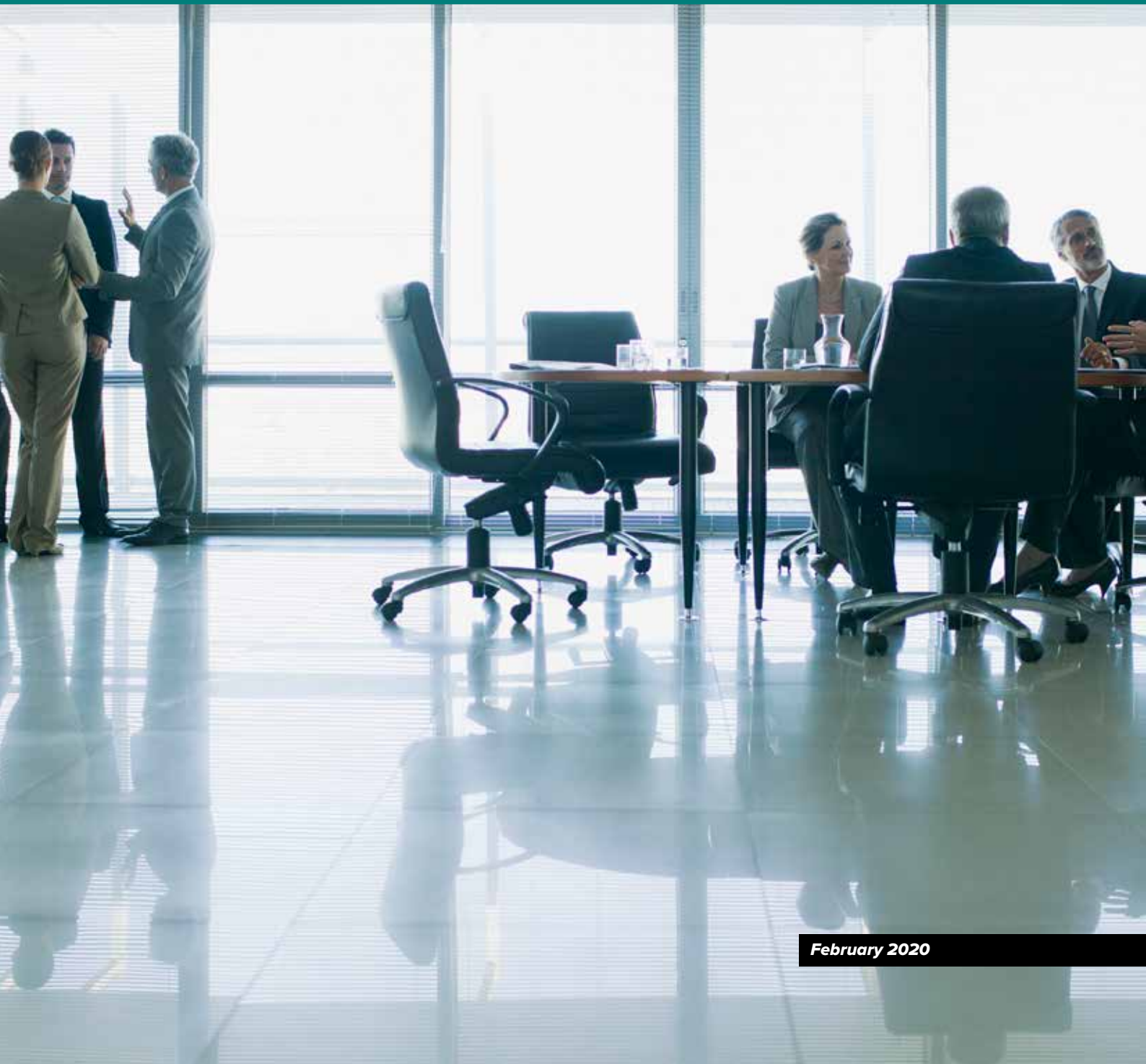


Legal survey

Mind the gap



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Mind the gap

Pitcher Partners recently conducted our sixth annual Legal Survey, including feedback from partners as well as from firms.

The survey was designed to gain further industry insight and identify common themes across Australia and New Zealand.

Examining these themes should help firms make informed decisions based on the changing nature of the industry and wider business environment.

State of the legal nations

We are delighted to share our 2020 Legal Survey Report with you, but first let's take stock of the broader culture, disruption and opportunities across the legal industry in Australia and New Zealand.

