

# Vista

## THE AUTUMN 2021 COLLECTION

Views from eight of our *International Law Firm Consultants*



Law  
Consultancy  
Network

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# INTRODUCTION

**Welcome to the Autumn edition of VISTA, a collection of views from members of this global network of law firm consultants.**

We have been analysing the longer-term effects of the pandemic on law firms across the world, studying the gains that some businesses have made, sharing how you can learn from these and carry best practices forward.

If you are looking to open new markets and lead positive environmental and social governance (ESG) changes, have a look at our articles from Sue Bramall and Simon Tupman. Sue looks at diversity and inclusion and how to support your clients, offering practical advice to help you reach beyond symbolism, and Simon sets out a 4-step plan to get you started with a new sustainability agenda.

If, like many firms, you are facing a perfect storm of pent-up demand and difficulties with recruitment, Katherine Thomas answers your questions about how to introduce flexible resourcing to your business and improve resilience and agility.

If you are concerned how your firm will maintain quality and manage risk when juggling blended working arrangements, have a look at my article on remote access to precedents and best practices, and how to build trusting, collaborative teams to ensure complex knowledge is shared.

If you are looking to expand into new markets and review your growth strategy, Maria introduces Kim & Mauborgne's Blue Ocean Strategy, for new ideas around differentiation.

Lastly, Simon McCrum, Andrew Otterburn and Nigel Haddon look at pricing and management and how to maximise the new opportunities which surfaced in the last eighteen months, and suggest ways to create and lead resilient, profitable businesses.

Enjoy! - H el ene Russell, The Knowledge Business

# Is diversity & inclusion more than skin deep in your firm's brand?

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One of the skills required within professional services marketing, particularly around the law, is the ability to make a silk purse out of a sow's ear. Unlike the consumer brands, we have no glorious destinations or funky fashion to photograph, no big budget for celebrity videos or tasty product launches at industry exhibitions.

While the subject matter may occasionally (but not always) be dry, it can be brought to life by the personalities behind the legal advice, and this is why the lawyer profiles are often the most viewed pages of a law firm's website.

The team page, where everyone's photos are displayed side by side, is also a very visible indicator of a firm's diversity or lack of it, at least in terms of sex, ethnicity, and some disabilities – as of course not all disabilities are visible.

So, what does a client or a potential recruit see when they look on your website? Do they see a diverse team? If you are not very diverse, do they see enough information to convince them that you are serious about improving diversity and inclusion? Or if they scratch the surface, do they find it is just skin deep?



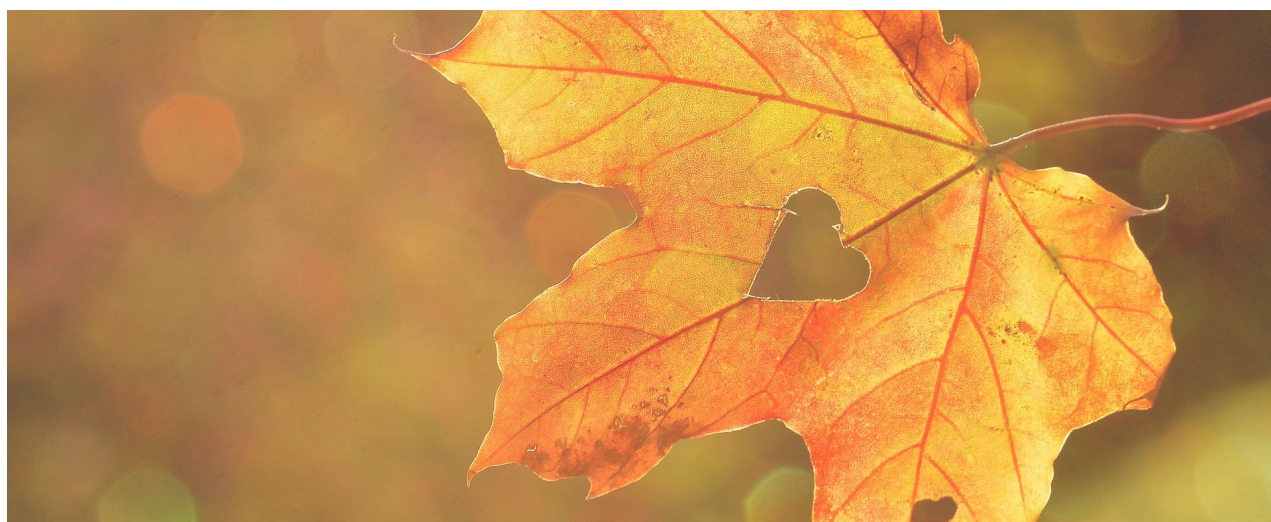
To the experienced eye, it will be evident if a firm has done little more than join a network, add a logo to their website and run a few training courses. When you look at the rest of the website, do you see substance beyond the marketing puff? For example:

- How up-to-date are the most recent diversity statistics? Do they show any progress?
- Is there evidence of a commitment to change, such as published targets and an action plan?
- How much diversity can you see in the news section, in terms of activities and people?
- Does the careers section speak to a broad audience?
- How diverse are the community activities and charities which are supported?

Tick here

The legal profession has a reputation for being slow to embrace change - for example, how long would it have taken many firms to embrace home-working if it wasn't for the pandemic? And while the pandemic might have been a ready excuse for lack of progress with diversity and inclusion programmes, some corporate clients are coming forward to say that this is no longer acceptable, and they are prepared to leverage their legal spend to drive change.

Diversity and inclusion need to permeate the entire business culture. Clients are looking for intrinsic cultural change that encompasses diversity in all forms whether this is diversity in terms of gender identity, sexual orientation, ethnicity, age, religion, education, mental health, and neurodiversity - the list goes on.



## Clients drive change better than regulators.

In a headline-grabbing move early in 2021, Senior VP and Global General Counsel at Coca-Cola, Bradley M Gayton wrote to panel law firms in the US to say that for each new matter, at least 30% of each of the billed associate and partner time must be from 'diverse attorneys', and at least half of that must be from black attorneys. Failure to meet the commitment over two quarterly reviews will result in a non-refundable 30% reduction in the fees payable for such new matters going forward until the commitment is met. Ouch!

