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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, globalization, 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 revitalizing their teams and optimizing organizational 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" according to 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.

In chapter three, Dr Heidi K. Gardner and Ivan Matviak dive into an increasingly crucial aspect of managing partner performance – hiring laterals. Lateral hiring has skyrocketed in recent years, as firms expand into new geographies, bolster practice groups and disciplinary expertise, and seek ready-made books of business. Many firms see an offensive approach to filling in gaps and obtaining star talent as a crucial part of their growth strategy in today's ultra-competitive legal environment. While firms fiercely compete to recruit and hire the industry's best and brightest, accumulating big names without a strategic plan and simply hoping for the best does not work. Through empirical data and research, the chapter explores the critical role of early, two-way collaboration in newcomers' success – and in turn firm and client performance. The authors then offer a three-stage roadmap, full of proven advice and comprehensive accountability measures, to maximize the likelihood that laterals thrive.

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 looks at the role of wellbeing in promoting performance and 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 six, by Jim Lawrence, looks at the issue of substance abuse disorder (SUD) in the legal profession and how this impacts on both the individual and the business. SUD is a critical issue that can significantly impact partner performance. As key decision-makers and leaders, senior partners are integral to the firm's success. When affected by SUD, their ability to perform optimally, maintain client relationships, and uphold ethical standards can be compromised, posing risks to the firm's reputation and financial stability, not to mention the partner's wellbeing. This chapter delves into the author's lived experience with SUD, the prevalence of SUD among lawyers, the signs of SUD in senior partners, appropriate responses, and the importance of destigmatizing SUD within law firms.

In chapter seven, Paula Davis 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 consulting practice, Paula discusses ways in which burnout can be managed.

In chapter eight, Graham Browning 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 from a different perspective. Each is considered by way of a short “day in the life” case study, including active and passive underperformance. The costs are then drawn out, covering different levels of impact, vis-à-vis the individual (distraction, disengagement, performance, non-collaboration, wellbeing); the team (contagion, conflict, performance, reputation, turnover); the firm (systems, controls, performance, innovation, resources, reputation, talent, retention, regulatory, strategy, ESG); and the 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 nine, by Krystal Champlin-Gerage, looks at performance management issues. 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.

Jonathan Middleburgh then expands on this theme in chapter ten, looking at how 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, goalsetting, 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 11, by Ray D’Cruz, examines the purpose and focus of partner performance reviews and explores the debate about formal reviews versus

informal feedback. The chapter provides guidance on how to design an effective review process, assessment criteria, and how to prepare for and facilitate an effective review conversation.

Chapter 12 then explores remuneration models. Michael Roch outlines the different models – EWYK, lockstep, performance-based, merit based, origination, 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.

Knowing when to cut your losses is an important part of managing partner performance. In chapter 13, Jonathan Middleburgh 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. Stephan's focus and approach to this chapter is very much from the perspective of effective leadership = inclusive leadership. Whilst there is clearly legislation to comply with to avoid discrimination, the effective leader will avoid discrimination if they are inclusive in their approach. The chapter covers what we mean by inclusion, the psychology of exclusion and its impact on individuals and firms, and the core components of inclusion and its associated leadership behaviors.

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 under-

stand both the consequences of failure to meet standards and the processes that will be brought into effect to deal with underperformance issues.

In chapter 16, 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 17, 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 outlines partner-led and organization-led approaches to development, as well as making suggestions to identify and address these needs.

He also covers some key areas in professional development, including identifying requirements for effective partner development, a range of formal and informal learning methodologies, and working with different types of external provider. 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 18, 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.

Technology is a key part of the partner performance management toolkit. Its role is to drive efficiencies, produce evidenced-based insights, track progress against objectives, and facilitate better quality performance management conversations and ongoing feedback. For most large firms, technology is an indispensable factor in improving the efficiency, effectiveness, and fairness of the partner performance management process. For many others, the use of technology in partner performance management and the move to a real-time feedback culture remain ambitions. Chapter 19, by Ray D’Cruz, looks at how technology can be utilized for partner performance management.

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. The consulting editors share details of conversations they have had with senior law firm leaders about how they approach the management of partner performance and conclude by offering thoughts and observations about the continuing evolution and refinement of the management of partner performance.

