the law

Winter 2021/22

Working with The Law Society

Armstrong Watson's specialist publication for the legal profession

In this edition...

Plus an interview with...

Andy Poole interviews Des McKeown and Adrian McKenna of POS Group – product suppliers and solutions providers to the legal sector

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Accountants, Business & Financial Advisers

A track record of providing solutions to the legal profession

In this edition...

Exclusively working in partnership with the Law Society for the provision of the following services to law firms.

Working with
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- Strategy Planning Workshops
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- Benchmarking
- Mergers & Acquisitions of Law Firms
- Law Firm Valuations
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- Raising Finance
- Lock-up Reviews
- Pro-active Tax Planning
- Tax Compliance
- Audits
- Accounts Rules Reporting
- Accounts Preparation
- LLP conversions
- Incorporations
- ABS Applications

Welcome

Welcome to the Winter 2021/22 edition of The LAW, the specialist publication for the legal profession from the legal sector team at Armstrong Watson.

Our benchmarking shows that law firms have performed strongly during the Covid period. It is interesting to see that our latest confidence pulse survey is showing that firms are a little concerned about what the future may hold. That may be due to wider economic uncertainties, inflation, the need to invest in technology, or perhaps it is a reflection on how hard people have been working.

It could also be due to staffing concerns – right now for most firms the main issue is not winning work, but delivering on it which is driven by recruiting and retaining good people. This edition includes a timely key **insight article on the legal recruitment market,** and pointers for how we may be able to help.

This edition also covers:

- Advice on starting a new law firm
- What to do with receipts on exiting a law firm
- Pro-active advice you may be able to provide to your clients on Chargeable Event Gains, and a possible tax repayment
- Reviewing where you deposit client money in order to maximise interest receipts

Specialists are available from all of our 17 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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Recruiting and retaining talent

After an extremely challenging 2021, businesses moving into 2022 are faced with yet more professional challenges; how do they recruit into their teams, or as the media have coined it, how do they survive "The Great Resignation"?

Recruitment challenges are not new to professional services firms. For a variety of reasons, skilled staff have been at a premium for the past two decades. This time however it feels very different and the big reason behind that is around the two polarising forces in the jobs market today.

The first is around demand. Demand has increased. During a recent Hays Recruitment Survey in which they talked to 23,000 professional services firms, 80% of employers said they planned to increase headcount in 2022 which puts demand at an 8 year high. This, coupled with the fact that 86% already felt they had a skills shortage in the business, means nearly every organisation is on the lookout for top talent and there is only so much to go around!

The flip side to this is at least 52% of employees plan on changing roles in 2022 (a 10 year high) which is a benefit as there's a larger candidate pool to choose from, however this also creates a retention nightmare. How do firms react to this? Is it just as simple as giving everyone in the business substantial pay rises or offering more working from home opportunities? The answer is a complex one; attitudes and requirements have changed and in my view they have changed forever. It's no longer about how glitzy your office is or how prestigious the name above the door is; candidates want to be paid properly, they want to be able to maintain a healthy work life balance whist still being challenged professionally and they want proper benefits to reflect the new world we all live in.

The rise of the virtual firm

There is a lot of talk in the market place around firms that have gone to a fully remote model and how this has created challenges for other firms where a physical presence in an office is required, however when we do a deep dive into this way of working, there is more to these businesses than simply allowing people to work from home.

Firms that allow people to work remotely have reduced cost and may be more attractive to people in the short to medium term, however for firms adopting a hybrid model it's important to remember why offices exist in the first place. Offices provide collaborative spaces for people, they provide proper lighting, proper desks, proper IT equipment and an opportunity for people to have a clear separation of work from home life. This is not to say that remote working isn't a benefit to an employee as it most definitely is, but firms simply need to show that they will allow individuals to work flexibly to suit their needs as opposed to trying to go back to the old ways of working. Some businesses have grasped this better than others, but by providing a flexible working agreement you are allowing your employees to work in a way that will get the best out of them as well as showing them a level of trust. Flexible working is also important when you consider how your entry level employees are going to develop. As we have already touched on, there is a skills shortage in the market, and one solution firms are looking at is "growing more of your own" in the form of increased trainee numbers with the view of developing talent long term as opposed to just buying it in constantly.

This approach has a great many benefits, however it won't work properly if all of your trainees are working from home, or they are all in the office but there's no senior support to help train and develop them. All in all, this points to a marketplace where geography has never mattered less (firms can now tap into skillsets that in years gone by they were geographically locked out of, and that is a huge plus) however it's important to remember the benefits of office based working and to talk prospective hires through this during the recruitment process if this is your preferred way of moving forward.

