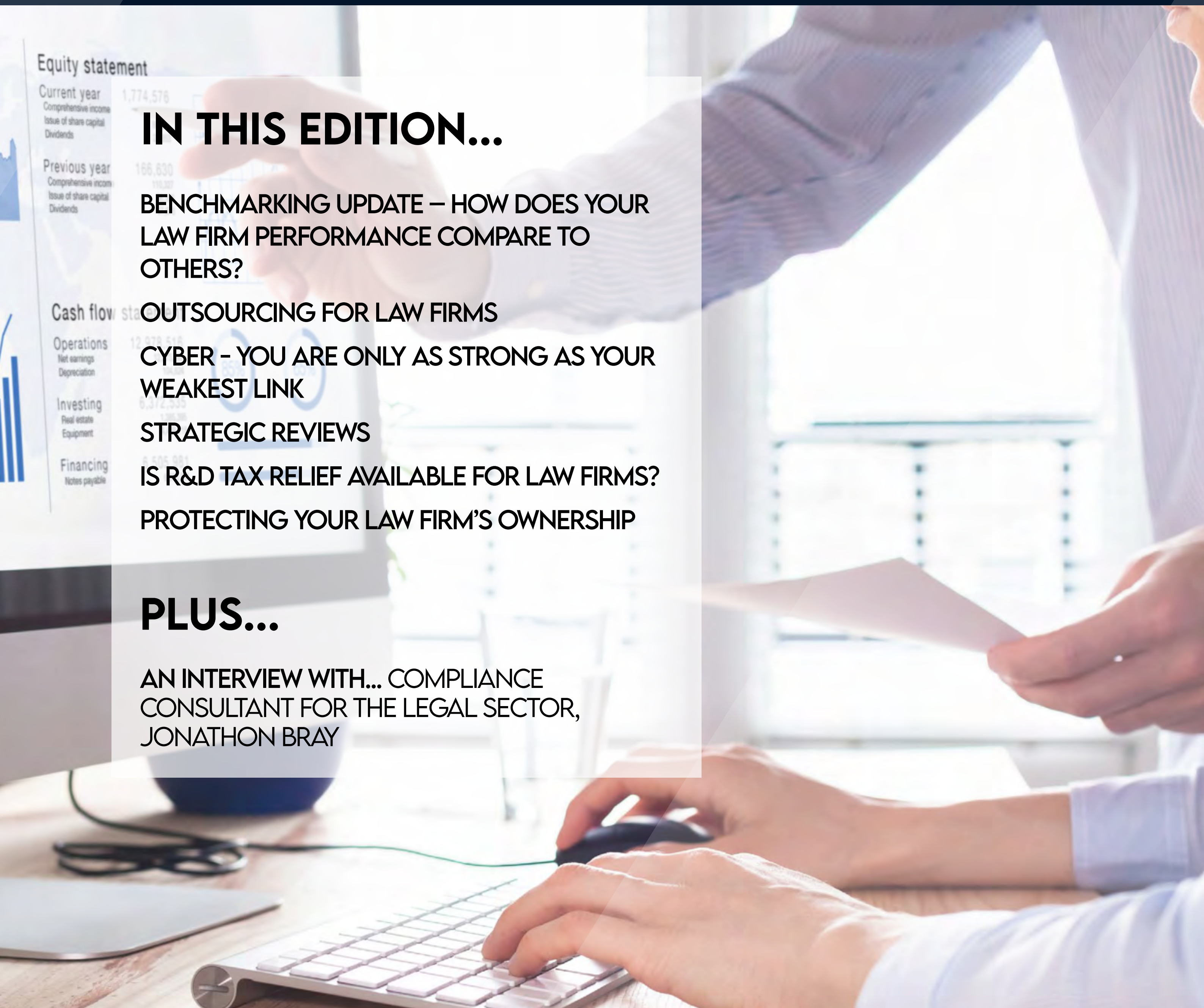
the law

WINTER 2022/23

Working with The Law Society

Armstrong Watson's specialist publication for the legal profession



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IN THIS EDITION...

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- Accounts Preparation
- LLP conversions
- Incorporations
- ABS Applications

WELCOME

Welcome to the Winter 2022-23 edition of The LAW, the specialist publication for the legal profession from the legal sector team at Armstrong Watson.

As I write this, the main concerns for the UK centre on the cost of living, the cost of energy, inflation and the risks of recession. The legal sector is not immune to those factors and law firm leaders will have a watchful eye on the future strategic direction of their firms. With that in mind, this edition of The LAW has a strategic feel to it, with pieces on benchmarking, outsourcing and strategic reviews.

We've also written an article for the Law Society, to be included in a forthcoming edition of their Managing for Success publication, containing top tips for managing law firms through potentially troubled times. That article should also appear on the Law Society's website, as well as our blog, and a Google search should point you in the right direction to find those top tips.

