

The curse of culture

by Dr Geraldine Neal



Can we overcome the barriers to a healthy workplace?

Long hours and a poor work-life balance are still part of the culture in some Queensland law firms, along with barriers to promotion for female practitioners. Local research reveals some of the reasons why.

Many of today's law firms operate within progressive and inclusive workplace cultures, but some continue to foster long hours and unhealthy lifestyles.

These firms continue to exclude those who are 'different' from a traditional norm, to repress creative and challenging ideas, and to curb the advancement of women within the profession.

If we accept that flexibility, workplace equity and a range of success pathways are the foundations of a modern and forward-looking profession, it is vital to understand the role that culture plays in fostering, or hindering, these goals. This article draws on findings

from research involving Queensland solicitors in private practice.

Blinded by the accepted view

The culture of long hours creates an effective barrier to flexibility. In my research, some solicitors argued that this is 'client driven' and therefore could not be challenged by individual practitioners or firms. This is reinforced by the view that a commitment to 'client service' is the hallmark of the true professional. This is a powerful and self-perpetuating view, insidious in its ability to curtail other ideas or approaches.

In a study of two United Kingdom accounting firms, the researchers suggested "the dominance of the client concept both mediated explanations of events and legitimated demanding practices ...

[and] rendered alternative accounts of life and work within the firms problematic ..."

Most importantly, they pointed out that such views are significant not only in terms of what they require from the firm's players, but also for what they may devalue or even ignore. They could make internal management control invisible, downgrade notions of independence and public service, and marginalise family, with particular implications for women. They also led to the exclusion of friends, communities and non-work activities.

This view depicts the professional service firm in a way that "closes off other ways of world making and diminishes the possibilities for articulating challenges". Many Queensland solicitors say that the client is the key driver for working long hours – and therefore accept that "this is what being a professional is about".



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This outcome represents the successful 'socialisation' of legal practitioners.

So new practitioners make sense of the pressures and stresses of their working world, as did their predecessors, as "they begin to develop theories of work and home that are appropriate [within the existing organisational culture]"². Practitioners who are forced to prioritise work above all else will see home "becomes something that supports career". The weight of an approach that accepts and permits the dominance of the client (and the enclosed world of the firm that operates so successfully to reinforce this rationale) is a powerful and "significant factor in shaping notions of professionalism ... [and] also fundamental notions of identity and priority in life as a whole."³

From a management perspective, the universal acceptance of the 'demands of the client' explanation effectively makes the role of lawyer-managers in setting and demanding more hours from employees invisible – regardless of whether those hours are productive for client or practitioner. Meaningful discussion is stifled at the beginning because of a view that the hours

are client driven and beyond the reach of internal workplace practices.

Some solicitors continue to report individual client understanding and support (with perhaps the sole exception of some corporate clientele), but speak of an overriding 'client demand' merry-go-round. The conflicts this creates in their understanding and experience of client expectations leaves them unclear and ill-equipped to consider and debate ways that their legal lives can be productive but include a more realistic work-life balance.

Making people 'fit'

Many legal firms still seek those who will 'fit' their prevailing firm culture. When that culture is one of long, client-driven, unquestioned working hours, men are likely to have the advantage over female colleagues due to perceptions of fewer family responsibilities.

Traditional legal firms see a need to attract like-minded individuals with similar beliefs and approaches to those of the existing partner-practitioners. However, this can curtail opportunities for creative thinking, curb meaningful and innovative challenge to prevailing workplace operations, discourage

new and competitive practice directions, and actively discourage a wider range of job applicants. It can lead to a culture that is mired in past workplace practices, and unresponsive to an ever-changing environment.

In my research, both men and women complained of a traditional, masculine approach to legal practice in many private Queensland law firms. Men who were actively seeking a more healthy and balanced lifestyle and, in particular, those who wanted to become more involved with their young families, felt seriously disadvantaged by the culture of long hours and traditional ways of working. It was evident in the research⁴ interviews that the role of family is likely to be paramount to every solicitors' overall sense of satisfaction, wellbeing and achievement.

