

AUTUMN 2022

ESSENTIAL NEWS FOR LEGAL PROFESSIONALS

THE BRIEF



Welcome to the eleventh edition of the Brief.

In 2016, I wrote in this introduction: “As cpm21 approaches its 10th anniversary, the profession faces the most significant change to Learning and Development (amongst other things) in a generation”. We could never have envisaged that just 8 years down the line things would have changed so much in the way the profession practices law.

The COVID-19 lockdowns accelerated the adoption of new technology, and we now talk daily about “Teams” and “Zoom”. Also new to the legal world’s lexicon are WFH and Hybrid working which were implemented to allow firms to survive through lockdown and continue to serve their client - and of course earn some fees.

Post-lockdown Working from Home has become an expectation and the return to the office has been sluggish with lots of feet dragging.

This week the Elizabethan Era suddenly ended, and we have a new King Charles III on the throne. I am sure that the new Era will herald in even more changes than the simple appointment of King’s Counsel to replace the more familiar term of Queen’s Counsel. QC just slipped off the tongue, but we will now have to adjust quickly to these changes, The new lyrics of the national anthem “God save our gracious King” will take some time, I am sure.

This new ERA will no doubt shape a new world to which the profession will have to adapt. Those that plan their business well will no doubt succeed. Those that fail to adapt will sadly disappear as the Elizabethan Era has now done.

In this edition we seek to help you to look forward and SURVIVE and THRIVE:

- Ian Hopkins reminds us of the vital importance of having a robust Business Plan

• My article deals with the importance of having a great succession plan and the increasing demands to have more and more capacity to deal with Compliance Issues and SRA audits. Part of this is AML Compliance. I touch on this in my article, but Andy Clarke reminds us of the increasing impact of government level Sanctions.

• CQS 2022 requires all CQS firms from 1st May 2022 to ensure “that all personnel are kept aware of developments in cybercrime and how they may affect the practice”. Damon Rands of Pure Cyber highlights the ongoing Cyber Threats and the serious financial and reputational impact of cyber-attacks. Both LEXCEL and CQS state that firms should be accredited against Cyber Essentials. Damon reminds firms based in Wales that the Wales Law Society has secured grant funding from the Welsh Government to enable such firms to apply for that accreditation. Firms should take advantage of this offer while it is available.

• We seem to be in one of the most difficult legal sector recruitment markets I have ever known. You cannot achieve your organisational goals without sufficient and capable staff. Ian Hopkins has therefore also written a further article, to round off this edition, on the importance of keeping good staff.

You will find details of our ever-growing cpm21 team below with details of our current courses on the back cover. You will find further details about both on our newly launched website, www.cpm21.co.uk. We, at cpm21, are gearing up to meet the challenges of the new era and we would be delighted to help you and your firm do so too.

As always, we hope you find this edition practical and useful. We would welcome your feedback.

Wayne Williams



From Left to Right

Ian East, Ameca Jones, Lucie Sudbury, Paul Jones, Wayne Williams, Caroline Francis, Sian Frampton, Richard Davies, Hannah Ménard & Ian Hopkins

Why all law firms need a robust business plan

Your business cannot simply stand still. Whether you are looking to maintain your current position or looking to expand, consolidate or to become niche - a robust business plan is required.

Doing nothing is not a sensible option: the market and your competition will not be standing still. Carrying on as you always have, without a plan to adapt, change and grow will see your firm struggle to stay relevant and competitive.

Devising a plan ensures you have a clear picture of what you want to accomplish and how and when you plan to get there. The market, pricing, services, clients, and competitors will all impact on your firm reaching its goal. Whatever your vision, you must ensure that your firm is agile and ready to adapt to the many challenges that the legal sector faces.

Analysis

The starting point on any business planning project is a thorough review and understanding of your firm's current position and how performance compares against the competition.

A strengths, weaknesses, opportunities, and threats analysis should be conducted. Major clients of the firm should be invited to contribute to the process and asked their views. An analysis of the competitor firms that each of your firms' departments faces will be necessary. Detailed financial analysis should be conducted for the firm and each of its departments by reference to management accounts and benchmarked against similar sized firms.