This edition also includes:

- R&D tax credits for law firms
- Cyber security
- Protection for your firms and your key people
- An interview with Jonathon Bray on the current hot compliance topics

Specialists are available from all of our 18 offices, to provide pro-active support and advice to lawyers in compliance and business improvement matters. This publication is designed to allow us to share our collective experience in acting for lawyers throughout the UK.

To find out more on any of the above, including how we can work with you to help you and your clients, please do get in touch with me.

Andy Poole

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BENCHMARKING UPDATE – HOW DOES YOUR LAW FIRM PERFORMANCE COMPARE TO OTHERS?

We act for over 100 law firms throughout the UK each year. For all our compliance clients we supply a bespoke individual benchmarking report analysing the results of their individual firm as part of our standard added value service when discussing their annual accounts.

Each year we summarise the results of these practices in our annual benchmarking review. This review covers firms of all sizes, throughout the UK. Where possible the results are analysed by practice size. The practice size is determined in terms of the number of full equity partners within firms, excluding fixed share equity partners and salaries partners. We classify firms with 1-7 full equity partners, as being small and those with 8+ full equity partners as large, in reality, law firms with 8+ full equity are very much at the larger end of the legal market given the demographics of the sector.

The key highlights from our 2020/21 review were as follows:

- The average fee income per equity partner was £764,000 which was 4% lower than in 2019/20.
- The average fee income per fee earner was £141,000 which was 15% higher than in 2019/20.
- The average net profit per equity partner was £185,000 which represented 16% of fee income. This had increased from £159,000 in 2019/20. Law firms with 8+ partners performed above this benchmark with average net profit per partner of £228,000.
- On average there were 5.0 fee earners for every equity partner, an increase from 4.6 in 2019/20.
- Staff costs as a proportion of fee income had decreased by 1.6% on previous year to 40.3%.

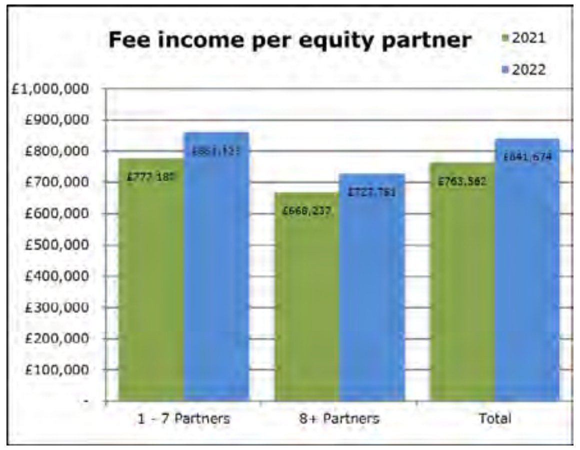
However given that some of the above statistics are based on a substantial part of performance during the 2020/21 pandemic and some results are masked by government support given, we thought it beneficial to complete a mid-year benchmarking review to see how firms are performing post-covid.

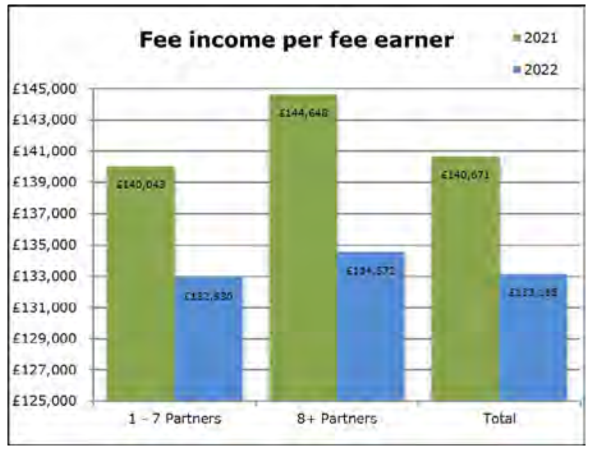
Based on data we have for the year to date we have seen the following key trends:

Fee income

Fee income per equity partner has increased by 10% from 2020/21. This increase is driven by law firms with 1-7 partners which show an increase 10.7% The average fee income per equity partner is £842,000. The increase in fee income is particularly notable for firms with residential conveyancing income. The number of equity partners has remained stable so the increase is solely from increased fees.

However in contrast to this, fee income per fee earner has fallen by 5.3%. With average fee income per fee earner being £133,000, a reduction of £8,000 from 2020/21. This fall is in contrast to the rise in fee income by equity partner.

