

LEADERSHIP IN THE MODERN LAW FIRM: DEVELOPING LAWYER LEADERS

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Australian law firms are at an inflection point. Externally, disruptive forces ranging from innovative technology, sustainability and new competitors are rapidly changing the practice of law. Internally, firms face concerns around retention, wellbeing and intergenerational demographics. Addressing these challenges requires effective leadership. However, the scarcity of literature and resources tailored to leadership in law firms, especially in the Australian context, poses problems for lawyers who seek direction on how best to navigate these profoundly transformative times. This article seeks to address the deficiency in lawyer-leader education. It proceeds on the basis that leadership is a skill that can be learnt, but requires understanding of context, here the modern law firm. The article then puts forward recommendations for how law firm leadership may be improved and developed.

I INTRODUCTION

In the twenty-first century, the lawyer will need to think not just 'like a lawyer,' but 'like a leader'.¹

The Australian legal profession is facing a confluence of transformative forces. Technological disruption, fuelled by the rapid advancement of artificial intelligence ('AI'),² automation, and Big Data giving rise to legal technology ('LegalTech'),³ is promising to revolutionise the way law is practiced. The COVID-19 pandemic introduced new ways of working, including remote working, which has seen a desire amongst lawyers for greater flexibility.⁴ Simultaneously, new

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¹ Anthony C Thompson, *Dangerous Leaders: How and Why Lawyers Must Be Taught to Lead* (Stanford University Press, 2018) 149.

² See Michael Legg and Felicity Bell, *Artificial Intelligence and the Legal Profession* (Hart Publishing, 2020); John McGinnis and Russell Pearce, 'The Great Disruption: How Machine Intelligence Will Transform the Role of Lawyers in the Delivery of Legal Services' (2014) 82(6) *Fordham Law Review* 3041; Robert Couture, 'The Impact of Artificial Intelligence on Law Firms' Business Models', *Center on the Legal Profession — Harvard Law School* (Web Page, 25 February 2025) <<https://clp.law.harvard.edu/knowledge-hub/insights/the-impact-of-artificial-intelligence-on-law-law-firms-business-models/>>.

³ See Ryan Whalen, 'Defining Legal Technology and Its Implications' (2022) 30(1) *International Journal of Law and Information Technology* 47.

⁴ Michael Legg, 'Lawyers Working From Home: A Technological and Social Experiment' [2021] 2 *Juriste* 46.

forms of legal practice and service offerings are developing, such as agile, tech-enabled disruptors (termed ‘NewLaw’)⁵ and growing inhouse counsel teams which are retaining more legal work rather than utilising outside law firms.⁶ There is also the ebb and flow of professional accounting firms that offer legal services.⁷ Meanwhile, retention presents challenges,⁸ from increasingly profit-oriented partners⁹ to progressively disillusioned juniors,¹⁰ driven by concerns

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- ⁵ Also known as the Alternative Legal Service Provider (‘ALSP’) sector, NewLaw companies are not traditional firms but perform many of their functions using tech-enabled business models: see Eric A Seeger and Thomas S Clay, ‘Law Firms in Transition’ (Survey, Altman Weil, 2020); Neil M Oakes, ‘Performance-Based Profit Sharing Versus Lock Step to Equality: Profit-Sharing Systems in Australian Law Firms. A Study of Comparative Outcomes’ (DBA Thesis, Macquarie University, 2012) 12; George Beaton, *NewLaw New Rules – A Conversation about the Future of the Legal Services Industry* (Beaton Capital, 2013); Felicity Bell and Justine Rogers, ‘“Fit and Proper” Coders? How Might Legal Service Delivery by Non-Lawyers Be Regulated?’ (2021) 24(2) *Legal Ethics* 111; Margaret Thornton, ‘Legal Professionalism in a Context of Uberisation’ (2021) 28(3) *International Journal of the Legal Profession* 243; Vicki Waye, Martie-Louise Verreynne and Jane Knowler, ‘Innovation in the Australian Legal Profession’ (2018) 25(2) *International Journal of the Legal Profession* 213, 223.
- ⁶ Urbis, ‘2022 National Profile of Solicitors’ (Final Report, 26 April 2023) 1 (the number of in-house lawyers more than doubled (104%) between 2011 and 2022); Michael Legg and Felicity Bell, ‘Insourcing – Implications for In-House Counsel and Private Practice Lawyers’ [2018] 45 *LSJ: Law Society Journal* 70.
- ⁷ Throughout the 1990s, the Big Five accounting firms (Arthur Andersen, Deloitte, KPMG, Ernst & Young, and PricewaterhouseCoopers) provided legal services globally, before the fall of Arthur Andersen during the 2001 financial crisis ushered in regulation preventing the Big Four from offering non-audit services. These regulations gradually receded worldwide: see Casey E Faucon, ‘Black Market Law Firms’ (2020) 41(6) *Cardozo Law Review* 2283; David B Wilkins and Maria J Esteban Ferrer, ‘The Integration of Law into Global Business Solutions: The Rise, Transformation, and Potential Future of the Big Four Accountancy Networks in the Global Legal Services Market’ (2018) 43(3) *Law & Social Inquiry* 981. However, in Australia the Big Four have expanded and contracted their legal services offerings: see Maxim Shanahan, ‘What Went Wrong With KPMG’s Legal Experiment’ *Australian Financial Review* (online, 18 July 2024) <<https://www.afr.com/companies/professional-services/what-went-wrong-with-kpmg-s-legal-experiment-20240717-p5jufk>>; Lauren Croft, ‘“Law Within the Big 4 Is Dying Slowly” Despite Disruption To Australian Market’ *Lawyers Weekly* (online, 7 August 2024) <<https://www.lawyersweekly.com.au/biglaw/40305-law-within-the-big-4-is-dying-slowly-despite-disruption-to-australian-market>> (reporting on KPMG ending its legal offerings in Australia).
- ⁸ Thomson Reuters, *Tech & the Law 2022* (Report, 8 February 2022) 6 (‘*Tech & the Law 2022*’). The survey received responses from 826 legal professionals, including 670 private practice lawyers and 156 in-house lawyers. Lawyer retention and hiring top talent in a competitive market is a major challenge for one in two legal professionals (50%); Michael Legg, Felicity Bell and Vicki McNamara, ‘What Makes Lawyers Stay (and Leave) Law Firms?’ [2024] *Australasian Law Management Journal*.
- ⁹ Maxim Shanahan, ‘Top Legal Partners Want to “Eat What They Kill”, Not Share Profits’, *Australian Financial Review* (online, 26 October 2023) <<https://www.afr.com/companies/professional-services/top-legal-partners-want-to-eat-what-they-kill-not-share-profits-20231024-p5eeph>>.
- ¹⁰ Kate Beioley, ‘Junior Lawyer Burnout: High Pay Can’t Stop Exit from Elite Firms’, *Australian Financial Review* (online, 4 January 2022) <<https://www.afr.com/companies/professional-services/junior-lawyer-burnout-m-and-a-boom-accelerates-exit-from-elite-firms-20220104-p59loc>>; Varsha Patel, ‘We’re “Too Busy”: Are Law Firm Mental Health Efforts Failing Junior Lawyers?’ *Law.com International* (online, 14 May 2021) <<https://www.law.com/international-edition/2021/05/14/were-too-busy-are-law-firm-mental-health-efforts-failing-junior-lawyers/>>.

such as long working hours,¹¹ wellbeing,¹² diversity,¹³ workplace bullying,¹⁴ and intergenerational clashes.¹⁵ Firms are continuing to struggle with hiring and retaining mid-level lawyers¹⁶ as more veer away from the traditional path to partnership.¹⁷ Moreover, lawyers will leave firms that fail to adapt, whether it be to innovative technology,¹⁸ flexible work,¹⁹ better working conditions,²⁰ or failing to reflect the lawyer's values.²¹ Shifting practice demographics are becoming particularly impactful. Since 2018, women now comprise over half of all solicitors in Australia, yet remain notably under-represented in senior positions.²² For the first time, firms must balance the needs of four generations of employees in the workforce.²³ As younger lawyers form a greater proportion of the profession,²⁴

¹¹ 'The Dark Side of the Australian Workplace', *The Ethics Centre* (Web Page, 5 June 2019) <<https://ethics.org.au/the-dark-side-of-the-australian-workplace/>>.

¹² Junior Lawyers Division, 'Resilience and Wellbeing Survey 2019' (Survey Report, The Law Society, April 2019); Vivian Holmes et al, 'Lawyer Wellbeing, Workplace Experiences and Ethics' (Research Report, The University of Melbourne and the Australian National University, 2025).

¹³ Lisa Webley et al, 'Access to a Career in the Legal Profession in England and Wales: Race, Class, and the Role of Educational Background' in David B Wilkins et al (eds), *Diversity in Practice: Race, Gender, and Class in Legal and Professional Careers* (Cambridge University Press, 2016) 198.

¹⁴ Joanne Bagust, 'The Culture of Bullying in Australian Corporate Law Firms' (2014) 17(2) *Legal Ethics* 177.

¹⁵ Jan L Jacobowitz, Katie M Lachter and Gabriella Morello, 'Cultural Evolution or Revolution: The Millennial's Growing Impact on Professionalism and the Practice of Law' (2016) 23(4) *Professional Lawyer* 20.

¹⁶ Mid-level refers to lawyers in the 3–8 years of PQE (post qualification experience) range.

¹⁷ Peerpoint, surveyed 1,000 lawyers and law students across all levels of seniority across private practice, in-house and legal consultants, principally in the United Kingdom ('UK') and Asia Pacific, and found only 21% of young lawyers were attracted to the idea of making partner at a law firm: see Peerpoint, *The Future for Legal Talent* (Survey Report, May 2018) 7 ('*The Future for Legal Talent* '); For data in Australia, see also the Mahlab report, which found that for an increasing number of mid-level lawyers, partnership is no longer a key career inspiration: Mahlab, *Mahlab Report 2022: Private Practice and Corporate* (Annual Report, 2022) 3.

¹⁸ A study by Thomson Reuters found that one in three legal professionals believe their firm is not innovative and are ready to leave for a more innovative one: Thomson Reuters, *Tech & the Law 2022* (n 8) 6; Thomson Reuters, *Tech & the Law 2023* (Report, 2023) 7.

¹⁹ Young Lawyers Committee: The Law Society of Western Australia, 'Early Career Lawyers Overwhelmingly Want Our New "Business as Usual" to Include Flexible Work Options' (2020) 47(7) *Brief* 35.

²⁰ Ellie Dudley, 'Young Lawyers Fed up, Burnt Out', *The Australian* (Sydney, 16 January 2023) 3.

²¹ Hannah Wootton, 'Why Would I Stay at Minters When That's How It Treats Women?', *Australian Financial Review* (online, 3 December 2021) <<https://www.afr.com/companies/professional-services/why-would-i-stay-at-minters-when-that-s-how-it-treats-women-20210312-p57a64>>; Angela Tufvesson, 'How Gen Z Will Change the Legal Profession', *Law Society Journal* (online, 26 March 2025) <<https://lsj.com.au/articles/how-gen-z-will-change-the-legal-profession/>>.

²² See, eg, Meraiah Foley et al, *Designing Gender Equality into the Future of Law* (Final Report, 10 May 2023) 18; Bruce Cooper, 'Law Firm Leaders Failing? I Don't Think so', *Australian Financial Review* (online, 6 March 2021) <<https://www.afr.com/companies/professional-services/law-firm-leaders-failing-i-don-t-think-so-20210602-p57xcj>>; Lauren Croft, 'How Much Progress Have We Made in Promoting Female Leadership in Law?', *Lawyers Weekly* (Blog Post, 15 November 2023) <<http://www.lawyersweekly.com.au/biglaw/38499-how-much-progress-have-we-made-in-promoting-female-leadership-in-law>>.

²³ Macquarie, *Law 2024: The Future of Legal Businesses* (Report, 2025) 2 ('*Law 2024*').

²⁴ *Urbis* (n 6) 1 (one-third of the profession are under 35 years of age).

many are expressing a preference for socially responsible organisations,²⁵ elevating ESG (environmental, social and governance) into not just a new externally-focussed practice group, but a value law firms should adopt.²⁶ Overlaying all these issues are the broader macroeconomic pressures exerted on firms, including global and regional instability, the need for sustainable development, rising inflation, and political tensions.²⁷ Not only has the sheer quantity of forces increased, but their intensity and impact have risen.²⁸ Central to dealing with these challenges (and opportunities) is leadership.

II THE NEED FOR LEADERSHIP WITHIN LAW FIRMS

Leadership is crucial to navigate change. In today's competitive environment, simply relying on technical expertise and traditional service delivery is not enough to ensure success. Numerous benchmarking surveys of the Australian legal industry have shown leadership to be the key differentiator for outperformance amongst firms.²⁹ More fundamentally, leadership can be seen as part of lawyer competence. However, before delving into these details, it is first necessary to define leadership.

²⁵ 'Talent & ESG Top Concerns as Firms Find New Ways of Working', *Thomas Reuters Institute* (Web Page, 2022) <<https://www.thomsonreuters.com/en/reports/talent-and-esg-top-concerns-as-firms-find-new-ways-of-working.html>>; Natalie Runyon, 'Associates Driving ESG Efforts across the Profession', *The Law Society Gazette* (online, 2 February 2023)

<<https://www.lawgazette.co.uk/commentary-and-opinion/associates-driving-esg-efforts-across-the-profession/5115013.article>>; Tom Parry, 'Young Talent: Is the Allure of Big Law Enough to Silence ESG Concerns?', *Law.com International* (online, 18 January 2024)

<<https://www.law.com/international-edition/2024/01/18/young-talent-is-the-allure-of-big-law-enough-to-silence-esg-concerns/>>.

²⁶ JP Box, 'A Millennial Explains How Law Firms Can Attract and Keep His Generation of Lawyers', *Your ABA* (Article, June 2018)

<<https://www.americanbar.org/news/abanews/publications/youraba/2018/june-2018/a-millennial-explains-how-law-firms-can-attract-and-keep-his-gen/>>; Michael Pelly, 'What Firms Say Are the Keys to Keeping Staff' *Australian Financial Review* (Sydney, 7 July 2023) 33.

²⁷ Center on the Legal Profession, 'The Global Age of More for Less' (November/December 2014) *The Practice*; Michael Pelly, 'Economy, inflation top law firm concerns' *Australian Financial Review*

(online, 29 June 2023) <<https://www.afr.com/companies/professional-services/economy-inflation-top-law-firm-concerns-20230626-p5dje1>>; Rachel Johnson, 'Climate Crisis: Further Action Needed from Legal Sector on Environmental Impact' *International Bar Association* (Article, 24 October 2024) <<https://www.ibanet.org/legal-sector-environmental-impact>>.

²⁸ Donald J Polden and Barry Z Posner, *Leading in Law: Leadership Development for Law Students* (Carolina Academic Press, 2022) 231 (referring to VUCA, an acronym that stands for Volatile, Uncertain, Complex and Ambiguous, as descriptive of the practice of law today).