Technology

Technology is also a hot topic when it comes to recruitment. Good recruitment IT infrastructure has the ability to reduce the cost of delivery as well as improve client and candidate experiences however this sort of set up does not come cheaply, and with that in mind more and more businesses are looking into "outsourcing" their recruitment needs in the form of an RPO (recruitment process outsourcing).

The RPO market has seen significant growth over the last five years, showing that businesses are looking for a more trusted alternative to the standard recruitment model. For most of the businesses who choose to go down the RPO route, the focus has been on screening, sourcing and scheduling e.g. optimising the use of LinkedIn and other online platforms to build candidate profiles, automatically screening CVs for key words etc.

The next stage for businesses is to look at analytics and insights on their existing workforces to enable a constant match of labour supply and demand, ultimately improving strategic workforce planning. Technology will play a huge part in this however it is key businesses partner up with the right firms in order to make best use of an RPO offering.

Conclusion

Going forward I would encourage firms to review salaries / salary bandings regularly and make your peace with the fact that things are only going one way; in 2021 the average salary increased by 2.8% nationally compared to 1.2% in 2020 and I expect this number to increase in 2022.

You can however continue to make yourself an attractive proposition to candidates without simply just paying more. Think about what benefits you offer your staff as culturally there has been a massive shift of focus onto wellbeing; everything from mental health breaks to half day Fridays is being trialled and it is important professional services firms stay relevant in this area.

The right recruitment partners are also going to become increasingly valuable to employers, with many traditional external recruitment agencies likening the current climate to the "golden years" of pre-2008.

If this proves to be the case external agencies will put pressure on fees, creating further strain for businesses. With that in mind I would encourage businesses to look outside of the traditional methods. Here at AW, we have successfully helped a number of firms improve their recruitment with our own RPO service. We have looked at everything from internal process improvement to fully outsourced functions and in all cases we're seen as an enabler to help improve candidate quality whilst also managing costs.

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Starting up a new law firm – a new guide from Law Firm Ambition

Law Firm Ambition is a website that "makes it easier to grow your law firm". It is a collaboration between seven leading suppliers to the legal services sector. Together, we are providing a library of constantly updated tips and advice, including FAQs, checklists, and articles. We also collaborate on podcasts and webinars.

We know how busy law firms are. We can see that solicitors are drowning in 'information', most of which has precious little value. So our aim is to produce content that is 100% practical and action-orientated, written with only the most respected legal sector experts.

We have recently launched a new section on starting a new law firm. It contains a handy series of practical steps to follow in order to maximise your chances of success.

Each of the guides are summarised below, and the headings contain links to the detail.

Starting up – introduction

Working in a law firm can feel like a treadmill. Many lawyers think about starting up their own legal practice, so they choose their own strategy, colleagues, billing targets and work-life balance.

In this section of Law Firm Ambition, we have put together a set of essential reading to make starting up faster, easier and less risky. Throughout, you will notice a strong emphasis on keeping costs down until your steady monthly cashflow covers your monthly costs. When you start a new firm, spending money is the easy part. Getting a sufficient number of clients - and sufficient cashflow coming in each month - often takes much longer than people expect.

Starting up a law firm – first steps

If you're thinking of starting your own law firm, deciding to go your own way is only a first step. You need to make important decisions on what sort of firm you want to create, the team you will build, how to fund yourself and how to get off the ground. The choices you make can have a lasting impact on how well the new firm will perform, and ultimately how satisfying and successful your new life will be.

Start-up business planning

The more you can plan ahead before starting up, the more likely it is that your new firm will be a success. Your plan should set out what the firm offers, how it will operate and what the financial implications are.

Start-up compliance

Compliance is a priority for any law firm and demonstrating your new firm's ability to meet compliance requirements is a key element of the Solicitors Regulation Authority (SRA) authorisation process. At its heart, you need up to date systems and processes that help the firm act properly and manage risk.

Law Firm *Ambition*

Start-up operations and systems

If you're currently working in a larger firm, you probably take much of what goes on behind the scenes for granted. Starting your own firm means taking responsibility for all this as well – from deciding on whether to take premises to making sure you have the IT you need.

Start-up finance and insurance

Starting a new firm inevitably demands investment – not just in premises, systems and other costs, but to ensure you can cover your own personal financial needs until fees start rolling in. You need to be clear on how much you need, and happy with the level of risk you are taking on. You also need to put in place financial management systems that meet compliance requirements and help you stay in control of the firm's finances.