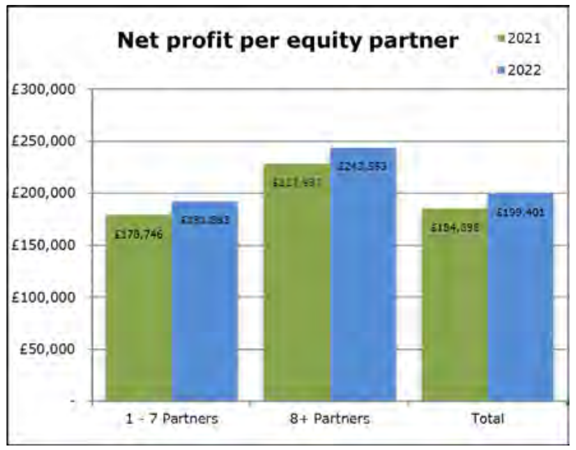


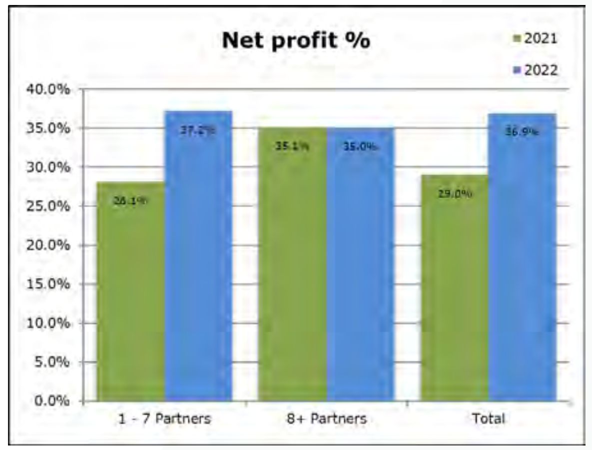


Net profit

Net profit per equity partner is currently averaging £199,000 for 2021/22, which is £14,000 up on last year. With both small and large firms averaging a 7% increase.

Net profit % (NP%) measure is one of the most important for law firms and it demonstrates whether work that is being completed in profitable. Net Profit % has increased from 29% in 2020/21 to 36.9% in 2021/22 so far, an overall increase of 7.9%. However all this increase is from small firms (1-7 partners) as the Net profit % for larger firms remains unchanged from 2020/21.





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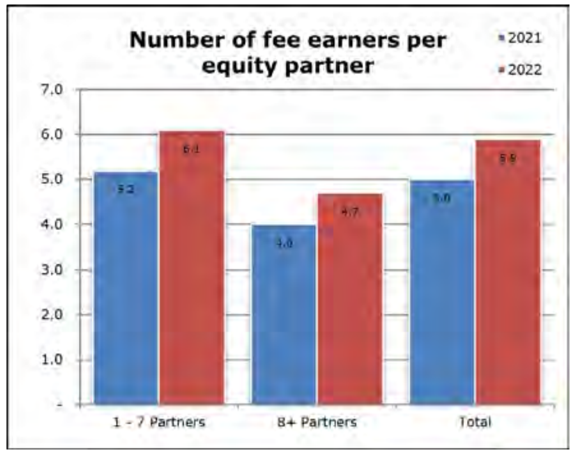
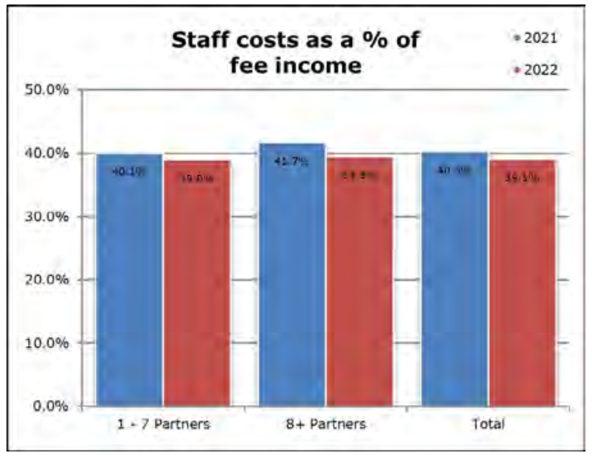
People

On average for 2021/22 there are 5.9 fee earners for every equity partner across all firm sizes. Firms with 1-7 partners show an increase in the ratio from 5.2 to 6.1 and larger firms (8+ partners) a rise from 4.0 to 4.7. This shows that firms with a small number of partners now have more fee earners compared to equity partners. This demonstrates the changing legal sector market, whereby there are a number of our clients falling into this category as they have limited the number of partners.

Staff costs as a percentage of fee income has decreased from 40.3% to 39.1% across a firm sizes. With similar falls across both larger and smaller practices. This is attributable to fees per fee earner rising by more than the increase in salaries. We expect that relationship to switch from now on given more recent increases in salary costs.