The broader culture in the legal industry across Australia and New Zealand

- It's long been acknowledged that a culture of long hours and fast client work turnaround come at the expense of work-life balance and is simply part of the legal profession. But work-life balance, workplace culture and conditions have been in the spotlight in Australia recently, particularly when it comes to workload pressures amongst junior lawyers.
- While many firms are working to implement policies and procedures that offer and track more flexibility and balance, the competitive and demanding nature of the legal profession is a constant challenge. Clients often need short turnarounds on high volumes of work as we saw across firms that worked on the recent Banking Royal Commission and the current Aged Care Royal Commission in Australia.
- An increased focus on work-life balance amongst firms raises questions around how to drive change. Perhaps we should change the way law firms charge for urgent work, with the proposal of industry-wide surcharges enforced for work performed after a certain hour. These surcharges are seeking to establish a culture where clients think twice about how urgent or necessary a piece of work really is before briefing their lawyer.
- Law firms continue to experience challenges in attracting and retaining talent. The expectation that all partners should deliver a standard number of billable hours over a five-day working week is increasingly becoming a thing of the past. The prestige of a firm's clients and the quality of its work are no longer the sole determinant for prospective staff. It is now common for prospective employees and clients alike to enquire about a law firm's ethics and values.

Legal profession at a glance*

↑ **\$21.3b**
Revenue in 2019
2018: \$19.9b

↑ **2.1%**
Annual growth over 5 years
2018: 0.7%

↓ **30.5%**
Wages as a share of revenue
2018: 31.7%

↑ **2.3%**
Number of businesses over 5 years
2018: 21,322

*Source: Do, K., (2019), *Legal Services in Australia*, IBISWorld, ANZSIC Report M6931

Disruption and opportunities

- The way lawyers are being asked to operate is evolving. Some lawyers have commented that they are now inclined to be less confrontational in their dealings, as clients increasingly expect lawyers to be a facilitator of deals, not an impediment to them.
- Technology continues to affect the delivery of legal services. Staff working remotely continues to increase. Larger firms are investing in digital architecture that enable corporate clients and in-house counsel to more effectively collaborate in the drafting of documents.
- Law firms are very aware of their strategic positions and have become much more inclined to incorporate their businesses. The goal is not simply to limit their partners' liability. Rather, they want more flexible capital structures and the ability to invest over the long term in capital intensive projects. Choice of remuneration options for increasingly diverse groups of practice leaders, some of whom might not typically have become partners, is essential.
- Disruption from artificial intelligence (AI) continues to grow with tools such as AI-driven legal assistants launching to provide basic legal advice. While this can make simple legal advice more accessible, firms are seeing that adding value in transaction-based law still comes from building strong relationships and being the 'trusted adviser' who will give clients deep and specialised advice with bespoke service.
- Increasing regulation, anti-money laundering (AML) requirements, in particular, are also having an impact on the profession, especially in smaller firms. Sole practitioners and small firms remain under pressure from this new regulation-heavy environment impacting their profitability.

Other current business trends affecting Australian law firms include:

- Client engagements resulting from outcomes of the recent Royal Commissions.
- Specialised advice to support rising shareholder activism.
- Rising ATO regulatory activity and litigation.
- Improving development sentiment in the property market.
- Growing focus on, and investment in, climate change and renewable energy.
- Employee wage underpayments and the complexity of managing payroll and employee entitlements.
- Continued business and family succession planning as a result of large scale intergenerational wealth transfer.
- Risk management as a potential slowdown in economic conditions loom.s
- Focus on the health and well-being rather than just the profitability of a partner group.

With these introductory comments, we trust you will find this Legal Survey Report relevant and thought-provoking. It has certainly provided our firms with food for thought as we refine and execute our own strategies for 2020 and beyond.



The top three challenges faced by respondents



Attracting and retaining senior staff
46% (same rank as previous)



Attracting new clients
41% (up from 5 to 2)



Market and economic conditions
34% (up to 3 from 4)

