

FOCUS

LEADERSHIP OF LAW FIRMS

Surviving a crisis

There are many practical steps that law firm leaders can take to safeguard the viability of their law firms and the well-being of their partners and staff during the 2019 novel coronavirus disease (COVID-19) crisis. Firms and businesses around the world are grappling with an existential threat that has been thrust on them, but planning for the recovery starts now.

Anticipating a crisis

Experienced law firm leaders will recognise that leading a law firm is like being on hurricane watch. Weather systems form out at sea and have the potential to build into tropical storms that can take a ship down. For this reason, firms must always exercise vigilance and most will have a disaster plan that attempts to predict and mitigate likely risks. These plans usually provide for back-up facilities to keep operations running and can speed up the assembly of a team with the right mix of skills and level of authority to take the decisions and disseminate the information that will be needed at the time.

However, human beings are very poor at predicting where the next disaster will come from and what form it will take. As a result, when disaster plans are dusted down from the shelf, they are often found to be insufficiently flexible. Generally, if all the circumstances of a catastrophe had been predictable, it would not have happened. Therefore, a disaster plan should be considered as more of a framework to support the business's emergency response, which will need to adapt to reflect the reality on the ground at the time.

The leader's task

In the current COVID-19 crisis, it should be no surprise that governments and organisations are turning to military planners for inspiration and support, and the crisis is referred to as a battle or a war to be won. In peace time, a wide variety of leadership styles are deployed

in successful organisations. The optimal approach will depend very much on the prevailing context, culture and challenge, which will vary from one entity to another. In recent years, excellent results have been achieved by businesses using democratic leadership styles that encourage team participation in decision making or affiliative styles where the emphasis is on creating emotional bonds and harmony within an organisation.

A crisis often calls for a different approach. This may involve new individuals taking over the helm during a crisis, but an agile leader should be able to adjust their style to fit the circumstances. A leader known for their consultative approach should not feel compelled to stay true to their earlier form but should have the confidence to change styles to weather a storm. During times of crisis, coercive or authoritarian approaches may be more successful.

A coercive leader demands compliance. This is generally considered the least effective leadership methodology in most everyday situations, because people tend to feel disrespected and afraid and, as a result, they show less initiative and commitment. However, this style has proven effective during company turnarounds and real emergencies. Democratic governments the world over are turning increasingly to this style so that their citizens have clear rules to live by, with consequences for breach that would never be tolerated in normal times. However, this style should not be used for longer than is strictly necessary.

A leader's job is to lead and authoritative leaders do just that by mobilising people toward a vision. They make sure that everyone understands the firm's mission, the part that they are expected to play and how they will be judged. The trick is to manage this without becoming overbearing. Regular,

measured and transparent communication is invaluable.

Clarity and comfort

As David Morley, who was senior partner of Allen & Overy LLP during the 2008/09 financial crisis stated in a blog for Legal Business, a crisis calls for "brutal clarity on priorities", and one of these must clearly be cash conservation with equity partners leading by example and limiting their drawings (www.legalbusiness.co.uk/blogs/brutal-clarity-on-priorities-aos-former-chief-looks-back-to-the-banking-crisis-for-lessons-to-aid-law-firm-leaders-now/).

However, this does not mean riding roughshod over the interests of employees, clients and suppliers. Decisions must be swift but fair and lawful. Bad management will be remembered long after this crisis has passed. Taking advantage of the government's furlough scheme to avoid redundancies; allowing employees with young children at home to work reduced or alternative hours if their domestic responsibilities are incompatible with their usual working schedules; and paying supplier invoices that are due are not only the principled things to do, having a huge knock-on effect on a chain of people, but also preserve the firm's business so that it can bounce back when times improve.

Supporting the team

Even in this technologically advanced era, a firm is only as good as its people. Partners and staff are likely to be anxious for their health, their finances and their job security. When a crisis hits, people's ability to function is impaired. How people respond varies from individual to individual.

Being organised, chatting with others, finding ways to exercise and to take a break are all known coping mechanisms that can help lawyers to remain healthy and balanced despite their very real concerns. While

COVID-19 or the rules on lockdown are beyond each individual's control, it is important to create a semblance of autonomy by taking charge of simple aspects of day-to-day life and working practices to develop new routines and healthy habits that provide structure and purpose.