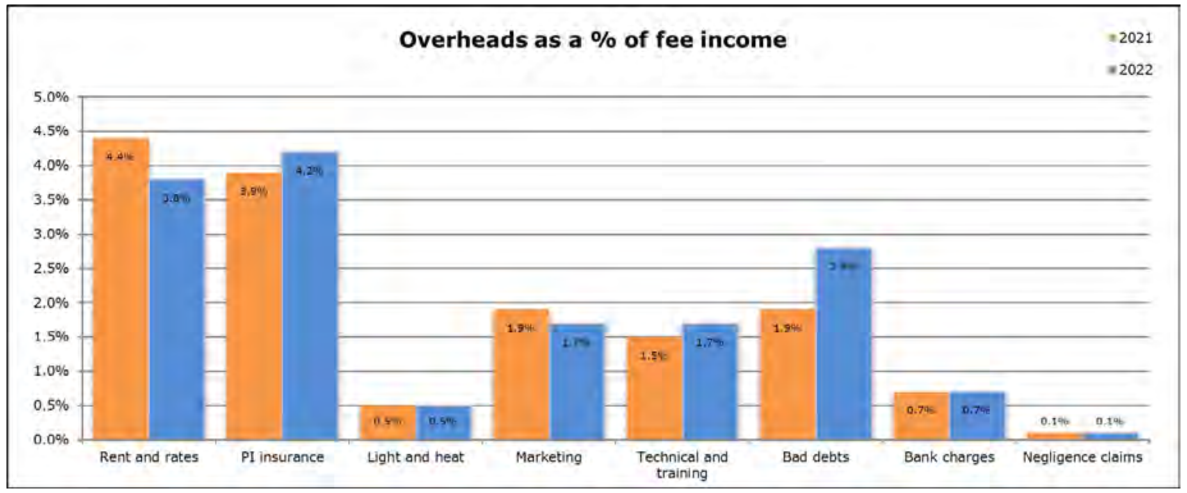


Overheads

Rent and rates as a % of fee income has decreased from 4.4% in 2020/21 to 3.8% for 2021/22. This is likely due to the impact of decisions made post pandemic for firms to actively reduce office space as a result of a move towards increase hybrid and home workings.

PI insurance has seen an increase year on year from 3.9% of fee income in 2020/21 to 4.2% in 2021/22. This increase was expected given the hardening of the market and fee income increasing.

Marketing spend as a % of fee income has decreased from 1.9% in 2020/21 to 1.7% in 2021/22 so far. Even though marketing events were restricted in previous years, this shows that level of expenditure has not risen to previous levels with firms reviewing their marketing strategies and online events continuing.



In summary the benchmarking results for 2022 to date are very encouraging and firms are showing strong performance, with both fee income and profitability continuing which indicates that firms are continuing to grow post pandemic. It will be interesting to see the impact of wider economic pressures on law firms as we move forward from here.

If you are interested in seeing how your firm compares with the benchmarks in this report or want to further investigate variances with your own firm's performance then please contact us.

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OUTSOURCING FOR LAW FIRMS

Outsourcing is one of those container definitions that can cover a very wide range of services. It is often seen as a business relationship where responsibilities are delegated to a third party. Outsourcing is so engrained in everyday life that it might be frowned upon if we do not let the professionals deal with it - think education, public transport or even garbage collection.

Why outsource?

Whether you run your own business or are a key stakeholder in the management of a practice there will be occasions where you must consider whether you make or buy the solution to the issue at hand. There are a couple of considerations that can be made, but they would fall into two main categories:

1. Can it be done in-house in a cost-effective way; and

2. Is there a business case to create or retain the knowledge and equipment in-house.

As we are all limited in our available time, it is good to carefully consider how and where you spend it. As a rule of thumb, you could aim to stick to your core strengths, or only get involved in areas where you add value to the business. As you bring in external experts, outsourcing can also bring the following benefits:

Process improvement

When you partner with the right outsourcer, they will bring a wealth of experience in dealing with the process you have delegated. In addition to the experience they have, they will also have processes and procedures in place to set up an effective operation. They can assist you by using best practice.

For example, for the accounts payable process, a traditional in-house set up might be one person in an office location that processes paper invoices, who spends time chasing for invoice approval with the process coming to a complete stop when that person is in meetings, during leave or sickness. An up-to-date process would entail a paperless accounts payable process, where invoices are received and processed digitally, with automated and tailored approval routes that are not hampered by office hours or working patterns.

Streamlined people resource

Within the business there are few processes that have a continues process flow, this results in peaks and troughs in demand on your staff. A third party can smooth out the work, as they manage this process for a portfolio.

In addition to this, an employer would have to factor in non-value add tasks, general meetings and training as well as cover for planned and unplanned leave. There will also be a periodic cost due to employee turnover such as recruitment & training cost.

When outsourcing, the risk on these elements is mitigated, as you are paying for the process or volume of transactions, not the underlying person.

Outsourcing in the legal sector

The legal sector has traditionally, like other businesses, outsourced manual tasks like cleaning and more technical administrative processes like payroll. However, these days back-office functionality, AML compliance, bookkeeping, financial management information, finance/HR/IT director or even some fee earning functions are now also being routinely outsourced.

It is good to keep in mind that when you outsource tasks, the compliance liability around COLP/COFA and other SRA responsibilities remains with the law firm. It is therefore vital that you have a reliable compliance framework agreed with your outsourcing partner to ensure that all SRA standards are met.