While UK corporates are not quite so bold, the Law Society Gazette is now tracking how the FTSE 100 is monitoring diversity among their panels and we can expect to see more impetus once league tables re published and purchasing power comes into play.

Emma Slatter, Chief Officer for Legal and Regulatory at Visa Europe, recently complained in The Times that 'law firms are scrambling to submit piecemeal data which gives an incomplete picture. It is time-consuming and reactive. It gives an incomplete picture.' She outlined how several key clients, including Barclays, CBRE, HSBC, Peleton and the Crown Estate were backing an approach to standardising diversity data reporting which has been running in the USA for four years.

If only the legal regulators were taking more of a lead, progress might not be quite so glacial. For example, in late 2019 it was heartening to see the SRA turn its attention away from its ineffective pricing project towards improving services for clients with a disability. But that was a flash in the pan with no follow up, and now the legal regulator seems more interested in boosting the income of commercial review and comparison websites. The D&I page on the Legal Services Board website is very uninspiring and does not even mention clients.

Gayton describes the lack of real progress as an "unnecessarily stubborn issue" despite firms having "all the tools available to fix it". All credit to him for persuading the board of one of the world's biggest consumer brands (a business which guards its brand fiercely) to use the legal procurement process to drive change in its supply chain:

*"We will no longer celebrate good intentions or highly unproductive efforts that haven't and aren't likely to produce better diverse staffing. We are no longer interested in discussing motivations, programmes, or excuses for little to no progress – it's the results that we are demanding and will measure going forward."*

# Are you putting enough shoulders to the wheel?

Unfortunately, it seems that (like many strategic change projects) diversity and inclusion may be seen as just the latest 'hot topic' and once it has been delegated to a volunteer or outsourced to a consultant, the other lawyers are free to get back to their normal routine. "If we keep our head down, hopefully the agenda will move onto something else."

One of the unanticipated consequences of this approach has been that it may disadvantage the very people it is intended to help. Effecting change involves unravelling decades of injustice, getting people to acknowledge prejudice and privilege, embrace a new way of thinking, act differently and step up to call out inappropriate behaviour. All of this rocks the boat.

It is a HUGE challenge – much bigger than a cosmetic rebranding exercise, a CRM implementation or even a merger or office relocation – all of which will be completed at some point (well, maybe not the CRM project). And unlike the switch to home-working, this isn't a change which will be facilitated with the application of some technology.

So, if you have passed this mammoth challenge to one or more of the few people in your firm with a protected characteristic, have you thought about how this might affect them? Have you considered the time that would really be needed? Time that will be taken away from other outward-facing business development activities. Have you recognised this in their financial targets?

Are you guaranteeing them the leadership support they need to drive change? Will you be there for them when the going gets tough? Is there a budget for them to bring in external expertise (just as you would with an IT project or the office move)?

Is it clear what you expect from the lawyers outside the working group? There is plenty of good reading material available, videos and podcasts, as well as zoom events which are generally free to attend and help all staff understand the issue better.

In other words, are you putting your money where your mouth is? Clients are looking for action and results, so what will your business development team write if this question comes up in the next tender that arrives?



## D&I opens doors

With so many organisations now taking diversity and inclusion seriously, it also opens some interesting doors as it is a great reason to connect with other people working on similar projects at other firms – potential clients, referrers or just people in other sectors.

Don't restrict yourself to just meeting other lawyers – who we know are severely behind the curve. For example, I volunteered to join the D&I committee of the Austrian Alpine Committee and met people who were hugely experienced in this from the USA, Italy and Ireland and from sectors as diverse as outdoor activities and social housing. Those people with public sector experience were years ahead of us newbies on the learning curve, and were incredibly generous in sharing their experience.

## SMART objectives for a lasting cultural change

There is no point in setting unrealistic goals, or goals which cannot be quantified and are thus not demonstrable. Whether you decide to send out surveys to your employees or commit to a specific number of recruits or promotions, you need to ensure the results you are looking to attain are measurable, as well as achievable. And the way to truly achieve change is by setting SMART objectives.

- Specific
- Measurable
- Achievable
- Realistic
- Time-limited

For example, compare these two objectives:

- Our firm is committed to welcoming clients with a disability; or
- Within one year, we will have audited our services for disabled clients, produced an action plan and completed all agreed actions to ensure that our services are as accessible as possible.

Which firm really wants to welcome disabled clients?

Your objectives need to be specific. You need to commit and set aside a dedicated budget, designated towards improving your firm's diversity and inclusion, bearing in mind the resources required to lead this initiative to fruition.

You need a team approach to building momentum and getting the firm's diverse culture growing at a sustainable pace if you want it to contribute to the firm's long-term growth. Don't forget the non-lawyer employees who keep the wheels turning. Diversity and inclusion are just as relevant within the marketing and business development teams.

Your brand is driven from the inside. It's much more than a symbol, and its much more than an image. It's a feeling; a perception that others form of who you are and what you stand for. It is driven by your culture; it oozes from the inside out. So, this is where the focus should be; on building a diverse and inclusive culture. One where it is obvious to see, all are welcome.

Diversity and inclusion cannot just be the 'cherry-on-top' of the corporate cake. It is the raising agent. Much like a cake cannot rise without it, neither can a business in the 21st century. It needs more than just joining a network and putting a logo on your website; it needs to form part of your brand mix.

The ultimate goal should be to boast a culture so diverse and inclusive, that your commitment and your responsiveness to social needs is an unquestionable part of your brand.

Jeff Bezos is widely quoted as saying that "Your brand is what other people say about you when you're not in the room."

Would clients say you are diverse and inclusive firm? Do staff feel they belong, are respected, and valued for being who they are? Does everyone feel confident that they could speak up and be fairly treated? What would Bradley M Gayton and Emma Slatter say about your firm?

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## Sue Bramall

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# Law firm leadership to pursue a sustainable agenda.