Ways of exercising may have changed but people can create novel workouts even in the confines of their homes. And while it is not full compensation for the loss of physical contact, people can still gain many of the benefits of human connectedness through the use of telephone calls and video conferencing. A profusion of apps is available, many of them free of charge, enabling anyone with a phone, tablet or computer and a decent internet connection to make video calls, subject to ensuring adequate security protocols. In areas of poor broadband service, asynchronous approaches will be needed instead but regular care and communication remain essential.

Effective team leaders need to remember that "all work and no play" is dreary and many have found ways to replicate the social aspects of office life; for example, by hosting virtual team coffee breaks and lunches, quizzes and competitions. Young professionals living alone particularly welcome the sense of togetherness that these initiatives inspire.

Continuity of standards

With everybody working from home, in places that were not designed for it, there is a relaxation of certain office procedures but, in their place, new guidelines are often needed to ensure the smooth functioning of a team. Employees are not usually expected to appear at their desks in formal attire but a certain decorum in standards of dress needs to be maintained.

Staff also need to be reminded that data protection and privacy rules continue to apply. A fundamental decision that leaders will need to make will be whether staff can use their personal devices for work and, if so, how the physical and cyber security of those devices can be ensured and, if not, how to get suitable equipment to employees in their homes.

Firms need to establish protocols for storing electronic and paper documents and for secure document destruction. Firms will also need to specify which video apps and messaging tools are appropriate for work communications or for use on firm-owned devices and any special security precautions that need to be maintained. More junior employees and administrative staff in particular may struggle to find a private place to work and a comfortable desk and chair. Being out of sight does not absolve employers of their responsibilities to take reasonable care of employee health and safety. Workstation assessments and a readiness to send equipment home or to provide a budget for employees to buy approved kit are obvious places to start.

Seize the day

It is not all about retrenchment and waiting for business as usual to resume. The COVID-19 crisis may wreak permanent changes to the business and social landscape. The question for law firm leaders, once they have battened down the hatches and taken measures to keep their firms afloat, is to imagine what the landscape will look like when the lockdown ends, and to visualise their firm's position in that landscape and what they need to do to get in shape for the future.

For several years, commentators have observed that the most successful firms are those that have proactively addressed the needs of their clients by, for example, adopting more flexible pricing models, using innovative technologies, having flexible staffing models and implementing improvements in work processes. These forward-looking, agile practices are once again likely to differentiate the firms that thrive from those that flounder. There are several key considerations for a law firm leader planning for recovery.

People. Leaders need to consider how many staff will be needed, which skill sets will be most in demand and whether far more home working should be allowed or even encouraged. West End firm Forsters, for example, has boldly backed one of its core practices by hiring a real estate team.

Clients. Firms must consider who will be the winners and the losers from this crisis, where they most need help now and how will they need help in the recovery. Employment, contract interpretation, variation and disputes, insolvency, restructuring and finance all spring to mind.

Money. Firms will need to conserve cash during the crisis and so will need to consider whether to obtain working capital through additional partner contributions, loans or a merger partner. There are questions as to whether the protectionist, nationalist stance taken by many regimes during the crisis will hinder cross-border deal flow and the operations of global law firms or will these experience a resurgence and release of pent-up demand.

Technology. People are better able to cope with enforced physical isolation now than ever before due to the profusion of technological tools that enable so many to continue working, remain connected and receive essential supplies at home. Video conferencing and e-signature of documents, both in existence before the crisis but often overlooked, have become familiar, accessible and acceptable, and look certain to remain a feature of working lives after the crisis ends (see feature article "Electronic signature platforms: key contractual issues", www.practicallaw.com/1-637-8528). For years, Richard Susskind has campaigned for online courts. In his 2019 book he wrote of his belief that online courts would become an integral part of the legal system but that "many lawyers and judges are sceptical". What a difference a few months make. Already audio, video and paper hearings are being held to keep the wheels of justice turning. They are imperfect and need refinement but it is hard to imagine a full return to the previous status quo.

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