What are the trends?

Law firms can consider outsourcing fee earning services to a third party, it will allow them to manage the client relationship and offer a wider scope of services – without having subject matter experts on their payroll. It allows for a relatively low risk service, with the potential of a mark-up on services delivered.

Back-office functions are outsourced, up to and including a full finance function that manages the bookkeeping services and management information processing. This can be topped up by using a third-party expert for certain business processes throughout the year, for example a fractional Finance Director who dedicates 2 days per month to your business or a Financial Planning & Analysis expert who steps in twice a year to help set the financial goals for the firm – both of which are provided to law firms by Armstrong Watson.

What are pitfalls

The first step, whether you outsource or keep the process in-house, is to have clear visibility of the process. Where does the process fit within your organisation? Who are the key stakeholders? Is there overlap or related tasks that should be considered when outsourcing? The aim is to have a robust understanding, so you can make an informed decision as well as a meaningful conversation about expectations and deliverables with your outsourcing partner.

When you decide that outsourcing is the solution, ensure you build in flexibility into the agreement that allows the relationship to scale up, or down depending on your business needs. For example, an acquisition or sale could impact process volumes. It allows both parties to be ready for changes in demand without renegotiating a contract or prices.

The last pitfall might be counterintuitive, but only focusing on price could lead to eventual complications. If part of the brand of your law firm is to deliver a high quality service and you do not pick an outsourcing partner in a way that can extend your brand, it could lead to a poor client experience. Also, when looking at the bigger picture – an outsourced solution might not be a cost saver compared against an in-house solution, but it could bring added value you cannot deliver yourself.

Is outsourcing worthwhile

Outsourcing is undertaken by many businesses and when done well it can bring many benefits, such as focus on key fee earning areas, reducing office space, resources, reducing salaries and employee related costs. Simultaneously there will be examples of poorly executed contracts that have failed to achieve their goals.

Once you and your business are comfortable with the concept of outsourcing business processes it might be good to speak to one or more trusted advisors before deciding on your outsourcing partner, as you might well be at the start of a long-term relationship.

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CYBER - YOU ARE ONLY AS STRONG AS YOUR WEAKEST LINK

Cyber security is on every business's radar at the moment, and if it isn't it should be! In the last year 39% of UK businesses spotted a cyber attack, with 1 in 3 of those businesses estimating that they were attacked at least once a week![1]

Over the last couple of years we have seen a dramatic increase in the volume of cyber attacks targeted at UK businesses and individuals. Gone are the days where this was the preserve of a lone wolf working in a bedroom trying to hack into a specific organisation. Cyber crime is an organised affair now where volume is the key to success, if you try enough door handles you are sure to find one that is unlocked!

The initial objective for many cyber attacks is to discover a username and password for a user on your network. Once the cyber criminal has this information they can then gain access to your systems and then problems really start. The most common attack vector, which simply means the approach they use, is phishing either in an email or being directed to a fraudulent website. Of the businesses that admitted experiencing an attack, the attack vector in over 80% of cases was phishing.

Another common approach is to simply buy or even just download lists of usernames and passwords from the Dark Web. When a website or system is hacked the cyber criminals often take a copy of all the usernames and passwords from the system to exploit in the future. How many people use the same username and password (or just a slight variation) for all their accounts, business and personal? If you were hacker and saw joe.bloggs@mylawfirm.co.uk in the list it would not take much to realise that My Law Firm might be an obvious target for attack!

Typically law firms organise their security based on the seniority of the person; the more senior you are the more access you have. Generally this is because those individuals have a bigger stake in the success of the business and hence tend to have a deeper appreciation of the consequences of a breach. Hackers do not see the world like this. Anyone with access to your system is a potential opportunity, and once inside your network they can install malware or simply send fraudulent emails to your colleagues or clients. How comfortable are you handing the keys of your firm over to your new temp or 16 year old intern?

[1]*Cyber Security Breaches Survey 2022 - GOV.UK (www.gov.uk)*

So what can you do?

Firstly, you need to accept that this is a risk, review it in your exec board and take steps to mitigate, just like any other business risk within your business.

Secondly, assume that the hackers are already in the system, and challenge your IT team / supplier to demonstrate that they have this mindset. Traditional IT security focuses on creating an impenetrable wall that stops anyone but authorised people getting in, and once in, they have access to everything. This used to be sufficient, but in the modern world of remote working, cloud software and mobile phones, you need a series of barriers or cells within the network that stops someone having free access.

Education, education, education.

You need to train your team about the risks of phishing, how to spot it and why they shouldn't use their work email address for their personal accounts. Just like the fire alarm drill, you need to run phishing tests to actually check people behave in the right way. This goes for the intern as well as the managing partner!