²⁹ See, eg, Macquarie, *Law 2024* (n 23) 5, 12; Commonwealth Bank of Australia, 'CommBank Legal Market Pulse: November 2021', (Research Paper, November 2021).

A Defining Leadership

Millions of books and articles have been written on leadership.³⁰ While many are grounded in empirical research, a significant amount reflect the personal opinions of authors shaped by their experiences, observations, or beliefs.³¹ There is no universal consensus on a definition of leadership,³² but a workable definition for the purposes of this article is that a leader provides a vision or direction and then motivates others to achieve that vision, including through influencing the culture of a team, group, or firm.³³

There is, however, some benefit in tracing how the thinking around the source of leadership success has evolved over time. Traditional approaches revolved around the individual leader (or the so-called ‘Great Man’ approach)³⁴ focussing on what personality, behaviours and profile the ideal leader exhibits.³⁵ Yet, this traditional assumption of leadership — that leaders are ‘born, not made’ — was eclipsed by the notion that leadership skills can be developed and taught. Studies then shifted from the individual towards the process and context surrounding leadership. These included the skills approach (leadership is a set of skills that is acquired through effort);³⁶ the counter-charisma theory (leadership is contextually bound);³⁷ contingency theories (effective leadership is contingent on matching the leader’s character to the conditions to be addressed),³⁸ and

³⁰ Zenger and Folkman note that over 499 million books and 3.5 billion articles have been published about leadership in the past century: John Zenger and Joseph Folkman, *The New Extraordinary Leader: Turning Good Managers into Great Leaders* (McGraw-Hill, 3rd edition, 2019).

³¹ Gary Yukl, ‘Managerial Leadership: A Review of Theory and Research’ (1989) 15(2) *Journal of Management* 251, 252; Zenger and Folkman note that only 419 million research studies were published in scholarly journals: *Ibid.*

³² Ralph M Stogdill, *Handbook of Leadership: A Survey of Theory and Research* (Free Press, 1974) 7.

³³ Yukl (n 31) 253; April Barton, ‘Teaching Lawyers to Think Like Leaders: The Next Big Shift in Legal Education’ (2021) 73(1) *Baylor Law Review* 115, 115–17.

³⁴ Early Greek philosophers (Plato, Aristotle, and Socrates) assumed leadership required exceptional personal qualities (especially intelligence). Then in the 19th century, Thomas Carlyle popularised the “Great Man” theory of leadership, declaring that world history was fundamentally the “History of the Great Men who have worked here”: Thomas Carlyle, *On Heroes, Hero-Worship, & the Heroic in History* (James Fraser, 1841) Lecture 1.

³⁵ Roger Gill, *Theory and Practice of Leadership* (Sage Publications, 2nd ed, 2011) 39; Bill George et al, ‘Discovering Your Authentic Leadership’ (February 2007) *Harvard Business Review* 129, 129.

³⁶ Elihu Katz and Paul F Lazarsfeld, *Personal Influence: The Part Played by People in the Flow of Mass Communications* (Free Press, 1955).

³⁷ The theory proposes that the ‘context, history, follower characteristics, economics and other situational factors impact the necessity and possibility of leadership’: Georgia Sorenson, ‘The Nexus between Leadership Theory and Law’ in Paula Monopoli and Susan McCarty (eds), *Law and Leadership* (Routledge, 2013) 19. See also Chief Justice Andrew Bell, ‘Leading in the Law’ (Speech, University of New South Wales: Centre for the Future of the Legal Profession, 25 February 2025) 4 [16] (‘The demands of leadership will in part be dictated by the nature, function and size of the organisation or entity being led.’ The Chief Justice also examines leadership in a number of contexts, including judicial leadership and leading professional organisations).

³⁸ Fred E Fiedler, ‘Leadership Effectiveness’ (1981) 24(5) *American Behavioral Scientist* 619.

leadership in terms of the power relationship (between leaders and followers).³⁹ In this article we take the view that leadership is a skill that can be learnt but aspects of it are context specific, namely the skill develops within the framework of the legal profession and in the law firm environment.⁴⁰

B Leadership in Law Firms

Many of these conventional models of leadership are premised on the crucial notion that leaders, by definition, must have followers.⁴¹ This narrow definition, which typically frames leadership around an individual's position or title, makes the critical mistake of assuming leadership is role-specific. However, exercising leadership in law firms does not depend on hierarchy or position; instead, it is a collaborative process of engaging others towards a common cause or greater mission consistent with professional obligations.⁴² Indeed, the most influential leader may not even sit at the top of an organisation.⁴³ This is especially so for law firms, which are comprised of highly-educated, autonomy seeking professionals, and where the idea of 'leaders' and 'followers' is less distinctive.⁴⁴ Rather than traditional hierarchical relationships, interactions are more ambiguous, negotiated and informal amongst professional peers.⁴⁵ Law firm 'partnerships' (even those that are legally incorporated companies) are based on high but varying degrees of equality of status and authority underpinned by an 'ethos of partnership' which can inspire strong sentiments and political dynamics.⁴⁶ Moreover, unlike other disciplines, professionalism underlies the practice of law to the point of placing legally enforceable ethical obligations on lawyers towards

³⁹ John RP French Jr. and Bertram Raven, 'The Bases of Social Power' in Dorwin Cartwright (ed), *Studies in Social Power* (University of Michigan Institute for Social Research, 1959) 150.

⁴⁰ Similarly, we would argue that successful leadership in an in-house, government, not-for-profit or corporate setting depends on understanding the context or setting in which leadership must occur.

⁴¹ Bruce J Avolio, Fred O Walumbwa and Todd J Weber, 'Leadership: Current Theories, Research, and Future Directions' (2009) 60(1) *Annual Review of Psychology* 421 ('Leadership'); Jane M Howell and Boas Shamir, 'The Role of Followers in the Charismatic Leadership Process: Relationships and Their Consequences' (2005) 30(1) *Academy of Management Review* 96.

⁴² Thompson (n 1) 10.

⁴³ *Ibid*; Laura Empson, *Leading Professionals: Power, Politics, and Prima Donnas* (Oxford University Press, 2017) 17–36 ('*Leading Professionals*').

⁴⁴ Ann Langley and Laura Empson, 'Leadership and Professionals: Multiple Manifestations of Influence in Professional Service Firms' in Laura Empson et al (eds), *The Oxford Handbook of Professional Service Firms* (Oxford University Press, 2015) 163, 163.

⁴⁵ *Ibid*; Paul S Adler, Seok-Woo Kwon and Charles Heckscher, 'Perspective—Professional Work: The Emergence of Collaborative Community' (2008) 19(2) *Organization Science* 359, 371.

⁴⁶ Empson, '*Leading Professionals*' (n 43) 66. In Empson's interviews, when participants were asked what partnership meant, they referred to phrases such as 'one for all and all for one' (The Three Musketeers, Alexandre Dumas) and 'band of brothers' (Henry V, William Shakespeare).

clients, other lawyers (including the profession as a whole), the justice system, and society more generally.⁴⁷

Thus, law firms are unique organisational machines that have traditionally sat outside the managerial and business school literature from which much of leadership theory originates.⁴⁸ Indeed, it was only two decades ago that the study and teaching of leadership in the law emerged in the United States ('US') and United Kingdom ('UK').⁴⁹ The first lawyer leadership courses in the early-to-mid-2000s were largely based on personal experience and theories borrowed from other disciplines.⁵⁰ It is not surprising then that many commentators have noted the existence of a leadership deficit across the profession.⁵¹ While there has been a growing movement overseas to bridge this gap,⁵² there has unfortunately

⁴⁷ Law Council of Australia, *Australian Solicitors' Conduct Rules* (24 August 2011) ('ASCR'). The ASCR rules are uniform and have been adopted in the Australian states and the Australian Capital Territory: see, *Legal Profession (Solicitors) Conduct Rules 2015* (ACT); *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW); *Australian Solicitors' Conduct Rules 2023* (Qld); *South Australian Legal Practitioners' Conduct Rules 2022* (SA); *Legal Profession (Solicitors' Conduct) Rules 2020* (Tas); *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (Vic); *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2022* (WA).

⁴⁸ Laura Empson (ed), *Managing the Modern Law Firm* (Oxford University Press, 2007) 2 ('*Managing the Modern Law Firm*'). As Empson notes those who study an MBA 'will learn how to run an airline, a fast food business, a pharmaceutical company, or a bank, but will probably never hear mention of a law firm'. An MBA (Master of Business Administration) is a graduate-level business and management degree that focuses on leadership and managerial skills.

⁴⁹ See the comments of one of the pioneers of the field, Deborah Rhode, at the first national conference on leadership in the United States ('US') in 2012, where she noted that the field of lawyer leadership was barely a field: Deborah L Rhode, 'Developing Leadership' (2012) 52(3) *Santa Clara Law Review* 689 ('Developing Leadership').

⁵⁰ See George T Buck Lewis and Douglas A Blaze, 'Training Leaders the Very Best Way We Can' (2016) 83(3) *Tennessee Law Review* 771, 773; Garry W Jenkins and Jon J Lee, 'Leadership Evolution: The Rise of Lawyers in the C-Suite' (2022) 96(4) *Tulane Law Review* 695, 731-4.

⁵¹ See generally Scott A Westfahl and David B Wilkins, 'The Leadership Imperative: A Collaborative Approach to Professional Development in the Global Age of More for Less' (2017) 69(6) *Stanford Law Review* 1667; Scott Westfahl, 'Learning to Lead: Perspective on Bridging the Lawyer Leadership Gap' in Heidi Gardner and Rebecca Normand-Hochman (eds), *Leadership for Lawyers: Essential Leadership Strategies for Law Firm Success* (Globe Law and Business, 2nd Edition, 2019) 79 ('Learning to Lead'); Empson, '*Leading Professionals*' (n 43). For Australia, see Australian legal market consultant Joel Barolsky's reference to a 'leadership deficit' across law firms in Australia: Joel Barolsky, 'Law Firm Leaders Fail on Fun, Fame and Fortune', *Australian Financial Review* (online, 13 May 2021) <<https://www.afr.com/companies/professional-services/law-firm-leaders-fail-on-fun-fame-and-fortune-20210513-p57rg6>>. See also the comments from Wayne and others' study of lawyers: Wayne, Verreyne and Knowler (n 5) 215-16.

⁵² Deborah L Rhode, 'Lawyers and Leadership' (2010) 20(3) *Professional Lawyer* 1; Rhode, 'Developing Leadership' (n 49); Deborah L Rhode, 'Preparing Leaders: The Evolution of a Field and the Stresses of Leadership' (2019) 58(3) *Santa Clara Law Review* 411 ('Preparing Leaders'); Leah Witcher Jackson Teague, 'Training Lawyers For Leadership: Vitally Important Mission for the Future Success (and Maybe Survival) of the Legal Profession and Our Democracy' (2019) 58(3) *Santa Clara Law Review* 633; Donald J Polden, 'Leadership Matters: Lawyers' Leadership Skills and Competencies' (2012) 52(3) *Santa Clara Law Review* 899; Westfahl and Wilkins (n 51).

been less activity in Australia.⁵³ This article aims to begin to remedy this and instigate a conversation about the way forward.

We base our views on a review of the professional services and leadership literature, with an emphasis on lawyers, sourced primarily from the US and UK. The literature comprises theory and empirical studies (both academic and commercial). The article also draws on publications by Australian lawyers' professional associations and media reporting addressing Australian legal practice. Further, because the profession at large is too complex, fluid, and polysemic, we focus specifically on commercial law firms. Australia's legal profession is skewed toward servicing corporate clients,⁵⁴ and large commercial firms have established themselves as a central locus of power.⁵⁵ These firms play a pivotal role in contributing to the Australian economy, maintaining an effective legal system, and upholding confidence in the rule of law.⁵⁶ An Australian commercial law firm focus is also selected due to similarities with, or at least influence from, US and UK law firms, and the associated literature.⁵⁷ In Part II of this article, we describe the elements that make leading in commercial law firms a unique and challenging experience: (a) professionalism and business hybridity; (b) partnership models of ownership; (c) a practicing, managing and leading ('PML') trilemma; and (d) a distributed model. This collection of elements forms the context in which leadership in a commercial law firm operates. In Part III, consistent with our view that leadership is a skill that can be learnt, we argue for

⁵³ Outside of a selection of 'managerial' type academic articles, there is little discussion in the literature about legal leadership in the Australian context and no direct empirical studies focussing on leadership in law firms in Australia. There are a small number of postgraduate or executive level courses offered by Australia law schools, such as 'Legal Leadership Essentials (LAWS90226)', University of Melbourne: Handbook (Web Page, 19 December 2025) <<https://handbook.unimelb.edu.au/subjects/laws90226/>> ('Legal Leadership Essentials'); UNSW Law & Justice: Centre for the Future of the Legal Profession (Web Page) <<https://www.unsw.edu.au/law-justice/centre-future-legal-profession/leadership-for-lawyers>> ('Leadership for Lawyers').

⁵⁴ Waye, Verreynne and Knowler (n 5) 217–18. Commercial law services are responsible for 32.3% of the \$33.6bn of legal services revenue in Australia, equivalent to \$10.8bn: Jayson Cooke, 'Legal Services in Australia: Market Research Report (2015–2030)' (Research Report, IBISWorld, January 2025) 3.

⁵⁵ As Oakes (n 5) 12 notes: 'Large firms do not form the majority of Australian legal firms, nor do they employ the majority of lawyers, but they are influential in the industry in that they are trend setters and opinion leaders'. See also Ronit Dinovitzer and Bryant Garth, 'The New Place of Corporate Law Firms in the Structuring of Elite Legal Careers' (2020) 45(2) *Law & Social Inquiry* 339; Mitt Regan and Lisa H Rohrer, *BigLaw: Money and Meaning in the Modern Law Firm* (University of Chicago Press, 2020).

⁵⁶ Law Council of Australia, *The Lawyer Project* (Report, September 2021) 13; Cooke (n 54) 3, 34. However, large law firms can allow their allegiances to large corporate clients to undermine their obligations to the legal system and rule of law: Andrew Boon, *Lawyers and the Rule of Law* (Hart Publishing, 2022) 385–6.

⁵⁷ A number of Australian commercial law firms are part of, or linked with, global law firms. See, eg, A&O Shearman, Allens, Ashurst, Baker McKenzie, Clifford Chance, Dentons, DLA Piper, Herbert Smith Freehills Kramer, Jones Day, King & Wood Mallesons, Norton Rose Fulbright and White & Case. Other Australian law firms compete internationally, such as Arnold Bloch Leibler, Clayton Utz, Corrs Chambers Westgarth, Gilbert + Tobin, HWL Ebsworth, Johnson Winter Slattery, Lander & Rogers, Mills Oakley and Minter Ellison.

the teaching of leadership at law school, and that purposeful leadership education must continue within a law firm. Part IV concludes.

