

PRACTISING WELL

Future Proofing your Law Practice

BY **EMILY MORROW**

BUCKLE YOUR SEATBELT. I SUSPECT 2017 will be a fast-paced, bumpy ride into an uncertain and challenging future. What has worked well for your law practice to date may not be sufficient to get it to where it needs to be, or even maintain the status quo.

Wikipedia defines “future proofing” as “the process of anticipating the future and developing methods of minimising the effects of shocks and stresses of future events”. This is probably as good a definition as any.

The need to future proof a law practice internally and externally is compelling. By “internal”, I mean how the law practice functions day-to-day; how things are managed and people interact, what gets done and how it gets done etc. By “externally”, I mean how the firm interacts with external constituents, what work is done, business development and the like. To future proof a law practice, it’s essential to do both well.

Internal Future Proofing

The two most important components of an internally future proofed law practice are having (1) a high performance culture and (2) an optimal governance structure. Without these the rest is window dressing.

High Performance Culture

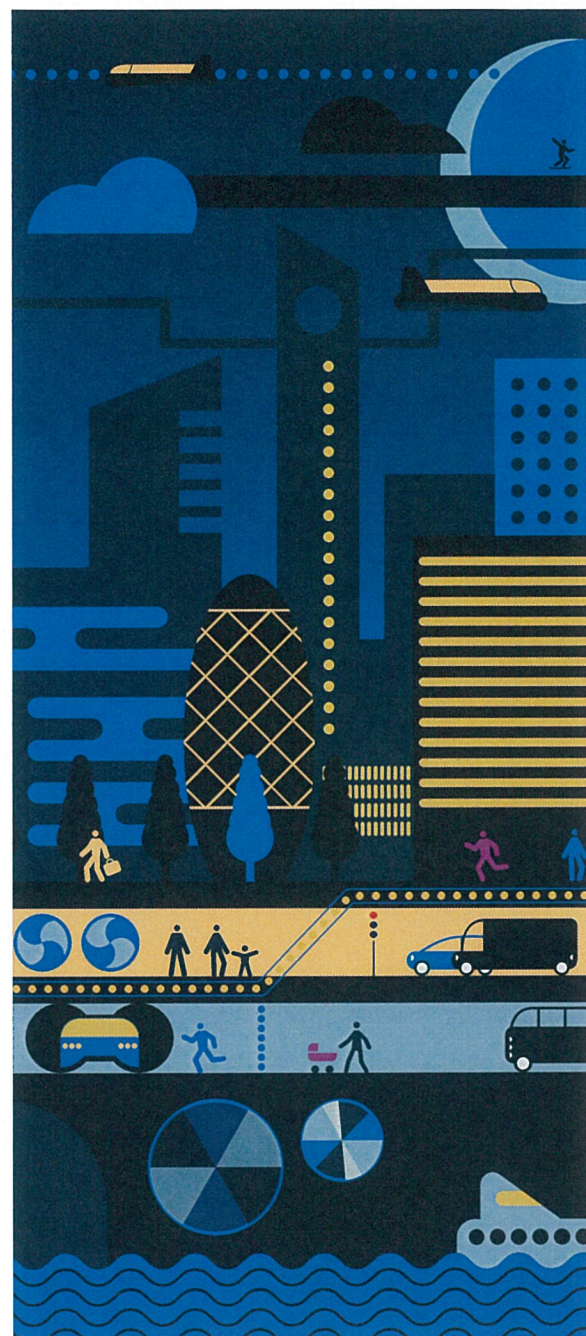
This means different things to different people, but a law practice with a high trust culture invariably has a high performance culture. Things get done well, people communicate with each other effectively, morale and retention are high, leadership is

respected and trusted, and the office is an employer of choice. Even in smaller, regional centres, law practices with such a culture routinely attract and keep the brightest and the best.

Having a high performance culture is an *outcome* of everything that happens within a law practice, rather than an *objective*. By focusing, for example, on developing high trust professional relationships, a firm will predictably move towards having a high performance culture.

