

How to empower young IP lawyers to be leaders

Nicola Dagg, Daniel Lim and Katie Coltart of Kirkland & Ellis consider the modern challenges firms face to develop and retain young, talented lawyers and the all-round benefits of an empowering working culture

It should go without saying that the development and retention of the best and brightest young minds is fundamental to the success of any practice. Unfortunately, amid the hustle and bustle of law firm life and the cut and thrust of IP litigation, this fundamental imperative can be easily obscured. Those of us in particular who have benefitted from the trust, responsibility and mentorship invested by more senior practitioners at an early career stage, which in many cases will have translated into opportunities for accelerated development and advancement, have a duty to 'pay forward' that same investment into the next generation.

Drawing on our experiences on both sides of the fence, this article considers some of the key challenges firms face in developing and retaining young talent in the modern context, various approaches to empowering young lawyers, and the mutual benefits to be realised from doing so.

The times they have a'changed

Every profession faces the challenge of how best to attract, develop and retain the top young talent who should be a driving force of energy and enthusiasm in the present, and who will be the leaders of the future. At the best of times, effective succession planning is a very tricky task, which relies on having invested sufficiently (and sufficiently early) in would-be successors to a practice. A confluence of modern trends, including changing opportunities, expectations and values among young professionals, only makes this task more difficult.

This is an issue felt particularly acutely in the legal profession,

1 MINUTE READ

The development and retention of the best and brightest young legal minds is fundamental to the success of any legal practice. But any partner or practice leader would be naïve to assume anything other than that those individuals are being bombarded by approaches from legal recruiters on an almost daily basis. Particularly in such a specialised but important area of the law as IP, where initial learning curves are steep, talented young IP lawyers are a hot commodity. So what can practitioners do to ensure that they hold on to these most valuable assets? In this article we explore the importance of fostering an empowering, free-thinking and entrepreneurial working environment, with a clear focus on merit-based career progression, through a diligent application of key behaviours that hone skills, build confidence, and present opportunities.

which has historically been dominated by hierarchical structures that reward seniority and longevity over youthful potential and performance. This traditional approach to progression, partnership prospects and remuneration often rankles with the ambition of the most talented young lawyers, and sits even less comfortably with the current millennial generation, which places particular value in meaningful work, a workplace that shares their values, and fair recognition for a job well done.

Amid this backdrop, a fresh wave of 'new law' firms and start-ups has also emerged to service changing client needs and appeal to the different priorities of the new generation by offering a different model and styles/types of work compared to the traditional powerhouses of the corporate legal world. Lateral moves, even early on in a career, are now commonplace and competition for top young talent has never been fiercer. Any partner or practice leader would need to be hugely naive to assume anything other than that their best young associates are regularly bombarded by calls and LinkedIn messages from recruiters promising them the world at a different firm.

To this point, the specialised nature of IP work, steep initial learning curve and increasing emphasis placed on IP by clients and firms of all sizes makes an already-trained young IP lawyer a particularly hot commodity in the lateral market. In this environment, the most talented up-and-coming lawyers have an attractive skill set that leads to no shortage of alternative career opportunities both within and outside of the law – moving to a competitor, in-house, or even to related professional fields like consultancy, finance and venture capitalism.

This all being the case, how then are firms to differentiate themselves to bring in the best and brightest young associates and, crucially, keep them around long enough for them to mature into the next generation of leaders in their field and in the firm?

Those that have observed the various approaches of different firms and practitioners to the development of young lawyers are likely to agree that any effective model needs to place a significant emphasis on the empowerment and agency of those individual young lawyers in furthering their own careers.

Empowering behaviours

Having advocated for the empowerment of talented young lawyers, we come to the very fair question of what that means in practice – paying lip service to such a philosophy means nothing unless that commitment finds expression in day to day practice and in ways both big and small.

Critically, there is no one-size-fits-all answer or simple clickbait checklist of "14 EASY life hacks to develop future practice leaders!!" On the contrary, one of the most important points to appreciate and embrace is the individuality of each team member. Treating individuals as the unique people that they are, with their own goals, interests, strengths, weaknesses, fears and ambitions, is fundamental to all empowering behaviours and to creating an environment in which diverse groups of people can express themselves, flourish and reach their full potential. After all, nothing is less demotivating and devaluing to

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an individual than feeling like an anonymous and interchangeable cog in a machine.