III LEADING IN LAW FIRMS – CHALLENGES AND IDIOSYNCRASIES

After spending 25 years saying that all professions are similar and can learn from each other, I'm now ready to make a concession: Law firms are different.⁵⁸

Much of the existing literature on leadership is difficult to apply in the context of law firms that are hybrid professional business partnerships. Leaders must balance an attachment to traditional governance models and a commitment to professional ideals with the newer, modern-day pressures of a competitive commercial environment. In such conditions, leadership training can be perceived as a distraction from the persistent pressure to bill more hours and generate new business. Some lawyers may not want to move away at all from their 'first love' of day-to-day client work into roles managing, directing, and leading their colleagues.⁵⁹ Compounding these factors, a mismatch between how firm ownership works in theory versus the actual power, politics, and ambiguity that operate in practice, can also divert resources away from focussing on leadership as a firmwide imperative.

A Professionalism and Profit in the Practice of Law

Law firms are commonly categorised as professional service firms ('PSFs') – organisations which employ groups of qualified individuals to provide knowledge, value and strategies to clients.⁶⁰ Professional work is characterised by attributes such as autonomy, task variety, competence, collegiality and public service orientation.⁶¹ As the prototypical example of a 'classic PSF', law firms

⁵⁸ David H Maister, *Strategy and the Fat Smoker: Doing What's Obvious but Not Easy* (Spangle Press, 2008) 229.

⁵⁹ Laura Empson, *Reluctant Leaders and Autonomous Followers: Leadership Tactics in Professional Service Firms* (Research Report, 24 June 2014) 26. See also Stefan Stern, 'What Makes People Follow Reluctant Leaders' (30 June 2014) *Harvard Business Review*.

⁶⁰ Mirko Noordegraaf, 'Hybrid Professionalism and beyond: (New) Forms of Public Professionalism in Changing Organizational and Societal Contexts' (2015) 2(2) *Journal of Professions and Organization* 187; Bente Løwendahl, *Strategic Management of Professional Service Firms* (Copenhagen Business School Press, 3rd ed, 2005) 20–5.

⁶¹ As Holmes et al, note, while there is no universally accepted list of attributes across the literature, there is considerable consistency in the factors they have listed: Vivien Holmes et al, 'Practising Professionalism: Observations from an Empirical Study of New Australian Lawyers' (2012) 15(1) *Legal Ethics* 29, 30.

exhibit the highest degree of professional service intensity which distinguishes them from other PSFs.⁶²

This is evident first and foremost, through the legally binding ethical and professional obligations that lawyers owe. This ethical framework has ‘fidelity to the law at its core’ because of the paramount duty to the court and the administration of justice.⁶³ The content of the duty includes more specific duties such as honesty and candour.⁶⁴ But it also includes upholding the rule of law, which includes elements such as fairness and equality.⁶⁵ The paramount duty is bolstered by requirements of integrity, professional independence and an obligation not to bring the profession into disrepute.⁶⁶ Lawyers also have duties to their clients, including a fiduciary duty to not obtain any unauthorised benefit from the relationship and not be in a position of conflict,⁶⁷ as well as duties of skill and care.⁶⁸ Codes of ethics are also a way to moderate the monopolistic pursuit of self-interest,⁶⁹ preventing issues such as conflicts of interest,⁷⁰ while

⁶² Andrew von Nordenflycht, ‘What Is a Professional Service Firm? Toward a Theory and Taxonomy of Knowledge-Intensive Firms’ (2010) 35(1) *Academy of Management Review* 155, 165. The other classic professional service firm (‘PSF’) is the accounting firm. By comparison, organisations such as consultancies and advertising agencies which place greater emphasis on knowledge intensity than professionalism are ‘neo-PSFs’. Other types of PSFs in Nordenflycht’s taxonomy include professional campuses (such as hospitals), which have high knowledge intensity and professionalised workforces but lack the mobility of low capital intensive PSFs given hospital facilities and other physical infrastructure; and technology developers (such as biotech or R&D — research and development — labs), which are characterized by knowledge intensity, but no professionalism or low capital intensity.

⁶³ Holmes et al (n 61) 30; *Giannarelli v Wraith* (1988) 165 CLR 543, 555–6 (Mason CJ); Law Council of Australia (n 47) r 3.

⁶⁴ *Re Gruzman; Ex parte Prothonotary* (1968) 70 SR (NSW) 316, 323 (Herron CJ, Wallace P and Sugerman JA); *Law Society of New South Wales v Foreman* (1994) 34 NSWLR 408, 447 (Mahoney JA); *Kyle v Legal Practitioners’ Complaints Committee* (1999) 21 WAR 56, 60 [12] (Ipp J); *Victorian Legal Services Board v Gobbo* [2020] VSC 692, [49] (Forbes J).

⁶⁵ Robert W Gordon, ‘The Citizen Lawyer – A Brief Informal History of a Myth with Some Basis in Reality’ (2009) 50(4) *William and Mary Law Review* 1169, 1173, 1176; Robert W Gordon, ‘The Role of Lawyers in Producing the Rule of Law: Some Critical Reflections’ (2010) 11(1) *Theoretical Inquiries in Law* 441, 448–9, 465; Boon (n 56) 317–18; Michael Legg, ‘Better Than a Bot – Instilling Ethical Judgement Into the Lawyers of the Future in the Age of AI’ (2025) 33(3) *Griffith Law Review* 273, 279–80 (‘Better Than a Bot’).

⁶⁶ Law Council of Australia (n 47) rr 4.1.4, 5.1.2.

⁶⁷ See *Maguire v Makaronis* (1997) 188 CLR 449, 463 (Brennan CJ, Gaudron, McHugh and Gummow JJ); *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J); *ibid* rr 10–12; Holmes et al (n 61) 31; Hilary Sommerlad, ‘Researching and Theorizing the Processes of Professional Identity Formation’ (2007) 34(2) *Journal of Law and Society* 190, 192.

⁶⁸ *Hawkins v Clayton* (1988) 164 CLR 539, 574 (Deane J) (liability in contract and tort of negligence); Law Council of Australia (n 47) r 4.1.3 refers to delivering legal services ‘competently, diligently and as promptly as reasonably possible’.

⁶⁹ Royston Greenwood et al, ‘Reputation, Diversification, and Organizational Explanations of Performance in Professional Service Firms’ (2005) 16(6) *Organization Science* 661.

⁷⁰ Thomas DeLong and Ashish Nanda, *Professional Services: Text and Cases* (McGraw-Hill, 2003).

encouraging trusteeship,⁷¹ and altruistic service such as pro bono representation.⁷² In Australia, the professional commitment to abide by the conduct rules is reinforced by state and territory legislation.⁷³ Other PSFs such as accounting firms, management consultancies, or investment banks and their associated professionals do not have the same strict ethical duties as law firms.⁷⁴

Second, lawyers are also characterised by strong professional autonomy.⁷⁵ Autonomy is essential for lawyers to exercise their professional judgement, provide customised service, and protect their independence. A central element of law firms is their reliance on 'elevator assets' — ie professionals who come and go daily.⁷⁶ Unlike imitable business goods, 'human capital' is unique and the most valuable resource in a law firm.⁷⁷ Consequently, it can be more difficult to retain an intellectually skilled workforce of professionals with generally transferable skills⁷⁸ and to direct professionals to complete tasks, especially if such tasks are against their own individual interest. Indeed, it is from this logic that the common platitude that leading lawyers is like 'herding cats' is derived.⁷⁹

While professionalism is central to law firms, many scholars have argued that it has been overshadowed by the rise and adoption of a more managed

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- ⁷¹ Steven Brint, *In an Age of Experts: The Changing Role of Professionals in Politics and Public Life* (Princeton University Press, 2nd ed, 1996) 32; Roy Suddaby and Royston Greenwood, 'Rhetorical Strategies of Legitimacy' (2005) 50(1) *Administrative Science Quarterly* 35.
- ⁷² Löwendahl (n 60) 26–8.
- ⁷³ *Legal Profession Uniform Law 2014* (NSW) s 427(2).
- ⁷⁴ Legg, 'Better Than a Bot' (n 65) 279.
- ⁷⁵ von Nordenflycht (n 62) 161; David L Torres, 'What, If Anything, Is Professionalism? Institutions and the Problem of Change' (1991) 8(1) *Research in the Sociology of Organizations* 43; Adler, Kwon and Heckscher (n 45) 361; Melissa Mazmanian, Wanda J Orlikowski and JoAnne Yates, 'The Autonomy Paradox: The Implications of Mobile Email Devices for Knowledge Professionals' (2013) 24(5) *Organization Science* 1337.
- ⁷⁶ Russell W Coff, 'Human Assets and Management Dilemmas: Coping with Hazards on the Road to Resource-Based Theory' (1997) 22(2) *Academy of Management Review* 374; Mark C Scott, *The Intellect Industry: Profiting and Learning from Professional Services Firms* (Wiley, 1998) 2; Cooke (n 54) 19 ('the industry is labour-knowledge and skills-intensive').
- ⁷⁷ Coff (n 76) 374; Empson, 'Managing the Modern Law Firm' (n 48) 149–50; von Nordenflycht (n 62) 159, 160, 162.
- ⁷⁸ DeLong and Nanda (n 70). David J Teece, 'Expert Talent and the Design of (Professional Services) Firms' (2003) 12(4) *Industrial and Corporate Change* 895. The ability of lawyers to move between firms, or indeed across legal sectors (eg, law firm to in-house or to the Bar), is illustrated by the high mobility of mid-level lawyers (5–8 years post-qualification experience) and the growth in lateral partner movement: Tufvesson (n 21); Dominic Peacock, 'Partners jump ship as legal firms target talent', *The Australian* (online, 3 September 2024) <<https://www.theaustralian.com.au/business/legal-affairs/partners-jump-ship-as-legal-firms-target-talent/news-story/F93242fae895d3a8067ac522b0a946467?amp&nk=01b5f33edf1c764124457ec56fc163ed-1772079936>>.
- ⁷⁹ Indeed, the Cambridge Dictionary definition for the idiom 'like herding cats' directly uses lawyers as an example of the phrase: see Larry Richard, 'Herding Cats: The Lawyer Personality Revealed' (Research Paper, Managing Partner Forum, 2002).

professional business ('MPB') model focussed on profit-maximisation.⁸⁰ Professional obligations and the accompanying need for autonomy are seen as compromised or corporatised in aid of efficient profit generation.⁸¹ Others contest the view that the pursuit of commercial achievements has compromised professional values.⁸² At the heart of this debate lies the notion that professionalism has been redefined to represent a professional's unstinting commitment to serving the needs of their clients.⁸³

Rather than delving into a debate of whether law is a business or profession, it is more pragmatic for our purposes to simply acknowledge that the reality of legal practice is one of *professional organisations* that are engaged in *business*. Law firms are businesses that exist to service their clients and make profits for their owners. Managing client relationships and the client experience are now a part of a larger service that involves advising on risk, compliance, governance and commercial strategy of corporates.⁸⁴ As such, leaders need to combine professionalism and ethical obligations with an entrepreneurial mindset and the broader business environment in which law firms are situated.⁸⁵ Ethical

⁸⁰ Royston Greenwood, CR Hinings and John Brown, "'P2-Form" Strategic Management: Corporate Practices in Professional Partnerships' (1990) 33(4) *Academy of Management Journal* 725; Ashly Pinnington and Timothy Morris, 'Archetype Change in Professional Organizations: Survey Evidence from Large Law Firms' (2003) 14(1) *British Journal of Management* 85, 86–7; John Flood, 'Lawyers as Sanctifiers: The Role of Elite Law Firms in International Business Transactions' (2007) 14(1) *Indiana Journal of Global Legal Studies* 35; D Daniel Sokol, 'Globalization of Law Firms: A Survey of the Literature and a Research Agenda for Further Study' (2007) 14(1) *Indiana Journal of Global Legal Studies* 5; Matthew S Winings, 'The Power of Law Firm Partnership: Why Dominant Rainmakers Will Impede the Immediate, Widespread Implementation of an Autocratic Management Structure' (SSRN Scholarly Paper No 713881, 29 April 2005) <<https://papers.ssrn.com/abstract=713881>>. For discussion in Australian context: see Margaret Thornton, 'Squeezing the Life out of Lawyers: Legal Practice in the Market Embrace' (2016) 25(4) *Griffith Law Review* 471, 473; Iain Campbell and Sara Charlesworth, 'Salaried Lawyers and Billable Hours: A New Perspective from the Sociology of Work' (2012) 19(1) *International Journal of the Legal Profession* 89.

⁸¹ There have been well-known examples of lawyers or law firms failing to recognise the ethical dimensions of decisions. See, eg, Vivien Holmes and Francesca Bartlett, *Parker & Evans's Inside Lawyers' Ethics* (Cambridge University Press, 4th ed, 2023) 32–3, (discussing Clayton Utz and its advice on a document retention policy for British American Tobacco Australia Services Ltd) 199–201 (discussing Corrs Chambers Westgarth's representation of the Catholic Church in relation to child sexual abuse).

⁸² Elliott A Krause, *Death of the Guilds: Professions, States, and the Advance of Capitalism, 1930 to the Present* (Yale University Press, 1996) 280–1; Campbell and Charlesworth (n 80).

⁸³ Fiona Anderson-Gough, Christopher Grey and Keith Robson, 'In the Name of the Client: The Service Ethic in Two Professional Services Firms' (2000) 53(9) *Human Relations* 1151, 1152. See generally Eliot Freidson, 'The Changing Nature of Professional Control' (1984) 10(1) *Annual Review of Sociology* 1.

⁸⁴ Jack Newton, *The Client-Centered Law Firm: How to Succeed in an Experience-Driven World* (Blue Check Publishing, 2020); Regan and Rohrer (n 55) 1–2.

⁸⁵ US scholar Kelly argued similarly: 'no coherent account of professionalism, legal ethics, or the contemporary legal profession is possible without understanding the workings of practice organizations': See Michael J Kelly, *Lives of Lawyers: Journeys in the Organizations of Practice* (University of Michigan Press, 1994) 18. For a stark example of institutional ethical failure, see the Post Office Scandal, where hundreds of sub-postmasters in the UK were wrongfully

obligations need to be seen as a point of difference or competitive advantage (eg, the requirements of integrity, honesty, and loyalty) and not as a burdensome regulation.⁸⁶ To lead a firm requires a profound understanding and appreciation of both dimensions and when we treat business and profession as dichotomous, ‘they inhibit, rather than enhance, our understanding of modern practice’.⁸⁷

B Law Firm Organisational Structures

Another distinctive feature of law firms is their unique organisational frameworks, evident in their firm structures, partnership ownership and compensation models.