Cultivating these relationships is just one aspect of a high performance culture, but a great place to start the process. That said, consider the following characteristics of high trust organisations:

- **Interaction:** Professional interactions that foster a high trust culture occur appropriately, frequently and are tailored to the situation. The best interactions are face-to-face and involve verbal content, facial expressions, body language and tone of voice. This is particularly important for law practices whose members are geographically separated and who work together, remotely.
- **Disclosure:** Trust is eroded when people don’t share critical information with each other. When everyone shares appropriate information and explains why the information matters, high trust relationships develop. This does not mean violating appropriate confidences, but it does mean giving people the information they need to make informed decisions.
- **Flexibility:** Flexibility that contributes to a high trust culture means that things can be successfully accomplished in various ways, and being open minded when one collaborates with others. It does not mean compromising excellence or embracing mediocrity, but it does involve recognising that high performance comes in many shapes and sizes.
- **Consistency:** It’s important to be consistent in your work interactions with other people over time. Building trust is cumulative and iterative.
- **Good intentions:** Interaction, disclosure, flexibility and consistency will not alone build high trust professional relationships unless good intentions are part of the mix. Leadership must genuinely seek positive outcomes and want to support everyone’s success. Merely paying





lip service to good intentions is insufficient and can foster cynicism, distrust and hypocrisy.

Optimal Governance Structure

A governance structure is based on a small group of individuals (who are accountable to a wider group of individuals), being responsible for the running of an organisation. It typically consists of agreed rules, practices and processes. An optimal governance structure is one that aligns with, and consistently reinforces, a high performance culture within an organisation. It needs to be practical, easy to administer, viewed positively and sustainable.

In my article, "Optimal Law Firm Management: A Moving Target" (*LawTalk* 899, 21 October 2016), I

discussed the different stages of management that law practices often pass through. That said, governance goes beyond management and provides continuity through changes in leadership and administration. Even when there are no obvious strong leaders and/or managers, if a sound governance structure is in place, the firm will prosper.

I suggest law practices consider the following in terms of governance:

- What does a high performance culture mean in the context of the law practice?
- What is working well now in your governance structure – assuming that an optimal governance structure is one that aligns with and consistently reinforces a high-performance culture in your practice?
- What is not working in your governance structure based on the above definition?
- What needs to be done to achieve an optimal governance structure?

If leadership in the practice can answer these questions well, you can achieve a high performance culture and an optimal governance structure.

External future proofing

The key to externally future proofing your law practice is the ability to be reasonably prescient. No one can predict the future, but some people are better at assessing what is going on now, predicting how that will play out in the future and responding proactively. It's the ability to know what information really matters, put it in context and make and act on informed and accurate guesses about what will happen in the future. It's something I did routinely as an estate planning lawyer. I drafted wills and trusts in the present that consistently worked well in the future when my clients died. These documents withstood the test of time, as should any excellent future proofing strategy.

To externally future proof a law practice, partners and management should consider the following:

- What are the likely future demographics of the firm in terms of

personnel, revenue, expenses, space needs and the like?

- What practice areas does the firm now have that will likely prosper – or fail to prosper – in the future?
- What opportunities does the firm now have that merit serious consideration? What is the risk/benefit analysis of such opportunities?
- What is going on in the firm's market area and how should this be addressed?
- To what extent will the firm's business development efforts be sufficient now and in the future? If they are inadequate, what needs to be done?
- What are the succession planning implications?

Some firms have partners, or others, who are naturally adept at doing internal and external future proofing analyses. Others may lack the internal capability to do so. In either case, a partners' retreat can be an excellent start to the discussion. Although the retreat agenda can focus on either/both internal and external future proofing, my preference is to start internally and get the house in order. Thereafter, external future proofing, including business development, succession planning and related issues fall into place more easily. Because such discussions can be challenging or even confronting, it can be helpful to have a capable external facilitator to keep the conversation focused, positive and productive.

Like law firm management, law practice future proofing is a moving target. You never fully arrive, but the early bird does get the worm. If you don't start the process and do it right the first time, you are less likely to prosper in the future. The future is rapidly approaching, replete with traps for the unwary. Is your law practice ready for it? ■

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