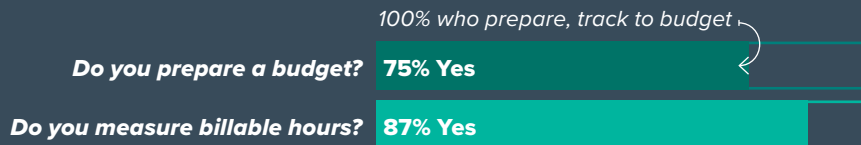


46%
Corporate entities

38%
Partnership

16%
Sole Trader

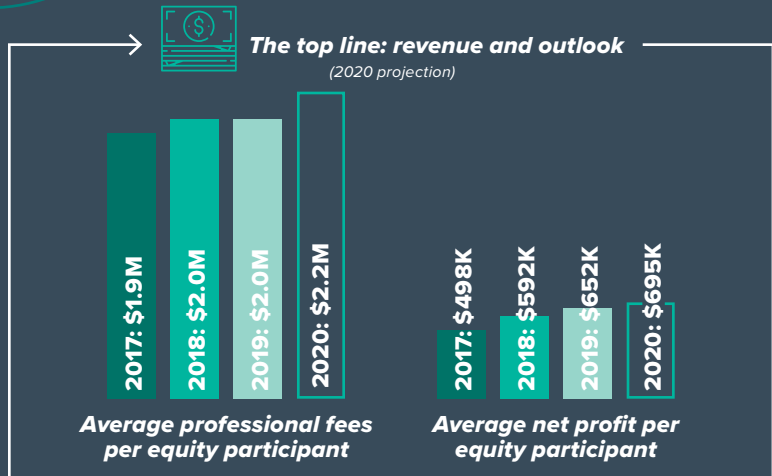
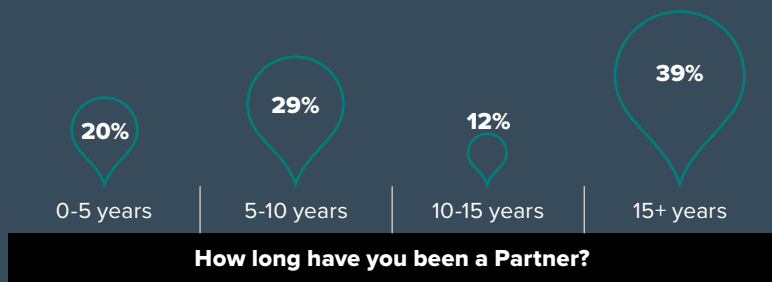
Highlights



64%
No change

28%
Increase

8%
Decrease



Survey highlights

While the major challenges facing firms have not changed, what has been interesting to see this year is the differences in opinion between the partners and the wider firm.

Firm

A firm's culture plays an important role in the success of a legal practice but culture is not a static position that can be left to develop itself. There are several different factors that influence the firm's culture both on a short- and longer-term basis.

Whilst important, our 2020 Legal Survey indicates that only 43% of firms actively review cultural issues on a regular basis. Further, 54% of firms believe that the main driver for culture within a firm is the current partner group.

Culture has a direct and important impact on the retention of existing staff and its significance is amplified given the top challenge facing firms was the attraction and retention of employees.

Communication is a top focus of maintaining firm culture with almost all firms indicating that regular staff updates and progress reports occur on a timely basis.

Whilst the top challenges remain similar to prior years, the rise to prominence of attracting new clients in the current economic environment, emphasises the impact that the broader economy has on securing transactional and non-recurring client engagements.

The importance of stability not only with employees but also within the partner group is critical for successful firms. Whilst 46% of individual partners surveyed had been partners at other firms, 90% of the surveyed group intend to stay with their current firm for the long term. An area for close attention is that the majority of these respondents were equity partners. If a third of non-equity partners are considering leaving and they are the next generation of partners, what can be done to turn this around?

The inherent stability in the partner group provides some comfort that firms with the appropriate culture can provide solid platforms for future growth and challenges.

Partner

Partners surveyed revealed that most believe the culture of the partnership in their firms is collegiate (43%) or collaborative (32%). Further, partners indicated that a firm's culture is driven by the founding partners (20%) or current partners of a firm (53%). Interestingly, 100% of respondents who identified their partnership culture as collaborative said they were satisfied with the governance framework at their firms.

Among firms where partners identified a collaborative culture, 55% of respondents said their firm's management actively reviews cultural issues often, while 32% said their firms review cultural issues occasionally.

Management's active review of cultural issues was slightly lower in firms with a collegiate partnership culture, with 45% saying they review cultural issues occasionally and 35% saying they review cultural issues often.