1 Firm Structures

Compared to the history of the profession, the large, multi-jurisdictional, full-service ‘BigLaw’ firm⁸⁸ is relatively young. The traditional law firm model (in the common law) operated in three-tier, stratified apprenticeships with clear demarcations between junior, mid-level and senior professionals.⁸⁹ It was not until the late 20th century, driven by forces including marketisation (the expansion of

prosecuted due to careless reliance on faulty technology, egregious misconduct, and ethical failings by lawyers including misleading witness statements, polishing evidence (lawyers writing witness statements), oppressive litigation tactics (advancing claims contrary to evidence, alongside baseless counter-claims), and lawyers actively frustrating, rather than promoting the administration of justice: see *Bates v Post Office Ltd (No 6: Horizon Issues)* [2019] EWHC 3408 (QB); Richard Moorhead, Karen Nokes, and Rebecca Helm, ‘Issues arising in the Conduct of the Bates Litigation’ (Working Paper I, Evidence-Based Justice Lab: University of Exeter, 2 August 2021) 12–15; Richard Moorhead, Steven Vaughan, and Kenta Tsuda, *What Does It Mean for Lawyers to Uphold the Rule of Law? A Report for the Legal Services Board* (Report, October 2023) 25–6.

⁸⁶ Legg and Bell (n 2) 329–33.

⁸⁷ Regan and Rohrer (n 55) 16.

⁸⁸ Some describe this process as the rise of ‘mega-law’: see John Flood, ‘Megalawyer in the Global Order: The Cultural, Social and Economic Transformation of Global Legal Practice’ (1996) 3(1–2) *International Journal of the Legal Profession* 169; James Faulconbridge and Daniel Muzio, ‘Organizational Professionalism in Globalizing Law Firms’ (2008) 22(1) *Work, Employment and Society* 7, 8–9; Marc Galanter and William D Henderson, ‘The Elastic Tournament: A Second Transformation of the Big Law Firm’ (2008) 60(6) *Stanford Law Review* 1867.

⁸⁹ These were derived from the Inns of Court in London and the Craft and Trade Guilds of Europe: see John J Gabarro, ‘Prologue’ in Laura Empson (ed), *Managing the Modern Law Firm* (Oxford University Press, 2007) xvii, xx; Anton-Hermann Chroust, ‘The Beginning, Flourishing and Decline of the Inns of Court: The Consolidation of the English Legal Profession after 1400’ (1956) 10(1) *Vanderbilt Law Review* 79; Jeremiah Lambert and Geoffrey S Stewart, *The Anointed: New York’s White Shoe Law Firms — How They Started, How They Grew, and How They Ran the Country* (Lyons Press, 2021).

neoliberalism),⁹⁰ globalisation (the need to represent international clients),⁹¹ and local competition policy (the shift to ‘service providers’ for ‘consumers’)⁹² that saw the emergence of the BigLaw firm we know today. In New South Wales for example, until amendments to the *Partnership Act 1892* (NSW) in the mid-1970s, partnerships were limited to ten partners.⁹³ Shortly thereafter, the monopoly on the provision of legal services⁹⁴ and ownership limitations of firms were also lifted.⁹⁵

In the process, firms began to structure themselves into more distinct business units. Today firms are populated with non-legal staff,⁹⁶ ranging from human resources,⁹⁷ marketing,⁹⁸ change managers,⁹⁹ legal project managers¹⁰⁰ and pricing specialists.¹⁰¹ However, unlike traditional corporates, law firms are not organised based on these functions, but are instead organised by practice areas (such as corporate, litigation, banking, etc).¹⁰² These reflect where lawyers are effective ‘on the ground’, ie, in the areas where they actually serve clients and deliver their services as professionals.¹⁰³ Moreover, unlike other PSFs which largely rely on

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- ⁹⁰ Marketisation involves the transformation of professional organisations from traditional partnership models into multidisciplinary practices (‘MDPs’) or incorporated legal practices (‘ILPs’), the profession’s exposure to free-market forces instead of state-imposed protections, and the introduction of managerial methods to pursue efficiency and profitability: Robin Paul Malloy, ‘Law, Market and Marketization’ (2016) 1(2) *University of Bologna Law Review* 166, 167–8.
- ⁹¹ Justine Rogers, Dimity Kingsford Smith and John Chellew, ‘The Large Professional Service Firm: A New Force in the Regulative Bargain’ (2017) 40(1) *University of New South Wales Law Journal* 218, 241.
- ⁹² See, eg, Law Council of Australia (n 47) r 4.1.3 (‘deliver legal services competently, diligently and as promptly as reasonably possible’), and Glossary of Terms (definition of ‘client’) (‘means a person ... for whom the solicitor is engaged to provide legal services for a matter’).
- ⁹³ For other respective State Partnership Acts: see *Partnership Act 1963* (ACT); *Partnership Act 1997* (NT); *Partnership Act 1891* (Qld); *Partnership Act 1891* (SA); *Partnership Act 1891* (TAS); *Partnership Act 1958* (Vic); *Partnership Act 1895* (WA). See also Oakes (n 5) 15–16.
- ⁹⁴ Currently non-lawyers can and do provide advice and representation in conveyancing, intellectual property, workplace relations, taxation and migration matters.
- ⁹⁵ See, eg, *Legal Profession Uniform Law* (NSW) s 32; *Legal Profession Act 2007* (Qld) s 113; *Legal Practitioners Act 1981* (SA) sch 1 cl 3; *Legal Profession Uniform Law Application Act 2014* (Vic) sch 1 s 32; *Legal Profession Act 2008* (WA) s 101.
- ⁹⁶ Paula Baron and Lillian Corbin, *Ethics and Legal Professionalism in Australia* (Oxford University Press, 3rd ed, 2020) 26–8.
- ⁹⁷ Rakesh Khurana and David B Wilkins, ‘The Changing Nature of Professionalism’ (March–April 2015) *The Practice* <<https://clp.law.harvard.edu/knowledge-hub/magazine/issues/professionalism-in-the-21st-century/the-changing-nature-of-professionalism/>>.
- ⁹⁸ Justine Rogers and Anthony Song, ‘Digital Marketing in the Legal Profession: What’s Going on and Does It Matter?’ (2023) 5(2) *Law, Technology and Humans* 134.
- ⁹⁹ Justine Rogers and Felicity Bell, ‘Transforming the Legal Profession: An Interview Study of Change Managers in Law’ (2022) 42(3) *Legal Studies* 446.
- ¹⁰⁰ Justine Rogers, Peter Dombkins and Felicity Bell, ‘Legal Project Management: Projectifying the Legal Profession’ (2021) 3(2) *Law, Technology and Humans* 133.
- ¹⁰¹ According to legal consultancy Altman Weil’s 2020 survey of 810 US law firms, 70% of firms with 250 or more attorneys employ a pricing specialist: Seeger and Clay (n 5) 24.
- ¹⁰² Gabarro (n 89) xxi.
- ¹⁰³ *Ibid* xxiii.

value-based pricing (including fixed fees, subscription models, or performance-based fees), the billable hour remains deeply entrenched across most law firms.¹⁰⁴

2 Partnership Ownership

Another distinctive element of most law firms is their ownership structure. Like all businesses, law firms require capital to fund their costs of business. Most firms will raise equity from their partners in exchange for an ownership share.¹⁰⁵ One possible consequence of this, however, is that when law firms fail, they do not just go bankrupt — they ‘collapse’ due to a phenomenon John Morley coins a ‘partner run’.¹⁰⁶ Analogous to a bank run, during a crisis, risk-averse partners jump ship, weakening the overall partnership, compelling others to follow suit. Without strong leadership to mitigate this process, a self-reinforcing spiral can occur as partners race to exit before their equity losses will become realised through an insolvency.¹⁰⁷ To reinforce his point, Morley points to the example of the Australian law firm Slater & Gordon,¹⁰⁸ the first law firm in the world to become a publicly listed company.¹⁰⁹ Morley argues that, unlike every other large law firm collapse he studied,¹¹⁰ being investor-owned rather than lawyer-owned allowed Slater & Gordon to reorganise its debt and survive insolvency.¹¹¹ More generally, the experience highlights the importance of maintaining confidence in any law firm partnership that is comprised of top-billing partners and/or teams of partner-owners.

3 Compensation Models

Another point of distinction for law firms is the compensation models used. In Australia, three primary compensation models exist: (1) lockstep; (2) performance-based; and (3) a blend of the two: hybrid lockstep models.¹¹²

In the traditional lockstep model, new partners would contribute equal amounts to those contributed by all partners, ensuring an equal distribution of

¹⁰⁴ Although there is some change on the horizon: see Michael Legg, *The Sustainability of Law and Lawyers: The Future of Legal Costs and Fees – Time Based Billing and Alternative Fee Arrangements* (Law Society of NSW, 2020).

¹⁰⁵ John Morley, ‘Why Law Firms Collapse’ (2019) 75(1) *The Business Lawyer* 1399, 1415.

¹⁰⁶ *Ibid* 1400; Oakes (n 5) 15–16.

¹⁰⁷ Morley (n 105) 1419.

¹⁰⁸ Slater & Gordon was the first law firm in the world to go public, listing on the Australian Stock Exchange (ASX) in 2007. As of April 2023, Slater & Gordon has been delisted from the ASX after being acquired by a private equity firm Allegro Funds Pty Ltd.

¹⁰⁹ In Australia, it is legally possible to raise capital by selling equity shares to public investors under the *Corporations Act 2001* (Cth).

¹¹⁰ In the last thirty years, Morley studied 37 collapses of ‘AmLaw 200’ law firms (the top 200 ranked law firms by size and economic performance according to media company American Lawyer): Morley (n 105).

¹¹¹ *Ibid* 1423.

¹¹² Oakes conducted in-depth interviews with managing partners of 19 large law firms in Australia: Oakes (n 5) 19.

capital, risk and profitability.¹¹³ Associates rise through the ranks of the firm and are compensated based on their seniority.¹¹⁴ The advantages of this model are said to be reciprocity of partnership, a sense of mutual assistance,¹¹⁵ and the ability to better weather business market cycles.¹¹⁶ While lockstep promotes collective alignment, it can lead to partners ‘free-riding’ on the efforts of their peers and to animosity towards underperforming or less engaged colleagues.¹¹⁷

In performance-based or ‘eat-what-you-kill’ type models, new partners contribute capital equal to the amount contributed by all partners, thereafter sharing profits according to their relative performance.¹¹⁸ Criteria can vary between firms, but generally include financial performance, business-development activity, and other firm contributions relevant to strategic considerations.¹¹⁹ Under this model, firms prize their ‘rainmakers’¹²⁰ — the lawyers adept at developing business by selling the firm’s expertise and brand ethos.¹²¹ These firms expand primarily through lateral hires — acquiring individual lawyers, practice groups, or entire firms — rather than by promoting associates to partners. In turn, lawyers are likely to draw many of their norms

¹¹³ This may occur through a points system, with partners starting at a predetermined level until they reach full partnership of 100 points: Lucinda Schmidt and Marcus Priest, ‘Mega Litigation and Super Inflows Drive Big Profits’, *Australian Financial Review* (online, 1 September 2006) <<https://www.afr.com/companies/mega-litigation-and-super-inflows-drive-big-profits-20060901-jkigd>>.

¹¹⁴ Jacob Dougherty, ‘Can Lockstep Find Its Footing Again? Why the Lockstep Compensation Model Creates a Culture for Providing Better Legal Services’ (2022) 84(1) *University of Pittsburgh Law Review* 313, 315, 319. Today, few, if any large global law firms operate under pure lockstep models. One notable exception is Wachtell, Lipton, Rosen & Katz, which has maintained a strict lockstep compensation model while sustaining its dominance as a market leader, operating from a single office in New York: See William H Starbuck, ‘Keeping a Butterfly and an Elephant in a House of Cards: The Elements of Exceptional Success’ (1993) 30(6) *Journal of Management Studies* 885; ‘Meet America’s Most Profitable Law Firm’ *The Economist* (online, 2 August 2023) <<https://www.economist.com/business/2023/08/02/meet-americas-most-profitable-law-firm>>.

¹¹⁵ Paul C Saunders, ‘When Compensation Creates Culture’ (2006) 19(1) *Georgetown Journal of Legal Ethics* 295, 296.

¹¹⁶ For example, in booming market conditions, M&A (mergers and acquisitions) and banking practice areas thrive, while litigation-based practice areas such as insolvency litigation enjoy countercyclical activity.

¹¹⁷ Empson, ‘*Managing the Modern Law Firm*’ (n 48) 25. For an example of some of the ways a firm might help mitigate free-riding (strict performance measurement, the ability to hold back compensation increases, or informally insulating one of their own by limiting the sharing of resources): see Emmanuel Lazega, *The Collegial Phenomenon: The Social Mechanisms of Cooperation among Peers in a Corporate Law Partnership* (Oxford University Press, 2001) 60–1.

¹¹⁸ Milton C Regan, *Eat What You Kill: The Fall of a Wall Street Lawyer* (University of Michigan Press, 2004).

¹¹⁹ Neil Oakes, ‘Splitting the Pie: Some Thoughts on Profit Sharing Among Partners’, *FMRC* (Web Page, 31 July 2019) <<https://www.fmrc.com.au/splitting-the-pie-some-thoughts-on-profit-sharing-among-partners>>.

¹²⁰ Jane Fenton, Anna Grutzner and Brian Kogler, *The Rain Dance: A Marketing Book for Lawyers* (Fenton Communications, 1996) 2.

¹²¹ Tom Bird, ‘How Do You Teach Lawyers to “Do” Business Development?’ in Stephen Revell (ed), *Business Development: A Practical Handbook for Lawyers* (Globe Law and Business, 2nd ed, 2020) 153; Rogers and Song (n 98) 140.

from colleagues within their specialty, rather than the firm as a whole. This can lead to greater difficulty establishing and sustaining an overall organisational culture, and to a more ‘multicultural’ rather than monolithic organisational setting, which is underpinned by the general parameters of competition for reward and punishment set by the broader firm.¹²²

Most firms in Australia take a more balanced approach of modified lockstep (where partner pay is still based on seniority, but often with a performance element allowing bonuses to be paid on top of salaries).¹²³ This has led to a greater hierarchical law firm ladder.¹²⁴ More stages and new roles now exist on the partnership track (including special counsel, managing associate, or head of practice group), and upon reaching partnership, many firms now utilise a ‘two-tier’ partnership model distinguishing between equity and non-equity partnership (‘NEP’).¹²⁵

NEPs usually do not participate in the firm’s partner profit-sharing system but are remunerated based on negotiated compensation. In Australia, the proportion of equity partners in law firms has reduced from 18% in 2014 to 13% in 2024.¹²⁶ While different firms will have different systems,¹²⁷ legal recruiters in Australia now estimate that it may take as many as 15–20 years in today’s larger firms to reach equity partnership from commencing as a graduate,¹²⁸ instead of the traditional 10-plus years of service that had previously prevailed in large firms.¹²⁹

¹²² Regan (n 118) 8.

