

Legal practice of the future discussed at practice management conference

By Kathleen Kriel

The Law Society of South Africa (LSSA) and Legal Education and Development (LEAD) held its first annual Practice Management Conference on 19 and 20 August at the Bytes Conference Centre in Midrand. The conference dealt with matters of everyday practice in regard to human resource management, financial management and marketing.

The opening address was given by Brendan Hughes, director of Infology. Mr Hughes said it was an opportunity to think about practice rather than work in practice.

‘Futureproofing your legal practice is an important topic for lawyers to focus on in a time where change is accelerating, complexity is increasing and it is difficult to predict the future, five, ten or even 15 years down the line. It does not mean that we should stop trying to build strategies that see the profession trying to deliver the important role that it plays in society and at the same time remaining profitable and sustainable. The two need to work hand in hand,’ he said.

Richard Scott, Co-chairperson of the LSSA welcomed delegates to the conference. Mr Scott said the programme dealt with many aspects of practice management in legal firms and that lawyers have to concern themselves with management and the problems associated with it. Mr Scott highlighted two aspects that stood out for him with regard to practice management. The first was information technology (IT) namely websites, e-mails, the paperless office and the iCloud. The second critical change was the way clients dealt with law firms. ‘Gone are the days where lawyers’ fees were unchallenged. ... Clients are shopping around to get the best deal or services, and that requires lawyers to change the way they are delivered. ... We need to focus on their needs,’ he said.

Mr Scott referred to the marketing of services in a law firm and how the speed of delivering services is the number one priority, as well as the ‘big’ issue of fees. He said lawyers need to explain fees to their clients, so that their clients can understand them.

He also added that lawyers needed to manage the people they work with as there was a need for the legal profession to have a more 'human face'. 'If staff and professionals work well together, the clients will see and return with further instructions,' he said. Mr Scott added that lawyers needed to learn to manage themselves, however, they were not good with it as there had been a number of articles written about the rising misery in the legal profession. 'The way of life of many lawyers is toxic leaving them depressed, unhealthy and unhappy. There are law care helplines in the United Kingdom helping with stress Some of the stress triggers include failure to prioritising and delegating work, managing interruptions and procrastination... . We need to figure out how to manage our time so that overwhelming times do not become the norm, but rather isolated situations. I think that we need, as lawyers, to achieve a balance in our life.'

What will the legal practice of the future look like?

The keynote address was delivered by ENSafrica Chief Executive Officer, Piet Faber. He said it was not an easy task speaking about what the future of legal practice will look like, as nobody knew what the future holds. Mr Faber said that lawyers needed to look at the major trends that are happening now and decide how they can position themselves to meet these challenges for the future.

Factors influencing the law firm of the future

Mr Faber summarised the five major factors that he thought would influence the legal practice of the future:

- ***The rise of the client***

Mr Faber said since the global financial crisis in 2007/8 there has been a fundamental change in the interaction between clients and their lawyers. Many writers call it the 'more-for-less conundrum'. He said the legal in-house teams have gotten smaller,

however, the best lawyers are sourced for in-house legal teams, which increased the capability of in-house legal departments. Mr Faber said in-house teams were strengthened, which meant that in-house lawyers could deal with a lot of the work themselves and only go to external lawyers if and when the need arose. Mr Faber said the alternative fee arrangement had become the norm and has changed the way clients work with lawyers. 'That unless law firms can adapt to that and could position themselves correctly, they will not meet the challenges therein,' said Mr Faber.

- ***Change the business model of the legal industry***

Mr Faber said lawyers today are seeing a consolidation of the global market, a massive trend occurring is the consolidation of law firms, which means they are growing bigger. Mr Faber said the legal profession still remains the most fragmented profession in the world, but it would be best to look at accounting firms and how they have consolidated into the big four. He added that this same process is happening in the legal world. He added: 'What is the relevance to us you may ask? Well over the last two to three years in South Africa, you have seen an entry into our markets of some of these firms that have grown big and international firms are here and they are here to compete in this market and they come with consolidated firms with financial muscle ... and how do you position yourself for the future?'

Mr Faber also referred to the emergence of Legal Process Outsourcing (LPO) and virtual law firms, where firms no longer have offices but do everything online through the Internet. He also referred to the emergence of the 'contract lawyer', a lawyer who is not permanently on the books but works from home and is employed if and when he or she is required.

'These are some of the aspects that influence the traditional business model and you need to adapt your practice,' Mr Faber said.

- ***Profitability***

The third factor Mr Faber referred to was the impact on profitability and pressure on fees. 'This is going to force lawyers to look at their cost structures and how they provide the service very carefully,' said Mr Faber.