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Many law firm leaders might consider that while they help solve their clients' problems, it is not their job to solve the world's problems. Yet progressive law firm leaders recognise that they (and all businesses and communities) have a responsibility, and an opportunity, to help make the world a better place by pursuing strategies for a more sustainable future.

The word 'sustainable' can mean different things to different people. Many traditional law firm leaders might consider that their

way of working has been sustainable for many years because their firms have stood the test of time and are still successful and profitable today. Yet, more progressive leaders realise that success in the future may be less reliant on the ways of the past and more reliant on innovative initiatives that support the United Nations' seventeen Sustainable Development Goals (SDGs).

These goals are based on the idea of sustainable development meaning development 'that meets the needs of the present without compromising the ability of future generations to meet their own needs.'



They promote a number of global issues including gender equality, diversity, quality education, peaceful and inclusive societies, access to justice for all, efficient energy use and action that combats climate change and its impact. Their purpose is to make the world a better place for the benefit of future generations.

Yet, in my experience, many law firm leaders have yet to develop a sustainable agenda for their firms, with some perceiving this to be yet another compliance hurdle that requires

time, money and effort for questionable return. However, as we all know, lawyers play a significant role in society by helping people and businesses get along with each other and get ahead in life. Increasingly, many clients who themselves have adopted, or believe in, a sustainability agenda are looking to partner with, and be guided by, law firms who share their values and aspirations. Consequently, law firm leaders can ill-afford to dismiss the sustainability issue lightly.



## How can law firm leaders start developing their own sustainability agenda?

Here are four steps that can help you get started along this road:

**1. DISCOVER** - Learn about the UN Sustainable Development Goals, what they mean and what the opportunities and implications might be for how you run your legal business. Many law firms in Australia have already addressed this issue through the Australian Legal Sector Alliance (AusLSA), an association of member firms who are working collaboratively to promote sustainable practices in the legal sector. Their framework provides a guide for all law firms looking to better understand and adopt relevant sustainable work practices. The B Corporation Movement also offers relevant guidance and insight.

**2. DISCUSS** - Find out how these principles are affecting your various stakeholders: your clients, your community, and your people. Firms could host open information gathering seminars at which those stakeholders are invited to learn about sustainability and share their experiences on how it is impacting on their lives. Start the conversation.

**3. DECIDE** - As law firm leaders chart a course for the future of their firms, they should identify and prioritise initiatives designed to further a sustainability agenda. For example:

- What are we going to do to improve the psychological well-being of our overworked and often highly-stressed staff?
- How can we work more flexibly?
- What pro bono or community service programmes do we want to get involved in?
- What are we going to do to become a paperless practice?
- How can we be more energy efficient?
- What new educational programmes can we introduce to improve professional development?

Whatever leaders decide, their initiatives should be embedded into the firm's business plan.

**4. DO** - Take action. Don't consign your aspirations to a business plan. Make it happen, monitor your progress and report on it to your stakeholders annually. (This is what member firms of AusLSA are required to do).



Why should law firm leaders bother with this? Because it is the right thing to do, that's why.

Many law firms are already addressing some of these issues but perhaps not in a very co-ordinated or structured way. Those that are recognise that they are in a unique position to set an example to bring about positive change in their communities.

The business case for adopting a more sustainable agenda has already been tested and measured. It can enhance your firm's

reputation, inspire your stakeholders and help you to better understand your clients' needs and aspirations. It will make your firm more valuable distinctive and profitable as well.

By adopting a sustainable agenda, law firm leaders can ensure their firms will continue to provide opportunities for future generations and be influential in the growth and development of the communities they aspire to serve.

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## Simon Tupman

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# Hold on to those management gains!

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**Most law firms have emerged from lockdown in a financially strong position, and huge gains have been made in working methods and use of IT.**

However, the number one issue facing a number of managing partners at present is a risk of losing all that has been gained due to a yearning on the part of some of their

colleagues, and in particular some of their partners, for life to return to normal. There is a real risk that many of the gains of the last 18 months will be lost.

In many respects everything has changed, yet as we return to normality, we see that actually the issues facing firms are the same and very little has changed.



Most firms:

- Have survived Covid in a much better financial position than they could have ever hoped for in March 2020, and some firms have had their best year;
- Huge progress has been made in the use of IT;
- Innovative ways of working have emerged, in particular working from home, which have proved successful and better for many people, and hybrid working will become the norm;
- Ironically, supervision and communications in many firms have improved;
- Some unexpected stars have emerged, as people have risen to the challenges of the pandemic, and often they have not been partners; and
- In many firms, leadership teams have been given greater freedom to run the business.

However, many of the pre-Covid issues remain and some have got worse:

- Recruitment has become even more difficult for many firms, in particular now that London firms can offer attractive hybrid ways of working;
- Succession has become a more significant problem as Covid has made some senior people re-think their retirement plans;
- Competition has increased as firms discover how easy it is to market their services outside their immediate geographical area via video conferencing;
- Financial issues remain a significant concern for many firms, especially those who have spent the loans the Government facilitated during Covid, and some now have unsustainable long-term levels of debt.

So, as we move on from this phase of the pandemic:

- Make sure you hang on to the gains you have made in the use of IT and working practices over the last 15 months – don't let them slip away;
- Find new roles and career paths for the talent that has arisen in the last year – tap into their ideas and abilities;
- Facilitate the retirement of those who have decided it is time to wind down, in particular those who have not handled change well. Let them exit in a dignified way and find ways of letting them still contribute to the firm and hand over their clients;
- Be very aware of your balance sheet and if you have spent the Government loans develop a plan for clearing them down and ensuring you have a long-term sustainable debt ratio;
- Be imaginative in the packages you offer to attract and retain good people by making the most of the opportunities that hybrid working offers in order to provide the working life people want;
- Provide your leaders with the time and support to lead and manage the business, as without their energy and drive the firm will struggle to reach its potential. Give them the time to do it.