¹²³ Hannah Wootton and Michael Pelly, ‘Salary Arrangements Take Shine off Law Firm Partnerships’, *Australian Financial Review* (online, 25 June 2020) <<https://www.afr.com/companies/professional-services/salary-arrangements-take-shine-off-law-firm-partnerships-20200623-p555fo>>. Some top-tier firms — MinterEllison and King & Wood Mallesons — have reported only having equity partners: Maxim Shanahan, ‘Rapid growth puts pressure on law partnership structures’, *Australian Financial Review* (online, 11 July 2024) <<https://www.afr.com/companies/professional-services/rapid-growth-puts-pressure-on-law-partnership-structures-20240709-p5jsbt>>.

¹²⁴ Stephen Ackroyd and Daniel Muzio, ‘The Reconstructed Professional Firm: Explaining Change in English Legal Practices’ (2007) 28(5) *Organization Studies* 729.

¹²⁵ Large Australian firms generally refer to these partners as ‘fixed draw partners’. Others use the terms ‘salaried partners’ or ‘non-equity partners’. See Oakes (n 5) 17; Thomson Reuters Institute, *2024 Australia: State of the Legal Market* (Report, 2024) 16 (‘2024 Australia’).

¹²⁶ Thomson Reuters Institute, *2024 Australia* (n 125) 16.

¹²⁷ For example, at HWL Ebsworth, 28% of its 279 partners are salaried, compared with more than 49% of Ashurst’s 207 partners, 21% of Clayton Utz’s 173 partners, and 25% of Herbert Smith Freehills’ 171 partners: Shanahan (n 123).

¹²⁸ Michael Pelly, ‘Big Pay Increases Are Over for Lawyers’, *Australian Financial Review* (online, 27 July 2023) <<https://www.afr.com/companies/professional-services/big-pay-increases-are-over-for-lawyers-20230726-p5drg2>>.

¹²⁹ Wootton and Pelly (n 123). When firms were smaller, this was 5–7 years. See comments from Fionn Bowd, Chief Executive Officer (‘CEO’) of legal recruitment firm Bowd: Angela Tufvesson, ‘Is the Partnership Model in Decline?’, *Law Society Journal* (online, 7 March 2023) <<https://lsj.com.au/articles/is-the-partnership-model-in-decline/>>. See also Michael Pelly, ‘Law Partnership Track Blows out to 15 Years’, *Australian Financial Review* (online, 2 August 2019) <<https://www.afr.com/companies/professional-services/law-partnership-track-blows-out-to-15-years-20190731-p52cki>>.

Lawyer-leaders face difficulty due to the opaque nature of these models, which are often described as akin to a ‘black box’.¹³⁰ The distinction between equity and NEPs is often not known or made visible within firms,¹³¹ and details about their determinations are more complicated to source.¹³²

C Distributed Leadership in Law Firms

Third, unlike in traditional hierarchical organisations, leadership in law firms is more distributed.¹³³ Reflecting the governance model of partnerships, every partner is a de facto leader of a firm.¹³⁴ Laura Empson terms this phenomenon a ‘leadership constellation’ — in which leadership roles are shared among multiple actors, authority is ambiguous and contested, and power and resources are dynamic.¹³⁵ Depending on the firm, these actors can be small groups — in a type of ‘inner circle’ — or various different tribes of groups (‘like a series of concentric circles’).¹³⁶ This could include the senior executives (managing partner (‘MP’), senior partner (‘SP’), chairman, and chief executive);¹³⁷ heads of business (leaders of major fee-earning areas, offices and practice area groups); heads of business services (operations, marketing, human resources etc); and key influencers (people with key client relationships, valuable expertise, or strong reputations).

¹³⁰ Nan Seuffert, Trish Mundy and Susan Price, ‘Diversity Policies Meet the Competency Movement: Towards Reshaping Law Firm Partnership Models for the Future’ (2018) 25(1) *International Journal of the Legal Profession* 31, 38.

¹³¹ Susan Price, Louise Mallon and Danielle Verde, ‘2020/21 Law Firm Comparison Project’ (Research Paper, Women Lawyers Association of New South Wales, 25 October 2021) 24–5.

¹³² See, eg, the comments from The Women Lawyers Association of New South Wales (‘WLANSW’) in their 2020 survey of law firms, which had a low response rate. Only 12 firms provided the detailed information sought on partnership, with others citing information to be ‘commercial in confidence’ or other objections: *Ibid* 13.

¹³³ Empson ‘*Leading Professionals*’ (n 43) 31–6. Empson conducted more than 400 interviews, in 20 countries, working with 15 of the world’s leading law firms in the UK, Europe and the US.

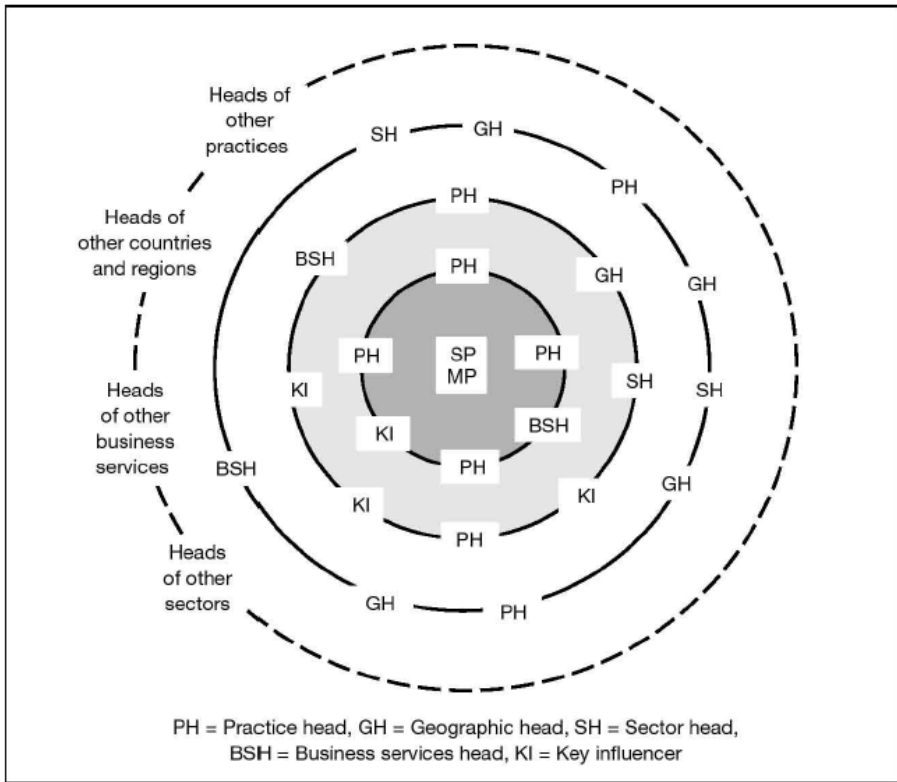
¹³⁴ Heidi Gardner and Rebecca Normand-Hochman (eds), *Leadership for Lawyers: Essential Leadership Strategies for Law Firm Success* (Globe Law and Business, 2nd Edition, 2019).

¹³⁵ Empson ‘*Leading Professionals*’ (n 43) 17–36.

¹³⁶ *Ibid* 202.

¹³⁷ As Oller points out, many traditional large law firms ‘were dominated by one or two senior partners who were more equal than others in power and pay’: John Oller, *White Shoe: How a New Breed of Wall Street Lawyers Changed Big Business and the American Century* (Dutton, 2019) 55–6.

Figure 1: Empson's Leadership Constellation¹³⁸



Crucially, individuals may see themselves as leaders due to their formal titles, yet they may not be part of the constellation if they are not recognised and accepted as leaders by their colleagues. For example, certain practice heads may be excluded from the inner circle, while some heads of business services (such as Human Resources) may be closer to the inner circle than even board members.

In other words, within law firms sits an informal power structure that is more opaque, implicit and dynamic. These hidden roles and relationships across the firm are negotiated on an ad-hoc basis, evolve over time, and often only come to light in a crisis.¹³⁹

¹³⁸ Laura Empson, 'Leadership, Power and Politics in Law Firms' in Heidi Gardner and Rebecca Normand-Hochmand (eds), *Leadership for Lawyers: Essential Leadership Strategies for Law Firm Success* (Globe Law and Business, 2nd Edition, 2019) 89 ('Leadership, Power and Politics in Law Firms').

¹³⁹ Empson 'Leading Professionals' (n 43) 36; Scott Westfahl, 'Leveraging Lawyers' Strengths and Training Them to Support Team Problem-Solving Under Crisis Conditions' in Ray Brescia and Eric K Stern (eds), *Crisis Lawyering: Effective Legal Advocacy in Emergency Situations* (New York University Press, 2021) 340.

1 Power and Politics in Law Firms

In an organisation, power derives from the control of resources, networks, and the strategic use of relationships.¹⁴⁰ In law firms, partners are in charge of their own practice and control the primary nexus of power — client relationships.¹⁴¹ Generally, the more business and billings a partner brings, the more freedom they have in how they run their practice.¹⁴² Crucially, in a law firm, taking on a major leadership role can paradoxically entail a loss of power, as lawyers reduce fee-earning work and relinquish their most valuable assets — client relationships and professional expertise — to colleagues, or potentially, competitor firms.¹⁴³ As such, many partners value their independence and are wary of governance structures, bureaucratic incursions, or excessive management which may cede power or influence.¹⁴⁴

This behaviour of partners as largely autonomous units presents challenges for leadership.¹⁴⁵ A vital requirement of leading professionals is the ability to earn the trust of others.¹⁴⁶ However, as David Maister argues, the desire for autonomy (and high levels of scepticism¹⁴⁷) may make law firms a ‘low trust environment’.¹⁴⁸ In today’s firms, where there are competing claims for staff, clients and resources¹⁴⁹ — intensified by a general industry shift towards performance based compensation models — executing strategies that involve behaving as ‘one firm’ can be more difficult.¹⁵⁰ Empson conceptualises this challenge as being inherent in the tension between individual and collective motives, which is itself a byproduct of pluralism

¹⁴⁰ Jeffrey Pfeffer and Gerald R Salancik, *The External Control of Organizations: A Resource Dependence Perspective* (Harper & Row, 1978) 258; Jeffrey Pfeffer, *Managing with Power: Politics and Influence in Organizations* (Harvard Business Press, 1992) 111, 124.

¹⁴¹ Empson ‘*Leading Professionals*’ (n 43) 24. Although it should also be recognised that there may be multiple people involved in the client relationship, including partners servicing the client and also relationship partners (or rainmakers) who are responsible for maintaining the relationship. Interest from other partners in a matter may be general (those who stand to benefit financially or reputationally from a successful outcome) or specific (where certain partners may have dealings with the same client that are likely to be affected by the outcome of the file).

¹⁴² Gardner and Normand-Hochman (n 134) 166.

¹⁴³ Empson, ‘*Leadership, Power and Politics in Law Firms*’ (n 138) 89.

¹⁴⁴ Richard (n 79) 7; Maister (n 58) 232, 230; Jeff Foster et al, *Understanding Lawyers: Why We Do the Things We Do* (White Paper, 2010) 8–9.

¹⁴⁵ Greenwood, Hinings and Brown (n 80) 734.

¹⁴⁶ David H Maister, *Managing the Professional Service Firm* (Free Press, 1993) 220.

¹⁴⁷ Studies have shown that lawyers score higher on traits such as scepticism, autonomy and urgency, while scoring lower on traits like resilience, sociability and empathy: see, eg, Larry Richard, ‘*Leadership Competencies in Law*’ in Susan McCarty and Paula A Monopoli (eds), *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (Routledge, 2016); Richard (n 79).

¹⁴⁸ Maister (n 58) 231.

¹⁴⁹ Stephen Mayson, ‘*Your Capital – Building Sustainable Value: A Capital Idea*’ in Laura Empson (ed), *Managing the Modern Law Firm* (Oxford University Press, 2007) 141, 155.

¹⁵⁰ George Beaton and Imme Kaschner, *Remaking Law Firms: Why and How* (American Bar Association, 2016) 13; Gardner and Normand-Hochman (n 134) 167.

(ie, the multifaceted values, cultures, rules and expectations within firms).¹⁵¹ Meanwhile, Mitt Regan and Lisa Rohrer, adopting a game-theoretic approach, refer to the simultaneous need for lawyer-leaders to solve a Prisoner's Dilemma (convincing partners that cooperative behaviour will be more financially advantageous than self-interested behaviour) and an Assurance Game (management must credibly communicate to partners that the firm has both financial and non-financial value that coordination realises).¹⁵² Other scholars have focused on how 'collegiality' can create a distinct organisational form, distinguished from bureaucratic organisations, that is characterised by peer-based cooperation. Waters defines collegial organisations as 'those in which there is dominant orientation to a consensus achieved between the members of a body of experts who are theoretically equals in their levels of expertise but who are specialized by area of expertise'.¹⁵³ Emmanuel Lazega builds on this by considering the informal power dynamics that arise from collegial structures and their influence on the inherent conflicts between individual and collective interests.¹⁵⁴

Despite their evident presence within law firms, the terms 'power' and 'politics' are often met with unease or deliberately sidestepped, as they can be perceived as incompatible with the ideal of collegiality.¹⁵⁵ Yet, in a context where power is dynamic, implicit, and distributed, as in law firms, political behaviours are inevitable.¹⁵⁶ Law firms are overtly governed by political structures and procedures — as to be admitted to partnership typically requires election from the partnership as a whole. Partners often have diverse goals, priorities, and motivations. At its most basic level, some partners may be focused on short-term financial performance (usually newer partners at the peak of their productivity), while others may be more concerned with their longer-term legacy or advancing into senior leadership positions (usually more experienced partners).¹⁵⁷ These leadership positions are often highly contested and politicised, as a managing partner role can offer the prospect of employment (eg, board appointments)

¹⁵¹ Empson 'Leading Professionals' (n 43) 85. See also Jean-Louis Denis, Lise Lamothe and Ann Langley, 'The Dynamics of Collective Leadership and Strategic Change in Pluralistic Organizations' (2001) 44(4) *Academy of Management Journal* 809.

¹⁵² Regan and Rohrer (n 55) 8.

¹⁵³ Malcolm Waters, 'Collegiality, Bureaucratization, and Professionalization: A Weberian Analysis' (1989) 94(5) *American Journal of Sociology* 945, 956.

¹⁵⁴ Lazega uses a detailed case study of a US corporate law firm, Spencer, Grace & Robbins, to show how collegiality, as an organising principle, causes power in law firms to be complex, distributed, and vested in the collectivity as a whole: Lazega (n 117).

¹⁵⁵ Empson 'Leading Professionals' (n 43) 28.

¹⁵⁶ *Ibid* 27; Christopher P Parker, Robert L Dipboye and Stacy L Jackson, 'Perceptions of Organizational Politics: An Investigation of Antecedents and Consequences' (1995) 21(5) *Journal of Management* 891, 891–3; Samantha Fairclough, Tim Morris and Royston Greenwood, 'Decision Making in Professional Service Firms' in Paul Nutt and David Wilson (eds), *Handbook of Decision Making* (John Wiley & Sons, 2010) 275.