By undertaking a detailed analysis, it will become clear where your firm's strengths lie and where its competitiveness needs to improve, which can be translated into measurable goals and objectives in your business plan and form the basis for future investment decisions.

Expectations and aspirations

Understanding the aspirations of the partners as owners of the business and how they see the future development of their firm is key to any successful business plan.

There are a number of techniques that can be used to understand each partner's vision for the firm, from questionnaires to workshops to 1:1 or small group sessions. It is especially important that time is invested in this stage of the business planning process, so that partners feel that they have been listened

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to and had an opportunity to articulate their thoughts on the future direction of the firm. In addition to the partners, it is important to involve senior stakeholders in the business and representatives from each level of the firm to gain their thoughts on the future development of the firm. By engaging with each level of the firm in this way it is possible to create a real "buzz" within the firm, improve morale and build momentum for change.

Implementation is always the most difficult part of strategy and by involving individuals throughout the firm in the business planning process, sharing the vision, and showing them how they will be a fundamental part of achieving it, the more engaged they will be in achieving success.

Deciding the way forward

As a result of the analysis, key themes will appear, and strategic options emerge for partners to decide upon. It is important to create an environment where partners can focus on planning and not their day to day; to spend time openly discussing the themes and options that emerge and making the important decisions that will form the way forward for the business.

For this reason, this stage of the business planning process is best conducted off site by way of workshop with a third-party facilitator. The workshop stage can be an excellent opportunity for partners to agree upon a common vision and strategy for the firm which can bring the partnership together, resulting in partners collaborating and all rowing in the same direction towards an agreed vision and set of goals and objectives.

Creating the business plan

Once a decision has been reached on the firm's overarching strategy, the decisions need to be captured in a plan. Lengthy, wordy documents should be avoided. Instead use the Strategy on a Page (SOAP) process which results in an easy to understand visual lay out of what is going to be achieved over a three-to-five-year business cycle.

SOAPS should be prepared for the firm as a whole and for each department of the firm describing the clients you want to act for, services to be offered and markets the firm will compete in. The SOAP should be easily understood and shared with partners and HODS and cascaded through the management structure of the firm.

Review, reflect, refresh - a plan is a living document

Too many business planning projects fail because the plan ends up in an A4 folder, locked away only to see light of day for the annual Lexcel audit. There is little benefit from such plans.

Your business plan should be reviewed regularly to ensure progress is on track and whether any tweaks to the strategy need to be made. Your goal should be to make your SOAP a living document and the way things are done in your firm, that everyone in the firm buy's into and is regularly updated. The business planning techniques described in this article are equally applicable and transferrable between small, medium, and large firms. By following the steps described you will engage your workforce in the future development of your firm and give your firm a real opportunity to achieve sustainable growth over the medium term.

If you would like to discuss any of the themes in this article please contact Ian Hopkins, Wayne Williams, or Paul Jones of cpm21 who will be delighted to assist.

Ian Hopkins



Succession Planning in the Post-Elizabethan Era

Monarchists and Republicans alike must surely be impressed by the British Royal Succession Plan which we have witnessed being seamlessly implemented over the last week since the sad death of our Queen. It must be an exemplar of what a great succession plan should look like.

As soon as Queen Elizabeth left this world, Charles immediately stepped into her role. What could be seen from his early speeches is that he had been trained for the role for many years. This training included watching a very experienced queen dealing diplomatically with all political situations as required by a Constitutional Monarch.

Your firm's partners, directors and senior lawyers will one day (perhaps with little warning) announce that they are going to retire. Do you like the royals have another person in the wings ready and trained to step into their shoes? If not, then you are taking a considerable business risk especially if that person is effectively the name on your firm's brand and is responsible for the firm's business development.

Take a moment and list the names of the people in your firm who will likely not be working in the firm by 2025. Then move out to 2026, 2027 and so on to 2030.

