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Executive summary

It is a strategic imperative for firms to remain competitive, adaptive, and capable of delivering high-quality legal services in today's complex business environment. Partner performance is a critical issue and will become more so in the coming years as AI threatens to replace or reposition underperforming employees. The dynamic and evolving nature of the legal profession, coupled with external factors such as technology, globalisation, and economic changes, underscores the importance of performance management for law firms.

Managing partner performance: Strategies for transforming underperforming partners takes a comprehensive look at how to improve underperforming partners within the legal profession. It provides insight and practical solutions for law firm leaders committed to revitalising their teams and optimising organisational success. Structured into four parts, the book systematically diagnoses underperformance, its cause and effect, how to deal with underperforming partners, and how to proactively performance manage over the long-term.

Our opening chapter by consulting editor Nick Jarrett-Kerr examines performance in law firms, including post-pandemic trends and the effect of these on performance. The chapter proposes that all firms have a performance curve, resulting in the firm being segmented into high performing A partners, B partners who form the engine room of the firm, and C partners who in relative terms perform less well than their peers. It establishes what motivates partners to perform and the importance of setting and communicating clear and measurable standards. Nick provides a definition of underperformance, including its financial implications, and how firms can manage performance for success. The chapter covers the steps that firms need to take to clarify what they expect of their partners, including agreeing the critical areas of performance or "balanced scorecard" in which partners need to contribute. It explains how to define specific roles and responsibilities to play to strengths and how to link performance with the firm's values.

In chapter two, Patrick McKenna has the reader imagine themselves as a

firm leader with an underperforming partner in their team. They know this particular partner has been underperforming but have been content to let the situation drift without resolution, rather than confront the ugly reality of the circumstances. But today they have the facts thrust before them and something must be done. Before one does anything, it is essential to identify where the problems lie and whether there is any rational way to fix things. This raises two important questions – How are we defining underperformance? Are there legitimate reasons why the lawyer is behaving the way they are? When faced with this challenge, there are numerous reasons why intelligent and highly capable leaders will go to great lengths to avoid taking action. Patrick explains why they should not allow themselves to fall into this trap.

For many years, an intense war for talent has been waging. Yet it has been well documented that lateral partner hiring at large law firms has had mixed success, at best. First, it is expensive. A study in 2019 found that the average one-year acquisition cost is \$2.3 million per lateral and \$4.2 million over two years. Other statistics indicate that the efficacy of lateral hiring is in question. In chapter three, Steve Nelson, executive consultant at The McCormick Group, reviews the role of law firm managing partners in growth strategies, focusing primarily on the managing partners' oversight of the lateral partner recruiting process and potential acquisition/merger with other firms. He discusses how lateral hires tend to fail and discusses ways in which this can be addressed.

The legal environment in which law firm partners operates continues to evolve – rapidly – and all signs are that, if anything, the pace of change will increase. Chapter four, by Joel Barolsky, managing director of Barolsky Advisors, looks at the continuing tendency of the market to consolidate, focusing on the threats – and opportunities – due to legal tech. AI is likely to be a disruptor. While machines are unlikely to displace lawyers, the role of lawyers will continue to change and law firm partners will need to be highly flexible and adaptable and constantly renew their skills sets. Traditional leverage models are also increasingly under threat and the trend seems to be towards clients wanting partner / senior lawyer input rather than accepting senior lawyers fronting transactions or other matters. Globalization continues to be an important factor, argues Joel, and partners need to navigate not just their own jurisdiction but increasingly operate across others and collaborate with colleagues globally. With this consistently changing landscape, performance can suffer if partners cannot keep abreast of the changes. This chapter addresses these issues.

Part II of the book looks at the effects of underperformance. Chapter five, by Jim Lawrence, looks at the issue of substance abuse in the legal profession and how this impacts on both the individual and the business. In chapter six, Paula Davis, founder and CEO of the Stress & Resilience Institute, discusses her experiences of burning out at the end of her law practice. Paula outlines the three dimensions of burnout (not to be conflated with stress), warning signs for self and others, and the spectrum of burnout. Paula discusses how elements of burnout and engagement can co-exist, and why this is a huge reason partners consider leaving their firms. The chapter looks at the root cause drivers of burnout – unmanageable workload (the #1 driver of stress), lack of recognition, lack of community (lawyers are among the loneliest professionals), lack of autonomy, values disconnect, and unfairness. Drawing on her recent ALM Psychological Safety & Burnout Survey for the Legal Profession, as well as examples from her own coaching practice, Paula discusses ways in which burnout can be managed.

In chapter seven, Graham Browning, director at Arrisan, looks at the wider costs of poor performance to the legal profession. The chapter considers the costs of typical day-to-day partner underperformance and focuses on the behaviors and decisions of four partners, each from a different perspective:

- Line partner interactions with associates;
- Partner-to-partner interactions;
- Partner-to-business services interactions; and
- Senior leadership.

Each is considered by way of a short “day in the life” case study, which will include active and passive underperformance. The costs are then drawn out, covering different levels of impact, including on the:

- Individual (distraction, disengagement, performance, non-collaboration, wellbeing);
- Team (contagion, conflict, performance, reputation, turnover);
- Firm (systems, controls, performance, innovation, resources, reputation, talent, retention, regulatory, strategy, ESG); and
- Profession (standing, purpose, social contract).

Graham then includes action points on what to do about it.

Part III then turns to how to deal with partner performance issues. Chapter eight, by Ray d’Cruz, looks at performance reviews, and the increasing shift away from annual reviews in favour of continuous feedback.

The chapter discusses the importance of documenting partner performance and how to identify key performance indicators to aid improvement. Finally, Ray looks at how to conduct constructive performance feedback and evaluations to keep partner performance on track.