¹⁵⁷ Empson 'Leading Professionals' (n 43) 27.

following retirement from the firm.¹⁵⁸ Consequently, authority in law firms is collegial, fragile, and the result of election, granting the senior partner the status of first among equals.¹⁵⁹ Committees form to address any manner of topic, ensuring participation and a check and balance on any individual (or group's) decision-making power. Empson refers to this as a form of 'contingent authority' whereby the lawyer-leader may only lead by consent.¹⁶⁰ Personal credibility is ultimately essential to the calculus of leadership,¹⁶¹ on the assumption that leaders cannot be effective if they do not first have the professional respect of their colleagues.¹⁶² This extends beyond mere technical skill or rainmaking ability, but requires securing the trust and support of the partnership through subtle political acumen or strategic 'manoeuvring'.¹⁶³ Senior leaders must behave politically to move forward, yet appear apolitical to their peers — persuading them that their ambitions serve the interests of the organisation as a whole rather than just themselves.¹⁶⁴ Lawyer-leaders need to recognise these political and power dynamics and ensure goodwill not just from their clients, but also from their peers. However, in the whirlwind of everyday practice, this may not be so easy.

D Everyday Legal Practice — A Practicing, Managing, Leading ('PML') Trilemma

Finally, leading in law firms has traditionally been a challenge as it is ultimately one of many competing priorities. In practice, law firm leaders must often juggle billing legal work and rainmaking ('practice'),¹⁶⁵ with directing a team or practice area

¹⁵⁸ Ibid. Empson observes that a plethora of political terminology and processes is used in these elections, with prospective leaders issuing 'manifestos' and 'mandates', giving speeches at 'candidates' debates', referring to the 'electorate' and their 'constituents', and even appointing 'campaign managers'.

¹⁵⁹ Langley and Empson (n 44) 164; Patrick J McKenna and David H Maister, *First Among Equals: How to Manage a Group of Professionals* (Free Press, 2005).

¹⁶⁰ Empson 'Leading Professionals' (n 43) 21; Langley and Empson (n 44) 163–88.

¹⁶¹ Aspatore Books interviewed senior lawyers (from managing partners to chairmen) to give their views on leading large law firms. A common theme was that to lead as a lawyer first requires respect as a partner from colleagues, earned through professional work: Aspatore Books, *Inside the Minds: Leading Lawyers: The Art & Science of Being a Successful Lawyer* (2002).

¹⁶² Maister (n 146) 221.

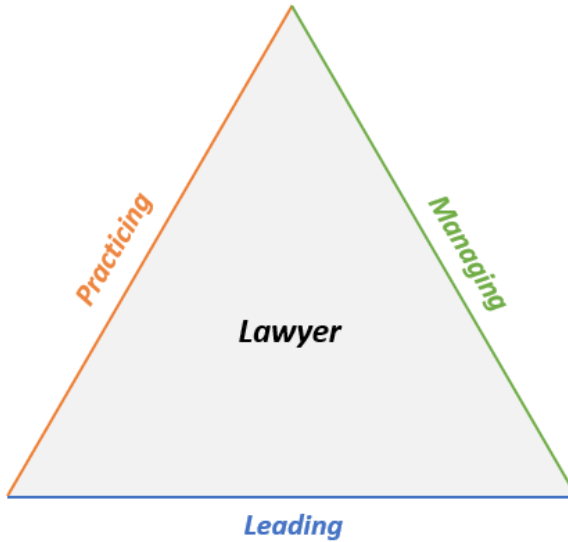
¹⁶³ Empson 'Leading Professionals' (n 43) 47–48. As Empson notes, if politics is too visible across the firm, the firm can collapse from deal-making and double dealing.

¹⁶⁴ Ibid 50.

¹⁶⁵ Practicing refers to the use of a lawyer's technical skills and specialised expertise to generate and deliver tangible outputs, services or products. This encompasses not only conventional every day legal tasks such as research, writing, the drafting of legal documents or appearing in court, but also extends to rainmaking — the ability to attract and retain clients, thereby contributing to the growth of the firm. This is a remnant of traditional professionalism, where partners were individually responsible for business development, client service, and execution: Gabarro (n 89) xxi.

(‘managing’),¹⁶⁶ all while overall inspiring and leading the wider firm as partner-owners (‘leadership’).¹⁶⁷ We call this phenomenon the ‘PML Trilemma’.¹⁶⁸

Figure 2: The Law Firm Leader PML Trilemma



1 Understanding the PML Trilemma

The trilemma incorporates existing concepts from the leadership literature and adapts them to the modern-day practice of law firms.

¹⁶⁶ Management is about maintaining the smooth functioning of routine operations for the ongoing business of the firm. Good management in law firms often entails effective organising, coordinating, delegating, and supervising to ensure defined objectives such as billable hour targets are met productively and profitably: John P Kotter, *John P. Kotter on What Leaders Really Do* (Harvard Business School Press, 1999) 52–3.

¹⁶⁷ Leadership is about aligning a collective direction, executing strategic plans, and renewing an organisation: ‘What Is Leadership: A Definition and Way Forward’, *McKinsey & Company* (Web Page, 17 August 2022) <<https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-leadership>>. Leadership is a team effort that involves establishing a vision, and coordinating, motivating, and guiding a team towards that goal: James M Kouzes and Barry Z Posner, *The Leadership Challenge: How to Make Extraordinary Things Happen in Organizations* (Wiley US, 2012).

¹⁶⁸ The exception may be in the largest law firms where the managing partner may be a full-time leader, but even then they may need to manage multiple client needs, such as when conflicts arise, and maintain and develop client relationships.

First, the ‘leadership vs. management’ dilemma revolves around the distinction between inspiring and guiding people towards a vision (leadership) and organising, administering, and implementing that vision (management).¹⁶⁹ In the corporate world:

Management involves planning and budgeting. Leadership involves setting direction. Management involves organizing and staffing. Leadership involves aligning people. Management provides control and solves problems. Leadership provides motivation.¹⁷⁰

Managers and leaders are seen as distinct roles undertaken by separate people who need different skills; indeed, being one precludes being the other.¹⁷¹ For lawyers, one person will commonly need to be both leader and manager.

Second, while both leadership and management are generally required, there is an additional priority within law firms in the form of practicing or billing. Despite entering leadership roles, such as becoming a partner or principal, lawyers usually continue to practice and remain engaged in client work. As explained above, this is necessary to provide the credibility to deal with clients and to lead other professionals.¹⁷² Legal market consultant Joel Barolsky explains the distinction between corporations and law firms using the examples of mining company BHP Billiton and law firm Herbert Smith Freehills Kramer. The former’s executives ‘do not dig for iron ore, or cart coal, or drill for oil. They are 100 per cent dedicated to the task of leading and managing their company’.¹⁷³ In contrast, law firm partners remain involved in serving clients and overseeing teams and legal work, ie, practice.

Law firm leaders need to have a practice-manager-leader (‘PML’) role. Harvard scholarship recognised this additional element of professional work and examined the ‘producer-manager’ dilemma, namely the tension between needing to manage other professionals while still producing outputs and

¹⁶⁹ Smith and Marrow conceptualise it as ‘leadership is about producing change, while management focuses on creating processes to produce predictable results’: Roland B Smith and Paul Bennett Marrow, ‘The Changing Nature of Leadership in Law Firms’ (2008) 80(7) *New York State Bar Association Journal* 33, 33. See also a table of the differences between leadership and management: Leah Witcher Jackson Teague, Elizabeth Masters Fraley and Stephen L Rispoli, *Fundamentals of Lawyer Leadership* (Wolters Kluwer, 2021) 30. Meanwhile, Stephen Covey writes ‘Management is efficiency in climbing the ladder of success; leadership determines whether the ladder is leaning against the right wall’: Stephen R Covey, *The Seven Habits of Highly Effective People: Restoring the Character Ethic* (Franklin Covey, 1989) 57.

¹⁷⁰ John P Kotter, ‘What Leaders Really Do’ (2001) 79(11) *Harvard Business Review* 85, 86; John Kotter, *A Force for Change: How Leadership Differs from Management* (Free Press, 1990).

¹⁷¹ Abraham Zaleznik, ‘Managers and Leaders: Are They Different?’ (May–June 1977) *Harvard Business Review* 55; Yukl (n 31) 253; Stuart G Walesh, *Managing and Leading* (American Society of Civil Engineers, 2003) 4.

¹⁷² Gabarro (n 89) xxi.

¹⁷³ Joel Barolsky, ‘Law Firm Partnerships Could Give BHP a Productivity Lesson’ *Australian Financial Review* (Sydney, 6 September 2019).

servicing clients.¹⁷⁴ However, while more relevant for lawyers, the scholarship failed to distinguish between management and leadership as distinct concepts. Leadership needs to be emphasised because it is different from management, and development of leaders in law is central to successful law firms.

Thus, we conceive a more appropriate characterisation of practice for lawyers as being a PML trilemma.

2 *Balancing the PML Trilemma*

The reality of practice is that every day may require a different balance of practicing, managing, and leading. However, at some basic level, all three activities are necessary for effective law firm practice.

For example, a senior partner at a BigLaw firm meets their team to discuss a transactional deal. They begin by contextualising the deal, explaining the significance of the client, and how the deal fits in with the firm's broader goals (leadership). The partner then discusses deal specifics, distributes workload, and assigns deadlines (management). The partner then shares templates they have drafted or sourced for the deal and reviews work product (practice). The meeting ends with a final motivation for everyone to try their best (leadership).¹⁷⁵ The same partner may be a practice group leader, partner in charge of an office, or on the firm's board of directors.

However, it is common in busy law firms for one or two functions to be neglected in favour of the others. The lawyer who only wants to focus on lawyering and billing, and vents their frustration in having to deal with practice management and leadership may find their team unmotivated and dispirited (P without ML).¹⁷⁶ Conversely, lawyer-leaders who fail to practice may lose the respect of their clients and colleagues (ML without P), not to mention risking their position as a partner.

Meanwhile, a lawyer fixated on management or lack thereof (excessive micromanagement, perfectionism, failure to delegate work effectively, etc) may

¹⁷⁴ Jay W Lorsch and Peter F Mathias, 'When Professionals Have to Manage' (July–August 1987) *Harvard Business Review* <<https://hbr.org/1987/07/when-professionals-have-to-manage>> 78, 78–9; Mathieu Weggeman, 'Is the Professional Self-Managing or Is There Really a Need for Professional Management?' (1989) 7(4) *European Management Journal* 422. See, eg, discussion of Linklaters case study: 'Linklaters', *Advance HE* (Web Page) <<https://www.advance-he.ac.uk/knowledge-hub/linklaters>>.

¹⁷⁵ This example is partially drawn from Teague's discussion on leading vs managing, with our own additions in relation to production: Teague, Fraley and Rispoli (n 169) 33–4.

¹⁷⁶ William Brewster, 'Entering the Profession' in *Leading Lawyers: The Art & Science of Being a Successful Lawyer* (Aspatore, 2002) 9; Yuliani Suseno and Ashly H Pinnington, 'The War for Talent: Human Capital Challenges for Professional Service Firms' (2017) 23(2) *Asia Pacific Business Review* 205, 223. See also McNamara's study of the Australian legal profession finding that supervision processes were often relegated to production, as the billable hour regime forces supervision to be treated as an opportunity cost: Michael John McNamara, *Supervision in the Legal Profession* (Palgrave Macmillan, 2020) 55.

find their team frustrated or confused.¹⁷⁷ Unlike many organisations with distinct ‘manager’ roles, in law firms managerial and leadership roles are typically combined.¹⁷⁸ On the flip side is a lawyer-leader who might only articulate the vision, expecting the team to figure out the process themselves in an outcomes-driven approach (L without PM), which might overwhelm their team and lead to sub-optimal results, including errors from a lack of supervision.¹⁷⁹

But perhaps the more common scenario in busy law firms is neglecting leadership as a priority. If a partner does not share their vision or strategy, but simply assigns a list of tasks, the work may get done, however associates may miss valuable opportunities to improve the end result by buying into the vision (PM without the L).¹⁸⁰ The team may be less motivated because they do not know or care about the broader purpose underlying their work. This can lead to weaker team development, feedback, coaching, relationships, and a focus on short-term billable goals.¹⁸¹

IV DEVELOPING LEADERSHIP FOR LAW FIRMS

The most dangerous leadership myth is that leaders are born — that there is a genetic factor to leadership ... in fact, the opposite is true. Leaders are made rather than born.¹⁸²

As we have sought to demonstrate, leading law firms is a unique phenomenon. While most lawyers do not currently receive formal education in leadership, leadership can be learnt.¹⁸³ Leadership development entails two elements: first,

¹⁷⁷ As Gazica et al note, ‘the highly competitive nature of the legal profession, compounded by the importance of attention to detail in potentially high stakes legal matters, compels perfectionistic demands on lawyers in performing their work’: Michele W Gazica, Samantha Rae Powers and Stacey R Kessler, ‘Imperfectly Perfect: Examining Psychosocial Safety Climate’s Influence on the Physical and Psychological Impact of Perfectionism in the Practice of Law’ (2021) 39(6) *Behavioral Sciences & the Law* 741, 751.

¹⁷⁸ Teague, Fraley and Rispoli (n 169) 30. The exception being large law firms, where there is a CEO instead of a managing partner. The term ‘managing partner’ itself is a cause of confusion, as despite being called ‘managing’ they are responsible for leading the firm.

¹⁷⁹ Ibid 34. Existing research shows that people are more engaged when they work for a manager who works at least as much as they do: Ryan Fuller and Nina Shikaloff, ‘What Great Managers Do Daily’ *Harvard Business Review* (online, 14 December 2016) <<https://hbr.org/2016/12/what-great-managers-do-daily>>.

¹⁸⁰ Teague, Fraley and Rispoli (n 169) 34.

¹⁸¹ David J Parnell, ‘Law Firms Surveyed: Bad Actors Present Challenges for Leadership’, *Forbes* (online, 28 October 2016) <<https://www.forbes.com/sites/davidparnell/2016/10/28/bad-actors-challenges-law-firm-leadership/>>.

¹⁸² Warren G Bennis, *Managing People Is like Herding Cats* (Executive Excellence Publishing, 1997) 163.

¹⁸³ Daniel Goleman, ‘What Makes a Leader?’ (January 2004) *Harvard Business Review* <<https://hbr.org/2004/01/what-makes-a-leader>>; William Gentry et al, *Are Leaders Born or Made? Perspectives from the Executive Suite* (White Paper, March 2012) <<https://doi.org/10.35613/ccl.2012.2028>>; Warren Bennis, *On Becoming a Leader* (Perseus Pub, rev ed, 2003); Doris DelTosto Brogan, ‘Stories of Leadership, Good and Bad: Another Modest Proposal for Teaching Leadership in Law Schools’ (2021) 45(2) *Journal of the Legal Profession* 183, 205; Polden and Posner (n 28) 4.

equipping individuals with key capabilities and; second, establishing an organisational environment with systems that facilitate leadership.¹⁸⁴ This process of learning leadership should begin early in legal education and receive continuous reinforcement in legal workplaces.