That process will give you the milestones that you have to hit if you are to have a seamless transition.

For each individual identified through this process write down a detailed ROLE ANALYSIS. For example, are they a fee earner, the COLP, the COFA, the Complaints Partner? Do you need one or more people to reallocate those roles and shadow the individual before they leave.

The SRA are now conducting face to face AML audits in an increasing number of solicitors firms across England & Wales. The firms MLCO will need to front that audit and explain the firm's AML Practice Wide Risk Assessment and PCPs. They will also wish to check that your MLRO has sufficient time available to do their job properly and have encouraged firms to appoint a deputy MLRO in their "Money Laundering Three Pillars of Success" thematic review.

The scale and scope of regulation is likely to increase in the coming years, so you need to develop capacity not only for fee

earning but for COMPLIANCE work too. Andy Clarke in his article below highlights the importance of being alert to any attempt to avoid Sanctions such as those imposed against Russia as a result of the current war in Ukraine. Is your MLCO and MLRO alert to these risks and have they the time reserved in their diaries to manage AML compliance properly?

cpm21 will, of course, continue to help firms with the heavy lifting but you as an SRA regulated business still need time to deal with your regulators too.

The 2 years of disruption caused by the pandemic has caused many senior members of firms to accelerate their retirement. This must be seen as a warning by firms to address its management and fee earning capacity now in order to have sufficient for the future.

Succession Planning is a vital part of a Business Continuity Plan. It is no longer an optional extra when firms already struggle to recruit.

When drafting your Succession Plan, don't just focus on fee earners and partners - is your senior accounts clerk or practice manager looking to retire within the set horizon.

If you struggle to find time to do this or don't think you have the necessary skills, then contact us ASAP for a no-obligation discussion of how we can help.

Wayne Williams



What do we do with the assets of sanctioned Oligarchs?

As of July 2022, the EU had frozen Russian assets worth €13.8 billion since the invasion of Ukraine on 24 February. But how much of that has actually been confiscated? And who covers the considerable bill for ongoing mooring/maintenance of a superyacht?

There are challenging legal questions arising from the sanctions aimed at weakening Russia's ability to finance the war in Ukraine; restrictions that specifically target the political, military, and economic elite responsible for the invasion.

Enforcement of financial sanctions with the freezing of assets, whether funds held in accounts, superyachts, or real estate, is well-established in legal frameworks.

Since Brexit, the UK has an autonomous sanctions regime and has taken a strong proactive approach towards Russia. Administration and enforcement of EU sanctions is delegated to the competent authorities of each Member State and enshrined in domestic legislation. The assets can be frozen; however, many countries lack the legal powers to confiscate frozen

assets and it remains far from clear as to how these assets will ultimately be dealt with.

Add to this the inaccurate reporting across the media and the public can be forgiven for expecting frozen assets be used for the benefit of Ukraine. In March 2002, the yacht Axioma (estimated value \$75m) was seized in Gibraltar as it is owned by Dmitrievich Pumpyansky, an individual sanctioned by the UK, EU, and US. The yacht is now to be sold at auction with excited media reports of 'the first seized luxury boat to be sold since restrictions were imposed' and 'for proceeds of seized assets to help Ukrainian refugees'.

Without legislation to enable confiscation linked to sanctions, we are currently in a situation with billions of pounds worth of oligarch-owned assets frozen and being held in perpetuity.

The facts of the matter are that JP Morgan are pursuing a claim against Dmitrievich Pumpyansky for an unpaid loan of \$20m and it has been seized for this purpose. This is not a sanctions confiscation, albeit the fact Pumpyansky is sanctioned may well have contributed towards the loan default.

Confiscation demands a civil or criminal legal process and given that many oligarchs amassed their fortune decades ago, often at the fall of the Soviet Union, it is unlikely that evidence of origin will be forthcoming. There is also precedent for Russian elites to evade sanctions by holding ownership of assets in complex networks across the globe, often in offshore jurisdictions, which adds to the challenges faced by those seeking confiscation.

