

RISK CULTURE AND THE GREAT LEGAL SERVICES PROVIDER

Culture as a building block for great legal services.

Does your legal practice have a vision of being a great professional services provider?

Of course the answer is yes! Whether this is your new year's resolution or a decision you have made when you last pause and take stock, you need a plan to build on all the great things you have already achieved, as well as set you up for the many challenges ahead.

Culture, or simply "the way we do things around here", is an important ingredient in a legal practice's success as a great professional services provider. With this in mind, clearly we need to make sure we have the right culture in place as part of our grand plan.

Culture is the subject matter of numerous textbooks, research, papers and commentary. Organisational culture in particular takes centre stage at many conferences, partners' off-sites and team building exercises. I get the distinct feeling that if this is just another article about culture, many readers would abandon this article and move on to doing something else.

Well, I am pleased to say that this definitely is not just another general article about culture. I want to focus on risk culture, and I want to share just one tip – something practical and do-able – that would contribute to your success as a great legal services provider.

A focus on risk culture can propel a legal practice forward

Recently, I highlighted the fact that as the legal landscape continues to evolve, legal practice managers need to contribute to risk management in an ever-increasing capacity. I explained that, as senior leaders at a law firm or legal department, we are already in possession of the skills needed to make a valuable contribution – we are already familiar with legislation and regulation that can affect our firm or organisation, and we are also already familiar with the inner workings of our legal practice and its desired objectives and outcomes – so we should not hesitate to identify, manage and mitigate risks and aim for excellence in risk management.

A strong risk culture contributes to excellence in risk management. What is risk culture? It is useful to define it here. Risk culture is essentially "the way we do risk around here". This is how the former Deputy Chairman for APRA, Ian Laughlin, explained the meaning of this concept in a speech in 2013. I find that this is a practical definition with which to proceed.

To expand on this a little, it is fair to say risk culture is the beliefs that members of a firm or organisation share in common with regards to risk management and risk governance. It has a lot to do with about how a legal practice operates and how lawyers and other staff behave. It is linked to the values and beliefs that give a legal practice its identity.

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Here are some facts about risk culture, and they are relevant to all legal practices:

- In times gone by, there were leaders and senior lawyers who believe that culture, including risk culture, is elusive. For this and other reasons, little effort was made to define, study and measure risk culture.
- In recent years, there is a shift in this believe because there is a whole body of research that shows that culture is one of the key ingredients for business success. This includes the business and practice of law.
- Most law firms and legal departments of organisations are in the process of changing risk culture for the better. This is not at all surprising.
- There are many reasons for this change in the legal space. The key drivers include regulatory pressures, the need build (and in some cases, rebuild) reputation with the wider community and perhaps more importantly, with regulators, and to secure (and in some cases, restore) the trust of clients.
- Change has to come from the top, as one would expect. This means that legal practice managers, such as managing partners and other practice leaders, must spearhead the charge in embedding a strong risk appetite into the business and practice of law.
- In addition to having a strong risk appetite as part of one's strategy, legal practice managers need to make sure that the positive benefits and negative consequences with regards to risk culture is crystal clear. For example, we need to ensure responsibility and accountability regarding risk management is linked to key performance indicators so efforts can be recognised and rewarded, and misconduct is connected to performance management and disciplinary actions so as to discourage unwanted behaviour. (These are actually good examples of initiatives that contribute to a strong risk culture.)
- With compliance needs well addressed, and operational risks well managed, it is easy to conclude that a legal practice that has a strong risk culture is more resilient than any of its contemporaries that have not had the same focus. Such a legal practice is well placed to be competitive, and remain competitive, in the challenging market we operate in.

Practical tip – make a statement (a risk culture statement, that is)

In most legal practices, the idea that “it is good to have a strong risk culture” is probably one already shared by management and staff. That said, the assumptions, beliefs and conduct that shape risk culture is most often unstated.

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Take a few minutes to have a look around – does your legal practice have a mission statement, vision statement or similar? Does risk management, risk appetite, risk governance or risk culture feature in such a statement? We already know that having a mission or vision is essential to firm or organisational strategy. Among other things, it guides strategic and tactical planning to achieve our objectives.

Many legal practices do not have a mission or vision statement, and for those who do, the statement often do not contain the word “risk” or make any reference to risk. One straightforward thing we can do is to start at the top with a well-articulated risk culture statement. In this statement, we give a message to our staff, our clients, the regulators and the general public as to how we want to be perceived. With this statement, we can build on key initiatives to refine and strengthen our risk culture. In addition to the examples referred to above, these initiatives can include legal training and professional development regarding risk expectations and risk management, and the alignment of performance reviews with risk adjusted performance indicators.

Concluding comments

There are two things we should keep front of mind:

1. The manner in which we manage risks impacts directly on the standard of service we provide our clients. A strong risk culture as articulated by a risk culture statement is a good start to ensure all stakeholders are well aware of our “rules of the road” in terms of risk management and how we operate as legal practitioners.
2. The manner in which senior leaders in a legal practice conduct themselves and encourage others would help to mould a healthy risk culture. Therefore, legal practice managers like us should lead by example to encourage and promote positive behaviour as well as discourage poor conduct that goes against our legal practice’s risk culture. By doing so, we are well on our way to being a great professional services provider.

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