

**PRACTICE**

Why some lawyers are underproductive ... and what to do about it

BY **EMILY MORROW**

SOME LAWYERS HIT THE GROUND RUNNING; THEY MAKE THEIR way through work like a hot knife cutting through butter, billing efficiently, writing off very little time, keeping clients and colleagues happy and getting great results. These are highly productive lawyers.

Other lawyers, although technically very skilled, are underproductive financially and temporally, struggle to meet clients' and colleagues' expectations, and generally flounder. What causes some lawyers to be the latter rather than the former? What can such lawyers and those who work with them do to enhance their productivity?

When I consult with underproductive lawyers I appreciate how difficult their work style is for them as well as those with whom they work. No lawyer chooses to be underproductive and many struggle to address the challenges they encounter or inflict upon themselves. Here are some suggestions about how lawyers can be more productive.

The wheel spinners

Some lawyers have difficulty getting traction on a project, and when they do get stuck in, spend unnecessary time on unbillable matters and distractions that do not add value. They struggle to identify what their clients really want to accomplish in a practical rather than academic way. They may not fully accept that law is a business as much as a professional practice.

When working with such lawyers, I suggest they consider the following question: "What practical, achievable outcomes does my client want, how much is my client willing to pay me to achieve those and what do I need to do consistent with that?"

I ask them to articulate, in a detailed, sequential way, what exactly needs to be done to achieve those outcomes, including initial steps. Finally, I tell them to set objectively quantifiable time and financial boundaries for themselves and their work. Then I hold them accountable for their own success.

Too many trees or too many forests?

By naturally focusing on the big picture context for their work, some lawyers know what they want to achieve long-term, but can't see how they are going to get there. Other lawyers see all of the details of what they need to do, but are unable to put those

into a meaningful context. Either approach can waste time, effort and energy. Highly productive lawyers focus simultaneously on the necessary details and the bigger context for their work.

I tend to be very practical about this when I work with lawyers. First, I identify the individual's natural preference for detail or the big picture and I bring this explicitly to the individual's attention. If the latter I often say "What details will you need to consider to get the outcomes you want?"

If the former, I will inquire "What is the larger, meaningful context for these details and how do they fit into that context?" Then I give clients the opportunity to practice addressing both in the context of a sample piece of work. This approach seems to get good results.

Lack of self-confidence

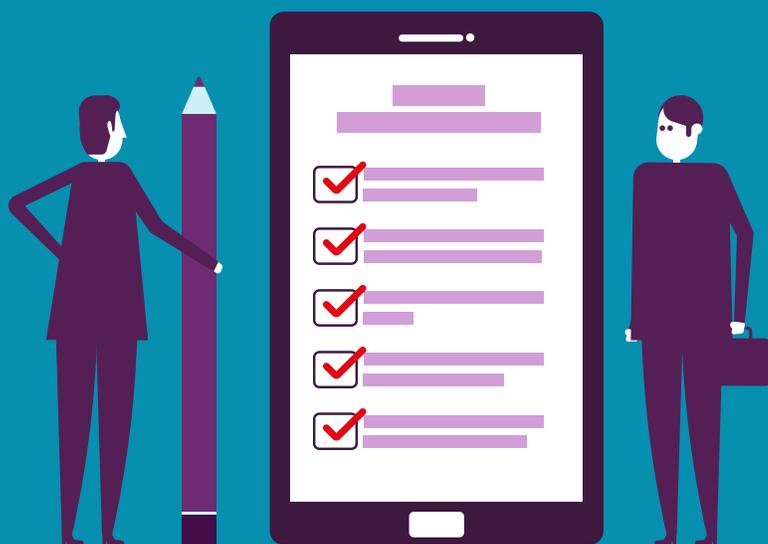
Despite being gifted professionals, some lawyers worry they do not have the skills they need to be successful. They procrastinate, overwork files, create self-inflicted time pressures and feel chronically incompetent.

When lawyers experience a lack of confidence, a colleague or consultant can assist by having a conversation about what causes those feelings and what can be done to address them. Reassurance goes a long way, as does acknowledging how common such feelings are, particularly amongst lawyers. Also, it is helpful to create a work environment in which it is OK to fail so long as one learns from the experience, does not repeat mistakes and takes responsibility for having done so. Blaming never helps.

Perfectionism

Many lawyers are Type A personalities who waste enormous amounts of time, energy and resources seeking perfection. They become over-anxious, micromanage, delegate poorly, and believe that no one else can do as good a job on a matter as they can. They don't achieve perfection and they create bottlenecks and poor team morale.

Such lawyers need to be reminded that while excellence is possible, perfection is usually unattainable. They can benefit from understanding that, over time and with more experience,



their anxieties about achieving perfection will naturally diminish. Highly productive lawyers know they can achieve excellent outcomes even if such outcomes are not perfect.

Poor "billing hygiene"

Lawyers who consistently fail to record their time or who write off time will always be financially underproductive even if they work many hours. Full stop. Some lawyers are so disorganised they don't record their time, others claim they are so busy that they don't have the time to record their time and still others, I believe, may be philosophically opposed to the whole notion of time recording.

Whatever the reason, these billing deficiencies need to be addressed. If a lawyer can't or won't comply, then I sometimes recommend that a firm assign someone else to assist in the process, such as a support staff member. If the problem still persists, then I suggest that draws/salaries be docked until the problem is addressed. This is strong medicine for a significant problem. If that does work, then the lawyer may be better served to consider leaving the private practice of law.

Red herrings

Some lawyers have never met a distraction that they did not like and want to get to know better, including other people's problems or interesting but fruitless professional pursuits. Whatever the modality, the outcome is the same; wasted time and energy.

Because these individuals struggle to focus and bring closure to their work. I suggest they set realistic and achievable boundaries for themselves and identify what happens when they become distracted. What are the red flags that will alert them to the problem so they can control it? How do they want to respond to these and what will the benefits be of doing so? What do closure and focus look and feel like?

Poor delegation

Optimal delegation involves putting together a great team with which you can work, investing in those individuals and delegating appropriate work to them in an appropriate way. Failure to set up a high functioning team and delegate work effectively to it will correlate almost 100% with being underproductive as a lawyer. Lawyers who don't delegate may record a

lot of personal hours, but are unlikely to leverage their time and be top producers for a firm. They may be the ones who ultimately find their career path blocked or delayed.

Interestingly, even lawyers who work alone (such as barristers and solo practitioners), will be more productive if they establish "virtual teams" and collaborate regularly with them. By this I mean choosing to work with other practitioners (outside of the lawyer's own office), delegating/referring appropriate work to such individuals and utilising these outside resources effectively.

If a lawyer does not delegate well, I suggest he or she get some instruction on how to do so and commit to making some workstyle changes. It's that simple.

Is private practice for you?

Although low productivity and being in the wrong career do not always correlate, sometimes chronic underproductivity can be a symptom of having made the wrong career choice. If you really don't like billing your time and working in a commercial environment (which is, after all, what a lot of private practice is about), then maybe you should consider doing something else. There are many ways to use one's legal training without being in the private practice of law. Making that kind of choice can, under the right circumstances, be an appropriate outcome.

Unfortunately, there is neither a "one size fits all" reason why some lawyers are underproductive, nor is there a single remedy. Generally, I find that individualised, tailored approaches work best with high potential but underproductive lawyers. If one is supervising an underproductive lawyer, I suggest patience, focus on identifying bad habits and replacing them with better approaches, and combining praise and accountability. If one self-diagnoses as being underproductive, then I suggest honesty, realism, and getting the assistance you need to address whatever it is that ails you, sooner rather than later. ■

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