

# The New Normal for Law Firms

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The global pandemic has ripped around the world but in the legal sector the impact so far has been relatively benign. Most lawyers and law firms were able, very quickly, to move to a working from home model, assisted by good broadband and cloud computing. Far from law firms being adversely impacted, in financial terms, they have done very well. Record low interest rates, loose monetary policy and helicopter money from governments has caused an unprecedented period of transactional activity. Stock markets have generally recovered from the lows of early 2020 and resumed an upward trajectory. US firms for the year to 31st December 2020 and UK firms generally for the year to 30th April 2021, have been reporting record revenues and record profits. Profits have been further enhanced by the relative absence of business travel, client entertaining and events and partner conferences etc. So, profit per partner rises of in excess of 10% were commonplace.

In October 2020 in my article *Managing the Risks of Working From Home and Flexible Working Hours*, I considered the challenges that remote working produced. Now, as across the developed world the vaccine rollout is continuing and some of the more draconian restrictions are being eased, it is appropriate to consider how law firms will function in the future.

It does however appear that the Covid-19 virus and its mutations will not be eliminated so we will have to learn to live with the virus and accept that, from time to time, booster vaccinations will be required or other restrictions will be imposed until such time as the population has a sufficiently strong resistance to it



to make its impact both less severe and disruptive.

Many law firm leaders are concerned that the working from home arrangements which have lasted for about 18 months could, if continued, have a serious impact on the culture and operation of their firm. They point to the need for physical proximity to provide effective training, supervision and mentorship to younger lawyers. They mention the stress and isolation of individual lawyers. They note the range of informal conversations and interactions necessary to maintain the cultural glue of the firm and the benefit of lawyers bouncing around ideas and generally brainstorming problems. Yes, Zoom or other systems can achieve some of this but they argue that 18 months of remote working is close to the limit of what is tolerable. To this end, firms

have been consulting with their staff to devise new working policies. The general approach appears to be to use the summer months to experiment and to get people used to coming back to the office with a view to new policies being operational from September. In reality many leaders acknowledge that this will be a learning process and that a long term policy may not fully be in place until mid-2022 or even 2023.

For lawyers the position is more nuanced. It may even depend upon the individual lawyer's living conditions as those in limited or shared accommodation with children at home or in abusive relationships may be very keen to return to the office. Having tasted the relative freedom of working from home, the absence of a long and stressful commute to and from work and having taken a

high level of personal responsibility for how and when they do their work, there is, perhaps understandably, a desire not to give up all of these freedoms. Indeed, when US firm Paul Hastings sent out a memo to its staff suggesting that there should be a presumption of office working the reaction was swift and vociferous. The memo was withdrawn within 48 hours. Apparently, head-hunters had received many calls from Paul Hastings' attorneys enquiring about alternative posts. Given that the US is a red hot employment market at the moment the firm could not afford any attorney departures as a result of appearing inflexible.

However, many younger lawyers acknowledge that they have missed out on some of the important early years' experience as a result of working from home. They do not necessarily want to be in the office full time but do see the need for real face to face contact to develop their legal and social skills.

It should also not be forgotten that clients have a voice in this debate. While working from home was necessary, they were generally pleased that their legal work could get done at all. Now as markets open up, their views may change. In July 2021, the Chief Legal Officer of Morgan Stanley (a global investment bank), Eric Grossman, wrote to its external law firms making it clear that they expected more in-office working. His view was that lawyers did their best work when they collaborated together in an office. This is consistent with the views expressed by leaders at Goldman Sachs, JP Morgan and Morgan Stanley that their own staff should return to the office as soon as possible.

So, what will the new model look like?

### **Short term – September 2021 – March 2022.**

Although much will depend upon the progress of the pandemic and the effectiveness of vaccine programmes, it is likely that a three to four day week in the office will become well established. Some concerned about travel to or from the office or with certain medical

conditions may try to do less. The extent to which this arrangement becomes normal will depend upon how the days away from the office are spent, and if the productivity gains of working from home are maintained, as more social contact and other distractions become available. In most countries, employees have no legal right to work from home but, as in the Paul Hastings example, law firms will wish to avoid appearing inflexible. Some firms will follow the line of the investment banks and require their lawyers to return to the office full time. Indeed a few Hong Kong firms have adopted this approach. However, this does risk losing some of the potential gains of a more flexible working model and, if it is imposed on the lawyers, risks some departures to more flexible firms.

### **Medium Term – April 2022 – December 2022**

Hopefully by now in the developed world we will be learning to live with Covid-19 and will have emerged from any reimposition of restrictions that may be necessary in the winter of 2021/2022. It is likely that some of the gains made including the greater use of technology and exploring more efficient ways of working will become embedded. But it will be necessary to be vigilant to maintain a culture that permits and values more flexible working arrangements. A range of flexibilities could develop, including different career options for those wanting more predictable working hours (Slaughter and May have recently introduced this concept) or working a shorter working week in return for longer individual working days. Hopefully in this period of experimentation, we will start to measure lawyers' outputs in terms of work produced and the quality of that work rather than input in terms of time in the office or hours spent on the matter.

In this medium term period, we will also start to see the extent to which business travel will return. The cost of air travel (in terms of time, fares and carbon emissions) is likely to face greater scrutiny. Travel will also be impacted by vaccination progress, the emergence of Covid mutations and quarantine restrictions. While business

travel will continue it is likely to be at a lower level than pre the pandemic. This will correspondingly increase lawyer time in the office (or working from home).

### **Longer Term from 2023**

The period of experimentation will largely be over and law firms and lawyers and all other staff in firms will have found methods of working that satisfy the individual, the client and the firm. This will almost certainly include less presenteeism, greater trust in the relationship between employer and employee, greater clarity of the "deal" between the employer and employee, and a greater focus on achieving a cost effective service to the client while providing a supporting and learning environment for the lawyers.

Whatever the arrangements, agreed actions will speak louder than words. Who gets the best work, who gets the pay rise and bonus, and who gets promoted will determine whether flexible working arrangements have really altered a firm's culture or are merely window dressing.

In addition to the working arrangements, firms will also need to consider whether they adopt a shared office, open plan office or hot desking model to maximise the use of their expensive real estate. They will also need to continue to invest in cyber security and in technological tools as the way in which law is practised continues to develop. Partners will need to develop their project management and people management skills to adapt to more flexible working arrangements.

The pandemic has forced law firms to adapt quickly and to roll out new working methods over a period of days. Financially these changes have worked better than even the strongest advocates expected. The challenge now is to learn from this period and to combine the best bits of flexible working with the best bits of an office environment. This is not a binary choice. Those prepared to experiment and be flexible will not only survive but thrive in this brave new post pandemic world. ■