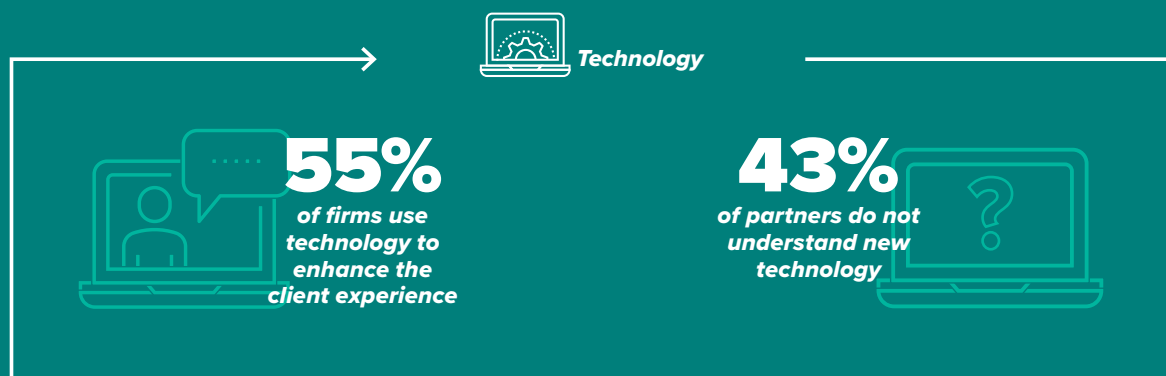
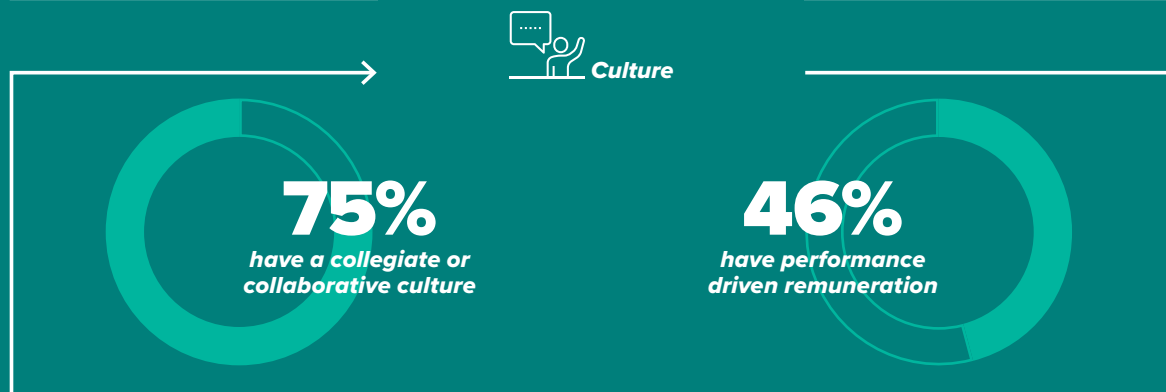
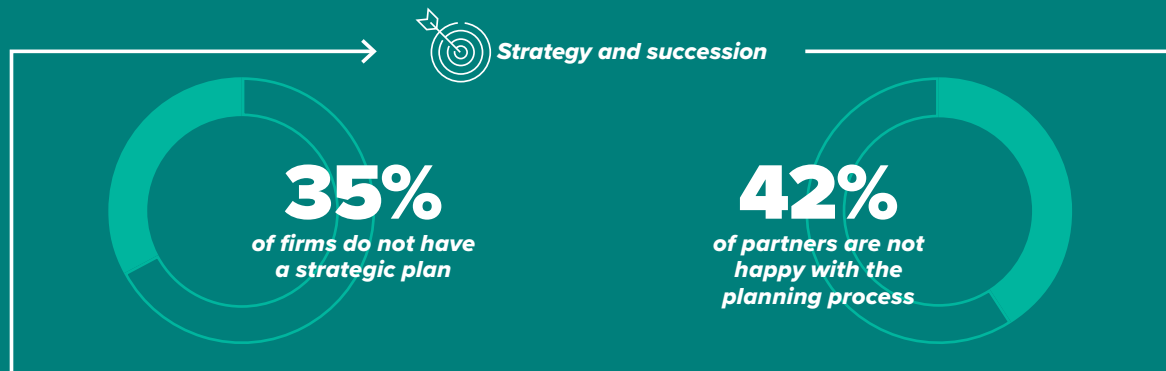
Female partners have a lower perception of whether management reviews cultural issues. Amongst the partners surveyed, 21% of female partners think management reviews cultural issues often, compared to 49% of male partners.

Lack of wealth management strategies for non-equity and female partners is an area where firms could provide support. This could then be an effective attraction and retention strategy.

It was of concern that of individual partners surveyed, 43% felt that they did not understand the new developments in upcoming legal technology.

The big gaps

The survey revealed a handful of key themes. The overarching theme across the responses, however, were the gaps identified in several areas across law firms and partners. We identified gaps between:



Structure and governance

Compliance obligations of legal firms continues to increase with the structure and governance of practices becoming more and more important. Not surprisingly, a corporate model continues to be the favoured structure of legal firms surveyed.

46% of respondents indicated that their firm operated with a corporate entity structure. This was a slight rise in responses from the prior year survey (43%). Partnerships of individuals remained the second most popular vehicle.

Taxation and stamp duty consequences continue to be the main impediment to the change of existing structures whilst new firms favour a corporate model from the outset.

**88%**
of firms think they have an appropriate legal structure

Of the individual partners surveyed, 90% of respondents indicated they thought their firm's structure was appropriate, yet a number of partners did not feel their asset protection or wealth accumulation plans were adequate. This poses an opportunity for firms to engage with partners to more closely link partners' understanding of firm structures with the management of their personal affairs.

Governance and risk management continue to have an increased focus in professional services firms. Compliance and regulation requirements have risen, and it is important for firms to have structured support to meet regulatory needs. The importance of these structures was confirmed by 81% of partners indicating that their firm had appropriate governance frameworks established. 80% of partner respondents indicated their firm had appropriate risk management frameworks in place.

