



# New Solicitor Business Models

By Tony Williams, Jomati Consultants LLP

**T**he COVID-19 pandemic, which has forced many lawyers to work from home, has caused many to reconsider whether they still wish to practice in a traditional law firm or whether a more flexible model may suit them and their clients. To many the experience of working remotely has been liberating. The technology has worked well, productivity has been maintained and the chore of commuting has been avoided. Conversely some have found their home working conditions to be challenging, have missed direct contact with colleagues and clients, have had concerns about the training and mentoring of younger colleagues and about the absence of boundaries between work and homelife.

This article, which draws on a virtual Hong Kong Law Society seminar on 17th November 2020, reviews the range of models that have developed in England and Wales to enable lawyers to work in a more flexible way.

New models are of potential interest as they permit lawyers to work as and when required by the client rather than set office hours and avoids the “presenteeism” culture that pervades many law firms. By having a leaner business model, the lawyer may be able to offer the client lower fees but still achieve a higher level of profitability. The absence of office bureaucracy and office politics can be refreshing as too is a significant reduction in client conflict issues.

But these new models are not for everybody. Some lawyers relish the camaraderie and interaction with their colleagues. Some work requires large teams of lawyers with significant interaction between them. Some lawyers want the financial security of being part of a larger firm or are concerned about their ability, alone, to build and maintain a sustainable client base. Some clients want the comfort and reassurance of instructing a well-known firm. In addition, the administration and regulatory burden of running one’s own business can be onerous.

The first issue to consider is whether a lawyer needs to be in a regulated business in order to operate. In England

and Wales there are certain “reserved activities” that solicitors are authorised to perform. These include certain conveyancing transactions, the conduct of litigation and the obtaining of grants of probate. A solicitor not practising in these areas does not necessarily need to operate in a regulated business. Indeed, the lawyer can relinquish his or her practising certificate provided that, if using the solicitor description, it is made clear that the solicitor is non-practising. However, even if it is not strictly necessary to operate in a regulated business, many lawyers may choose to do so as it may provide greater reassurance to clients and is perhaps a more “usual” form of practice.

If the solicitor is to be regulated, the traditional approach is for the solicitor to establish a new law firm either as a sole proprietorship or limited company. Both the individual lawyer and the legal entity are regulated by the SRA (Solicitors Regulation Authority). Compulsory professional indemnity insurance is required (£2m per claim for sole practitioners and £3m per claim for limited companies). The cost of this insurance can be a significant overhead for a small firm. For small firms it is not unusual for the insurance to cost 10% of their annual revenues. The solicitor is responsible for all administrative, regulatory and compliance issues.

While the sole proprietor model is widely used, a number of lawyers have looked for more flexible and less administratively burdensome models under which to practice.

As a first step many lawyers have joined organisations such as Lawyers on Demand or Axiom or similar platforms run by major law firms such as Allen & Overy’s Peerpoint and Pinsent Masons’ Vario. These provide opportunities for lawyers to work for clients of the organisation (or in the case of law firm contract lawyer platforms, the law firm itself). The organisation originates and co-ordinates the work while the lawyer bills the organisation at an agreed rate for his or her services. The organisation takes care of regulatory and other

administration issues. Accordingly, these models are a useful way for a lawyer to experiment with flexible working arrangements and to decide what does or does not work for him or her.

However, for lawyers with their own clients or confident that they can generate clients a virtual law firm may be a more appropriate type of model. These typically take three main forms. The first is a traditional virtual law firm. This has many of the features of a traditional law firm but usually little by way of physical premises, with most of the lawyers working from home or from their client’s premises. It is also likely to have a scaled back range of back office services. The firm is still a regulated business, can have whatever remuneration suits it, and will deliver compliance, conflicts and finance support usually in-house.

The second main virtual model is a chambers type model, so called because it is modelled on the way barristers chambers operate in England and Wales. The lawyers do their legal work and will typically retain 60 – 80% of the fee income that they generate. The chambers in return for a fee, takes care of administrative and regulatory issues including conflict checking, billing, IT, PII, money laundering checks etc. The chambers is owned by the solicitors operating in it so can be a traditionally regulated law firm (partnership, LLP or limited company) but if it includes non lawyers can also be an ABS (alternative business structure). In a modern chambers model, most lawyers will work from home or at their clients so office space is kept to a minimum. The range of administrative support is likely to be less than in a traditional law firm and there is normally no benefit of the associate lawyer leverage that arises in the traditional law firm pyramid model.