## About the editors

**Nick Jarrett-Kerr LLB** is a specialist adviser to law firms and professional services firms worldwide on issues of strategy, governance, and leadership development, as well as all important business issues facing firms as they compete in difficult market conditions. Nick is a principal of Edge International, a leading global consultancy to law firms. Over more than two decades, he has established himself as one of the leading UK and international advisers to law firms. Since 2002, he has consulted to firms in more than 25 countries on four different continents on issues relating to strategy, governance, mergers, equity/ownership structures, partner performance, succession issues, profit sharing, and other business-critical matters.

He is a regular writer and speaker on management and leadership topics with an emphasis on strategic and business planning, as well as issues of governance and structure, partner compensation, and strategy execution. Prior to becoming a consultant, Nick (who is a UK solicitor by training) was for eight years the chief executive partner of Bevan Ashford, a leading regional firm in Great Britain, during a period of enormous growth starting in the depths of the 1989-1992 recession. His involvement in professional service firm management, both as a partner in law firm and as a consultant, stretches over more than 30 years.

Nick is the author of *Law Firm Strategy – After the Legal Services Act* published in November 2009 (Law Society Publishing) and of the two editions (2011 and 2019) of the bestselling *Tackling Partner Underperformance in Law Firms* (Globe Law and Business). Nick has been visiting professor at Nottingham Trent University where he has led the strategy modules for the Nottingham Law School MBA strategy modules. Nick is also a Fellow of the College of Law Practice Management in the US.

**Jonathan Middleburgh** is a specialized and highly experienced consultant to law firms, in-house legal departments, and senior leaders in the legal sector. He advises and consults primarily on issues relating to people, management, and leadership within the legal services sector. He is a principal of Edge International, a leading global consultancy to law firms.

Since around 2003, Jonathan has consulted to law firms and in-house legal departments in the UK, Europe, and internationally, with a focus on developing senior legal leadership, helping senior leaders to interact more effectively, guiding and coaching senior leaders through behavioral change, and steering senior leaders towards the adoption of more effective managerial and leadership behaviors. He has also helped law firms with the development, refinement, and practical implementation of succession strategies and in particular the working through of complex succession transitions, including in founder firms. He has collaborated with colleagues in helping law firms to refine their strategies and to reevaluate and where appropriate overhaul their remuneration structures.

Having studied Law as an undergraduate at Oxford University (where he graduated in the top five of his cohort), Jonathan taught for a year at the University of Chicago and for short stints at Oxford and King's College, London. He then practiced as a barrister for around 12 years. Prior to leaving the Bar, Jonathan obtained undergraduate equivalence in psychology and subsequently Masters' equivalence in occupational psychology. A deep understanding of psychological processes and dynamics underpins the work he does with senior legal leaders.

In recent years, Jonathan has consulted to, and advised, senior lawyers on every continent save for Antarctica. He continues to relish having a broad international practice and advising across a wide range of cultures, as well as spending time with his family in London.



## About the authors

**Joel Barolsky** is a principal of Edge International, managing director of Barolsky Advisors, a senior fellow of the University of Melbourne Law School, and co-author of the Thomson Reuters State of the Australia Legal Market Report. He writes for the *Australian Financial Review* Legal Affairs section and the Law Management Hub. Previously, Joel was head of the strategy practice of Beaton Research & Consulting. Joel is internationally recognized as an outstanding advisor, facilitator, and educator to law, accounting, and business advisory firms. He is a noted expert in the fields of strategy, market positioning, client focus, culture, governance, organization design, succession, and capability development. He is renowned for big-picture thinking and creative problem-solving. His facilitation style is often described as engaging, passionate, sensitive, and outcome-focused. Joel has advised over 100 of Australia and New Zealand's leading law, accounting, and business advisory firms. Over 70 percent of his clients are repeat clients or come directly from referrals from existing clients.

**Graham Browning** is the director of Arrisan, a consultancy that builds great work culture through training and individual support. Arrisan specializes in practical tools that help people rise to the challenge at work. Clients include Big Tech, management consultancy, and financial services. After a law degree, Graham embarked on a diverse professional journey. He taught at the University of Cambridge, trained at Clifford Chance, and qualified as an employment solicitor at Freshfields Bruckhaus Deringer. For 20 years he held dual roles that combined legal and people responsibilities. He has an MSc in Organizational Behavior and is an executive coach. Beginning his transition into HR, Graham lowered employment claims against Freshfields by a third while reducing settlement and exit costs. As global head of people performance and employee relations he led *Being Freshfields*, a landmark program to transform the firm's culture. While guiding his team through difficulty as they were under threat of redundancy for six years, Graham implemented a new operating model for the firm. He was a founding member of a Stephen

Lawrence Foundation diversity initiative before joining an inclusion consultancy at director level. During COVID-19, Graham trained organizations and built an investigation business that became the company's largest revenue generator. He founded Arrisan to equip clients to navigate workplace trials and tribulations with confidence.