This resonates with research on lawyers in other Australian jurisdictions. In 1996, a Victorian report found women and men identified the same key factors in overall 'life satisfaction' – some autonomy in one's own life, an acceptable level of job satisfaction, connections beyond immediate family, and family relationships.

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In Western Australia, a 1999 report found that issues of 'personal and professional balance' were integral to practitioners' reported quality of life. In New South Wales in 2003, women and men within the legal profession registered similar dissatisfaction levels with 'lifestyle balance'; and a similar number reported dissatisfaction with the availability of flexible hours. This followed on from the 1999 establishment in NSW of the Gender and Industrial Issues Task Force to address a range of issues, including 'work/family balance' based on the Law Society of NSW's belief that "[i]t was incumbent on the Society, as the profession's regulatory and representative body, to promote equality of opportunity and a work-family balance so as to ensure, as far as possible, the well-being of members throughout their working lives".⁴

More recently, the Human Rights and Equal Opportunity Commission described balancing paid work and family responsibilities as one of the biggest challenges for 21st Century Australia. The commission was clear that family responsibilities extended beyond parenting, to caring for elderly or disabled family members.⁵ The Law Council of Australia stated bluntly that a vital challenge for the legal profession was lawyers 'having a life'.⁶

The Queensland legal profession does not differ from the broader Australian workforce where bargaining for conditions is decentralised, individual workers may not be able to match an employer manager (or employee competitor) in bargaining skills, and an employer manager may not have knowledge of a range of workplace practices or the training and skills to implement them. This in turn ensures that workplace policies to promote work and family balance "are very unevenly distributed within and across workplaces, and that development and implementation is heavily dependent upon managerial prerogative".⁷

Women at a disadvantage

Legal profession research consistently shows that women continue to be disadvantaged in the promotion stakes, and that disadvantage is greatest where legal profession culture is outdated and legal workplace practices are not responsive to change.

At the outset, this article suggested flexibility, workplace equity and a range of success pathways as key indicators to the health and future of private legal practice into the 21st Century.

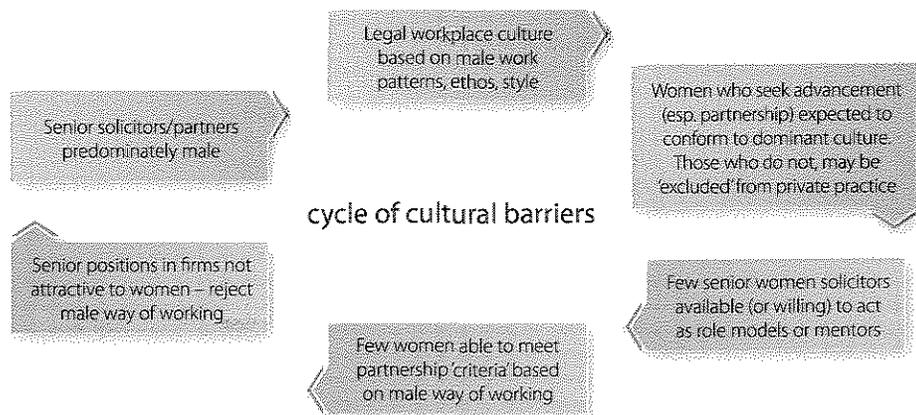
These three issues are closely interrelated. It is not possible for solicitors to engage in debate about workplace flexibility, or in dialogue about achievement and success, when

discrimination afflicts legal lives and work environments. Ad hoc policies to counter discrimination, or to promote the flexibility needed, as well as the offer of 'alternative' career paths, will be ineffective and meaningless if not built on strong foundations of promoting an equitable culture at every stage of the professional journey.

