

Hidden Inefficiency in the Legal Profession

Are you a lawyer who plays it safe by agonising over detail, spending hours overanalysing and preparing, billing only what is actually productive but in the meantime, putting in many extra hours just to be sure and at the same time, making the rest of your life a misery? If your answer is YES, you are not alone.

When I was junior barrister, I participated in a highly interactive professional development session. These experiences can be irritating and if you are like most lawyers, knowing that (a) you are not in control of the activity and (b) chances are, this is going to be embarrassing, there is an automatic steeling of self that occurs, and in my case, I assumed a very familiar self protective stance.

Dr Brene Brown, who has written extensively on shame, vulnerability and the inner critic, would say I went into a “shame based fear of being ordinary” and got myself ready to perform well, and if necessary, defend myself and ensure I came out looking good.

The group was asked to stand up. We were then invited to think about when they feel their written work is “good enough “ and the facilitator asked us to sit down when the percentage of “good enough” was reached for each of us. The group contained one lawyer (me), a large group of IT experts, a few doctors, some scientists, some admin staff and a CEO. It was a large group and by the time the facilitator had asked if you reached the point where you thought your work was 85% “good enough” all but a few had sat down. I suspect it was a toxic little concoction of narcissism, perfectionism and the need to be right and remarkable, had me standing on my own at 101%. At that point in my career, I didn’t really see there was any other option. Fast forward 15 years and I think I have a better grip on the concept of perfectionism and how destructive it can be – to my health, my enjoyment of work, and perhaps most surprisingly, my levels of productivity and efficiency.

In your role as a lawyer, have you been in a lift, in the morning listening to the conversation? We guarantee you will have heard or participated in a conversation that went like this.

“Good morning, are you busy?”

“Yes, I am busy, are you busy?”

“Yes I am busy”

At this point there will be a sense of collective relief. In our experience, HOW you are doing this work is rarely explored or interrogated. When lawyers are trapped in this cycle they are ‘busy’ and being ‘busy’ is a blessing for lawyers because it is code for – I am successful!! At IKD we believe the opposite is true. Being ‘busy’ will not lead to long term success either professionally or personally.

One of the key themes that emerged from the IKD inner critic research focussed on the thinking patterns and behaviours of lawyers and the role of perfectionism, acceptance of failure and the shifts required to marry high performance with enjoyment and wellbeing.

A number of lawyers confessed they worked longer hours in an effort to quell their hidden insecurities and anxieties about their performance but discovered this additional effort made no difference whatsoever. In fact it exacerbated the internal dialogue as the expectations of ones self increased. The hidden cost of this inhibiting mindset has a huge impact on productivity. The research showed that some of the work practices in the legal profession feed non productive habits:

“I am too busy panicking over what I may have done wrong, to even think to get a grip...I immediately assume the smallest thing will be seen as a crisis and coping with that is tough. Its only the absence of disasters that gives me confidence”.

Lawyers, unsurprisingly, are masters at researching, finding and following precedents. It was clear in our discussions was that the standard set by those who have gone before us in law firms, in court and at law school, was exceedingly high and it really is just a case of *“how things are”* in the legal professional psyche. As a result, investing unnecessary time into ensuring legal advice is perfect and meets the high standard test is condoned. Sadly our research also showed that overworking a piece of advice meant that the author can no longer see or edit the work because they are too immersed in it. Endless rereading is stressful and unproductive.

Encouragement to blindly follow precedents contributes to inefficiency by reinforcing a reluctance to experiment, back oneself and learn. What deems success is not in the realm of LEARNING for lawyers, it is in the domain of KNOWING. As one research participant commented: *“law school reinforces the idea that we can know everything. We assume that one day we will specialise and that we will know everything. There isn’t room in the law to accept we won’t know everything at some point...I think I should be able to answer every single question, and our clients assume we are the expert in every area”.*

The legal profession perpetuates anxiety by maintaining the conscious and subconscious belief that knowing the answer to every question and producing advice that is 100% correct is possible. This was clearly demonstrated in our discussions but also in wider research on the impact of anxiety and depression on the profession generally. A recent US study found that 18% of lawyers exhibit signs of clinical depression and 25% exhibit signs of anxiety. Most of this anxiety stems from concerns about performance as judged by managers, partners or clients. Mistakes are humiliating, no matter how minor.

Earlier in my career I worked in a commercial law firm and then as a Barrister. When I left the law to work in the commercial world, I was struck by how other people see mistakes – as a chance to learn and build resilience.

One participant notes, “As a lawyer you learn from the red pen...do this task. Oh, no you got it wrong. This ingrains in you the fear of getting it wrong and its exacerbated by the perfectionism that brings you there in the first place...there is a fear of failure in the culture of a law firm, so there is no support if you stuff up.”

Another offered the following insight “Early in my career I thought I had made a big mistake and didn’t sleep that night. I look back on it now and realise it was nothing. I called my boss the next day and told her, and she said “You haven’t been losing sleep over this have you? Don’t ever lose sleep over this job!”

Below are good reminders that will help you keep a healthy perspective.

- *Accept that you cannot control every outcome. You are a human being with limitations and flaws*
- *Be aware that how destructive our mental loops can become if we are not conscious of them*
- *Choose your response when things do go wrong and the finger is pointed at you. Consider the specific role you played and what you have learnt*
- *Think of the perfect outcome for the client rather than the perfect outcome full stop. What is the bare minimum they need to achieve their objectives?*
- *Develop letter templates that will deliver client outcomes and train the right frame of mind.*
- *Keep going back to the clients ‘brief’ email to ensure we are doing what they asked us to do.*
- *Be curious, ask questions, see the opportunity to engage and learn something actively rather than defending, burying or blaming*
- *Start using the voice of your inner coach at every opportunity – if you were helping a trusted colleague facing the same issue, what advice would you offer?*
- *Know that just about every single one of your colleagues has felt the same*

The results of IKD’s research into the role of an Inner Critic are shocking: when asked “*is one of your goals in life to be perfect in everything I do*” 46% of the lawyers surveyed either or strongly agreed. 60% “*strive to be as perfect as I can be*” and 40% agreed or strongly agreed that “*their boss expects them to be perfect*”. In fact, 42% felt that “*people expect nothing less than perfection from me.*”

Reflect your own patterns of thinking and the impact they have on you to ensure your experience of being a lawyer is a different story!

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