While acknowledging the truism that everyone is different, there are nonetheless certain positive behaviours and good practice habits that senior lawyers can adopt (with the above in mind) to create an optimal environment for younger colleagues to thrive. Some of these are considered below:

- **Feedback is fundamental:** We are constantly told how important direct and timely feedback is to the development of young lawyers and yet lack of effective feedback continues to top many young lawyers' list of gripes. In particular, there is a natural human tendency to shy away from negative feedback, but of course that is often the sort of feedback the recipient most needs to hear and will be most useful to their development. Provided such feedback is delivered compassionately and constructively, and backed up by solid reasoning and examples, most people will appreciate that feedback in the spirit it is given – as an opportunity to become a better lawyer.
- **Recognition through responsibility:** Although direct feedback is clearly important to development, experience is often the best teacher. The best young lawyers need to be challenged with new work and/or responsibilities if they are to realise their potential and achieve the rate of growth and career trajectory they are capable of. The danger of remaining in one's comfort zone is the risk of stagnation, or even boredom and disengagement, from those who should be the stars of the future. Nor should it be overlooked that receiving challenging new work and responsibilities is an important implicit form of recognition that can be a telling indicator to someone that their abilities are valued. Work that is of clear importance to the case and/or has a significant client-facing element will generally fit the bill as challenging yet rewarding. In an IP context, good examples of this sort of work are taking on lead responsibility for working with a particular expert and, in cases involving the cross-border coordination of disputes over parallel IP rights, acting as the coordination hub between the various international legal teams.
- **Context:** Of course, not all work can be high impact, client facing and all-round glamorous. It is a simple fact that many important tasks in litigation can be mundane and process driven and, of necessity, will fall to junior team members; but they are no less important for that fact. Tasks like document review and research require efficiency combined with a high degree of attention to detail. Achieving those required

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standards requires the person performing those tasks to be fully engaged. Too often, young lawyers are presented with process-driven work without the broader context that allows them to appreciate the significance of that contribution to the success of the broader case. Investing a little more time at the outset to properly instruct and provide that context will pay dividends in the ultimate quality of work product and the engagement of more junior lawyers tasked with that work.

- **Career development and candour:** Honesty and transparency in career development conversations, backed up by follow-through on commitments made in those conversations is also critical to building trust and motivation among a team. Fundamentally, this is a matter of respect. Practically, talented young lawyers are eminently intelligent and self-aware enough to know when they are not being properly valued. Having open conversations about expectations on both sides is the best way to manage those expectations and to channel youthful ambition into opportunities for development, which will be all the more fruitful for having been openly discussed and jointly agreed upon.
- **Recognising individual interests:** Particularly in the IP arena, different young lawyers will have different aims in terms of their desired spread of work. Some may be looking to carve a very specialised practice, e.g. focussing on life sciences patent litigation. Others may prefer to maintain a more broad brush practice, e.g. ‘soft’ IP work. Furthermore, an individual’s desired level of specialisation may change as they become more senior. Staying live to, and communicating openly about, such individual motivations will feed in to creating a more effective, fair and transparent system of work allocation. For those looking to focus their practice on a specific area of IP or industry sector, there is absolutely no one-size-fits-all answer as to when and how that should be done. It will depend on a multitude of factors, which may include an individual’s experience to date, any technical background they may have and, often necessarily, the market. That said, it is likely to be sensible to encourage more junior IP lawyers to seek a diversity of experience where possible in the earlier years of their careers. Similarly, young IP lawyers with a specific technical background should nonetheless be encouraged to get involved in cases outside of that background to challenge themselves and to develop a more well-rounded practice.
- **Harnessing independent thinking:** Young lawyers are in an ideal position to challenge established ways of thinking and can bring fresh new perspectives to a case. Groups that

are truly functioning as a team will recognise the value in this, and provide encouragement to younger team members to think and express themselves independently, challenge assumptions and pressure test old modes of thought. Creating a conducive environment for independent thinking requires mutual trust and respect, and the humility to recognise that we can all teach and learn from one another, irrespective of age and working experience. In the IP profession, which is all about innovation and constant learning, it should be everyone’s responsibility to be both teacher and student at all times. Indeed, in dealing with technical subject matter, the knowledge of the youngest team members (i.e. the freshest out of university studies) will probably be the most up to date.

- **Building profile:** Nurturing independent thinking in young lawyers will also help them to develop their own legal style and identity earlier in their career, which they will be able to harness to build their profile, specialist expertise and, ultimately, their book of business as they progress in the profession. Senior lawyers should be mindful of giving younger lawyers enough ‘headroom’ and facilitating opportunities for them to shine. In practice this can include helping them to place articles they have written in journals and the IP media (in their own name), lining up speaking opportunities (in forums like Young EPLAW and other peer organisations) and giving them ‘airtime’ with clients both on- and off-matter.

Mutual benefit

The all-around benefits to be realised from creating an empowering, free-thinking and entrepreneurial environment in which younger lawyers have the space and mandate to excel are myriad.

For young lawyers it means the opportunity for accelerated professional development and, commensurately, accelerated progression to partnership, in a positive environment that is designed to nurture their talents and ambitions, rather than limit and control them.

For the firm it means better, happier lawyers, assuming greater responsibility, doing bigger and better things and helping to contribute materially to the growth of the firm earlier in their careers.

This should be the aim for any firm in shaping the careers of its ‘next generation’ lawyers – creating an environment in which the only limits on what those individuals can achieve are their own drive and ambition. That is a philosophy that should be adopted wholeheartedly and that senior lawyers should be encouraged to propagate. We owe it to our younger colleagues and to ourselves to let them show what they can do.



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