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## Andrew Otterburn



*Andrew Otterburn is a leading law firm management consultant who has advised around 250 firms of solicitors and barristers chambers in the UK and Ireland. He has undertaken extensive consultancy work for the Law Society of England & Wales, the Legal Services Commission and the Ministry of Justice and has written several books for the Law Society. He is a former vice chair of the Executive Committee of the Law Management Section and a founding member of the Law Consultancy Network.*

*Andrew has an in-depth understanding of the issues facing law firms: “Andrew has a depth of knowledge about the pressures facing the owners of solicitors practices today and a wide experience of how different firms are tackling these issues. His real strength however is the clarity he brings to the planning and decision making process which allied with his energy and enthusiasm helped generate a real sense of purpose and unity amongst our partners.”*

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# Is it possible to build 'the perfect legal business'?

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There has been a lot of noise around my new book, *The Perfect Legal Business*, which I deliberately and passionately wrote with a view to helping everyone in law firms to understand in a couple of hours what I learned (sometimes very painfully) over a couple of decades.

Times may have changed dramatically, but it is incredible that many lawyers – possibly even most lawyers – still cannot explain the

difference between profit and cash in a law firm. It is also incredible how profit plays little or no part in the lives of lawyers, as everyone works for the cruel and misleading master that is billing or turnover. It is also incredible how law firms all look alike, and how they are typically addicted to chasing the dragon of new clients all the time, while the goldmine full of existing clients is ignored. It is incredible how clients bounce off law firms – most adults have used a lawyer, but not many have got a lawyer.

And all this at a time when the going has got more than a little tougher.



So, what are the main features of 'The Perfect Legal Business', and have they gone out of style in a post-Covid world which has rapidly adapted to new ways of living, working, and buying services?

The main features include a brand that has clients queuing at its door; central ownership of clients, rather than them being owned by a department or a lawyer; a great service – every lawyer, every time; pride in pricing;

making maximum money on every case; getting maximum cases from every client, building up to case .007 for clients instead of always chasing new clients and their .001's; team leaders who drive their part of the business forward; a team culture where everyone is on the same side; a team that drives profit not billing; a firm where nothing but cash is acceptable; and a career structure that rewards the things the business and its clients need.



Despite the huge impact that Covid has had, these features have absolutely not gone out of style. Far from it – to my mind they have become all the more valuable and essential. These things, when joined up, will bring far more sustained, profit-rich and cash-rich growth than merging, opening new offices, bringing in teams from other firms etc, could ever achieve. All too often, firms try to grow by rolling out a flawed model, while all the time there is profit-rich and cash-rich growth under their noses.

What is needed to make a law firm into 'The Perfect Legal Business' is clear, I believe - I map it all out in my book. Every part of it has been tried and tested. Many firms have got some parts of it right, and many firms have

got other parts of it right. What is needed though is getting it all right, all the time.

There are three features of the firms where this can and does all happen in the right way. First, they are brave, and they accept that some old stuff needs to be torn up. Second, they make decisions quickly. Third, they listen. It is absolutely amazing how fast even huge, multi-dimensional and multi-level, firm-wide changes can be made to a law firm once they have crossed the line and the excitement that a catalyst can engender is brought to bear. And this in firms where previously they might have been guilty of prevarication and paralysis by being a talking shop.

So – as it was in pre-Covid times - it is the management of a law firm that will dictate whether ‘The Perfect Legal Business’ is possible in the new world.

Covid is not an obstacle to change here at all. Quite the opposite. Covid has been a time of opportunity – clients still need lawyers, firms can make sure that they stand out, firms can set exacting rules when it comes to accepting new clients, they can charge a high price, they can blow clients away with a great service – every lawyer, every time, they can ensure they get all the work that clients have got, and they can become cash businesses. There is no finer growth than this.

And once the model is perfected, an unintended consequence of this work is that you will have differentiators that will make you the stand-out, go-to firm. You’ll be a brand that delivers on your promise every

time. And clients will pay handsomely for that guarantee.

We live in a world now where a firm’s backyard has been increased a thousand-fold. What an opportunity recent times have presented to law firms! There has been an exponential increase in the number of clients that a law firm can attract. That of course also means that other firms are now eyeing up your patch.

So yes, it is not just possible to become a perfect legal business; it is also desirable, to enable you to tap into new markets.

More than that though, I believe it is essential, as your clients are now fair game for firms around the country who are no longer constrained by geography and tradition.

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## Simon McCrum

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# Could yours be a zombie law firm?

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In this article I analyse a problem that frequently affects law firms today: the lack of differentiation. In a demanding market, a lack of differentiation can pose a threat to success. Law firms should be dedicating resources (time, money, and people) to think about their DNA, understand the market, their capacities and wishes, to establish strategies to differentiate themselves from the rest. LegalTech could help them achieve this.

## The term ‘zombie’ and its different, interesting meanings.

The dictionary defines a zombie as ‘a person presumed dead who has been revived through witchcraft with the goal of controlling their will.’

In the field of data science, for example, the term zombie is used to denominate a set of data used by AI-based applications that does not meet the minimum standards or that should not have been taken into account.

Another example is in the financial field,

where a zombie business is one which cannot cover its financial costs and is forced to refinance constantly. Here, the witchcraft is carried out by financial entities or other people and organisations which provide these businesses with the money they need to survive when, in truth, they should be extinct. During the last global financial crisis, we saw how the financial and real estate sectors were full of zombie businesses ended up provoking a world economic collapse.



Under the fake news or misinformation umbrella, we talk about zombie content to refer to that which is deleted once published.

The witchcraft in this case refers to the possibility of generating more exposure compared to the majority of the news in the conventional media, even if it only exists in browsers as archived information, since it is not published anymore.

The meaning of the term that ultimately serves the goal of this article is applied in strategic and marketing approaches, which classify as zombies those businesses which are incapable of differentiating themselves from their competitors. This is the precise

situation in which a huge number of law firms find themselves. Behind this are several reasons, but the main ones are the drastic and rapid changes we are seeing to which firms have to adapt.

Changing requires a lot of energy, imagination and the willingness to dedicate the necessary resources and not all firms have these. Law firms may attempt to survive and thrive by quick fixes, by taking advantage of the changes in the economic cycle and the opportunities arising, or by sacrificing the personal lives of leaders and lawyers who are forced to dedicate all their free time to fee-earning work in order to sustain their battered organisations.