Start-up sales and marketing

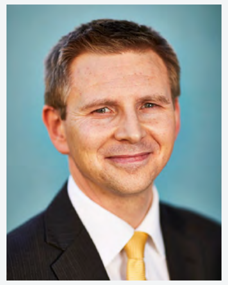
Sales and marketing activity is essential if your new firm is going to attract clients. If you are used to relying on your existing firm's reputation, connections and marketing team, you may need to develop new skills and a new approach to how you promote yourself.

Are you thinking of starting a new firm?

If you would like any support with starting a new firm, then please do contact us. We can point you in the right direction to make sure you don't get off to a bumpy start. We advise on the SRA recognition process, forecasting, systems and we also introduce you to others that you will need assistance from in areas such as PII, IT, banking, compliance etc.

New Law Firm Ambition webinar series

LFA is hosting a series of live interactive events covering the key factors that law firms will need to get right in order to continue to remain competitive, all on the theme of The Law Firm of Tomorrow. All of the events will be interactive, not slide-based, allowing attendees to dictate what is covered and obtain greater value from the time invested. The next webinar will be How to build the perfect legal business of the future with speaker Simon McCrum on Thursday 10 February. To secure your free place, please click here – Register Now



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Would you like to boost the interest earned on your client money?

It is no secret that interest rates on client and office accounts have fallen to historic lows. Many law firms are now receiving 0.01% on client monies and will feel a valued income source has all but disappeared. To make matters worse, as reported by the FT Adviser in February 2021, the Bank of England has written to UK banks giving them 6 months to prepare for negative interest rates. Further information on that can be found at: communities.lawsociety.org.uk/features/negative-interest-rates/6001612.article

At the time of writing, law firms still have a 'window of opportunity' to significantly increase the credit interest received from client monies against the standard advertised general client account interest rates.

How can this be achieved?

Outcomes Focused Regulation introduced by the Solicitors Regulation Authority in 2011, paved the way for law firms to reconsider their approach to managing client monies. With the ability to set their own interest de-minimis, outlined within their client interest policy, the majority of law firms moved away from traditional designated accounts, instead electing to retain monies within a pooled client account. This approach empowered firms to consider the level of funds required to meet their daily payment obligations and either negotiate a higher rate with their incumbent bank for a safe amount above that level, or move those excess funds to another banking provider.

This practice commonly known as 'top slicing', enables firms to benefit by generating considerably more credit interest. Client monies are typically moved to smaller 'challenger' banks or local building societies who are willing to pay more than traditional high street banks.

The high street clearing banks have open access to wholesale markets where they can purchase cash more cheaply. For smaller non clearing banks, they do not have the same access to cheap sources of funding and therefore utilise deposit retail/ commercial holders as an essential method of boosting their liquidity, and will therefore pay higher interest for such deposits. Potentially up to 25 times more interest for certain amounts of client money balances.

With the possibility of earning more interest on their client monies, firms that have a surplus level of client balances above operational requirements can still earn valued income for the firm and for their clients.

Is the money safe?

All banks operating in the UK must advise their customers whether funds are protected by the government's own Financial Services Compensation Scheme (FSCS). What this legislation means is that each depositor (or client of a law firm when considering client monies) is afforded a guaranteed recovery level of £85,000 should a banking institution fail.

Clients of law firms may also benefit from FSCS legislation called 'Temporary High Balances' which covers depositors up to £1m for the first 6 months funds are received into a client account.

Paul McCluskey, founder of Gemstone Legal, client/office account specialists, advises businesses to engage with their trusted advisors to undertake this work and notes that:

"Higher rates are out there. Firms are encouraged to consider their business requirements and then, if their accountants are sector specialists that understand the market, seek advice from them on how to review alternatives.

By undertaking a thorough and independent review, law firms can ensure that they are maximising returns for themselves and for their clients".

Contact Steve Dinsmore via Stephen.Dinsmore@armstrongwatson.co.uk to arrange your client money interest options review.

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Chargeable Event Gains – Possible Tax Repayment for your estate clients

The way in which tax is calculated on chargeable event gains is extremely complex and has been open to interpretation of the current legislation.

There was, however, a 2019 tax case (Marina Silver v HMRC (TC07013)) which the taxpayer won. This case related directly to how higher rates of tax is paid on life insurance bonds and the interaction with personal allowances.

