seniority within the team, it is useful to construct a range from senior partners to associates at around five years' PQE or above.

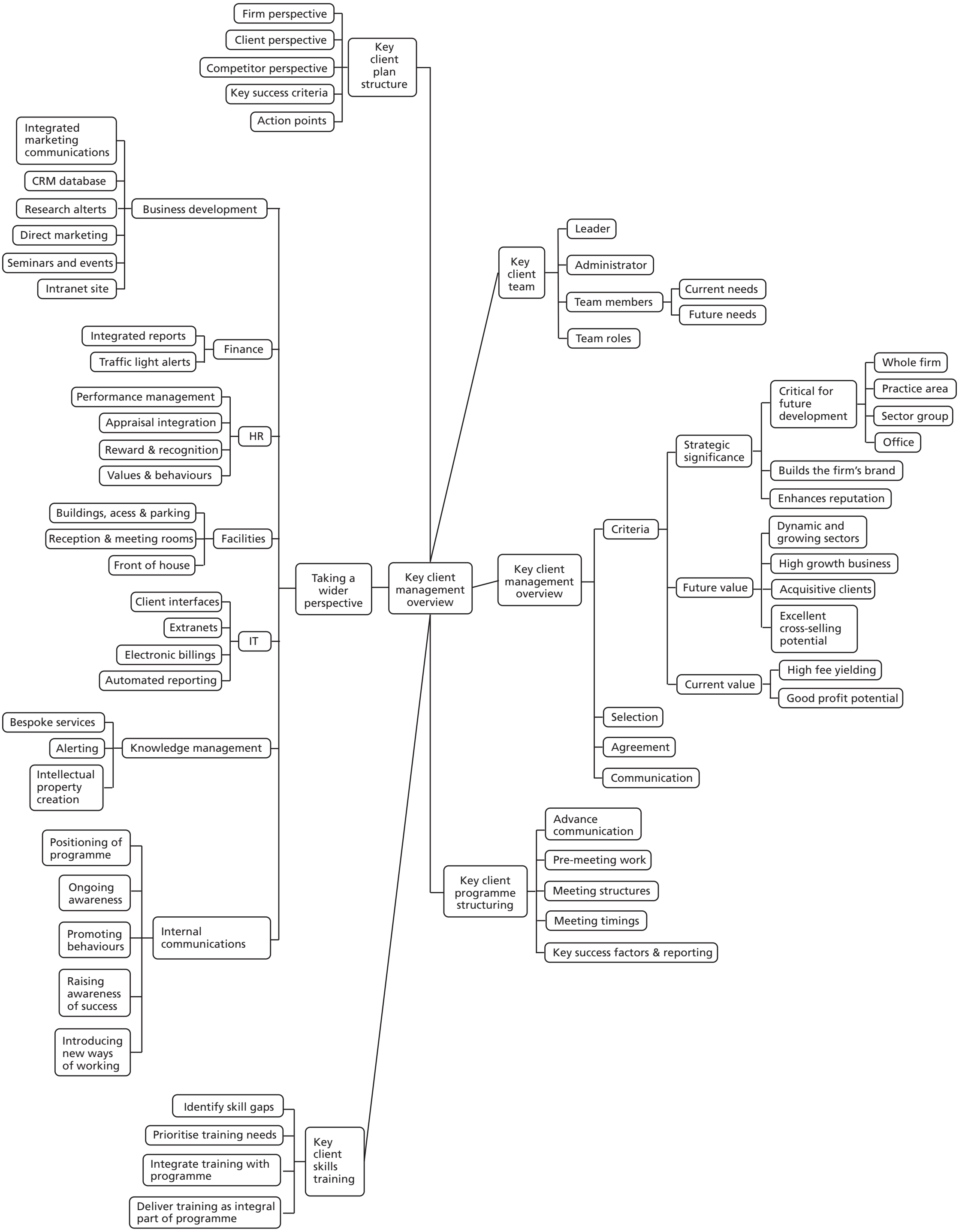

Figure 11.4 A broad approach to key client management: potential impacts across the firm

Senior partners will have insights to be shared and relationships to elucidate. For the more junior members of the team there is a fabulous career development opportunity and, candidly, a requirement to ensure that much of the leg-work that results from a key client programme is followed through and implemented in the gap between meetings. In a newly merged firm it is an often unique opportunity for all to develop connections and forge new relationships in a structured way.