Mr Faber added that a deliberate distinction between the cost of product and overheads has to be made, because whenever profitability is under pressure, what lawyers tend to do is to cut their overheads. It is often misguided and as Mr Faber said, 'very often you need to spend more on various issues like marketing and business development'. He added that where the real cost lies, very often, is the cost of the department, namely, the way services are delivered to the client and if professionals were utilised in an effective way and if there were products available to make processes more efficient. Mr Faber said lawyers will have to look at outsourcing of non-core services, for example, IT which does not have to be done in-house, but can be outsourced to an outside service provider.

- ***Law firm staffing***

The demand of work-life balance demanded by younger practitioners was another influence that lawyers will be exposed to. Mr Faber said it was something that was here to stay and he added that law firms would have to start thinking about how they were going to organise a practice in a way to accommodate very talented lawyers who they have put a lot of developmental time into.

Mr Faber also referred to clients' resistance to pay for work done by junior attorneys. 'In the old days, a matter would come in and you would bring a trainee or junior lawyer onto a matter, who does not really add value, but participated in the matter and then charged for the requirement. ... You have to find new innovative ways of training and developing your people,' he said.

- ***Disruptive technologies***

Mr Faber said that the biggest factor that will influence the law firm of the future is technology and that it has opened up a whole new world and referred to e-learning, document automation and assembly as well as lawyer matching platforms. He added that artificial intelligence will become increasingly more important in the future.

What should a future practice look like?

Mr Faber told delegates that the practice of the future would have to become more client-focussed than in the past. 'In the past clients would come to the lawyer because they need the service. Lawyers used to sit back and wait for the phone to ring and wait for the appointment to be made and wait for the client to come to you. For the future legal practice, you have to become the strategic trusted adviser to your client and in order to do that you need to know your client's business inside out, know their industry and what legislative changes are coming down the line and you need to know way ahead of time how to alert and warn the clients as to what is likely to affect them so that your client feels that you are truly a business partner,' said Mr Faber. He added that it is easy to say but not so easy to do, especially when you are busy and time is limited. Another aspect Mr Faber referred to was that of profitability and how lawyers would have to price for profits. No one can price for profits, unless you know and understand the costs structure. 'How many of us, on a matter, sit down and say: "This matter is going to cost me this much and if I want to make a profit, the fee on this matter has to be X". I think very few of us do it. I think most of us say, my hourly rate is X amount and I work by the hour More and more clients are demanding that the lawyer must figure out how much the cost will be, they want to know. They are no longer satisfied with you saying I do not know how long it is going to take, it is a litigation matter and can amount to any number of days and I charge by the hour. ... [T]he pressure will be on for lawyers to say how much a case will cost,' Mr Faber said.

Mr Faber also said lawyers will have to acquire project management skills and said it is an area that lawyers are not normally familiar with, but, lawyers will have to be project

managers as well, in order to manage the matters in such a way that they can bring it in on budget and realise their profit.

In his presentation, Mr Faber said firms have to accurately split work between high-end premium work and commoditised work. He said that you need to know your own business and know what you can charge at high end premium rates and what work is commoditised, that you have to find another solution for, either charging very little for it or you have to outsource it to an LPO.

He said firms will have to provide lawyer on demand services. 'It means that you may not have all the lawyers who do work for your clients on the books, you may have to contract them in for specific jobs. It is one way to meet the "more for less" conundrum,' Mr Faber said.

Mr Faber continued by saying that lawyers should look at having a dedicated back office in a lower cost environment, for example, the process-driven work (like accounting, IT, etcetera) to a low cost centre outside of where you normally practise your profession or you could alternatively, outsource the non-core functions to service providers or LPOs.

'I think the practice of the future would have to build relationships with LPOs to leverage on the strengths of commoditised work and maintain client relationships. The big challenge with LPOs is that once I hand my client over to a LPO agent that they will annex the client. How do you make sure that your client remains your client and trust the LPO to do the low cost commoditised work,' said Mr Faber. He added that relationships have to be built to work that out.

Mr Faber said investing in technologies such as e-discovery, document automation, knowledge management and e-learning, would form part of the practice of the future. Mr Faber said the law firm structure will have to include the following options for the future, namely, non-partner practitioners, flexible working arrangements, the firm will

consist of a core firm with flexible on-call workforce as demand increases. 'In the graph [to the left], your core partners will be in the middle, the core of the firm. Then you will have other lawyers, namely, contract lawyers or lawyers available online. Then your alternative service providers, namely LPOs and then technology,' he said.

In conclusion, Mr Faber said the practice of the future must have client focus, good legal expertise, good business skills and the embrace technology. 'You will need all four components in place to meet the demands of the future,' said Mr Faber.

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