Whilst the governance and risk management of the firm was given priority, only 65% of partner respondents indicated their firm had a documented strategic plan and only 58% were satisfied with the strategic planning process. This contrasts with the responses to questions around a firm's culture and its governance framework.

Amongst partners who identified their partnership culture as collegiate, 79% said they were happy with their firm's governance framework. The fact that 100% of firms who identified their partnership culture as collaborative said they were happy with their governance framework is unsurprising, given these partners most likely played a role in forming and driving change in that framework.

The responses highlight a gap between a firm having a strategic plan and whether partners are happy with the current plan. This gap indicates that, in some cases, partners may be satisfied with the absence of a strategic plan if the status quo is meeting their structure and governance expectations. Of course, this highlights how challenges within a firm's culture can arise.



Decision-making input

35%

of firms do not have strategic plans

58%

are happy with the strategic planning process

The cultural gap

Culture was a stand out theme in the survey, having a significant impact on many other parts of a firm, including the strategy and succession, governance and decision making, and technology gaps outlined above.

The respondents indicated that “54% of firms believe that the main driver for culture within a firm is the current partner group”. We were surprised that figure wasn’t higher as partners, or rather the partnership, shapes and drives the culture of the firm – under the stewardship of the Managing Partner/CEO.

A strong firm culture usually follows a closely aligned partnership culture. If this is not the case, there needs to be some challenging conversations. It is a time to be brave.

Partnerships need to be courageous enough to seek feedback – ask your staff and your peers. These people have their finger on the pulse when it comes to actual versus perceived culture. It is important to know what people are saying and this information is power. Embrace the positives and analyse the negatives. Are there minor changes necessary or is there a fundamental change management project that needs to be enacted to ensure that your firm is heading in the right future direction? It may mean bridging the “gap” between actual and perceived culture.

Conversely, vulnerability is important to a firm’s culture especially amongst the partnership group. Honesty amongst the group of people you have chosen to be in business with, the people you work with and the people that you often see more than your own family at times. Vulnerability creates strong relationships and ensures partners are all heading in the same direction with a clear understanding of what success looks like. If the partnership group is strong and cohesive, their prevailing behaviours drive the firm’s culture and become a part of the values of a firm.

To be more controversial – perhaps the basis for a firm’s culture can tend to be grounded too much on its remuneration structure. As most experienced professional services partners will know – there is no such thing as the perfect remuneration structure. There is however, a right one and a wrong one: that will or will not support the core values of the partnership, support the execution of the firm’s strategic objectives and ultimately determine the culture of the firm.

The survey highlights a gap between the majority of respondents seeing that they have a collegiate or collaborative culture (75%) and the 46% of remuneration structures driven by performance.

75%
have a collegiate or collaborative culture

46%
have performance driven remuneration

Successful partnerships should not be motivated solely by remuneration strategies because a profitable partnership may not necessarily be a happy partnership. Rather, they need to be built and driven by clearly articulated core values of the partnership, its desired strategy, and resulting remuneration structure to incentivise and reinforce the right behaviours. This is what drives a strong culture.



Equity and non-equity partners

 **35%**

Equity partners more likely to identify partnership culture as collaborative

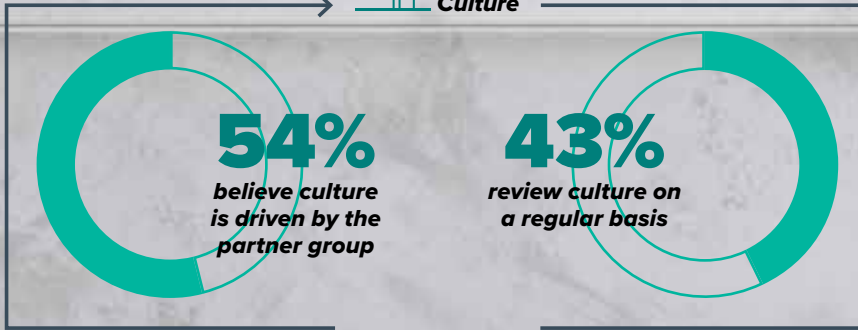
17%

Non-equity partners identify partnership culture as collaborative

Non-equity partners more likely to select “do not know” throughout the survey, suggesting they, don’t know as much about their firm’s culture and challenges compared to equity partners. This presents an opportunity to bring non-equity partners along on the partnership journey.



Culture



Does your firm actively review cultural issues?



Which one word do you think comes closest to describing the culture of your partnership?

43%
Collegiate

32%
Collaborative

9%
No single collective culture

7%
Corporate

4%
Competitive

3%
Combative

2%
Other



People, remuneration and retention

Equity and retention

The majority of respondents (83%) of our Legal Partner Survey were equity partners. As in 2019, 16% of the equity partners who responded were female. Non-equity partners were more evenly representative of gender.