# Strategies to differentiate yourself within your market

To be precise, here we are looking into differentiation within the market and not differentiation from competitors. This difference is very relevant, so let us delve into it.

When trying to differentiate a business we can adopt two different methods:

- the red ocean method; or
- the blue ocean method.

What is the difference between them? The red ocean approach contemplates the market as an ocean with scarce amounts of fish (clients) for everyone. The blue ocean approach contemplates an ocean which holds enough food (clients) for everyone. In the blue ocean strategy, the key lies in finding the precious fish stocks (opportunities or market niches) that others have not seen yet.

Consequently, while the red ocean strategy generates stress, tension, unhappiness, and frustration if we do not achieve our goals, the blue ocean strategy promotes creativity, imagination, happiness and well-being. If you want to learn more about this beautiful theory, developed by W.Chan Kim and Renée Mauborgne, both INSEAD professors, I highly recommend their work titled Blue ocean. Red ocean, published in 2005.

Applying this vision to the legal market is not an easy task. In my case, I have been doing it for over nine years and still today find it difficult to not care about what others are doing. I believe though that the ocean is indeed blue and that sometimes we have to take a risk too (at least a small one) and allow everyone's creativity to flourish and guide our businesses.

# Types of strategies

Now let us turn to strategy. You might be acquainted with how strategy theorists classify strategy into three different groups: differentiation, specialisation, or cost leadership. Let us look at examples from each strategy specifically applied to the legal profession.

- One differentiation strategy is a law firm which offers services in a new area, for instance crypto assets or artificial intelligence. It can also be the case that it offers that service with a unique added value, such as offering a recognised expert in a particular field or (as we will see further on) cutting-edge technological services. To apply these methods, our client segment should not be price sensitive.
- A specialisation strategy might be a high-segmentation strategy which identifies market niches to offer the best products and services according to clients' needs. This type of strategy works well when talking about, for example, highly complex technical-legal matters, like appeals to the Supreme Court in Spain.
- A leadership cost strategy is that which focuses on offering a product at a lower cost than its competitors thanks to low-cost production. Efficiency is necessary to be able to offer this type of service and this only works for certain services offered by lawyers: those which can be converted into commodities, and which are simple to structure and offer little in the way of added value.

LegalTech is nowadays one of the main allies of law firms when it comes to the design or development of any of these strategies. When talking about differentiation, technology is obviously very helpful. However, today's law firms still largely have a low level of implementation of LegalTech. This translates into the existence of a great opportunity to achieve differentiation by using tools which make our clients' lives much easier, such as extranets, collaborative tools, automation of contracts and processes with content supplied and updated by the firm, information platforms, and virtual training.

# Conclusions

My advice? Differentiate your law firm or struggle on without doing so. And if reading this article has made you fear that your firm could be classified as a zombie, don't delay in starting to think about how you can dedicate your resources to solve this problem. Don't forget that LegalTech could be your best ally to make you different in what is a big blue ocean!

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## María Jesús González-Espejo

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# Building the cathedral and the bazaar in knowledge management.

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Knowledge management (KM) is about getting the right knowledge to the right person at the right time, so that they can help their organisation succeed. For law firms, that means facilitating high quality but cost-effective and low-risk services to clients that boost profitability. How has the pandemic changed the face of knowledge sharing in law firms and, in practical terms, how can you maximise sharing for success?

## The cathedral and the bazaar

Knowledge managers sometimes use the metaphor of 'building the cathedral and the bazaar' to explain what we do.

- The 'cathedral' we create is our online knowledge database: a place full of beautiful, quality assured, carefully curated, ordered, accessible documents such as precedents and practice notes.
- The 'bazaar', in contrast, is the place where complex knowledge is exchanged between people through discussion and flows around our organisation in a haphazard manner. The bazaar is messy, complex, and chock-full of people challenges.

## Knowledge and information management in the pandemic

For most firms, the swift move to remote working in 2020 forced upon them by the pandemic led to an improved understanding of the benefits of investing in the cathedral: the value of secure and simple remote access to precedents and practice notes, and best-practice processes written into case management systems etc.

But once this initial challenge to recreate the cathedral remotely was overcome and fee earners had access to the written knowledge they need, a more complex challenge became apparent: how can firms recreate the bazaar? How can they replace the myriad of informal interactions which are integral to the delivery of client services based on more complex, difficult to express, strategic knowledge? If fee earners can no longer 'pop their head around the door' of an expert to talk through a course of action or a recommendation for a client, or

informally chat through options with a knowledgeable peer whilst making coffee, how can they give best advice to their clients? Once we've recreated the cathedral-at-home, how do we recreate the bazaar?

With many law firms anticipating that, post pandemic, their fee earners will continue to work remotely or at smaller satellite office hubs up to 50% of the time, how can we ensure that these new ways of working are successful in ensuring that the most complex knowledge is shared when needed? Technologies have improved to support the sharing of less complex knowledge, but decades of research have confirmed that in-person conversations of four or fewer people, are the gold-standard for efficient and effective transfer of complex knowledge. How do we facilitate 'the bazaar' if these gold-standard conversations are difficult to have?

Practical  
ideas for  
sharing  
complex  
knowledge  
remotely.

Over the past six to twelve months, I have been talking to various heads of knowledge and senior leaders in law firms to gather practical ideas for overcoming the challenge of how to share complex knowledge remotely, to understand what has been working and what hasn't, in order to bring you some practical ideas of tactics to try to recreate the important knowledge sharing that occurs in these informal spaces.

For supervision and file review meetings, shorter, more frequent meetings and meetings which aren't solely functional and leave room for more wide-ranging discussions can be helpful, as are occasional 'ask-anything' sessions in place of traditional training lunches.

For trainees, traditional learning through observation and experience can be replicated by inviting them to join video calls with clients, and open meetings, when supervisor and trainee have a video call open, but work alongside each other rather than particularly interacting. As an aside, it can also help if supervisors are particularly sensitive to differences in circumstances. Trainees who might be sharing houses or have tiny flats are often demotivated seeing partners working in their spacious gardens or luxurious homes, however inadvertent the disparity.