Use MFA / 2FA (multi factor authentication) with all your accounts. This is one of the easiest fixes you can put in place, and is especially important if you use Microsoft Office 365, you simply get a code on your mobile phone that needs to be entered when you sign in. Your IT team can help to reduce the frequency of the challenge to reduce the frustration factor, but it would stop a hacker that has your email and password getting access to the system.

Finally, test your systems and understand what is out there. We have partnered with a firm called Cymplify who run 24/7 testing of the public facing elements of your network. Quite often an attack penetrates your perimeter because the IT team forgot to switch off a server or didn't update a security patch. Cymplify uses the same techniques as a hacker to spot the opportunity but rather than stealing your IP it simply sends the IT team a warning!

If you would like a review of your security systems, or to arrange penetration tests, please contact toby.woodhead@armstrongwatson.co.uk

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Editor's Note:
To find out more about cyber and risk protection, join us for our Law Firm Ambition Webinar on 9 February, with further details available at:

https://lawfirmambition.co.uk/topics/risk-protection-including-cyber-security

STRATEGIC REVIEWS

There is no doubt that the legal sector, as with many other sectors, has recently undergone a period of extensive change and reform, with what might have taken decades to happen taking place over a couple of years. The effects of those reforms are only just beginning to be seen now, and where many firms have prospered (some of which may have been short-term), others have struggled to cope with management/technology/resource issues.

With a potential recession on the horizon, it is vital that management teams understand the drivers of profitability, and the key tools to unlock cash.

A strategic review is a key first step to understanding your business as it stands now. It highlights what is working well, and key areas for improvement. A business which does not have the flexibility to change and adapt to current market conditions is unlikely to succeed. More and more law firms are beginning to undertake strategic reviews in some form in order to unlock cashflow and to develop their business for the long term future.

A strategic review examines all areas of the law firm including:

- Systems and processes
- Use of technology
- Use of people
- Lock-up processes / WIP and debtor management
- Targets and KPIs
- Success rates
- Efficiency, recovery and utilisation rates
- Income and profitability

A review assesses the current intended procedures and what is happening in practice (often two different things), and then makes detailed suggestions, department by department, on specific improvements that should be made.

Realistic and measurable targets and KPIs are suggested that if met will have a direct correlation to the cashflow, profitability and future viability of the firm.

Communication throughout a review is vital to ensure that staff feel valued and involved. The process requires their honesty and input. It is their day to day activities and decisions which can have a direct financial impact on the firm. Without their understanding and involvement, many of the recommendations will not succeed, and suggested targets will not be met.

Speaking in general terms, the above is a process which sounds very simple in practice, but all too often, every day business life gets in the way of conducting a process such as this internally.

Even the most successful of law firms benefit from a strategic review of some description, as part of a programme of continuous improvement. The markets in which firms operate are fluid and changing and there is always room for improvement and to learn and develop new ideas and processes.

If you would like to discuss how such a review would benefit your practice, please contact Andy Poole at andy.poole@armstrongwatson.co.uk

Andy is a Legal Sector Corporate Finance and Strategic Partner at Armstrong Watson, specialising exclusively in acting for lawyers. The legal sector team advises law firms throughout the UK on strategic, structural and other business improvement issues as well as providing efficient accounting, tax and SRA accounts rules services. Further information can be found at www.armstrongwatson.co.uk/legalsector

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IS R&D TAX RELIEF AVAILABLE FOR LAW FIRMS?

Research & Development (R&D) tax relief is one of the most generous corporate tax reliefs offered by the UK Government, but many businesses miss out as they wrongly believe they are not eligible to apply.

Breaking the stereotype

The stereotype has long been that R&D eligible companies are those with lab technicians in white coats, but the definition of the kind of activities that qualify for R&D tax relief extends much further than that, and in limited scenarios can include law firms, that are operated through a corporate structure.

R&D tax relief is available to all companies subject to corporation tax who invest their resources into developing new or improved products, systems, or services, and which fall under the government's 'qualifying activities.'

Small and medium size qualifying companies can receive an additional enhanced deduction of 130% against their profits, so with every £10,000 of qualifying expenditure your company would benefit from a corporation tax saving of £2,470.

What qualifies as an R&D eligible activity?

To qualify, a company must be able to demonstrate that it has: attempted to overcome technically challenging aspects to a project i.e., complex technical designs, new software solutions, new formulations, or even new processes, where a competent professional could not easily deduce the solution – it can't just be "off-the-shelf" - and where the final solution aims to appreciably improve the knowledge, science, or technology available within their respective fields i.e., how is the final product better than competing products in the market?

Since the start of the pandemic, we've generated more than £7.1m in tax savings for our clients, having dealt with £40m of R&D expenditure, and with changes to R&D schemes on the horizon, businesses should take advantage of the significant savings available.

How does that apply to law firms?

Taking the above definition, we can probably all agree that a firm that simply buys the latest version of a piece of software, makes trivial changes to some of the templates, customises one or two workflows (but within the parameters of what the software already does) and then rolls it out has not "overcome a technical challenge" and would not qualify for R&D tax relief.