The vast majority of partners (91%) are planning to stay at the firm they are currently at, with no partners of more than 15 years planning to leave. Unsurprisingly, many more equity partners (92%) are planning to stay than non-equity (67%) partners.



If one third of non-equity partners are happy to move firms, and if finding and recruiting talent is so difficult, what is being done to change this? Non-equity partners are less happy with the level of decision making which could be one lever that could be used to change this. Or, if firms are happy to see non-equity partners leave, why are they being offered partnership in the first place?

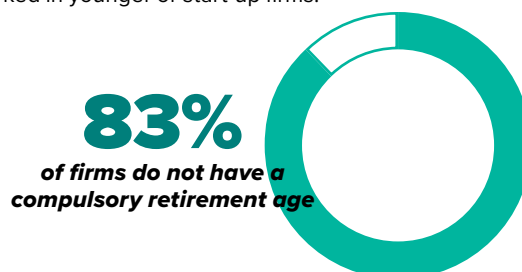
Interestingly, more female non-equity partners (40%) are planning to move firms than male non-equity partners (29%), perhaps indicating that women still feel the positions, conditions and recognition they want may not be available in their current firm.

Female partners more often worked in firms with less partners and in younger or start-up firms supporting the assumption opportunities may not be being presented at more traditional firms.

Goodwill

The predicted demise of goodwill partnerships appears to have materialised with 72% not purchasing goodwill when they entered the partnership. Correspondingly, the majority of partners (62%) do not expect to be paid goodwill when they leave the practice.

Interestingly, 16% of partners who did not purchase goodwill expect to be paid for it when they leave the practice. Amongst the minority (26%) who expect to receive goodwill, only 11% of those are women, perhaps reflecting that women who responded worked in younger or start-up firms.



Retirement ages

Perhaps reflecting the preference of the owners to have complete autonomy, the vast majority of firms (83%) do not have a compulsory retirement age. For those few firms that do, the ages were 60, 65, 67 and 70. Interestingly, more partners thought there should be a compulsory retirement age (25%) than not have one (13%), with most respondents nominating 65 as their preferred retirement age.

We have seen from previous surveys that most firms do not have documented succession plans and 35% do not have strategic plans. Is this lack of planning and commitment to a compulsory retirement age indicating that older partners are not ready to or can't let go?



less women were happy with the remuneration model than men

Remuneration and gender

There was not a majority remuneration model, with the top three models being equal profit share (36%), performance only (27%) and then lock step with performance adjustment (19%). The remaining models were all variations of these, with the corporate model of salary and dividends only 2% of respondents.

Most respondents (81%) are happy with the remuneration model in place at their firms. Equity holders are much happier (89%) with the remuneration model, again to be expected as presumably they had a hand in the remuneration model chosen.

Less women were happy (75%) with the remuneration model than men (84%), but also more unsure (8%).

The responses relating to their own remuneration were not very different with most (82%) happy. Again, equity holders (82%) and males were happier (82%) than nonequity holders (67%) and women (75%).

Amongst the respondents who provided answers covering reasons for being happy or unhappy with their remuneration, the issue most commonly mentioned was fairness. So, regardless of the remuneration model chosen, partners' perception of its fairness is paramount. Some of the key reasons partners outlined that they're happy or unhappy with their remuneration structure are outlined in the table below.



Happy or Unhappy

Remuneration structure	
Equal share	
Happy because "We are equal investors and share equally in the returns" and "Works well"	Unhappy because "Not commensurate with the performance or effort put in"
Equal share but lock step for new partners	
Happy because "Avoids eat what you kill while allowing new partners to pay progressively into what they are buying", "Mostly satisfied, but it creates challenges as the firm grows", "Fair" and "Solid fee/remuneration growth over last 8 years, partly due to reduction in equity partners which was necessary"	
Performance only	
Happy because "Profits are shared according to performance" and "Fair"	Unhappy because "Goal posts constantly change to suit those in power"
Lock step with performance adjustment	
Happy because "Rewards performance and is a balanced model that is easy to understand"	
Lock step on years	
Happy because "Underpins culture" and "Imperfect but best of several imperfect models"	Unhappy because "There are too many steps on the lock step arrangement to attain 100%"

Financial management

Firm

At a firm level, we are seeing increasing pressure on fees and profit due to:



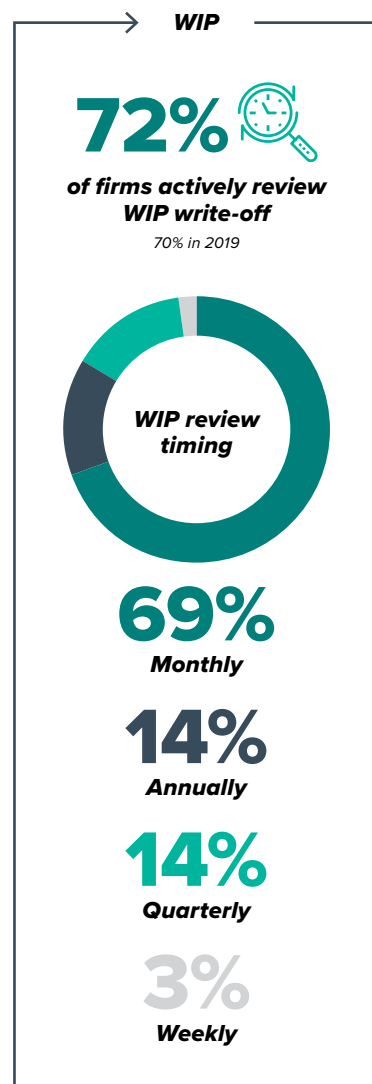
Fortunately, flat wage growth across Australia in recent years has provided relief to pressure on profit. However, an excess of graduate lawyers in the market raises the question of whether oversupply has kept wage growth down and therefore hidden declining performance. Further, if wage growth begins to increase, particularly with recent media scrutiny of the workload amongst graduate and junior lawyers, this will likely bring bottom line pressure to the fore again.

Amongst respondents, 75% prepared an annual budget and tracked against it. To improve profitability, firms need to continually be measuring their performance against their annual budget to proactively identify potential factors that will reduce margins or capitalisation opportunities to increase profitability. Based on the survey responses, the average net profit as a percentage of professional fees in 2019 was 34%, and in 2020 it was forecast at 33%.

In last year's survey, the average write-off rate as a percentage of fees was 10%. The write-off rate as a percentage of fees for FY19 is as below.

With almost 1 in 2 firms having write off rates lower than 5%, this indicates that firms are managing WIP and costing of work appears accurate. Respondents exceeding write-off rates of 10% should closely review and consider if their current practices remain appropriate.

Another positive for firms' finances was a large increase in the number of firms that tracked billable hours. In last year's survey, 63% of respondents tracked billable hours, and this year 87% tracked billable hours. Poor utilisation is a significant cost and it is pleasing to see firms are continuing to track hours even as billing models and methodologies are changing.



Personal

As a partner of a professional practice, asset protection, income distribution flexibility, and a platform for wealth creation should be your key goals. According to the survey results, 87% of respondents said they felt their assets are adequately protected, while 72% said they have a personal wealth accumulation strategy.

A key factor that continues to cause personal financial uncertainty amongst law firms in Australia is the Australian Taxation Office's professional income splitting rules. These guidelines remain under review at the time of this report.

Amongst the respondents, female partners (75%) and non-equity partners (67%) weren't as satisfied with their remuneration as their male (82%) counterparts. This provides firms with a potential avenue for improving staff retention and succession strategies. Firms should look to engage with female equity and non-equity partners to open a dialogue around remuneration with retention and firm succession in mind.

Personal wealth accumulation was low particularly with females and non-equity partners. As these are the partners most likely to change firms, perhaps firms should consider offering support with personal wealth and asset protection as a retention and even talent attraction strategy?



59%

Time based

Last year: 58%

31%

Fixed price

Last year: 29%

8%

Value based

Last year: 6%

2%

Other

Last year: 7%



→ Equity and non-equity partners

75%

Equity partners likely to have a personal wealth accumulation strategy

50%

Non-equity partners likely to have a personal wealth accumulation strategy

91%

Equity partners likely to feel that their assets are protected

58%

Non-equity partners likely to feel that their assets are protected



72%

of respondents have a personal wealth accumulation strategy

28% no strategy



81%

of respondents are satisfied with their remuneration

16% not satisfied

3% not sure

Technology



55%

of firms use technology to improve client experience

This year's survey saw an increase in the number of firms using technology to improve the client experience from 45% to 55%. In a challenging legal market, firms should ensure they understand clients' expectations when it comes to technology or risk becoming outdated and left behind by firms more willing to embrace technology. Client facing technology is about far more than static websites and email bulletins, and we expect firms to invest heavily in the coming years in solutions such as client portals, digital document execution technology, and robust customer relationship management (CRM) systems.

Considering the above, it was of concern that the individual partners surveyed, 43% felt that they did not understand the new developments in upcoming legal technology. Current technological advancements within the legal industry may radically transform how the profession works, so it is vital that partners are aware of opportunities to future proof their firm.



43%

of partners surveyed felt that they did not understand the new developments in upcoming legal technology

It is critical that partners evaluate whether legal service delivery should continue as is and risk being outdated and inefficient compared to their competitors. For those looking to adopt technology changes and new ways of practising law, firms should ensure they have appropriate processes in place to track the return on investment for the increased spend and time to implement.