Other ideas that law firms might not have used traditionally, but are gaining popularity are working out loud circles (1), coaching groups (2) and action learning sets (3), and for asynchronous connection, simple topic-based Teams channels have been working well for Q&As.

**( 1 ) Working out loud circle** – A WOL circle is a peer support group of 4-5 people who meet (via video or in person) for an hour a week for 12 weeks in order to further a personal work or learning related goal. Although they support each other, the goals are individual and the group can cross organisational boundaries.

**( 2 ) Group coaching** – Group coaching is similar to 1-2-1 coaching and is driven and shaped by the various needs of the attendees. The group will share a set of similar issues (usually around skills) and other attendees opening up about their challenges encourages others to do the same.

**( 3 ) Action learning set** – An ALS is a group of people within a workplace that meets with the specific intention of solving workplace problems. The meetings cover problems faced by a particular project team (either a wide range of problems or focussed on a particular issue/set of similar issues), giving the project team protected time to discuss the issues they are facing and learn from others.



Lastly, for general relationship building and trust building, firms have been experimenting with various tactics for learning more about each other:

Desert Island Discs/Five random questions; tea, biscuits and chat meetings; Teams chats and networks based around non-legal divisions (perhaps sports or hobbies); charitable fund-raising and diversity networks; traditional in-house newsletters; and mixing up or expanding traditional lunch 'n' learns. Each firm is different, so different relationship-

building tactics are needed for each firm.

If you've found some other great ideas for building relationships inside your organisation, or other ideas for supporting complex knowledge sharing, I'd love to hear about them. Let me know your thoughts via email at [helenerussell@theknowledgebusiness.co.uk](mailto:helenerussell@theknowledgebusiness.co.uk). And of course if you would like any help with improving your cathedral or bazaar, just let me know.

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## Hélène Russell

*Author of multiple textbooks and regular speaker at events, Hélène is a lawyer (non-practising) and specialist in learning, knowledge and innovation, focusing on translating complex academic thought leadership and cross-boundary theories into practical tools to improve the efficiency and profitability of real-life law firms.*

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# Pricing in a brave new world.

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As the vaccination programme rolls out at impressive speed across the UK, a return to historical normal is on the horizon, albeit in a world in all probability changed for ever by Covid-19. What will the new normal look like for law firms? And in my area of special interest, what does that mean for pricing legal services? Let's consider these questions and offer an answer or two along the way.

## Lessons from the global financial crisis

We saw in the global financial crisis how an event of some magnitude served to accelerate pre-existing trends. For example, globalization of law firms, consolidation of client panels and the rise of alternative service providers were all clear to see pre-2008. The events in 2008 changed, arguably forever, the way legal services markets worked. Cost-conscious and savvy clients began to push back on their law firms' pricing models. Law firms also had to reckon with new entrants, a changing regulatory framework, and rapid advances in

technology – in any other decade, each of these might have produced seismic changes in the sector on their own.

The financial crisis saw the balance of power shift substantially in the client's favour. Discounting became the order of the day, as did client demand for firms to move away from hourly billing and offer alternative fee arrangements. What we learned then will stand us in good stead for the post-pandemic challenges ahead.

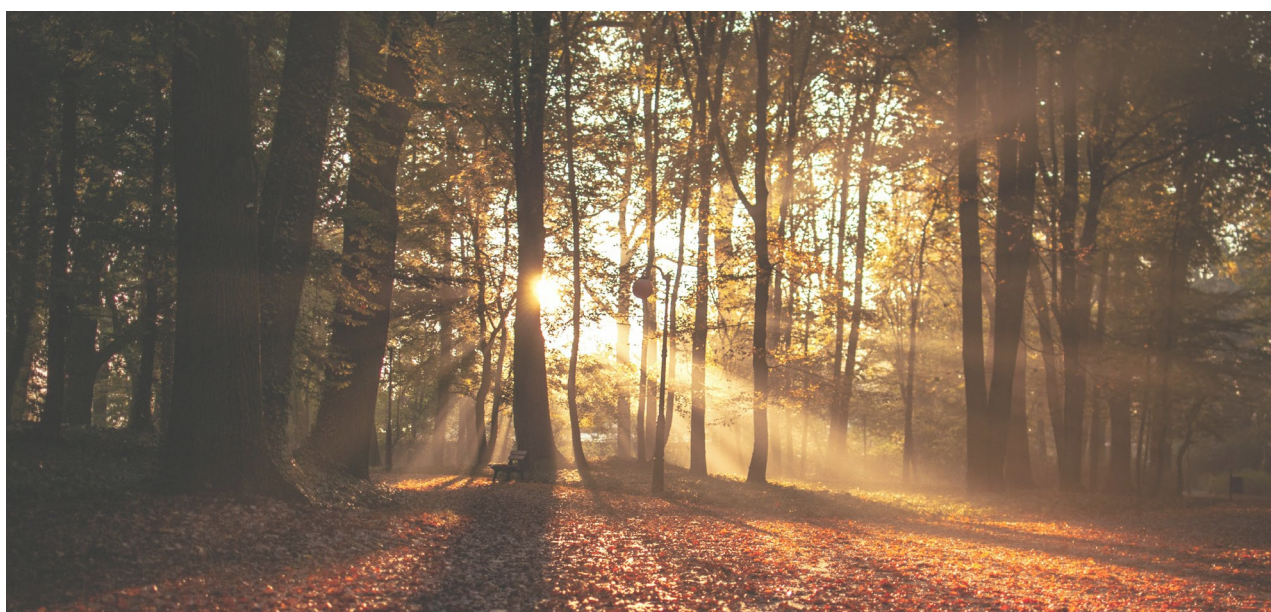


## Tipping point

In the decade that followed the crisis, some law firms (but I would argue, nowhere near as many as should have) began to acknowledge the growing importance of process improvement, of technology, of value pricing and of meeting changing client needs and expectations. What these trends and pressures together amount to, I would suggest, is an irreversible drive towards more efficient models for the delivery of legal services. Models in which clients don't see themselves paying for process, or file admin, but for true legal value added.