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The objective of restricting use has been achieved, but where do we go from here?

Andy Clarke



Cyber Threats Facing the Legal Sector

Over the past few years the legal sector has accelerated its adoption of digital solutions at an alarming rate in an attempt to improve efficiencies, innovate services and enable business growth. Whilst this adoption has undoubtedly made legal advice more accessible, it has also opened the door to new cyber threats essentially expanding their attack surface.

Law firms are an attractive proposition for cyber-criminals as they store and process sensitive client data. From a cyber criminal's perspective, why focus on a single victim when you can harvest incredibly valuable data of a whole host of targets from a single attack. Therefore, Law firms, like other professional services remain a highly desirable target for cyber criminals. This attraction, combined with the pace of digital adoption mentioned earlier is a heady mix that has cyber-criminals ready to pounce.

An all too real example of the dangers Law firms face occurred in 2020 and in March 2022 resulting in a £100k fine from the Information Commissioners Office. The ICO said the firm became aware on 24 August 2020 of the ransomware attack on its system and determined the following day that the attack had resulted in a personal data breach.

The decision notice said: 'The commissioner considers that the firm's failure to implement appropriate technical and organisation measures over some or all of the relevant period rendered it vulnerable to the attack.'

The ICO said infringements to data protection rules showed that the firm's approach to data protection compliance 'was not of an appropriate standard'.

The fallout of a successful cyber-attack can lead to several consequences. Firstly, it can damage a firm's reputation, sometimes beyond repair, 'The Panama Papers', refers to a rather extreme example where the Panama-based Law firm Mossack Fonseca was hacked and 11.5 million leaked encrypted confidential documents were released to the world, an attack that the Law firm was unable to recover from, and closed its doors in 2018 almost 2 years later.

The financial impact of regulatory fines also compounds the effect of an attack. As mentioned earlier, firms across the United Kingdom are being impacted by fines from the ICO as a result of not applying the appropriate protection to data they hold. These fines can be mitigated though if preventative steps are implemented beforehand.

A successful cyber-attack against a firm can also have an impact on their professional indemnity insurance. In 2021, the SRA revised the minimum terms and conditions of solicitors' insurance (MTCs) following a request for greater clarity from insurers. The MTCs now explicitly exclude first-party losses (those affecting the firm, rather than clients) resulting from a cyber event. This exclusion puts solicitors on notice that they should, give serious thought to their potential liability if they suffer the negative consequences of a cyber loss and should take steps to put measures in place that lessen the impact of an attack, with the National Cyber Security Centre's (NCSC) Cyber Essentials certification seen as the best first steps.

The Law Society in Wales have recently secured Welsh Government funding to offer fully funded cyber essentials standard certification and part funded Cyber Essentials Plus to all Welsh Law Firms. For more details on applications for the certification contact

<https://purecyber.com/law-society>

Conveyancing is the most complained about area of law in England and Wales. The LeO reported that it accounts for 22% of all complaints (during 2015/16)

Damon Rands

Founder & CEO of
Purecyber
(Formerly Wolfberry)



The Great Resignation

The challenge facing law firms in recruiting and retaining staff

The “Great Resignation,” as it has become known, is a major issue for many law firms who frequently cite staff retention and recruitment as their number one challenge.

To illustrate the point, a recent Armstrong Watson survey asked law firms leaders “How easy do you find it to retain staff?” 39% of those that replied said that they found staff retention “extremely difficult.”

So, what can law firm leaders do to improve staff retention rates and where it is necessary to recruit what techniques can be used to persuade applicants to join your firm?

Understanding why your staff are leaving - The Exit Interview

The first point is an obvious one but often ignored. Law firms should drill into and understand the true reasons of staff attrition in their firm. The reality is that many firms in my experience do not know why their employees have resigned.

Exit interviews are an excellent way of gaining insight into why employees have decided to depart.

Firms should arrange an exit interview as soon as possible after the employee has handed in their resignation, rather than waiting until the end of their notice period. It will ensure the reasons for leaving are fresh in their mind and at this point they are engaged and have not “checked out.”