A Leadership Education in Law School

Leadership should be part of a continuous learning process that starts with law school. The thinking and approaches found in the formative stages of university are essential in shaping habits and developing effective leadership behaviours over time.¹⁸⁵

While there is a growing movement to incorporate leadership into legal education¹⁸⁶ (mainly in the US and UK),¹⁸⁷ a gap persists.¹⁸⁸ As lawyers assume leadership positions across various organisations (including in roles outside the legal profession) it is imperative that this gap is filled.¹⁸⁹

The law school curriculum focuses on legal reasoning and technical skills, and on learning to think like a lawyer, with a recent turn towards human or ‘soft’ skills, but typically aimed at teamwork and collaboration, rather than leadership.¹⁹⁰ While some leadership skills are being taught in academic settings, perhaps more by

¹⁸⁴ Deborah L Rhode, ‘Leadership in Law’ (2017) 69(6) *Stanford Law Review* 1603, 1634, citing Peter M Senge, *The Fifth Discipline: The Art and Practice of the Learning Organization* (Crown Currency, 1st ed, 1990) 3–4 (‘Leadership in Law’); David V Day, ‘Leadership Development: A Review in Context’ (2000) 11(4) *Leadership Quarterly* 581, 584.

¹⁸⁵ Thompson (n 1) 7.

¹⁸⁶ See, eg, Susan McCarty and Paula Monopoli, *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (Routledge, 2016); Barry Z Posner, ‘Leadership Development in Law Schools: Myths, Principles, and Practices’ (2019) 58(3) *Santa Clara Law Review* 399; Brogan (n 183); Leah Teague, ‘Making Progress in Legal Education: Leadership Development Training in Law Schools’ (2021) 73(1) *Baylor Law Review* 1; Martin H Brinkley, ‘Teaching Leadership in American Law Schools: Why the Pushback?’ (2021) 73(1) *Baylor Law Review* 194.

¹⁸⁷ For example, The Association of American Law Schools has a Section on Leadership: See ‘Section on Leadership’, *Association of American Law Schools* (Web Page, 9 November 2017) <<https://www.aals.org/sections/list/leadership/>>.

¹⁸⁸ As Thompson observes ‘we find a deep chasm between what law schools teach lawyers to do and what the world expects of these lawyers who so often become leaders’: Thompson (n 1) 5; Polden and Posner (n 28) 7–8. The gap appears to be greater in Australia: see Barolsky (n 173).

¹⁸⁹ As Rhode observes, many law students will inevitably occupy leadership positions and ‘exercise leadership as heads of teams, committees, task forces, and charitable initiatives’ even if during law school they never thought themselves as potential leaders: Rhode, ‘Preparing Leaders’ (n 52) 414. See also Jenkins and Lee (n 50).

¹⁹⁰ In Australia, law schools require technical expertise in 11 substantive areas (the ‘Priestley 11’). There are also six threshold learning outcomes for the Bachelor of Laws: Sally Kift, Mark Israel and Rachael Field, ‘Learning and Teaching Academic Standards Project: Bachelor of Laws Learning & Teaching Academic Standards Statement’ (Discussion Paper, Australian Learning & Teaching Council, December 2010). However there are no requirements that address leadership.

chance than by design,¹⁹¹ these processes would be more effective if they were taught intentionally and with reference to leadership research.¹⁹²

Legal educators need to systematically consider how leadership can be integrated into the law school experience. It may be achieved through offering a course (whether compulsory or elective) or through a special program to address topics such as building trust, motivating others, communicating effectively, and conflict resolution.¹⁹³ While the focus in this article is law firm leadership, law schools need to address leadership in a range of potential careers and roles. Law graduates do not just go into commercial law firms; other roles such as in-house lawyer for government, a not-for-profit, or a corporation also beckon, and the law school curriculum must recognise this. Equally, leadership courses should not be generic and should address leadership in, and through, law with a focus on those matters that make the practice of law, including professional and ethical responsibilities, unique. Moreover, learning leadership is likely to be more effective if it is embedded throughout the law school curriculum and not limited to a single course. Repeated opportunities to lead (and be led) are more likely to develop the necessary leadership skills. Incorporating leadership as a transversal theme across multiple courses may also permit its adoption in an already crowded curriculum. Because of the novelty of the discipline, evaluation of the student's acquisition of the skill and of the effectiveness of the teaching method will be critical.¹⁹⁴

1 *Leading Yourself*

Warren Bennis noted that becoming a leader is synonymous with becoming yourself.¹⁹⁵ Self-awareness is the critical first step towards leadership, involving identifying what skills are needed, reflecting on personal capacities, and thinking strategically about one's own goals, capabilities, and needs.¹⁹⁶

There is no one singular type of 'successful' lawyer or leader. Throughout their career, lawyers discover their strongest attributes and learn how to capitalise on them, whether it is being particularly adept at persuasion and advocacy, or pulling the threads of a complex transaction together.¹⁹⁷ Simultaneously, lawyer-leaders need to understand their blind spots. An

¹⁹¹ Rhode, (n 184) 1638. See also Brogan (n 183) 186–7.

¹⁹² Westfahl and Wilkins (n 51) 1707.

¹⁹³ See Ibid 1706 (noting the difficulties in achieving curricular reform due to academic self-interest in teaching what the academic sees as important, or what they have knowledge of, rather than what students or the legal profession may value).

¹⁹⁴ Rhode, 'Preparing Leaders' (n 52) 417.

¹⁹⁵ Bennis (n 182).

¹⁹⁶ Rhode, 'Leadership in Law' (n 184) 1640–1, citing Lisa A Boyce, Stephen J Zaccaro and Michelle Zazanis Wisecarver, 'Propensity for Self-Development of Leadership Attributes: Understanding, Predicting, and Supporting Performance of Leader Self-Development' (2010) 21(1) *The Leadership Quarterly* 159, 161.

¹⁹⁷ Mary Cranston, 'Using Vision to Shape Lawyers and Law Firms' in Aspatore Books (ed), *Inside the Minds: Leading Lawyers: The Art & Science of Being a Successful Lawyer* (2002) 29, 31.

introverted lawyer technician may struggle with effective communication and public speaking, while an adversarial advocate may falter in building trust and collaboration.¹⁹⁸ Research shows lawyers may lack self-reflection, have a fixed mindset, or be more defensive about critical feedback.¹⁹⁹

As such, leadership education should inspire law students to be lifelong learners.²⁰⁰ Exceptional performers adopt a growth mindset, continuously seeking improvement and opportunities outside their comfort zones,²⁰¹ or 'stretch assignments'.²⁰² This journey of learning should begin from the first year of school, and some scholars have suggested using self-assessment instruments (these are not tests as they cannot be failed) that help law students gain insights into personalities, needs, values, attitudes, behavioural preferences, and learning styles.²⁰³

2 Leading Others and Collaborating

Effective leadership requires and can be developed through collaboration. Collaboration makes law firms more successful at delivering value to clients because complexity has increased, leading to a range of specialist skillsets that need to be combined to address challenging problems.²⁰⁴ Effective collaboration is a combination of structures, processes, and roles, as well as foundational interpersonal competencies.²⁰⁵ Leadership is a central part of successful collaboration as it helps create the environment where multiple people can work together towards a common goal.

¹⁹⁸ Leary Davis, 'Why Law Schools Should Emphasize Leadership Theory and Practice' in Susan McCarty and Paula A Monopoli (eds), *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (Routledge, 2016) 91, 104–5.

¹⁹⁹ Richard (n 79) 4, 9; Westfahl (n 139) 349; Susan Daicoff, 'Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism' (1997) 46(5) *American University Law Review* 1337; Rhode, 'Preparing Leaders' (n 52) 413.

²⁰⁰ Rhode, 'Preparing Leaders' (n 52) 415; Paul Brest and Linda Krieger, 'On Teaching Professional Judgment' (1994) 69(3) *Washington Law Review* 527, 559.

²⁰¹ Zenger and Folkman (n 30) 103–8.

²⁰² James M Kouzes and Barry Z Posner, *Learning Leadership: The Five Fundamentals of Becoming an Exemplary Leader* (Wiley, 2016) 143–4; Douglas A Ready, Jay A Conger and Linda A Hill, 'Are You a High Potential?' *Harvard Business Review* (online, June 2010) <<https://hbr.org/2010/06/are-you-a-high-potential>>; Day (n 184) 598.

²⁰³ Thompson (n 1) 151. In New York University's School of Law for example, every first-year law student is administered the Myers-Briggs Type Indicator ('MBTI') or Implicit Association Test ('IAT'). These provide personal insight and begin the process of students thinking about themselves as lawyers and potential leaders as well as setting a foundation for thinking about judgment, perception, and personal development. See also other methods from Davis (n 198) 106. FIRO-B (Fundamental Interpersonal Relations Orientation-Behaviour) measures need for inclusion, control, and affection. The DiSC Personal Profile System reveals management styles based on dominance, interaction, stability, and compliance with quality standards.

²⁰⁴ Heidi Gardner, *Smart Collaboration* (Harvard Business Review Press, 2017) 5–10.

²⁰⁵ See, eg, Steve WJ Kozlowski and Daniel R Ilgen, 'Enhancing the effectiveness of work groups and teams' (2006) 7(3) *Psychological Science in the Public Interest* 77, 79–80; Gudela Grote and Steve WJ Kozlowski 'Teamwork doesn't just happen: Policy recommendations from over half a century of team research' (2023) 9(1) *Behavioral Science & Policy* 59, 62–4.

However, commentators have noted that law students often approach teamwork differently compared to business students,²⁰⁶ preferring to divide up work and complete tasks individually. This style can carry into professional life, where lawyer ‘teams’ in law firms end up being hierarchical, loose, working groups where a senior person controls client contact, a midlevel person communicates up and down the chain, and individual contributors perform varied tasks with little or no contact with each other or with connection to the broader purpose of the team’s effort.²⁰⁷ Lawyers’ desire for autonomy can hinder the highly collaborative, multi-input, multi-stakeholder inclusive process of teamwork.²⁰⁸

To address this, leadership education should emphasise learning by doing and implement more collaborative assessments that involve both leading and being led. This approach can better prepare students for professional realities by highlighting the importance of ‘soft’ skills learned in group settings,²⁰⁹ and hone competencies such as giving and receiving constructive feedback, conflict resolution, cross-cultural competence, and understanding different ways of working.²¹⁰ Significantly for law students, who as practitioners are required to exercise independence, collaboration also needs to include the ability to question, object, and persuade when an approach is believed to be ineffective or wrong.²¹¹

Indeed, Scott Westfahl and David Wilkins advocate not just making group work part of courses or assessment, but also teaching about teams. These include how best to collaborate, using tools around team launch, planning, identifying objectives, sharing information, feedback, check-in and communicating individual working styles of team members.²¹² More broadly, they also suggest developing ‘field’ leadership experiences, where students could be challenged to lead teams, receive feedback and coaching, engage in group strategic-thinking exercises, and receive course credit or other recognition for their efforts.²¹³ Group work has become part of the Australian law curriculum but it needs to develop further, including incorporating development of leadership skills.

²⁰⁶ Westfahl (n 139) 346; Robert J Rhee, ‘Reflections on Team Production in Professional Schools and the Workplace’ in Susan McCarty and Paula A Monopoli (eds), *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (Routledge, 2016) 213, 216.

²⁰⁷ Westfahl (n 139) 346.

²⁰⁸ Ibid 345.

²⁰⁹ Rhee (n 206) 217.

²¹⁰ Ibid 219.

²¹¹ See Ian Weinstein, ‘Don’t Believe Everything You Think: Cognitive Bias in Legal Decision Making’ (2003) 9(2) *Clinical Law Review* 783 (an understanding of human behavioural biases, such as authority bias or social conformity, can assist in avoiding the acceptance of arguments or positions that should be more thoroughly scrutinised or challenged); Brogan (n 183) 215 (arguing that followers or team members need to be able to give voice to their own values and be prepared to challenge the leader).

²¹² Westfahl and Wilkins note that these tools are used in their Problem Solving Workshop at Harvard, a mandatory requirement for first-year students: Westfahl and Wilkins (n 51) 1708. See also Gudela Grote and Steve WJ Kozlowski, ‘Teamwork Doesn’t Just Happen: Policy Recommendations from Over Half a Century of Team Research’ (2023) 9(1) *Behavioral Science & Policy* 59.

²¹³ Westfahl and Wilkins (n 51) 1709–10.

3 Teaching About Law Firms

Australian commercial law firms have traditionally played an important role in training, developing, and socialising graduate lawyers, and many graduates will continue to be attracted to a career in such firms.²¹⁴ For these students, knowledge of how these firms work is scarce in the law school curriculum, with teaching typically being in the context of ethics courses and discussions about ethical conundrums.²¹⁵ In particular, the economics of practice, distributed leadership models, and the competing priorities of everyday practice (such as the PML trilemma) are only learnt or properly understood after years of practice experience. As leadership is context-specific, and to facilitate students' understanding of commercial law firms — including opportunities, limitations, challenges that law firm practice provides — the teaching of the topics discussed in Part II is desirable. The combination of leadership training, but informed by the practice context, is aimed at producing graduates who are not just 'technicians' but more skilled and well-rounded nascent professionals.²¹⁶

B Leadership Education in Law Firms

After graduation, it is incumbent on law firms to continue to instil leadership by developing a system, structure, and culture of leadership. Law firms compete in two principal markets: clients and staff.²¹⁷ Equally important as winning clients, law firms should be attracting the best staff and preparing them to step forward into leadership roles.

It is essential to think about a leadership system as an integrated whole rather than a series of piecemeal initiatives. Large law firms may have leadership training programs, but not all do. We outline a four step process for integrating leadership into the DNA of a firm: (1) defining the 'why' of a firm; (2) setting up infrastructure; (3) learning by doing; and (4) a feedback cycle.

²¹⁴ Andrew M Francis, 'Legal Ethics, the Marketplace and the Fragmentation of Legal Professionalism' (2005) 12(2) *International Journal of the Legal Profession* 173.

²¹⁵ See, eg, Holmes and Bartlett (n 81); John Littrich and Karina Murray, *Lawyers in Australia* (Federation Press, 5th ed 2025) 289–91; Baron and Corbin (n 96) 114, 143, 256.

²¹⁶ Sally Kift and Kana Nakano, 'Reimagining the Professional Regulation of Australian Legal Education' (Research Report, Council of Australian Law Deans, 1 December 2021) 58–59 (discussing the new and different learning needs for 'practice-ready' graduates, including reference to leadership, but without the acknowledgement of the significance of context).

²¹⁷ Maister (n 146).

