

## How to pivot your law practice ethically

Some practitioners are seeing the COVID impact and/or market downturn as a catalyst to pivot their law practice into other practice areas. How do you go about pivoting a practice ensuring that you are able to meet your ethical obligations of delivering legal services competently, diligently and as promptly as reasonably possible?<sup>1</sup>

There are a number of issues you may wish to consider **before** you contemplate pivoting your law practice.

- Government economic support packages should be considered (if applicable).
- Your 'why' – when you established your practice, you should have had a clear vision of your 'why' – your purpose for establishing your practice - before you make any changes to your practice, revisit your 'why'.
- Do you need to add/change practice areas or do you *really* need to develop a new business model? Do you need to examine your practice's efficiency? Do you need/want to transition from a legal to a non-legal role that utilises your capabilities?
- Your accountant and/or financial advisor. Ask your accountant to review the health of both your personal and business finances as they were immediately **prior to** the pandemic/downturn. Seek advice on what support packages you may be eligible for, and whether you should approach your bank to discuss payment options for any loans, overdraft accounts or credit card facilities.
- LawCare also offers confidential financial counselling through MoneyAssist.
- Rather than pivot, are you in a position to refer the increase in work that is not your area of practice to a colleague in the knowledge that they may be able to reciprocate after the pandemic/downturn has passed.

Ask yourself, **but for** the pandemic would you be considering switching practice areas? Was a practice pivot something that you had been contemplating but putting off due to the time and costs involved in reskilling?

Ensure fear is not driving your decision. Fear can narrow our focus and make us reactive. A fear based mindset is not very well-balanced, and decisions made through fear might lack the foresight and careful consideration that might otherwise have been given to it in normal circumstances.

Is there something else you would rather do for 3 – 6 months (ie volunteer work, looking after family, home schooling, studying a post-graduate degree or subject, specialist accreditation, adding additional complementary skills [eg increase your digital literacy, adopt electronic platforms], re-branding, spending time on developing systems, or document automation for your existing area of practice) so that when the economy emerges from 'hibernation', you are ready to *emerge with it*.

If you have made the decision, having weighed the pros and cons, taken appropriate advice, and spoken to practitioners currently practising in the area you wish to move into to get as much information and realistic insight as possible (remember to contact one of our QLS Senior Counsellors practising in your chosen area for a confidential discussion), then QLS Ethics and Practice Support Centre suggests a planned strategic process to transition your practice.

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<sup>1</sup> Australian Solicitors Conduct Rules 2012 (Qld) r 4.1.3

## Practice Review Checklist

Consider the following:

- Identify your practice areas and any multi-disciplinary work performed in your current practice. If you practise in more than one practice area, identify the areas that are being hardest hit by the downturn in the economy and those that seem to be more resilient. Consider whether you can build upon existing areas of your practice rather than branching out into completely new areas.
- What practice areas might have an increased need after COVID-19?
- Is it your intention to continue practising in this new practice area beyond the pandemic?
- Will you resume your old practice area(s) after the pandemic? Will you be able to practise in both areas simultaneously? Will you require additional resources or staff to be able to manage additional practice areas effectively?
- You need to consider whether you will enjoy that new practice area and consider how quickly you can reskill to ensure that you have a level of competency that is required. It is common to underestimate how much time and effort it takes to get to a level of expertise in a new area that will allow you to serve your clients well and without risk to yourself (eg reputation, complaints, negligence, insurmountable challenges, not understanding the workload and its implications, underestimating the workload and underquoting the work).
- Does it require similar skills to those you have developed in your existing practice area?
- Is the work transactional or litigious? Is the practice area codified or case based?
- What threats are there to that practice area? Will demand for that practice area exist post COVID-19?
- Prepare a business plan; what will it cost you to reskill and re-program your practice, equipment and staff to manage the new legal practice area? Is it financially viable or is it better to 'tread water', keep costs lean and 'ride out' this period?
- You can market during COVID-19 but you should not exploit the pandemic.
  - Your marketing campaign should not be tone deaf, overwhelm or 'sell' but should build trust, contribute, showcase leadership, encouragement and community presence.
  - Consider your law practice's demographics, your existing client database is probably your best initial target audience.
  - If your existing/prior clients are not in the market for your new service, they may become referrers having built trust and a relationship with you previously.

## Personal Review Checklist

Take some time to do a personal SWOT (strengths, weaknesses, opportunities and threats) analysis:

- Identify your unique attributes.
- Identify the essential skills (sometimes called 'soft skills') that you regularly exercise that can be applied to other practice areas, some examples:
  - Interpersonal and client management skills
  - Legal practice management skills
  - Flexibility
  - Ability to respond to highly emotional clients
  - Negotiation and mediation skills
  - Advocacy and court experience
  - Skills in statutory interpretation
  - Writing skills/communication.
- How niche is your area of practice? It is quite common for practitioners to focus on their area of specialty: commercial litigation becomes insolvency litigation; intellectual property law to patents etc.
- Is your practice too niche? Do you need to broaden its scope while staying within your area of specialty?
- Is your practice too broad? Do you need to narrow your specialism? Working within the ambit of your general area of specialty might require the least amount of commitment of resources to closing knowledge and experience gaps.
- Thinking about your potential alternative practice(s) area(s):
  - What do you find appealing about the practice area(s)?
  - What prevented you practising in this area(s) earlier?
  - Conduct an analysis of your skills that would be required to transfer to the new area(s) of practice. Do a realistic assessment of how much of your current skillset is transferrable, and what type of knowledge and skills you would need to acquire first (however, be aware that there is a real risk that 'you don't know what you don't know').
  - Can you do the procedural work? For example, do you have the systems, precedents and access to information to enable you to competently complete a matter?
  - Do you have the knowledge, experience and time to learn this new practice area? Even if you start with substantial knowledge and experience from other, not dissimilar, areas of law, you may find that it takes you longer to complete matters.
- Are you aware of your limitations?
  - Particularly when initially transitioning to an area of practice, it is important to be aware of your limitations.
  - Know when you need to walk away on a matter, you may be able to assist on divorce and parenting arrangements but can't advise on the property settlement.
  - Technology and resources: access to electronic disclosure and e-court filings.
  - Can your staff, solicitors, admin and clerks work in these areas, what expertise do they already have, do they require re-training?

- Options for remote/flexible work practices.
- Are you able to get practical support from someone who has transitioned their practice before? Or from someone presently practising in that area?
- What professional development opportunities are available, can you afford them?
  - QLS is offering 10 free CPD points to members during COVID-19.
  - Do any of those opportunities also offer ancillary benefits eg access to industry contacts, networking, access to mentors etc.
  - Can you get pro bono work for experience?
  - Can you find a mentor in that field?
  - Attend (remotely) client seminars, webinars and trade events.
- Who and where are your competitors in this new area of practice?
- Legal considerations for new practice areas:
  - Insurance coverage. Moving from one practice area (eg criminal law) to another practice area may affect your professional indemnity insurance premium.
  - Regulation of the practice area.
    - i. Are there any additional advertising restrictions eg for personal injury practices.
    - ii. What is the costs regime and disclosure requirements? Eg family law, personal injury and succession etc.
    - iii. Is registration with another organisation required or recommended? Eg Migration law registration with Office of Migration Agents Registration Authority (OMARA) – (change pending).