Chapter nine, by Krystal Champlin-Gerage, then turns to mentoring and coaching. Dealing with underperforming partners in the legal industry requires a multifaceted approach that incorporates continuous feedback, identification of key performance indicators (KPIs) and benchmarks, and the utilization of coaching techniques. Continuous feedback serves as a cornerstone, providing regular communication about areas of improvement and recognition of progress. By fostering an open dialogue, both parties gain clarity on expectations and opportunities for growth. Identifying KPIs and benchmarks is essential for setting clear performance standards. These metrics should align with the partner's role and the firm's objectives, serving as tangible markers of success. Coaching plays a pivotal role in supporting underperforming partners. Through personalized guidance and development plans, coaches help partners identify strengths, address weaknesses, and cultivate necessary skills. Coaching sessions foster self-awareness, goal-setting, and accountability, empowering partners to drive their own improvement. Effective coaching involves active listening, empathy, and constructive feedback. By building trust and rapport, coaches create a supportive environment conducive to growth and success. Overall, addressing underperformance requires a proactive and holistic approach that integrates continuous feedback, KPIs, and coaching. Through collaborative efforts, underperforming partners can develop the skills and confidence needed to excel in their roles, benefiting both the individual and the firm.

Chapter ten then looks at what law firms can do to prevent and address behavioral health issues, a proven driver of low performance and heightened risk. Bree Buchanan, JD, a global leader in lawyer wellbeing, discusses evidence-based strategies and best practices that managing partners and other firm leaders can utilize to improve the wellbeing of personnel. This chapter includes practical guidance on creating a culture that supports engagement, productivity, and loyalty. Topics covered include the creation of a wellbeing program, an assessment of firm strengths and weaknesses in this area, and an overview of policies that synergistically work to lift the wellbeing of personnel and performance of the firm.

Chapter 11 explores remuneration models. Michael Roch outlines the different models – EWYK, lockstep, performance-based, merit based, origina-

tion, and ownership – and how performance can be managed under each. The chapter discusses how each model can be used to motivate the desired performance and determines what might be the best strategy under different circumstances.

In chapter 12, consulting editor Jonathan Middleburgh addresses the different approaches to underperformance that are utilized globally. The chapter applies a practical lens, introducing a series of case studies from other jurisdictions – including India, Australia and Europe.

Knowing when to cut your losses is an important part of managing partner performance. In chapter 13, Jonathan returns to examine the main approaches and choices that firms can consider. These could be reinvigorating moderate performers or introducing incremental performance improvement across teams and the entire firm. Firms can also address weak areas using development, training and re-training, by rehabilitating temporary strugglers, de-equitization or by facilitating partner moves, and voluntary and negotiated departure. Expulsion should be a last resort – the chapter seeks to define when this option should be used.

Issues like those detailed above need to be handled carefully and sensitively, and chapter 14, by Stephan Lucks, looks at how to avoid conflict and potential claims of unlawful discrimination. This chapter looks at the leadership styles that should be applied to avoid discrimination, and the appropriate way to respond should these claims arise.

In part IV, we look at proactive performance management. Nick Jarrett-Kerr returns in chapter 15 to look at the importance of clear purpose and strategy. Communications in law firms is key and never more so than in connection with underperformers. Maintaining honesty and openness on a one-to-one basis, listening and asking questions, and leveraging past accomplishments to link to necessary changes can all aid good communication. Nick provides ten practical suggestions for internal communications and addresses coping with client succession issues as well as ways to communicate and address common obstacles to internal projects. It is important to set clear performance criteria and standards. It is then vital to ensure all partners understand both the consequences of failure to meet standards and the processes that will be brought into effect to deal with underperformance issues.

Some lawyers are able to handle challenges in law more effectively than others. In chapter 16, Chetna Bhatt explains how the human experience differs, which means our understanding of the same external circumstances

will vary, and we will all cope differently. Chetna explains how a deeper sense of resilience and strong foundation of psychological wellbeing can enable lawyers to navigate external challenges with grace and ease. The chapter will leave readers better equipped to face the demands placed on them in the legal profession. The understanding shared applies equally to all human beings, whether we are managing partners, junior lawyers, or support staff.

In chapter 17, Jonathan Middleburgh looks at conflict resolution and team dynamics and explores how interpersonal conflicts within a team can negatively impact partner performance. A highly functioning team supports optimal partner performance. But what does a high functioning team look like? The chapter explores how good law firm leaders can develop and sustain healthy teams, and how to implement conflict resolution strategies for improved teamwork.

Chapter 18, by Martin Hill, helps leadership teams explain the “why, what, and how” of partner development and identify the building blocks needed to develop a thorough curriculum to support partners through their careers. He explores why partners should focus on their career and personal development, and why firms should invest. Individual partner needs and ambitions change over their careers, as does what the business requires from them. Martin covers some of the relevant HR tools and processes required to identify and support these needs, such as:

- Performance models (such as competency frameworks, balanced scorecards);
- Feedback processes, including peer feedback and client feedback; and
- Performance reviews and goal setting (including personal business plans).

He also covers some approaches to professional development, which include:

- Coaching and mentoring;
- Business school programs;
- Informal learning (e.g. action learning sets, peer groups); and
- Role of in-house L&D or boutique L&D consultancies.

By the end of the chapter, practitioners will identify how to go about developing and delivering a training strategy that will support partner development.

In chapter 19, Jonathan Watmough looks at accountability and consequences. It is essential to establish clear expectations and consequences for

underperformance, whilst communicating the impact of underperformance on the firm. This chapter looks at how to balance accountability with support and development opportunities.

Chapter 20 then looks at the impact of technology on partner performance.

Our final chapter looks at the results of some original research carried out by the consulting editors of this title, into how to improve and maintain partner performance.