

Succession planning – is your law firm getting it right?

By [Emily Morrow](#)

The topic of succession planning comes up frequently when I work with law firms across New Zealand. This, no doubt, is symptomatic of the ageing baby boomers' era and the multi-generational transfer of wealth.

Getting succession planning right is critical for any lawyer or law firm. Unless you plan to close the doors permanently on your practice (and walk away from any value it might have to your clients and your firm), on the day you cease practising law, succession planning will be an issue for your law firm and you.

I think of law firm succession planning as the proactive, orderly and realistic process of planning what will happen when lawyer(s) cease practising such that the client base served by those lawyer(s) will continue to be a valuable asset for the firm.

Succession planning is complex because it involves financial, technical, interpersonal and other considerations. A firm needs to address each aspect of the process and, ideally, do it right the first time. Mistakes are costly in succession planning. It is about a lot more than just money and technical expertise.

This article will focus on “internal succession planning”, by which I mean succession planning that occurs within a law firm, either by bringing in new professionals, retraining existing lawyers, merging with another firm or otherwise. In other words, the existing law firm continues when partners retire and the firm needs to replace those lawyers and retain/serve their clients. This is to be distinguished from “external succession planning”, which typically occurs when a sole practitioner (or law firm) plans to close its office and find a new home for its client base.

A firm in transition

Brown & Baker, a fictitious New Zealand law firm, was formed about 20 years ago by a group of four lawyers who had worked together at a larger firm. Currently, there are four partners (aged 55 to 65), two senior associates, two solicitors and several legal executives and other support staff.

The firm engaged me to discuss “strategic planning”, taking into account their current practice, financial objectives, and other considerations. Two of the partners had some kind of succession plan in place in that one of the senior associates did work that was similar to the work these partners did. The other two partners (who were age 63 and 65), had very busy practices but essentially practised



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alone, aided by legal executives.

When I asked the partners what might happen to their practices when they left the firm, they admitted this concerned them, but said they had no time to hire/train younger lawyer(s). They delegated tasks (but not projects), had little interest in cultivating younger lawyers (other than as a resource to do the work they did not want to do themselves), and controlled client relationships alone. All of the partners told me they intended to continue practising indefinitely. There was no required retirement age in their partnership agreement.

The senior associates and solicitors told me they enjoyed the firm, but saw no clear pathway to partnership. Although there had been vague discussions about that issue,

there was no commitment made or timeframe discussed. A very capable senior associate told me she was considering other job opportunities. When she tried to discuss partnership with the managing partner, she was told it was premature to do so.

After interviewing all of the Brown & Baker lawyers, I met with the partners and reported that the firm was doing well financially, work was getting done efficiently and that in terms of the firm's current functioning, it was doing well. However, I pointed out that the real issue for the firm was succession planning, not how the firm was currently functioning.

I urged each partner to consider, sooner rather than later, how they could ensure their practice would continue after they left the firm. The partners thanked me politely for my work, but I never heard back from them. It felt like the quintessential “you can take a horse to water but you can't make it drink” situation. They were not quite ready (or desperate enough) to take a good, long, hard look at this issue. In fact, I'd say there was a healthy dose of denial at Brown & Baker.

Brown & Baker is, indeed, a fictitious law firm, but its partners' inability to undertake real succession planning is not fictitious. In fact, this situation is, in my experience, alive and well in many law firms in New Zealand. They are not doing succession planning right.

However, assuming a firm is ready to engage in succession planning, what should it consider and do?

Financial considerations

The financial considerations involved in succession planning include the costs of hiring/training younger lawyers, partner buy-outs and buy-ins, retraining existing lawyers, phasing out partners, business development investments and so forth. There can be “false starts” when a younger lawyer is being groomed to take over a practice, but fails to rise to the occasion. Typically, a firm does not know how well this process will work until it tries it out.

Because cultivating younger lawyers to take over an existing practice is a complex process, I suggest the process be started no less than five years before the partner anticipates departing. Frequently, the process starts before the younger lawyer fully realises that he/she is being readied to take over a practice. However, over time it is advisable to have some frank discussions about what the firm needs and expects and what’s in it for the younger lawyer. Although some partners worry about becoming marginalised as they cultivate their successor, I find this rarely happens. Instead, both clients and other lawyers in the firm really appreciate the transparency of the process. Candor eliminates a lot of unhelpful anxiety and confusion.