As a result of this case, it now provides an opportunity to reassess gains and approach HMRC in order to obtain a tax repayment. Significant chargeable gains can often arise when an individual dies and the gains are crystalised, therefore, you may have a number of estates that may have overpaid income tax in the year of death of the individual.

Our Expertise

As the tax case was only heard at the First Tier Tribunal, HMRC are not bound by the decision and are not automatically issuing tax repayments to individuals that may be affected.

However, we can advise that we have successfully challenged HMRC on this point and have obtained significant tax repayments for our clients.

Time Limits

There was a change in legislation in March 2020, which by concession will also apply to the 2018/19 tax year. As a result of this change any gains arising since 2018/19 should benefit from the beneficial tax calculation.

However, HMRC are not applying the rules for earlier years therefore a claim needs to be made. In order to obtain a repayment for the 2017/18 tax year a claim needs to be made before 5 April 2022 although depending on specific circumstances it may be possible to look at previous tax years.

Therefore, if you have been involved in any estates that received significant chargeable event gains resulting in the taxpayers income exceeding £100,000 please let us know as it may be possible to obtain a tax repayment.

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Legal Sector Pulse *Survey*

Our newly launched Legal Sector Pulse survey measures the confidence levels and views of the legal profession in response to the current climate, providing a quarterly insight into how the sector is reacting to external challenges and subsequent internal pressures.

View the findings of our first quarterly survey here

Invites to our next quarterly survey will be sent out via email soon. Please spare a few minutes to participate.

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A potential tax efficient strategy for business owners...

Please note, whilst there are elements of this article that have been simplified to help illustrate the position, this example is based on an actual client scenario. However, the solutions highlighted below are complex, and they will not meet everyone's needs, objectives and risk tolerances. They can though provide valuable financial planning tools in certain circumstances including where someone is already maximising other allowances, including Pension & Individual Savings Accounts (ISAs).

Dave, Diane and Davina have been owners of DDD Law Ltd, their successful business for many years and are equal shareholders.

Dave has been navigating the complex tax rules, alongside his accountant, by drawing income of up to £100,000 per annum via dividends and salary, thus ensuring he can continue to maximise his annual pension contributions.

Fortunately he has reached the stage of life where he has paid off his mortgage and built a comfortable lifestyle with retirement now coming on to his horizon. He has also built up assets which could mean his family paying IHT on his death. Although death is most certainly not in his current thinking, retirement is!

Last year was a bumper year for the business. He has built up £700,000 in the company reserves and he planned to continue to put as much into his pension as he can each year, and then at some point walk away from the business. He understands that he is restricted to £40,000 gross per year pension contributions but he can currently use Business Asset Disposal Relief to help take the remainder of the reserves in a tax efficient manner.

However, the global health crisis has meant he is now considering accelerating his retirement plans. He feels the future of the business is now less certain and being much older than his business partners he would like to take his money out sooner to help him ultimately retire. He is an experienced investor, and feels now may be a good time to invest, however, he feels the amounts he can pay into his pensions is too restrictive in terms of getting the money out of his business as quickly as he would like to meet his future objectives.

So what can Dave do?

If he withdraws the £700,000 reserves his income tax liability could be £253,600. This will also add £446,400 into his estate, with the potential tax at 40% (£178,560) on his death.

He would like to legitimately mitigate as much tax as possible and wants to know of other options available to him. As he also understands there are restrictions on the amount you can contribute to a pension each year and there are also potential Lifetime Allowance (LTA) issues (LTA is currently £1.073m) as to this point he has been regularly funding his pension for many years already. Where a pension pot exceeds the LTA allowances there is a tax charge on the excess.

However, as he is an experienced investor we began discussions about potential investment in to Enterprise Investment Schemes (EIS) and Venture Capital Trusts (VCT). VCTs and EIS, both of which currently offer incentives including the potential for tax-free growth. They have the added attraction of providing investors with up-front income tax relief at the time the investment is made, providing they are held for a period of time. Due to his specific circumstances our discussions led him to consider an EIS.

EIS's are investment schemes designed to encourage investment in small or medium sized companies. They do this by offering tax reliefs to individual investors who buy new shares in a company. One of the reasons these investments offer such tax incentives is that the incentive is to invest in small or new companies that are not listed on the main stock index (unquoted). The risks are multiple but perhaps most significant are the risk of capital loss, as not all businesses will be successful, and the liquidity risk. These businesses will not always have the capital available at the exact time you wish to withdraw your investment, so it can much more illiquid than a mainstream stocks and shares investment. Therefore, this will not be suitable for most investors.