Conversely, a firm that is at the cutting edge of LawTech and is actively developing new and innovative ways to deploy its service could well meet HMRC definitions . Many firms, in practice, sit somewhere between these two extremes; in which case detailed and pragmatic professional advice should be sought to determine whether or not the works undertaken satisfy the qualifying conditions set by HMRC for R&D tax relief.

Changes to R&D tax relief

HMRC recently published their draft guidance around how the mechanics of the relief is due to change. Some of the changes include extending the range of qualifying expenditure, a refocus on inward innovation and enhanced claim management using digital input.

The proposed changes will see the introduction of expenditure previously deemed ineligible, whilst also putting measures in place to allow HMRC to fight against the number of spurious or fraudulent claims being submitted.

In addition, HMRC have also announced that the rate of the enhanced deduction will reduce from 130% to 86%. This reduction, coupled with the changes to corporation tax rates, will mean that on £10,000 of qualifying expenditure, the corporation tax saving will be between £1,634 and £2,279 depending on the rate of corporation tax paid by the company.

These changes will take effect for accounting periods from 1st April 2023. Consideration of these draft rules will have to be given where a company's accounting period overlaps the date from which the new rules come into effect.

Extending qualifying expenditure

This change in legislation has been well publicised in recent months. The purpose is to incentivise modern computational approaches, and as such, qualifying expenditure now includes:

- The cost of data sets and cloud computing, whilst
- Removing the exclusion of pure mathematics
- The changes are also designed to ensure that R&D claims made by companies meet the qualifying conditions set by HMRC

Refocusing on inward innovation

The cost of subcontractors and externally provided works will be limited to focus on UK activity only, with some narrow exemptions in place.

Enhanced claim management

All claims for R&D tax relief will need to be submitted digitally (unless a company is exempt from filing online). All digital claims will need to provide detailed analysis of the qualifying costs and brief explanations of the R&D taking place.

HMRC need to be informed in advance of a company making a claim and the application must be made within 6 months of the end of the financial period in question.

If you feel that you may have projects that could potentially qualify for R&D tax relief, or you would like to speak about the potential before commencing a project, contact me at james.fraser@armstrongwatson.co.uk

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PROTECTING YOUR LAW FIRM'S OWNERSHIP

The number of owners or shareholders of any company can vary. When considering law firms, this number tends to be higher than it is for traditional businesses of an equivalent size, furthermore the ownership also tends to change more regularly in law firms . A larger number of owners means that there is an even greater chance of the ownership changing, whether planned or not, but frequently there isn't a formal succession plan in place to ensure how this would happen. If there is nothing in writing stipulating exactly what is to occur on a change of ownership, then this could be a challenge for those left running the business, particularly in the event of an unplanned exit such as death or serious illness.

For a limited company, what happens in such scenarios could be detailed in the Articles of Association and for Partnerships and LLPs, in a partners/members agreement. Many firms haven't reviewed such documents since they were first created, or have never even had one in place at all. It is vital to have an up to date governance document to ensure what you want to happen on exit/death can actually be put in place. Lawyers would advise their own clients of that, but all too regularly fail to do it for themselves.

If no formal arrangement is in place then if death of an owner was to occur, shares/interests in the law firm would ordinarily go to spouses/dependants via a will. However, the remaining owners are unlikely to be happy with that as in traditional firms they tend to prefer to continue to run the firm as a group of lawyers with management and ownership combined, and the firm may need to convert to become an Alternative Business Structure (ABS).

Assuming the intention is for the remaining business owners to take over the shares, a formal agreement needs to be put in place. Arrangements need to be documented as to how the shares are to be paid for and how the family is to be remunerated.

A simple solution is for each owner to take out an insurance policy for the (fair) value of their interest in the business, the proceeds of which could be used to acquire the deceased's interest. Each policy would require an accompanying cross option agreement ensuring that the sale of the interest is legally accommodated.

A claim on a policy would result in the sum assured being paid out to the law firm, who now have the funds available to purchase the interest from the deceased's estate, putting the money in the hands of their family and the shares/ownership in the hands of the remaining business owners.

This is a simple and effective way of covering the liability should death (or serious illness) occur. Our independent financial advisers can help you review both your business and personal needs and help you prioritise what's important to you, your business and your family.

Protection policies will usually require medical underwriting and the premiums could be affected if the individual being insured has any existing health issues. When taking out a protection policy it's important to disclose all pertinent information and providing false details or insufficient information at the outset could be detrimental to a future claim.

- Does your firm have a formal agreement in place?
- Do you know the value of your firm? There can be significant value at stake here, even if only based on the balance sheet/capital accounts rather than a multiple of earnings
- Do you have the funds in place to facilitate the purchase of such shares/interests?