When partners openly discuss the financial aspects of succession planning, they can plan for its costs and incorporate them into future budgets for the partner and trainee lawyer(s). Firms that do this right find that their financial worries were often unfounded and that the process went more smoothly than anticipated. An ounce of prevention really is worth a pound of cure.

Skills considerations

Firms will often focus primarily on the practice areas that will need to be covered after a partner leaves. For example, if the departing partner has a general practice, the firm will need to decide whether to continue that practice or “cherry pick” certain specialty areas. Conversely, if the partner has been a specialist, the firm will need to consider the future prognosis for that practice area. Dovetailing a successor’s capabilities to the departing lawyer’s areas of expertise and training to address those future needs is critical.

That said, work style is as important as technical skills. For example, if a partner focuses primarily on “high touch” service for

a small number of wealthy clients, the firm will need to consider whether that approach will be appropriate in the future. Is the legal market changing such that there are greater opportunities in doing more “commoditised” work for a larger number of clients instead of high touch work or not? Accurately identifying and planning for future trends is a significant part of optimal succession planning. Again, these are strategic considerations that combine an understanding of technical expertise, opportunities and lawyer work style preferences. They warrant careful consideration to get it right.

Interpersonal considerations

Every law firm has a unique culture based in large part on its history and its leaders. Although law firm culture is flexible, typically it can only accommodate a certain amount of deviation from the norm before problems develop. Interestingly, however, many lawyers and law firms have a perception of their firm’s culture that is not fully aligned with its reality. This is “wishful thinking” and it is unhelpful because it can result in poor judgement and bad choices. For example, if a firm has a relaxed, casual culture that values personal time more than profitability, but some partners aspire to make the firm more lucrative, hiring a hard driving, ambitious successor to a departing partner could be problematic.

For a succession plan to be successful, whoever takes over a departing partner’s practice will need to fit in with the firm’s culture for the arrangement to last. Consequently, I find that the most enduring succession planning arrangements are often those that involve the early identification and cultivation of in-house successors. Although it is very possible, certainly, to hire laterally as part of a succession plan, this can entail predictable challenges. Accordingly, the planning process should not be undertaken lightly or as a last minute effort to address a new staffing need.

Questions to ask

I encourage firms to consider the following questions when discussing succession planning:

- What is unique about our firm and non-negotiably important to us?
- How will we know if a particular lawyer will fit in well with our culture? What should we be looking for beyond

technical skills?

- How do we view financial matters within the firm and how do we handle controversies about money?
- How transparent are we about discussing difficult topics?
- How do we treat and interact with our staff?
- To what extent is our firm’s organisational structure hierarchical or flat? What are the implications of this?
- How do we handle conflict and reward success?
- What will success look like for our firm in terms of succession planning?
- How will we train and support the success of younger lawyers in our firm? What do we need to plan for?

If a firm can answer these and similar questions in a clear, concise way with a strong consensus among the partners, then the prognosis for the success of its succession planning process is excellent. If, however, discussions about succession planning produce anxiety and discomfort, then the firm has its work cut out for it and may benefit from some neutral, third-party intervention.

The bottom line is that optimal succession planning takes time, much of which is non-billable. There can be a seeming conflict between current profitability and proactive succession planning. However, a firm that engages in optimal succession planning (done in an altruistic way to benefit the firm and its clients in the future, rather than merely optimising current profits), will be a firm that garners the greatest real riches over time. Not only will such a firm be a more cohesive and happier place, but it will also be more resilient and financially successful. Altruism does not, after all, necessarily require sacrifice, but it does require valuing the importance of others’ welfare and then acting on that motivation. ■

Emily Morrow was a lawyer and senior partner with a large firm in Vermont, where she built a premier trusts, estates and tax practice. Emily now lives in Auckland and provides tailored consulting services for lawyers, barristers, in-house counsel, law firms and barristers’ chambers focusing on non-technical skills that correlate with professional success – business development, communication, delegation, self presentation, leadership, team building/management and strategic planning. She can be reached at www.emilymorrow.com.