

Firm of purpose

Law firms must rethink how they develop their strategies and implement consistent working practices to survive in hard times, according to **Nick Jarrett-Kerr**

It seems that we are still facing a prolonged economic downturn, albeit with flickering light at the end of the tunnel. While work volumes may be improving slightly, market and competitive pressures continue to grow. At the same time as firms fight to maintain or improve their share of a declining market, clients are increasing the downwards pressure on pricing, and possible new entrants to the market are lining up in wait for the Legal Services Act 2007 (LSA) to take effect.

CONTINUITY-BASED STRATEGY MODEL

Law firms are, therefore, starting to look back with nostalgia on a recent past which is beginning to look like a golden age, characterised by a benign trading environment in which many better managed firms found it relatively easy to keep growing, make profit and find new markets for their services. In those times, the strategy of many firms was to keep on with a successful business formula with little need for radical change – ‘If it ain’t broke, don’t fix it’. In the past few decades, rather than being formulated entirely in an ‘ivory tower’, the strategies of successful firms have largely emerged organically, emanating from a powerful group of leading movers and shakers who have interacted over time in an iterative process or series of processes. Strategies have therefore constantly been adjusted and revised in the light of experience, learning, trial and error. Small initiatives carried out one by one at the coal face also often gradually become part of the firm’s business recipe.

Law firm strategies have also been conformist in nature, with firms marching largely in step with their peers. At worst, this kind of strategy slavishly follows or imitates what the firm perceives to be that of other firms or of a particular firm it admires. But conformity strategies are not limited to copycat solutions; they apply equally to industry conformity. In an environment in which many law firms look much the same, firms often use the same language when describing themselves, depict their culture in similar terms and use interchangeable strategic words – such as ‘regional’, ‘full service’, ‘commercial’ and ‘pre-eminent’ – to identify their service offerings or their value propositions. Hence, many law firm observers and advisers have noticed just how similar the strategies of different firms can appear.

In a stable and benign environment when there is plenty of available work and exponential growth is only limited by the aspirations and investment capability of the partners, a combination of emergent and conformist strategies has required little real change in working practices or the way firms have managed themselves.

However, the organic process of emergent strategies is a slow

one which does not work well on its own in emergency situations or when the going gets tough. Recessionary forces and the advent of the LSA mean that the benign environment to which law firms had become accustomed has become unstable, complex and increasingly competitive. In place of conformity, law firms need to think how they can represent their uniqueness and individuality, and stand out from the crowd. In addition to the organic process, there is, therefore, also a need for a rational, analytical process of deliberate planning.

In the new world of the LSA, I see active and deliberate strategic decision-making as replacing the old continuity-based business formulae in which law firms successfully invested in

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strategies which involved persistence, conformity, efficiency, reliability and the defence of existing strategic positions. There is still, of course, a place for the informal and organic development of strategy, through client solutions made by every member of the firm, as they adjust to the changing demands and problems faced in the real world. However, at the formal, deliberate level, strategic choices should be purposefully developed and chosen by the partners or the top management team.

DELIBERATE AND RADICAL STRATEGY FORMULATION

There is a basic distinction between strategies which are attacking or offensive in nature and those which are more defensive. Offensive strategies tend to involve growth, the aggressive pursuit of dominance, innovation and the search for new opportunities. Defensive strategies involve cost control, stability, conformity and efficiency as well as maintaining the strength of the firm’s client base and client relationships.

The response of law firms to recessionary and market pressures are likely to fall into three broad categories, two of which are attacking in nature, and one entirely defensive. In the first category, some firms may feel that their survival strategy is best served by pursuing further growth or becoming part of a bigger enterprise where the advantages of scale, critical mass, economies

of scale and deep teams will allow them to maintain or improve their financial and competitive positions.

An alternative is to follow a strategy that allows the firm to avoid all the disadvantages of growth and to remain niche (or at least small), and aim to compete more effectively in a restricted set of markets, services or specialisations by occupying strategic positions relative to competitor firms in terms of quality, cost, or client focus. This strategy is not as easy as it sounds, as it may require the firm to discard irrelevant or unprofitable offices, departments and partners.