Valuing law firms is covered in a separate article in this edition of The LAW and further details on how Armstrong Watson can undertake the valuation can be found at: www.armstrongwatson.co.uk/sectors/legal-sector/law-firm-valuation

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AN INTERVIEW WITH...

Andy Poole interviews renowned compliance consultant for the legal sector, Jonathon Bray

Andy Poole interviews Jon to explore his thoughts on what law firms should be looking out for right now from a compliance and risk management perspective.

1. What types of law firms do you tend to work with?

Our clients are a varied bunch. We work with everything from international firms to regional practices and a couple of sole principals. But I would have to say that the majority tend to be somewhat 'boutique' in nature. That's on the compliance side of the business. More recently we have seen larger practices coming to us for independent AML audits (required under the Money Laundering Regulations).

We also do lots of new firm starts and ABSs. That's fun for us because we get to see firms at the start of their journey – all full of ideas and enthusiasm. It's wonderful to be a part of something new and exciting, and really feel like you are adding a lot of value.

2. What are your thoughts on the current position of the SIF?

It's hard to believe that we got so close to the point where retired solicitors and their estates would have been liable for old claims. It would have been scandalous had the SRA gone ahead and simply closed the scheme without a workable replacement – not just because of the exposure to retired practitioners, but also from a public protection point of view. Hats off to The Law Society for lobbying hard on this important issue.

3. What else is hot from a compliance point of view right now?

Anything to do with economic crime is incredibly hot right now. That obviously includes AML, but also sanctions compliance which the profession has been a bit complacent about until February 2022.

The establishment of OPBAS, the oversight AML regulator, had the effect of forcing all the front-line AML supervisors to pull their socks up. I think it's fair to say that the SRA was slow off the mark with its supervisory responsibilities after the Money Laundering Regulations were overhauled in 2017.

But since they set up their dedicated AML supervision unit, the SRA has been very proactive in nudging firms towards compliance. That has involved a drip feed of messaging and guidance, and a lot of regulatory audits of firms' AML processes. It's worth looking at their recent Annual Report (https://bit.ly/3fW23WL) to see the sorts of common non-compliance they pick up on.

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It's interesting to see them moving on from concentrating on firm-wide risk assessments (which everyone should now have, seeing as firms had to make a declaration to that effect in 2020) to areas such as client due diligence, client/matter risk assessments and independent audit. They are picking elements of AML compliance and running with them as distinct projects.

Sanctions checking is an interesting one because of course it applies to firms that aren't otherwise caught by AML rules. And it can go beyond simply checking the sanctions list at the outset of the matter.

Also linked to economic crime is the new register of overseas entities, the implementation of which was expedited following Russia's invasion of Ukraine. As a vast oversimplification, foreign companies and trusts that own UK property are required to register their beneficial owners with Companies House by January 2023. It will look a lot like the PSC register. Lots of law firms are grappling with whether to act as verification agents for their foreign entity clients. It could be a lucrative practice area. From a compliance point of view there is potentially significant risk in doing this work if the firm does not properly grasp what the legislation requires of verifiers. It's more involved than simply re-running your client due diligence checks. If anyone needs help with this we can point you in the right direction.

The other thing that strikes me as being important at the moment is the SRA's focus on wellbeing and culture. The regulator's recent guidance clearly makes it an expectation that firms will take positive steps to look after their staff and, as an absolute minimum, avoid creating toxic work environments. New conduct rules to back this up are imminent. Law firm leaders will have an obligation to challenge and report others who fail to treat people fairly and with respect.

4. What should solicitors be looking out for coming down the line?

There's likely to be some new guidance coming on various parts of AML compliance and an SRA warning notice on abuse of process in SLAPPs (strategic litigation against public participation). Read them. Especially anything labelled as a warning – that's the SRA's way of drawing a red line that must not be crossed.

The SRA's general fining power has recently increased from £2,000 to £25,000. Combined with the change in burden of proof from criminal to civil at the SDT, I suspect that the number of referrals to the tribunal will significantly decline. All but the most serious conduct prosecutions will be disposed of without need for a hearing.

We also know that the government wants to give the SRA unlimited fining powers in relation to actions against solicitors caught up in economic crime. All the more reason to get ducks in a row now.

I also have a hunch that we will see money launderers turn their attention to other 'low risk' areas of law. For example, 'sham litigation' has long been a theoretically possible way to transfer money from X to Y, but it is rarely seen in practice. As the profession gets tougher on the areas caught by the Money Laundering Regulations, manufactured disputes would be a common-sense way for a criminal to target weaknesses in law firms' armour.

It will be interesting to see whether the SRA gets involved in the PII market as well. So far they have held back from doing so because, despite anecdotal evidence of premium increases, they don't have any evidence of market failure...yet. I wouldn't be surprised if this isn't an area for future regulatory action, especially if we see firms having to close due to insurance availability and cost. That would not be good for access to justice.

Jonathon Bray - Compliance Consultant for the Legal Sector

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