Regardless of seniority, it is important that there is clarity about the role of each member of the client team. Common aspects include:

- **To share rather than hoard knowledge.** Team members should be clear that they are there to represent their practice areas and should be conduits for information and knowledge both to and from their practice groups.
- **To provide insights and knowledge about the current relationship.** The client team meeting provides a forum for the sharing of knowledge, the exchange of insights and the building of collective client experiences.
- **To enter into brainstorming and strategy development in order to build the relationship.** Exploring opportunities for development, examining potential linkages between practice areas, understanding the key developments in groups outside one's own and creating holistic strategies for relationship enhancement should all be central to the modus operandi of a high-performing client team.
- **To commit to actions and to demonstrate tenacity in implementing the key client plan.** In the final reckoning, thinking about how to develop a relationship is an erudite but passive exercise. What really matters, and where many firms consistently fail to deliver, is the enacting of these thoughts and strategies into deliverable outcomes, actions and follow through. The client team has a hugely important role in providing the social and interpersonal framework in which actions are agreed, performance reviewed and the process driven. Regular, structured meetings together with the transparency and peer pressure that they provide are the key motivator to encourage actions from all team members.

11.7 Flexible resourcing

A challenge for law firms which are structured along traditional lines lies in the inherent inflexibility of their human resources. The culture of the profession has emphasised the psychological contract between firm and employees; longevity sits at the core of this together with an implicit understanding that the firm will view employees as a longer-term investment.

This will still, and should, hold true for the core of the firm but the ebb and flow of work, at much keener prices than in the past, means that the resources needed to cope with peaks can no longer be retained through troughs. A number of approaches are emerging to meet this need – for example, legal process outsourcing arrangements, sub-contracts with smaller firms, contract workers, flexible working arrangements and virtual networks. Each has its merits, will offer win-win cost advantages and may be appropriate in different circumstances. They also create potentially significant challenges for those managing complex client relationships and legal services.

The management of a flexible resource base – perhaps with a permanent core and a range of portfolio worker – is an area in which it should be anticipated that significant innovation and opportunities for differentiation will emerge.

11.7.1 Business process re-engineering

Business process re-engineering (BPR) is concerned with the analysis, design and implementation of workflows and processes within a firm in order to deliver improved efficiencies, better client service and more effective deployment of resources. It represents an opportunity to deliver a step-change in performance as it focuses on the delivery of legal advice by taking a different approach rather than simply making the old approach more efficient. For this reason it features as one of the strategies that should be employed to unlock the merger dividend.

If one were to analyse what actually happens in the delivery of legal services, it could be credibly suggested that a typical matter or transaction involves the making of a small number of very important directional decisions which are linked by substantial episodes of detailed process. Whilst this may at times be a relatively complex process, it is process nonetheless. And what we all know to be true is that advances in knowledge management and information technology make all processes faster and cheaper year on year.

For the directional decisions, the knowledge, experience and judgement of the lawyer is paramount. For what happens in between these key milestones, the skills of the process designer come to the fore. It is inevitable that BPR will become a key component of any firm's business plan.

A typical BPR approach will firstly identify the current processes which are to be evaluated (generally a prioritisation will be made based on a combination of volume and profit impact). The next stage will analyse the current (or 'as is') position and use this analysis to shape the design of a revised process to achieve the same end goals. Testing and implementation of the new solution and its monitoring in practice to spot opportunities for further improvements completes the BPR process model.

BPR is particularly relevant where disruptive technologies are changing the nature of an industry. The impact of advances in telecommunications, IT, expert systems, knowledge management and collaborative systems have changed the very nature of the law firm business model over the last 20 years. Things which were once the stuff of science fiction are now everyday activities; with each advance in technology, new opportunities emerge for a BPR rethink of current practices.

Such technologies have already fundamentally altered the way in which the business of law is conducted and the operating models employed. Their impact will only be felt more deeply in the years to come.

11.8 *Carpe diem* – the golden first six months

Following any merger there is a period – perhaps six months – when the new firm is 'change ready'. There is an anticipation that things will be different and, with good planning and the dismantling of objections, great progress can be made. More importantly, the firm can develop a culture in which change is accepted (even eagerly anticipated!) rather than resisted.

What this means in practice is that the agreement of terms for a merger and the securing of a successful partner vote should not signal the end of the process (for an undoubtedly exhausted pair of management teams) but rather the firing of the starting gun for a new era for the combined business.

Change, change and more change is now the order of the day. Responding to dynamic market conditions by building a flexible and adaptive firm will be a key driver of success. The competency *sine qua non* that leaders should seek to hardwire into their firms is the ability to change and a merger offers a catalyst by which this may be achieved.

Firms that prosper in the future will have levels of dynamism and flexibility that others simply cannot match. This will combine with strong leadership to provide clarity of purpose. Firms capable of adapting to the changing environment in ways that create competitive advantage will foster a unique and compelling proposition.

Those emerging from mergers with a strong vision and a clear, actionable plan have an opportunity to forge new routes to success in a turbulent legal services marketplace which, whilst it presents significant challenges to all firms, also has latent opportunities for those prepared to seek them out and the courage to grasp them.