



The year that changed everything

*2011 was a momentous year for the Australian legal profession. The LPO elephant landed in Mallesons Stephen Jaques' boardroom, global law firms arrived, and Blake Dawson announced it would be bowing out. **Lawyers Weekly** reports on a year which saw the profession grapple with mental illness and diversity, the High Court strike down offshore processing, and law firms talk about harnessing the power of social media.*

It is doubtful if there has ever been a year like 2011 in the Australian legal sector.

Clifford Chance arrived in style by having a swish launch party at Guillaume Restaurant next to the Sydney Opera House at a time when the M&A market was touching the dizzy heights pre-GFC.

However, like the other major global arrival last year, DLA Piper, which lost scores of partners after its official launch, the M&A market soon ran into trouble and limped to the end of the year.

While law firms were handling the extra flow of work and partner movements in their stride, it doesn't appear that they are any closer to solving the riddle of why so many lawyers suffer from mental illness. Similarly, the issue of diversity continues to bedevil the profession, with the large number of female law graduates not translating into a proportional increase into senior positions.

These issues, and so many more, are dissected, deliberated and discussed by the *Lawyers Weekly* team as it looks back on what was, by any measure, an extraordinary 2011.

Progress, paradox and ongoing pain

A lingering and contentious issue for the legal profession in 2011 has been that of the mental ill-health of lawyers.

There was no shortage of stories about depression and mental health throughout the year, and stories relating to mental illness and depression continued to be some of our most read stories online.

On 2 May, we reported on new research by Beaton Research & Consulting and beyondblue: the national depression initiative on awareness levels and attitudes regarding depression and anxiety disorders among 18,000 professionals in Australia.

The story, *Firms still lack action on depression*, concluded that while lawyers' attitudes towards depression in the workplace have improved, law firms are still falling short when it comes to taking action.

The good news, though, was that attitudes and awareness have most definitely changed. "There has been a dramatic improvement in the knowledge, education and understanding among those in the legal profession of things to do with depressive illnesses," the chairman of beyondblue, Jeffrey Kennett AC, told *Lawyers Weekly*. "You now have a situation where 22 per cent of lawyers have been subjected to some form of mental health, depression or anxiety training. That is a huge improvement on where we were 10 years ago, when I suggest there was none, and a big improvement on where we were in 2007."

In July, we delved into the issue of mental illness in the wake of the news that Magistrates Brian Maloney and Jennifer Betts had to plead with NSW Parliament not to be removed from office after being diagnosed with mental illness, and comments made in the *Sun Herald* by New South Wales Attorney-General Greg Smith that, "If your mental condition has a tendency to interfere with the way you carry out your job then maybe you shouldn't be on the bench".

Our article, *The injustice of intolerance*, concluded that despite the many gains made, lawyers still find it difficult to talk about mental illness in the workplace.

"An environment which makes [it] harder [to talk about mental illness] needs a serious looking at and changing," Freehills partner Peter Butler told *Lawyers Weekly*. "It really worries me that people out there sit there in silence, terrified of the consequences of letting others

know what they're going through, because they make it so much worse for themselves and, potentially ... so much worse for others as well."

This article enraged the managing partner of Marque Lawyers, Michael Bradley, who responded with a hugely popular opinion piece titled *Speak the truth*, which was published one week later.

"The debate about mental illness in the legal profession is driving me nuts," wrote Bradley. "We appear now to be stuck in a bizarre and immovable stand-off where the one thing we're not saying is the one thing we need to address ... Fact: lawyers suffer from anxiety and depression, and commit suicide, at a considerably higher rate than the general population. What's missing is a real discussion of why."

The essence of Bradley's argument was that it is time for the legal profession to start being honest about the causes for depression within the profession. "To have any hope of achieving progress with this problem, we have to name the cause. And it's very obvious. Our profession just doesn't want to say it," he wrote. "The cause is the institutional, corporatised, mercenary and singularly money-driven culture which has been created over the past few decades and permeates every aspect of how most law firms run."

In November this year, we looked at the issue of lawyer satisfaction following the advent of a new grassroots movement, OutLawyers, aimed at, among other things, making lawyers happy.

Repairing the paradox brought together an interesting mix of people to discuss just why it is that the profession needs such a group, and what the lingering afflictions are when it comes to mental illness and dissatisfaction.

"I saw a lot of lawyers struggling," said legal ethicist and OutLawyers founder Neil Watt. "They were battling the negative public perceptions and feeling really bad about the law and their profession. "OutLawyers is not a grumpy group of lawyers here to whine about the profession. It's a group of positive people who believe in the profession, and who also believe we can do it better, we can do it differently, we can do it less adversarially. We can build a community in order to provide support."

"The debate about mental illness in the legal profession is driving me nuts"

MICHAEL BRADLEY,
MANAGING PARTNER,
MARQUE LAWYERS



Another support network making headlines was the resilience@law program. Developed in 2010 by Freehills, Allens Arthur Robinson, Blake Dawson, Clayton Utz, Mallesons Stephen Jaques and The College of Law to address the issue of mental health in the legal profession, the program won the Martin Seligman Award for Health and Wellbeing at the 2011 Australian Human Resources Institute Awards – a positive step in regards to an issue which is not going anywhere anytime soon.