**Bree Buchanan, JD, MS** is senior advisor for Krill Strategies, a legal consulting firm providing support to AmLaw100 firms seeking to enhance wellbeing among their personnel. In 2020, she worked with a small team to create the Institute for Well-Being in Law and served as its first executive director and board president. In January 2024, Bree was recipient of the Reed Smith Award for Excellence in Well-being in Law in recognition of her pioneering work in the field. Prior to this, she served as director of the Texas Lawyers Assistance Program and Chair of the ABA Commission on Lawyers Assistance Programs. Currently, she serves as a commissioner for the International Bar Association's Professional Wellbeing Commission. Bree's work in lawyer well-being follows a twenty-five-year career spent working on issues related to domestic violence, during which she worked as a litigator, lobbyist, and law school professor.

**Krystal Champlin-Gerage** is a consultant and business advisor with RJH Consulting and Maverick Coaching Solutions. In her roles, she brings over a decade of experience and expertise to law firms and small businesses across the nation. When working with clients, she empowers them to develop a growth mindset that enables them to take control of their professional careers. Her methodology leads clients to build profitable and sustainable businesses based on their core values and definition of success. When working with law firms as the owner and CEO of RJH Consulting, her core focus is the strategic planning process for law firms, increasing operational efficiency and profitability through systems and reporting, and building solid teams through leadership and organizational development. She has taken the same methodology and tactics to other professional service industries through her coaching business, Maverick Coaching Solutions. Krystal holds several certifications that she applies to her client work. She is a certified executive coach, certified emotional intelligence practitioner, certified DiSC trainer, and holds a Six Sigma Lean certification. She has used her experience and knowledge to help her clients envision the next level of growth while providing the support and guidance they need during the process.

**Paula Davis JD, MAPP** is the founder and CEO of the Stress & Resilience Institute, a training and consulting firm that partners with law firms, corporate legal departments, and organizations to help them reduce burnout and build more resilient and engaged teams. Paula has been working closely with organizations to create thriving workplaces for more than a decade, and since 2020 alone has delivered nearly 400 workshops, trainings, keynotes, and programs on wellbeing and leadership topics. Paula left her law practice after seven years and earned a master's degree in applied positive psychology from the University of Pennsylvania. As part of her postgraduate training, Paula was selected to be part of the University of Pennsylvania faculty, teaching and training resilience skills to soldiers as part of the Army's Comprehensive Soldier and Family Fitness program.

**Ray D'Cruz** is CEO and co-founder of Performance Leader, a software firm that designs and implements partner and employee performance management systems. Ray advises firms on setting contribution expectations, objectives, and metrics, measuring and assessing performance, and recognition and reward. Over 25 years, he has worked with over 150 professional firms internationally. Ray is co-author of *The Partner Remuneration Handbook*, a comprehensive guide to partner contribution and compensation management, published by Globe Law & Business. Ray is a former lawyer and has held senior HR roles in law firms.

**Dr Heidi K. Gardner** is a sought-after advisor, keynote speaker, and facilitator for organizations across a wide range of industries globally. Named by Thinkers50 as both a Next Generation Business Guru and one of the world's foremost leadership experts, she is a distinguished fellow at Harvard Law School and former professor at Harvard Business School. She is currently the faculty chair and instructor in multiple executive education programs at both institutions. Dr Gardner works extensively with her team at Gardner & Co., partnering with boards, executive teams, and other senior leaders to boost performance by embedding the principles and practices of smarter, agile, cross-silo collaboration within those groups and across the broader organization and ecosystem. This results in concrete, quantifiable performance improvements. Altogether, Dr Gardner has authored (or co-authored) more than 100 books, chapters, case studies, and articles. This includes best-selling books *Smarter Collaboration: A New Approach to Breaking Down Barriers and Transforming Work* (2022) and *Smart Collaboration: How*

*Professionals and Their Firms Succeed by Breaking Down Silos* (2017). Her research received the Academy of Management's prize for Outstanding Practical Implications for Management, and has been selected five times for *Harvard Business Review's* "best of" collections.