A third response is to seek defensively to batten down the hatches so the firm can survive the recessionary storms in whatever way it can.

IMPLEMENTING CONSISTENT WORKING PRACTICES

Whatever strategic choices a firm decides to make, there is one simple truth for all three categories of response, and, indeed, the profession as a whole: firms need to be managed and run as integrated businesses with more stringency than ever before in imposing rigorous discipline and consistent working practices. This means much more than a 'back to basics' approach. Many better run firms are already beginning to work more as a team than as just loose groups of individuals, and making bold efforts to develop a one-firm approach where consistently applied and agreed methodologies and processes are brought to bear upon clients' matters. To achieve consistency, firms need to embrace seven potential challenges.

1. Redefine the old partnership model

This does not necessarily require firms to become entirely corporate in structure – indeed, there is much about the LLP and partnership structure which is commendable in strategic and structural terms.

What does have to be redefined is the 'chambers' mentality, in which partners continue to practise in their old ways, more or less as individual sole practitioners. I have lost count of the number of times that both new entrants to a firm and clients have reported on how differently things are done in different parts of the same firm. Even within the same practice group or the same department, we still hear reports of partners whose working methods, systems, precedents and approaches are entirely different from the partner in the next-door room doing similar work for similar clients.

The very survival of the firm dictates that the constant reinvention of the wheel every day by each practitioner is inefficient and has to change. In addition, the partnership model has to be refocused into a business model which encourages swift decision-making and active management of matters and people.

Partner behaviours and management roles have to be defined, adapted and harmonised. Methods of accountability need to be introduced or reinforced.

2. Put a compliance regime in place

This should be designed not just for the avoidance and management of risk, but also to manage quality and service efficiency. Again, the formality, regimentation and definition of an appropriate compliance regime will vary from firm to firm, but every firm needs to address matters of both regulatory importance and risk in this uncertain future.

3. Manage time and money efficiently

Tight financial management is necessary in all firms, not just those doing low margin work where every penny and every hour counts.

I still see many firms with less than optimal productivity and lacklustre attitudes to financial disciplines.

4. Nurture referrer and key client relationships

This has become a key responsibility for partners who might have tended, in the past, to spend too much time focusing on chargeable client work and perhaps too little on the nurturing of relationships.

5. Spend time and effort on training and development

A law firm is a people business and the brain power of the individuals provides much of its competitive advantage. People do not learn just by watching what other partners do. Training, both to induct new people and to foster career development, assists in retention and helps lawyers more quickly develop skills and competences which clients find valuable.

6. Consistently and persistently track trends

A deep understanding of the market – as well as political, economic, social and technological factors – is vital for firms to be able to compete and to offer solutions to the issues which are keeping their clients awake at night. It is vital to establish work

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areas which are emerging or growing as well as those that are maturing, fading or being replaced by technology developments.

7. Streamline all areas of work

Too often, it is assumed that only repetitive commodity work (like residential property work or personal injury litigation) is in need of process improvement. In every law firm, processes need to be re-engineered to take the cost out of work wherever possible. Clients are increasingly demanding that their firms leverage parts of their work wherever possible and synthesise recurring work into processes, methodologies and templates.

CONCLUSION

The main problem is that old habits die hard and new working practices and processes take time to become familiar – more time, to start with, for a busy practitioner than his or her old working practices. In addition, busy lawyers will be reluctant to spend time (which they may feel they can ill afford) training and learning new ways. Some partners, particularly those in their 50s, may feel exempt from new working practices. But the brutal truth is that both new entrants to the legal services market and innovative go-ahead law firms are already discarding the old ways of working in favour of an entirely clean sheet. ■

Nick Jarrett-Kerr (nick@jarrett-kerr.com) is one of the leading UK and international advisers to law firms on leadership, management and strategy. He is also is a module leader for the Nottingham Law School strategy modules and a core MBA faculty member.