With cybercrime now the number one economic crime in Australia, organisations of all sizes, across all industries, are falling victim to data breaches. Cybercrime is a growing risk to all law firms as lawyers and the legal profession are increasingly targeted by cyber criminals due to the commercially sensitive and confidential information held. Not surprisingly, law firms have acted to protect their reputation, businesses and clients. 84% of respondents said they use firewalls and encryption and close to 50% use inhouse IT security and have a disaster recovery plan. Interestingly, the use of outsourced data security has increased to 68% compared to 48% in last year's survey. This could be due to firms recognising the limitations of their own resources and therefore engaging external expertise.

Amongst the respondents, only 32% said they are using data analytics and insights to drive their firms forward. The main things firms are tracking are incoming referrals, financial performance, customer experience and productivity measures. Time and cost constraints, lack of awareness around data analysis technology and the perception that firms aren't at a maturity level that warrants the introduction of new technologies are the main reasons why respondents aren't using data analytics and insights.

Technology impacting law firms



Increasing AI



Automated document production



Offshore resourcing



Mobile work and technology platforms

Where to from here?

Based on the broader climate in the legal industry across Australia and New Zealand and our findings from the survey, the crucial focus for law firms right now should be:



The plan needs to address critical factors within a firm such as culture, technology, gender diversity and governance.

To remain ahead of the curve and bridge the gap between your firm’s current state and its ambitions for the future, firms need to consider the following areas:

Strategy	Law firms need to develop and implement plans to determine a path forward and address challenges. The plan needs to be documented and continually reviewed to ensure the firm is moving forward in a productive way.
Structure and governance framework	Some partners don’t feel that the correct structure or governance framework is in place, or they don’t understand if the structure at their firm is suitable. Consider how your firm behaves and communicates around its structure and governance – is the firm being proactive or reactive?
Goodwill	Determine if your firm’s goodwill expectations align with your firm’s future goals.
Succession planning	People need to see that their firm has a clear succession plan in place, so they understand where the firm is going, and where their opportunities for growth and progress will come from in the future. Consider how retirement ages will affect the firm’s succession strategy and plan.
Uncertainty	Consider how uncertainty amongst partners, particularly female and non-equity partners, could impact growth, profitability and retention.
Looking forward	In bridging the gaps, is your structure driving your strategy or your strategy driving your structure? If you get this wrong, culture could be the loser.

About Pitcher Partners

Australian statistics



110+ partners



1,400+ people



6 independent member firms

Pitcher Partners has the resources and depth of expertise of a major firm, but with a boutique firm feel. We give our clients the highest level of personal service and attention. That's the difference.

Pitcher Partners is an association of accounting and business advisory firms located in Adelaide, Brisbane, Melbourne, Newcastle, Perth and Sydney. We have a strong reputation for providing personal service and quality commercial advice to our clients across a broad range of industries.

We specialise in working with middle market businesses in Australia, including privately owned, foreign controlled, government owned and not-for-profits. Our clients require high technical standards, matched with a personal understanding and involvement in their affairs.

Each Pitcher Partners firm is also an independent member of Baker Tilly International, one of the world's leading networks of independently owned and managed accountancy and business advisory firms. Our strong relationship with other Baker Tilly International member firms has allowed us to open many doors across borders for our clients.

Our commercial services to businesses

Financial essentials

Accounting and Business Advisory Services

Audit, Risk Management and Assurance

Internal Audit

Recovery, Turnarounds and Insolvency

Tax advice and Compliance

Planning and growth

Business Consulting and Commercial Advice

Business Performance Improvement

Business Structuring

Corporate Finance

Corporate Governance

International Business Advisory

Investment Advisory Services

Succession Planning

Superannuation Services

Tax Consulting

Technology and IT Consulting

Valuations

Private wealth services

Estate Planning

Family Office Management

Investment Advisory Services

Philanthropy Services

Succession Planning

Superannuation Strategies

Tax Advice and Compliance

Industry specialisations

Agriculture

Food and beverage

Government and the public sector

Health and aged care

Hospitality

Manufacturing

Not-for-profit

Professional services

Property and construction

Retail



We understand the legal sector

At Pitcher Partners we work for, and with, legal firms. We have a wide range of large, medium and small legal firms as clients and have worked with a similarly wide range of firms to help their or our mutual clients.

Our extensive legal profession experience means we are well positioned to provide strong strategic and commercial advice on a wide range of business issues. We also provide professional support to a broad network of lawyers and conduct surveys and benchmarking studies to ensure we stay abreast of major issues facing the legal profession.

Legal professionals

We provide a full range of services to professional firms, resulting in improved financial performance and analysis of their operations. Services we provide to legal clients include:

Audit and Assurance

Critical Point Network

Management Reporting and Advisory

Outsourced Financial Controller

Succession

Tax Consulting

Valuations

Working with you

We are also able to work with you to provide advice to your clients. Services we provide both to and with legal firms include:

Estate Planning

Mergers, Acquisitions and Sales

Making business *personal*



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