**Martin Hill** is an experienced learning and organizational development consultant with over 25 years' experience, working primarily with law and other professional services firms. He focuses on leadership development and culture change, and in addition to training and facilitation is an executive coach, working with partners and teams. He has a background in psychology and HR, started his career in the UK, and has been based in Hong Kong for over a decade. Martin now operates as Okano Consulting and partners with a number of other consultancies in Asia and the UK. Prior to setting up Okano, Martin was the global head of learning and development for Freshfields Bruckhaus Deringer and enjoyed a short period as a strategy consultant to law firms.

**Jim Lawrence** is a partner with the international law firm BCLP. He is a trial lawyer and leads the firm's Kansas City commercial disputes team. He handles a wide range of disputes arising in the US and abroad, representing some of the largest financial institutions, insurance companies, and other national and multinational corporations in complex litigation. He has successfully represented clients in disputes with more than six hundred million dollars at issue. Jim has leveraged his successful law practice to bring attention to legal professionals' wellbeing. Jim chairs BCLP's Global Wellbeing Board and has provided presentations about his own journey with substance abuse disorder among other wellbeing related topics.

**Stephan Lucks** is a chartered occupational psychologist at Pearn Kandola where he works in the area of diversity and inclusion. He holds degrees in Psychology and Applied Psychology and is a member of the Division of Occupational Psychology of the BPS as well as a registered practicing psychologist with the HCPC. Stephan's work focuses on helping both individuals as well as organizations to become more inclusive in their management and leadership of people. He frequently coaches individuals on the topic of inclusion and advises and designs processes in the areas of assessment and development with fairness and inclusion at their heart. He has led on the design and implementation of a talent program in the legal sector with the

explicit intention to achieve a more gender balanced talent pipeline approaching partnership. He also frequently provides advice and training on inclusive recruitment for trainees in the legal sector.

**Ivan Matviak** has more than 25 years of experience transforming complex global businesses through disciplined strategy, product innovation, operations optimization, and cross-silo collaboration. Currently, Ivan is the CEO of Smarter Collaboration Int'l, a technology company focused on delivering tools to enhance organizational collaboration. Previously, he was executive vice president at Clearwater Analytics, a software-as-a-service fintech company, and an EVP at State Street Corporation.

**Patrick J. McKenna** is an internationally recognized author, lecturer, strategist, and seasoned advisor to leaders of premier law firms, having the honor of working with one of the largest firms in over a dozen countries. Patrick is author/co-author of 12 books. His three decades of experience led to his being the subject of a Harvard Law School Case Study entitled *Innovations In Legal Consulting*. One example of that innovation was launching the first instructional program designed to address the issues that new firm leaders face in their first 100 days – graduating over 80 participants, many from AmLaw 100 and 200-sized firms. Patrick is the recipient of an Honorary Fellowship from Leaders Excellence of Harvard Square and was voted by readers of *Legal Business World* as one of only seven international thought leaders.

**Michael Roch** is the partnerships advisor and founder of MHPR Advisors. He guides partnership boards, managing partners, and senior leaders globally on architecting strong partnerships and on leveraging partnerships for sustainable growth. Michael has advised dozens of organizations on becoming market leaders in relation to their partner profit-sharing systems, partnership governance, and global partnering strategy. His clients range from multinational partnerships and alliances to mid-sized firms to start-ups across the globe; most operate in the professional services, technology, life sciences and related sectors. Michael is co-author of *The Partner Remuneration Handbook*.

**Jonathan Watmough** qualified as a solicitor in The City of London at Reynolds Porter Chamberlain in 1993. Practicing in corporate, he became a partner at 30, managing partner at 38, and spent the next ten years helping

to transform RPC from a London insurance firm into an international, multi-disciplinary professional services business. The firm won Law Firm of the Year three times. Jonathan was also twice-named within The Lawyer's Hot 100 lawyers in the UK. After ten years as managing partner, he retired from the firm in 2016 to help law firms cut through to what matters and emulate the simple things successful firms do differently in private practice. This distils down to practical common sense guidance on what matters most in the real world of commercial law, why, and how to do it to get ahead.