There may be financial incentives for members to refer work to each other and to work together on client engagements. In reality, in return for a portion of their fees, a lawyer is free to focus on clients and client work. The percentage of fees retained by the lawyer is typically significantly higher than the profit margin in a traditional law firm.

The third main variation of the virtual model is the third party model where the platform is owned and operated by a third party. The platform is an ABS. Lawyers join on a contractual basis but usually without an ownership interest. One of the most prominent examples of this model is Keystone Law ([www.keystonelaw.com](http://www.keystonelaw.com)) which is listed on the AIM part of the London Stock Exchange. Such platforms invest in a range of IT and Know-how systems to provide a streamlined and efficient service. They also provide a platform to enable lawyers to collaborate and work in teams when appropriate for the client.

The chambers and third party model provide the lawyer with a cost effective platform from which to operate while also providing a range of back office support and regulatory services.

In England and Wales in 2019 a further practice model was introduced called the freelance solicitor. This is open to a solicitor who has practiced for at least three years post admission. A freelancer can only operate as self-employed in their own name (not a company or LLP). They cannot employ other legal staff



but can provide reserved legal services. They cannot hold client money except for payments on account of fees and disbursements.

A freelancer does have to have “adequate and appropriate” professional indemnity insurance but not have to have the

specific coverage required of a sole practitioner. Clients do need to be made aware of this. This looser insurance requirement is likely to be considerably cheaper than the insurance required by a sole practitioner.

It is possible for a freelancer to contract with others to provide administrative support e.g. a chambers model or “maintained office” but with clients must contract in his or her name.

Although the freelancer is subject to the SRA’s regulatory requirements, the

reduced level of insurance required and the absence of holding client money combined with the ability to provide reserved legal services makes this, to an extent, a light touch regulatory model for a sole practitioner. As it is a relatively new concept it remains to be seen how widely it will be adopted and the extent to which sole practitioners will migrate to the freelancer model.

As this article has attempted to show, there are now a range of practice models available to lawyers who do not wish to operate in a traditional law firm. But it must also be remembered that traditional law firms are also changing and will continue to do so in order to attract, retain and motivate the best talent. As a result, there is now likely to be a practice model that suits the aspirations and expectations of most lawyers. ■

# 新的律師執業模式

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**在** 新冠病毒疫情下，許多律師被迫在家工作，因而重新思考是否仍想在傳統律師行執業，或者考慮更靈活的模式是否適合自己和客戶。對很多人來說，遙距工作有解脫的感覺。科技運作良好，生產力得以保持，又避免了通勤的麻煩。相反，有些人覺得在家工作不方便，缺乏與同事和客戶直接接觸，憂慮對年青同事的培訓和指導不足，以及工作與家庭生活之間沒有界限。

本文以 2020 年 11 月 17 日香港律師會的網上研討會為基礎，回顧了在英格蘭和威爾斯建立令律師能夠以更靈活方式工作的各種模式。

新的模式或許會引起興趣，因為律師可按客戶的需要安排工作時間，而非必須在固定時間上班，避免了律師行常見的「扮工」文化。透過精簡業務結構，律師可以降低收費，同時獲取更高盈利。辦公室官僚主義和辦公室政治消失，也令人耳目一新，大大減少了客戶衝突的問題。

然而，這些新的模式並不適合所有人。有些律師享受與同事之間的友誼和互動。有些工作需要律師團隊之間的大量互動。有些律師需要大公司才能提供的財務保障，或者擔心有沒有能力獨自建立和維持可持續的客源。對一些客戶來說，知名律師行才能帶給他們安全感和信心。此外，獨自經營業務的行政和規管負擔可能很繁重。

第一個要考慮的問題是，律師是否只能在受規管的業務中運作。在英格蘭和威爾斯，律師有權進行某些「保留活動」，包括某些產權轉讓交易、訴訟行為以及獲取遺囑認證書。不在這些領域執業的律師，則不一定需要在受規管的業務中運作。事實上，律師可放棄其執業證書，前提是若使用律師的頭銜，則必須指明是非執業律師。然而，即使並非嚴格規定律師必須在受規管的業務中運作，但許多律師仍會選擇這樣做，因為這樣可為客戶提供更大的保證，是更「慣常」的執業方式。