1 Defining the Why — Articulating Behaviours, Values, and Culture to Lead with Purpose

As context is key to effective leadership, the starting point of developing leadership in a firm is to articulate a set of values, principles, and behaviours that the firm considers important. Maister notes that trust in an organisation only occurs when everyone can be depended upon to act in accordance with a commonly held, strictly observed set of principles.²¹⁸ Failing to define, communicate, or prioritise these values (as outlined in our PML trilemma) is the common pitfall. Leadership expert Simon Sinek conceptualises this through his ‘Golden Circle’ framework, proposing that every organisation consists of a ‘what’, ‘how’, and ‘why’.²¹⁹ The ‘what’ is the product or service that is offered (ie, production); the ‘how’ details the processes and values (ie, management); and the ‘why’ encapsulates the organisation’s core purpose, cause, or belief (ie, leadership).²²⁰

Sinek contends that successful organisations articulate and understand their ‘why’.²²¹ For example, Apple has defined itself not by *what* it does (technology), but *why* it does it (challenging the status quo by embracing simplicity).²²²

For law firms, examples of a ‘Why’ might include: a class action litigation firm advocating for access to justice or holding corporations accountable; a commercial firm focusing on facilitating large international transactions for (sustainable) economic growth; an intellectual property firm empowering innovators; or a NewLaw firm with a goal to revolutionise the legal industry.

The danger is when leaders lose sight of their mission statement, including professional and ethical values. This might be seen with firms falling short of their public service commitments²²³ or increasingly not aligning with newer generations of lawyers’ values.²²⁴

²¹⁸ Maister (n 58) 206.

²¹⁹ Simon Sinek, *Start With Why: How Great Leaders Inspire Everyone To Take Action* (Portfolio, 2009) 41–56.

²²⁰ *Ibid* 43.

²²¹ *Ibid* 54–6.

²²² *Ibid* 44–50.

²²³ Michael Pelly, ‘Dreyfus to Name and Shame Pro Bono Laggards’, *Australian Financial Review* (online, 31 August 2023) <<https://www.afr.com/companies/professional-services/dreyfus-to-name-and-shame-pro-bono-laggards-20230827-p5dzo2>>; Maxim Shanahan, ‘HWL, Maddocks among Law Firms Named and Shamed for Pro Bono Failures’, *Australian Financial Review* (online, 9 November 2023) <<https://www.afr.com/companies/professional-services/hwl-maddocks-among-law-firms-named-and-shamed-for-pro-bono-failures-20231105-p5eho6>>.

²²⁴ Only 21% of young lawyers are attracted to the prospect of making partner at a law firm, with a further 46% stating although they would like to make partner, it was not the most important thing to them: *The Future for Legal Talent* (n 17) 7. See also Kate Allman, ‘Young Lawyers: Partnership No Longer the End Game for Millennial Lawyers’ [2018] (46) *LSJ: Law Society of NSW Journal* 18; Hannah Wootton, ‘Client, Employee Demands Push Law Firms towards Net Zero’, *Australian Financial Review* (online, 13 December 2021) <<https://www.afr.com/companies/professional-services/client-employee-demands-push-law-firms-towards-net-zero-20211213-p59h61>>.

Research has indicated workplace satisfaction depends most on intrinsic factors such as feeling effective,²²⁵ exercising strengths and virtues,²²⁶ and contributing to socially valued ends that bring meaning and purpose.²²⁷ Lawyers are often able to make or advise important individuals and entities on many of the world's most critical decisions. Leadership in law firms requires not just legal and business skills, but also clarity on values. Leaders must simultaneously balance the need to realise a strong vision, scale modern management practices to ensure profitability, and uphold high ethical standards.²²⁸

2 Infrastructure — Teaching Leadership and Tracking Opportunities

Firms should develop an infrastructure to train lawyers in leadership and provide, track, and develop leadership opportunities.²²⁹ Training comprises an essential part of socialising lawyers to the culture of the organisation.²³⁰ Current training often focuses on building technical skills (which are key to competent practice),²³¹ however as lawyers are promoted to new levels of responsibility, such as coordinating other lawyers to deliver legal work product, they should be trained in relevant leadership skills.²³² One example is in interpersonal skills and collaboration, key skills any leader must have, as explained above.²³³ Another is fostering an understanding of how the firm operates, in other words, transparency around firm dynamics, practice economics and how drivers like firm compensation work, so that lawyers can comprehend leadership in context. Understanding these inner workings is required to develop the leaders who will eventually lead the firm. Equally, it is also leadership in the context of the profession and its professional and ethical responsibilities. The reason for the training, its objectives, and its relevance to the firm's lawyers should be made clear.

²²⁵ David G Myers and Ed Diener, 'Who Is Happy?' (1995) 6(1) *Psychological Science* 10, 10–17.

²²⁶ Christopher Petersen and Martin EP Seligman, *Character Strengths and Virtues: A Handbook and Classification* (Oxford University Press, 2004) 28–30.

²²⁷ Ed Diener et al, 'Subjective Well-Being: Three Decades of Progress' (1999) 125(2) *Psychological Bulletin* 276, 288–93.

²²⁸ Cranston (n 197) 33–4.

²²⁹ Law firm teaching of leadership may usefully draw on external courses, such as the Melbourne and UNSW Law School programs 'Legal Leadership Essentials' (n 53); 'Leadership for Lawyers' (n 53); or on overseas programs such as: 'Leadership in Law Firms', *Harvard Law School* (Web Page) <<https://hls.harvard.edu/executive-education/programs/in-person-programs/leadership-in-law-firms/>>. But law firms need a more comprehensive approach, or as is termed here, infrastructure.

Regan (n 118) 25.

²³⁰ Jess M Krannich, James R Holbrook and Julie J McAdams, 'Beyond "Thinking Like a Lawyer" and the Traditional Legal Paradigm: Toward a Comprehensive View of Legal Education' (2009) 86(2) *Denver University Law Review* 381, 382; Justine Rogers, 'Teaching Soft Skills Including Online: A Review and Framework' 2020 30(1) *Legal Education Review* 1, 2.

²³¹ Westfahl and Wilkins (n 51) 1723.

²³² Jack Zenger and Joseph Folkman, 'Overcoming Feedback Phobia: Take the First Step' *Harvard Business Review* (online, 17 December 2013) <<https://hbr.org/2013/12/overcoming-feedback-phobia-take-the-first-step>>; Zenger and Folkman (n 30) 88.

The firm also needs to track leadership opportunities and how those opportunities are distributed to individual lawyers. As explained below some opportunities will arise spontaneously, and others will be planned. For a firm to ensure it is developing all lawyers so as to make the most of its human resources, including reaping the benefits of diversity,²³⁴ it needs to make sure that leadership opportunities are not left to happenstance or personal relationships, but are distributed evenly. Law firms should be willing to invest resources into a holistic system that signals the importance of leadership and the firm's values.²³⁵

3 Learning by Doing — Leadership Roles in the Firm and Externally

Firms need to emphasise a culture of learning leadership by doing, and create learning opportunities, as 'much of the skill needed for effective leadership is learnt from experience'.²³⁶ This includes early occasions to lead internal initiatives, work on matters of interest, and take ownership over matters including: recruitment, training, mentoring, knowledge development and sharing, employee engagement, community building, technology-related opportunities and efficiencies, and pro bono efforts.²³⁷ Individuals should also be cognisant of leadership opportunities or what engineering professor James Parkin called a 'leadership event' being a situation in organisational life which needs, and provides for the individual, a source of leadership.²³⁸

Coordinating more supervised occasions for both partners and associates to learn as leaders can also be beneficial. For example, many firms have mentoring programs or relationships where a more experienced lawyer helps a less experienced or junior lawyer. The junior lawyer receives guidance, encouragement, and assistance in understanding the practice of law and the operation of the firm, while the mentor can develop their leadership skills.²³⁹ A firm can go beyond this and foster a culture of sponsorship.²⁴⁰ Sponsorship requires senior lawyers to champion younger lawyers, creating challenging opportunities for the junior while offering the senior a chance to 'sponsor' their development with their own reputation on the line. To promote diversity as lawyers progress, mentorship and sponsorship should be coordinated to give all junior lawyers access to senior lawyers.

²³⁴ Diverse organisations can recruit and retain high performing staff, improve productivity and performance, and increase organisational competitiveness and growth: Law Society of NSW, *Diversity and Inclusion in the Legal Profession: The Business Case* (Report, October 2021).

²³⁵ Westfahl and Wilkins (n 51) 1692.

²³⁶ Gary Yukl, *Leadership in Organizations* (Pearson, 8th ed, 2013) 370.

²³⁷ Westfahl and Wilkins (n 51) 1725.

²³⁸ James Parkin, 'Choosing to Lead' (1997) 13(1) *Journal of Management in Engineering* 62, 63 (Parkin provides a number of steps for addressing a leadership event, including confirming that your leadership is required and feasible, and identifying the potential network of interested actors); Walesh (n 171) 6.

²³⁹ Yukl (n 236) 377.

²⁴⁰ Westfahl and Wilkins (n 51) 1721.

Meanwhile, external to the firm, graduates could be encouraged to seek leadership positions in professional associations or even roles completely unrelated to the legal industry. It is important to nurture these experiences, and ensure associate committees are empowered with adequate resources to reinforce them instead of seeing such activities as a distraction from billing.

4 Evaluation — Feedback, Measure, and Reward

Firms should establish active feedback processes and transparent leadership evaluation models that set standards, assess lawyers' leadership styles, and clarify what is measured and rewarded. Without feedback, leaders risk overlooking problems or defaulting to self-serving biases.²⁴¹ Leadership effectiveness may be evaluated by reference to the performance of the team or organisation, including objective measures of performance such as hours billed, revenue, or new client matters opened. Another measure is more qualitative, namely ratings or feedback from superiors, peers, and subordinates.²⁴²

The typical feedback approach in firms involves multisource or upward (360) reviews.²⁴³ Some best practices to structure candid dialogue involve: active listening; privacy for an honest conversation; mutual problem-solving; presenting examples; and expressing confidence in the ability to improve.²⁴⁴ However, as others have observed, feedback is often poorly delivered, lacks related coaching, and may not be trusted by juniors.²⁴⁵ Without a supportive culture, including follow-up actions such as training or coaching, feedback can be counterproductive as subordinates hesitate to volunteer critical messages, while untrained leaders may be defensive.²⁴⁶ A firm-wide sense of trust and buy-in is crucial.²⁴⁷ Maister suggests a system that requires partners to meet standards on

²⁴¹ Yukl (n 236) 371. See also Leary Davis, 'Competence as Situationally Appropriate Conduct: An Overarching Concept for Lawyering, Leadership, and Professionalism Leadership' (2012) 52(3) *Santa Clara Law Review* 725.

²⁴² Yukl (n 236) 25.

²⁴³ For an overview see *ibid* 372. For examples, see real-time feedback with Compass at Allen & Overy: Rose Walker, 'A&O Set for Firmwide Rollout of New Performance Scheme as Firm Targets More "honest" Feedback', *Law.com International* (online, 17 April 2018) <<https://www.law.com/international-edition/2018/04/17/ao-set-for-firmwide-rollout-of-new-performance-scheme-as-firm-targets-more-honest-feedback/>>.

²⁴⁴ Rhode, 'Leadership in Law' (n 184) 1644, citing McKenna and Maister (n 159) 115; Robert E Quinn, David S Bright and Rachel E Sturm, *Becoming a Master Manager: A Competing Values Approach* (Wiley, 6th edition, 2015) 63.

²⁴⁵ Westfahl and Wilkins (n 51) 1724; Sheila Heen and Douglas Stone, 'Find the Coaching in Criticism' (online, January-February 2014) *Harvard Business Review* <<https://hbr.org/2014/01/find-the-coaching-in-criticism>>.

²⁴⁶ Rhode, 'Leadership in Law' (n 184) 1643, citing John Antonakis and David V Day (eds), *The Nature of Leadership* (SAGE Publications, 3rd Edition, 2018); Robert Jackall, *Moral Mazes: The World of Corporate Managers* (Oxford University Press, 1988); Doug Lennick and Fred Kiel, *Moral Intelligence: Enhancing Business Performance and Leadership Success* (Pearson Education, 2005).

²⁴⁷ Feedback should be used for development purposes not performance appraisal: Yukl (n 236) 372.

leadership and team satisfaction in the same way that partners have billable targets.²⁴⁸ Putting this into practice, at McKinsey for example, one factor in promotion to partner is a bare minimum of upward feedback scores.²⁴⁹ Similarly, at Bain & Company, a company consistently ranked as one of the best companies to work for,²⁵⁰ a leader or manager receives fortnightly feedback, alongside deeper feedback throughout the year.²⁵¹ This feedback process converts subjective feedback into objective data, which is then used to celebrate role models. As Westfahl and Wilkins highlight, '[d]ata analytics and technology offer significant opportunities to engage, motivate, and develop lawyers'.²⁵²

V CONCLUSION

For law firms, a range of challenges are presenting themselves. Business and commercial imperatives are becoming increasingly important for survival in a hyper-competitive landscape. Commercial success will also hinge on being able to navigate the great challenges of our time, such as sustainability and artificial intelligence. Equally, attracting and servicing profitable clients requires a talented workforce, a workforce that is concerned with wellbeing, diversity, and social responsibility, not just compensation. A resilient and successful legal profession is also central to public service. In this environment of multiple responsibilities and challenges the law firm needs leaders — 'it is entirely possible that a firm's competitive success can be built on a superior ability to get the best out of its people'.²⁵³

The lawyers who make up the potential leadership pool are already expected to develop and maintain expertise, produce high quality work, manage client relationships, and adhere to ethical obligations. Leadership is an additional responsibility that requires additional skills. A comprehensive approach to leadership development needs formal programs during law school in concert with continuing workplace initiatives.

²⁴⁸ Maister (n 58) 234.

²⁴⁹ Westfahl and Wilkins (n 51) 1724. For a detailed discussion of McKinsey's management model see: Christopher D McKenna, *The World's Newest Profession: Management Consulting in the Twentieth Century* (Cambridge University Press, 2010).

²⁵⁰ 'Bain & Company Ranks on Fortune's 100 Best Companies to Work For List for the Second Year in a Row' *Bain & Company* (Media Release, 12 April 2021) <https://www.bain.com/about/media-center/pressreleases/2021/bain_company_ranks_on_fortunes_100_best_companies_to_work_for_list_for_the_second_year_in_a_row/>.

²⁵¹ 'S02 Episode 05: Leadership Value Chain', *Leading Professional People* (hosted by Laura Empson and David Morley, 12 July 2021) <<https://www.lauraempson.com/podcasts/leading-professional-people/series1-2>>. The types of characteristics that create inspirational leaders include behaviours that develop one's inner resources, such as stress tolerance, optimism, and emotional self-awareness, and another is the qualities related to leading a team: Mark Horwitch and Meredith Whipple Callahan, 'How Leaders Inspire: Cracking the Code', *Bain & Company* (Web Page, June 2016) <<https://www.bain.com/insights/how-leaders-inspire-cracking-the-code/>>.

²⁵² Westfahl and Wilkins (n 51) 1720.

²⁵³ Maister (n 146) 221.