To benefit from EIS relief, investors must hold on to the investment for a minimum of three years, however, they should also be seen as a medium to long term investment of five years or more.

In this example Dave has decided to withdraw all £700,000 of his reserves now, and to invest £500,000 into an EIS (after taking regulated financial advice on the underlying investment structure).

- By putting £500k into an EIS he reduced his income liability by £150,000 immediately as he received income tax relief at 30% on the initial investment
- The EIS shelters the £500k from IHT providing he holds it for at least 2 years, and is still held at his date of death.
- Should he need the money for other purposes he can then sell the shares after 3 years free of Capital Gains Tax on all profits.

Therefore Dave has removed his capital from the company income tax efficiently, made good strides to protecting it from IHT, and has been able to invest during a time where he has felt comfortable to do so and in line with his personal attitude to risk and capacity for loss.

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At Armstrong Watson we are Chartered independent financial advisers and can discuss and advise on all aspects of financial planning, including retirement, inheritance tax planning and other specialist investment areas. Our advice is personalised based on an individuals circumstances. As all our expertise is "under one roof" allowing our Financial Planners also work alongside our Tax advisers to ensure the right advice and support is at hand for business owners.

An interview with...

Professional Office Supplies

Andy Poole interviews Des McKeown and Adrian McKenna of POS Group – product suppliers and solutions providers to the legal sector

Covid-19 has changed the way that law firms operate, which impacts on processes and the use of products. Andy Poole interviews Des McKeown and Adrian McKenna to explore their thoughts.

1. What types of law firms do you work with, and how do you help them?

- We work with law firms of all sizes across the UK and help them reduce cost within their business across the various verticals we operate within; Office Supplies, Print & Design, Hygiene & PPE, Workwear, Interiors & Design, Business Gifts, Utilities, Managed Print Services and Confidential Waste Management.
- We help the clients save money by promoting cost control. We do this primarily by offering them the opportunity to achieve rationalisation of their supply chain, consolidation of their processes and practices and standardisation of their products and service levels across all of their sites/users.

2. What has your experience been of the impacts of the pandemic on law firms from a change of process and use of product perspective?

- Law firms have had to adapt to working without staff in their offices and that has provided numerous challenges AND opportunities to both the firms and their suppliers.
- Some of our clients immediately contacted us about providing home working kits (various essential stationery products to allow the staff to function), and also 'working from home' furniture - ensuring that the products complied with all fire and safety regulations.
- Clearly the biggest change was the amount of clients who were forced to work remotely and they switched to providing more documentation digitally - dramatically reducing the usage of traditional products like paper/envelopes/files etc
- Other firms investigated and exercised the use of a 'hybrid mail' solution - exporting all mail to a third party mailing house to print, pack and post all client correspondence.
- The return to the office has offered the chance for law firms to change their 'space', with more and more clients opting to reconfigure their offices with more breakout areas incorporating soft seating, acoustic booths and cellular pods. Many clients envisage more collaboration areas rather than banks of workstations. Some have even used the time to reduce the amount of meeting rooms within their office and created a business lounge - offering a more relaxed and open air space for discussions/meetings.

3. What do you think this means for the future of law firms?

- Many firms will continue with the processes they used during the pandemic but there is no doubt that there are already plenty of examples where the firms that have returned to their offices are returning to the ways of pre-covid.
- That said, others have streamlined their products and processes and have embraced the change to achieve savings moving forward.
- There is no doubt that the pandemic accelerated the reduction of certain products within our marketplace and that will result in a long term loss of revenue to us on paper products and associated items.
- For law firms there are numerous opportunities to reduce costs by using space more efficiently and effectively.

4. Are there any innovative solutions that you have seen law firms apply?

- The Hybrid Mail solution has been one that has triumphed throughout the pandemic and will continue to go from strength to strength. Clients are now questioning why they have multiple mail rooms across their estate when they can actually outsource all of their requirements at a fraction of the overall cost.
- Firms have also been innovative with the use of their space - creating collaborative areas and 'touch' zones where staff and clients can meet to share information and ideas.

Adrian McKenna - Professional Office Supplies

Des McKeown - Professional Office Supplies

Outsourced Finance Director for law firms

Many law firms would benefit from the expertise of a finance director, but cannot justify a full-time employment - Armstrong Watson take on such roles on a part-time basis, providing the advantages without the cost

Other law firms are benefitting from:

- Access to expertise and KPI reporting
- Clarity on strategy
- High level input to improve performance

Click here to visit our website or get in touch with Andy Poole for more information

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