In their 2021 'Report on the State of the Legal Market', the Center on Ethics and the Legal Profession at Georgetown University and Thomson Reuters question whether 2020 will be seen in hindsight to have been an inflection point for the redesign of the delivery of legal services. Taking their cue from Malcolm Gladwell's book (*The Tipping Point – How Little Things Can Make a Difference* [2000]), they note that while people commonly

assume change takes place slowly over an extended period of time, Gladwell argued 'with a metaphor eerily appropriate for our present circumstances – that, in many cases, change happens more like an epidemic'. Gladwell says the process of change begins with 'clear examples of contagious behaviour'. The authors of the report explain: once these ideas and activities begin to move in a certain direction, change can happen very quickly.



# Covid and beyond

Other trends such as homeworking, greater use of technology, or becoming paperless have been given impetus by the pandemic. The changes we have seen in a remarkably short space of time are going to stay with us, to a greater or lesser extent. And as clients see their lawyers work successfully from their kitchen table, they are likely to ask themselves why they still cost what they used to when working from their city centre offices. And when clients see their law firms give up or substantially reduce their office overhead, they'll ask the same question.

I've been asked countless times when training partners in pricing how best to capture the firm's investment in technology, for example in precedents. 'Should we record another 5-10 units' time to cover that sunk cost?' Quite apart from ethical considerations, it has always seemed to me a question that misses the point. Clients aren't concerned with inputs, they don't care how long it takes their lawyer to complete a task, they care about what they get (outputs) and what they pay for it.

In my view, the days when client will pay £300 per hour or more for their lawyer to fill in a court form, prepare a file note, or deal with routine correspondence are drawing rapidly to a close. The one-size-fits-all six-minute unit charged at a uniform rate will go the same way.

While clients have right on their side in refusing to pay top dollar for mere processing, they will continue to value what lawyers do best – as their trusted advisors, as the provider of diagnostic advice, as an advocate and as a strategist. For these activities, and others like them, law firms have been undercharging their clients for generations, and have done so because they've taken the rough with the smooth. If you think my argument is contentious, ask your accountants what they charge for a newly qualified accountant working on an audit, and then what they charge for a partner working on an HMRC investigation. You'll be amazed by the gap between the two!

It is time for a fundamental re-set in pricing legal services. Time to look at what clients value and are prepared to pay for. Time to stop looking under every rock because we're making sure to cover every angle and instead give clients what they actually want. And to recognise that some of what lawyers do now won't be done by us for much longer but will be automated, replaced by AI or done by our clients using shareware or similar. A redesigned model for the delivery of legal services isn't going to work if the pricing doesn't change, is it?

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## Nigel Haddon

*Nigel is a former Managing Partner of a regional law firm in the UK and has 30+ years' experience as a practicing solicitor.*

*Nigel has worked with the UK's leading pricing consultancy, Burcher Jennings, since 2014 and has trained approx. 100 law firms in the UK and Europe. Nigel has presented on pricing, often as keynote speaker, at conferences worldwide. He is a Teaching Fellow at the College of Law, Australia, on their Master of Legal Business program.*

*Nigel also works with law firm leaders as their critical friend, providing constructive challenge and support. He also advises law firms on mergers and acquisitions.*

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# Flexible resourcing

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**Almost every firm I speak to is busier now than they were pre-Covid. Firms are struggling to find lawyers to meet demand.**

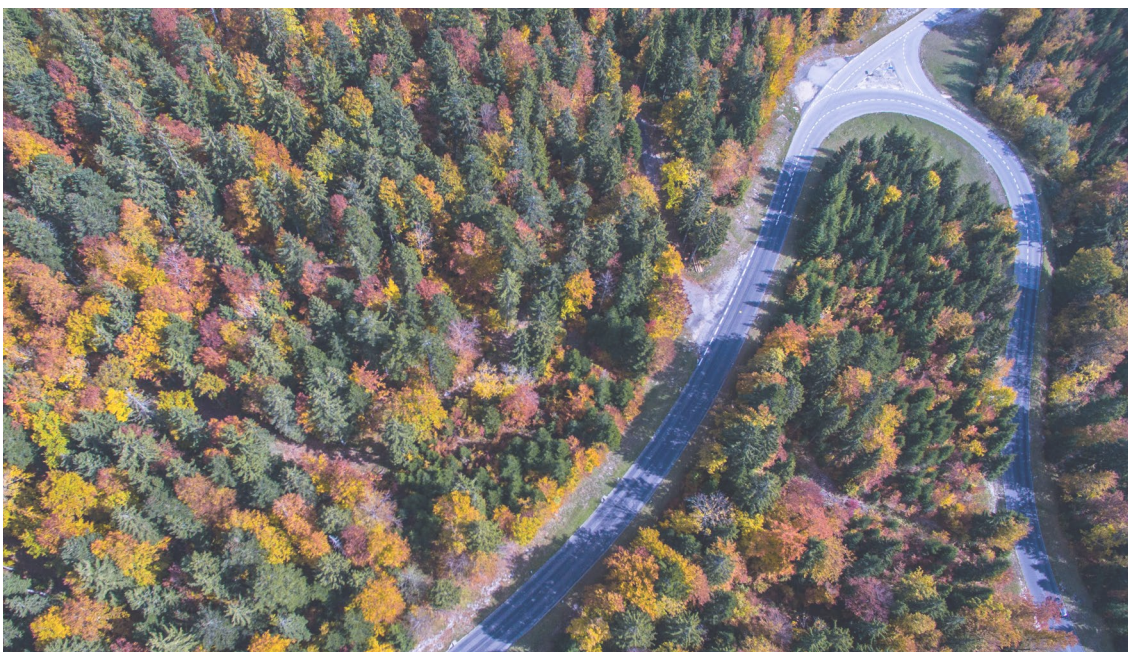
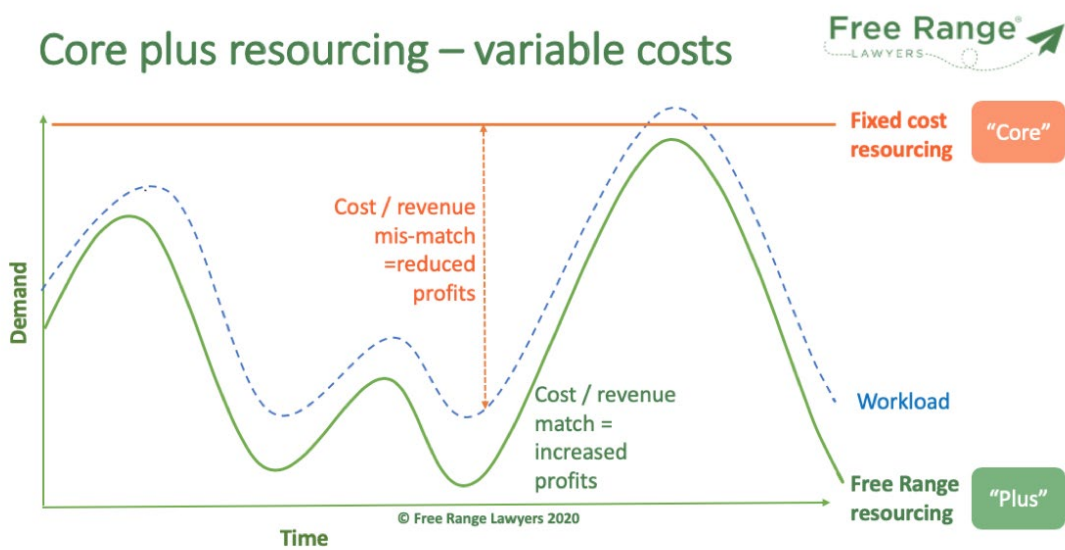
The challenges of the pandemic have created opportunities: to improve digital literacy, refine processes and operate in a more agile way. They also put into stark relief the importance of operational resilience. As KPMG's Stuart Fuller said, in a post-Covid world, 'resilience will trump efficiency'.