A legal practice culture of long and unrelenting hours may not exist in all Queensland law firms, but is instantly recognisable by solicitors. Such a culture seems wholly incompatible with any moves towards flexible work practices to enable practitioners – particularly those with caring responsibilities – to access and enjoy other dimensions of their lives. Moreover, the pervasiveness of the dominant client ethos is such that concerns about "gender discrimination becomes peripheral ... because those uttering them are liable to be construed as unprofessional for not completely serving the client".⁸

Studies throughout the English-speaking world highlight that many cultural barriers can effectively block women's progression through private legal practice. These include the reluctance of existing senior practitioners/partners to surrender the benefits of membership of the 'dominant' culture, the low numbers of senior women to open up a dialogue for change or to mentor younger women, the lack of management knowledge and skills among existing senior practitioners/partners, low or no priority for learning management skills, the inability to 'unlearn' old ways of 'being lawyers', and a lack of top-down impetus through the peak professional bodies.

The diagram⁹ below illustrates the cycle of cultural barriers that can interrupt or block women's progression within a closed, traditional male workplace culture.



Within a closed culture, difference is often regarded at best as "an irritation or discomfort to be disregarded".¹⁰

Acquisition of new management skills will not of itself change culture. There must be a commitment at all levels of the profession (individual practitioners, law firm management, peak bodies) to shift to an inclusive and equitable culture. Management techniques may effect changes in formal practices and procedures, but will not necessarily shift a mindset of cultural values. It may be that only a particular approach (for example, an affirmative action approach to equity management) will guarantee outcomes for women.¹¹

Change is often difficult and confronting, but cultural change can be the most intractable challenge of all. The first step is open dialogue and debate to enhance our understanding of how culture works in individual workplaces.

Notes

- Anderson-Gough, Fiona, Grey, Christopher and Robson, Keith, 'In the name of the client: The service ethic in two professional service firms' (2000) 53 (9) *Human Relations* 1151, 1153. There are many similarities between the accountability and legal professions, not least the fact that "as many women as men enter the accounting profession but the ledger is skewed at the partner level". See, for example: Day, Annabel, *Balancing books and families*; *Australian Financial Review* (Melbourne), 9 July 2004, 62.
- Ibid.* 1165, 1164.
- Ibid.* 1164.
- Victoria Law Foundation (Herron, Mark), *Facing the Future: Gender, Employment and Best Practice Issues for Law Firms, Final Report* (vol 1 - The Job Satisfaction Study) (1996) 14; Law Society of Western Australia and Women Lawyers of Western Australia, *Report on the Retention of Legal Practitioners, Final Report* (1999) 7; Law Society of New South Wales, *Annual Report 1999* (1999) 23; Mercer Human Resource Consulting (Law Society of New South Wales), 2003 *Remuneration and Work Conditions Report, Vol. 1: Overall Report* (2003) 60, 59.
- Human Rights and Equal Opportunity Commission (Squire, Sarah and Tilly, Jo), *It's About Time - Women, men, work and family, Final Paper* (2007) ix.
- Law Council of Australia, *2010: A Discussion Paper - Challenges for the Legal Profession* (2001) 145.
- Burgess, John, Henderson, Lindy and Strachan, Glenda, "1 Just Juggle": Work and Family Balance in Australian Organisations (2007) 33 (1) *Ecate*, 94, 109.
- Anderson-Gough, *op. cit.* 1167.
- Adapted from Newman, Janet, 'Gender and cultural change' in Itzin, Catherine and Newman, Janet (eds), *Gender, Culture and Organizational Change - Putting theory into practice* (1995) 11, 24.
- Andriewartha, Graham, 'The future role of human resource management' in O'Neill, Graham and Kramat, Robin (eds), *Australian Human Resources Management - Current trends in management practice, vol.2* (1998) 9.
- French, Erica, 'Approaches to Equity Management and Their Relationship to Women in Management' (2001) 12 *British Journal of Management* 267, 300.

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