Choose someone neutral to conduct the exit interview as opposed to the direct line manager as the employee is more likely to give honest answers. Ask the employee to think in advance about a set of questions they will be asked at the exit interview which will help you understand the cause of the resignation, and whether any follow up action is required to prevent others leaving for the same reasons.

Is it all about the money?

The competition to recruit has caused salaries to rocket by 10% to 15% or even higher in some cases as law firms compete against each other. For some

staff it will only ever be about the money, whilst for many it is not.

Law firms should get as close to market rate as possible for their employees, but they should resist the urge to throw money at the problem. Whilst competitors may offer good salaries, employees look for additional benefits which allow firms to be slightly more competitive when looking at retaining or hiring staff.

Think creatively about your benefit package including Community & Social Responsibility days; mental health days; holiday entitlement with the option to buy and sell holidays.

Create a sense of belonging in your firm

A strong workplace culture is important both in retaining and attracting staff.

Research has shown that where there is a strong, underlying relationship with a firm, staff retention does not seem to be as much of an issue. Relationships are important. Employees want to work and join firms that have strong values, a clear vision as to where it is headed and where they will feel valued.

Develop a culture of belonging, flexibility, and growth in your firm and practice the 3 S's - share everything with everyone; support each other; and socialise, do not lose sight of the human side.

Flexible and hybrid working

Firms who are willing to offer flexible or hybrid working will have a better ability to retain staff than those who want a full time return to the office.

Firms are finding that their staff are being approached by firms from further afield. Working from an office does not have to be the norm any longer.

There has been an increase in firms offering remote working as an additional benefit. Flexibility is key to retention and recruitment in today's recruitment market.

Making a business case for recruitment

Before you rush into recruiting, ensure that there is a genuine need to recruit, ideally by creating a mini business case.

Recruitment should only proceed where your lawyers are approaching full utilization and there is a clear plan in place as to where the additional work needed for the recruit will come from.

How do I become a partner?

A transparent career progression scheme is sometimes a deal breaker for applicants who require clarity as to what they must do to climb the career ladder. The lack of clarity can also be a source of huge frustration to existing staff who are ambitious to progress but do not know how.

Career progression schemes can be developed with minimal cost and be of real benefit to the business both in recruiting and retaining staff.

The recruitment process

Build a strong business relationship with a trusted recruiter. Get to know them and more importantly ensure the recruiter understands your firm and can sell it to applicants. Engage with a recruiter with a passion for your business.

Aim to conduct great interviews and make candidates feel special - treat candidates as you would a client. Make sure your Partners are prepared for the interview and never cancel on the day of the interview. Aim to sell the firm, all it stands for and how you see the applicant helping the firm achieve its vision.

By following the above steps law firms will give themselves a better chance of retaining and developing their existing employees and recruiting additional talent from which to identify the partners of tomorrow.

Ian Hopkins



CPM21 Training Courses

CPM21 have a range of courses for everyone at local venues in England & Wales and delivered by specialists in their fields including:

- COLP & Deputy COLP
- Anti-Money Laundering Update
- Legal Aid Supervision
- Cyber Crime & Data Security
- SRA Risk Outlook
- COFA Refresher & Update
- Complaints Handling & LEO
- Networking & Marketing
- Introduction to Practice Finance

Call us
today to arrange a
free no obligation
chat with one of our
experienced Consultants
01443 742 895

For further information, including venues, dates, prices and how to book, visit our website www.cpm21.co.uk

We can also arrange a more tailored provision of training to suit the needs of your firm.



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Published by: cpm21, Ty Menter (Venture House) Navigation Park Abercynon CF45 4SN

cpm21 (21st Century Professional Management) is a trading name of cpm21 Ltd.
Registered office: Ty Menter (Venture House) Navigation Park Abercynon CF45 4SN
Registered company number 7988356 (England and Wales)

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Office
01443 742895

Wayne Williams
07970 99 41 80

Paul Jones
07796 36 32 69