The pace of change has increased since the start of 2020. Demand for some existing services is heightened, while entirely new needs have emerged. Resilient firms not only ride these changes but capitalise on them. In this context, skills become critical, as they are the difference between embracing new opportunities and turning them away. This is even more important in an environment where lawyers are hard to find.



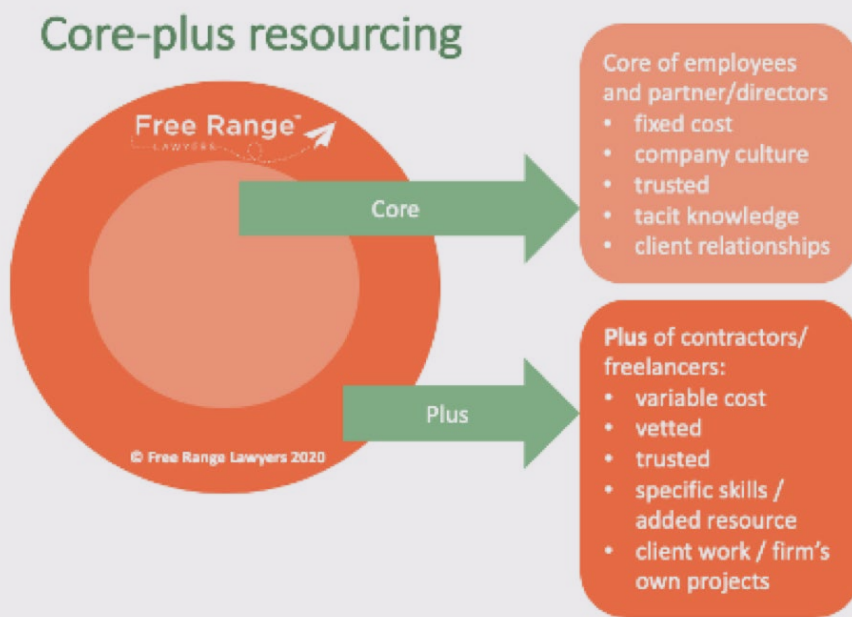
# Matching variable costs to variable demand

As a result, more and more firms are turning to flexible resourcing to align resources with demand. They are capitalising on opportunities in peak times while avoiding a commitment to fixed costs when the peaks subside.



## Core plus resourcing

We call this 'core plus' resourcing – combining a core of employees with a 'plus' of trusted contractors who can be called to work when the level of demand requires it.



The level of core and plus is different for each firm, with most opting for over 75% of their lawyers operating in the core. Some firms, however, choose to operate entirely based on contractor resources.

## Resilience and agility

With this flexible approach, law firms can:

- perform work they would otherwise turn away;
- satisfy and delight clients that provide broader instructions;
- make money using contractors rather than engaging counsel as a disbursement; and
- match costs to demand, increasing profitability.

# Opportunity

The trend towards contract lawyers is steadily growing: according to the Altman Weil Survey 2020, 51% of respondent firms are using contract lawyers as an alternative resourcing strategy, an increase from the 48% measured in the 2019 survey.

For small and medium firms, this represents a significant opportunity. When segmented by size, we see that only 42% of SME firms are using contract lawyers, in contrast to 77% of large firms.

What an opportunity for firms outside the large firm segment to compete with bigger players by gaining the benefits of scale without the commitment!

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## Katherine Thomas

*Katherine Thomas is CEO of Free Range Lawyers, which helps law firms grow in a low-risk way by providing flexible, temporary resources to meet peaks of demand. Work is done remotely, meaning assignments start quickly, with minimal fuss. See [www.freerangelawyers.com](http://www.freerangelawyers.com) for more. Katherine also consults to law firms on strategy, sales and launching new services. She is an international speaker and author on law firm innovation, with a particular focus on people strategies.*

*See [www.katherinethomasconsulting.com](http://www.katherinethomasconsulting.com) for more.*

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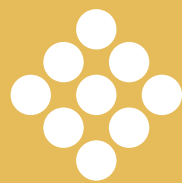
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