Quotes of 2011

"I would like to showcase the fact that it is possible to change law firms"

MARIE JEPSON, THE FOUNDER OF THE TRISTAN JEPSON MEMORIAL FOUNDATION, ON THE WORK BEING DONE TO CHANGE THE CULTURE OF LAW FIRMS

"We're not digits or widgets ... We're actually knowledge workers ... [Time-based] billing is just a dumb and outdated business model"

JOHN CHISHOLM, CONSULTANT, DISCUSSING ONE OF THE BIGGEST THREATS TO THE LEGAL PROFESSION – THE BILLABLE HOUR

"What looked like a trend on the international global side is starting to look like a tsunami"

MATTHEW LATHAM, A PARTNER AT JONES DAY, ON THE RECENT MERGER BETWEEN BLAKE DAWSON AND ASHURST

A timely debate

The billable hour attracted both praise and criticism in a year punctuated by moves to either eradicate or entrench time billing practices.

One of the biggest hitting stories of the year was the news that Corrs Chambers Westgarth would be adopting automated time billing software. Published on 1 November, *Corrs adopts automated time billing* generated much conversation about the intent behind it.

"It will really help to jog [a lawyer's] memory, rather than them sitting there going, 'Now, what did I do this morning?'" said Jon Kenton, Corrs' chief information officer. "The further you go in time from the day of filling a timesheet out, the harder it gets to be accurate, and it's really important that [timesheets] are as accurate as they can be."

However, the voices against the software soon started to emerge, with Marque Lawyers managing partner Michael Bradley expressing disgust at what he said was a new low for law firms.

"Who on earth could be delighted to learn that they're going to be subjected to this?" he asked. "Especially anyone who calls themselves a 'professional'. Of all the steps our profession has been taking, by progressive inches, to dehumanise lawyers over the years, this just screams out for someone to say 'enough!'"

This was followed soon after by the news that Melbourne firm Russell Kennedy was also considering

implementing the software.

These events were simply a continuation of what has been an ongoing debate within the profession in 2011.

In January, the president of the Law Society of New South Wales, Stuart Westgarth, said the billable hour was on his 2011 hit list of hot issues – though added that it is one which sometimes gets overly criticised.

"If done properly, [time billing] is a true reflection of the work undertaken, whereas fixed-fee billing involves a gamble that the work undertaken will equate with the fee previously agreed to," he told *Lawyers Weekly*. "If you do it super efficiently, the client has lost the gamble. If you do it really inefficiently, the lawyer's lost the gamble."

The interest in this issue was acutely obvious in February when we ran the story, *Sydney firm scraps billable hours*. We reported that workplace law firm People and Culture Strategies (PCS) had decided to move away from billable hours and instead offer tailored packages that would allow clients to use their services without worrying about the clock ticking.

"In-house legal counsel and HR directors now have an uncomplicated way of complementing their skill set with ours," said managing director Joydeep Hor. "It's what I call affordable quality and I believe clients in the workplace space have been crying out for this for years."

In May, we reported on a story which went so far as to link the billable hour with bullying. We revealed that a key submission in *The Report on Psychological Distress and Depression in the Legal Profession* was that the focus on billable hour targets can amount to bullying and lead to depression. The Report was commissioned by the Law Society of Western Australia following an increase in the number of legal practitioners suffering from anxiety, stress and depression.

"The emphasis upon the production of billable hours creates a working environment which ... discourages professionalism and reduces work satisfaction to unacceptable levels," said the Report.

Despite all the criticism, in August we reported on a survey conducted by Mallesons Stephen Jaques which revealed that the billable hour was still the preferred costing method of in-house counsel.

According to the survey, which included 374 respondents (of which 44 per cent were general counsel), 50 per cent of respondents said fees billed at an hourly rate make up over 90 per cent of their total legal spend.

"It is a little surprising to see such strong support for hourly billing, given our own experience of the number of clients who are interested in exploring alternative arrangements," said Mallesons managing partner Tony O'Malley.

"If you do it super efficiently, the client has lost the gamble. If you do it really inefficiently, the lawyer's lost the gamble."

STUART WESTGARTH,
PRES. DENT, LAW SOCIETY
OF NSW



The Risqué Raneberg Revelations

On 15 August, *Lawyers Weekly* broke the scandalous story about Minter Ellison SA/NT's CFO, Craig Raneberg, who was under investigation for mysteriously missing partner funds.

Minter Ellison had informed police on 12 August that an internal investigation had uncovered that Raneberg, who was the firm's Adelaide CFO for 10 years, appeared to have fraudulently taken the cash.

A source close to the firm told *Lawyers Weekly* that the figure was believed to be in the millions and that Raneberg had fled to Asia.

"It appears that the senior financial officer has abused his access and knowledge of the firm's security protocols and partners' personal information," said managing partner Nigel McBride in a statement.

Less than two months later, Raneberg was arrested at Sydney airport after returning from Thailand.

While Minter Ellison launched a civil case against Raneberg alleging that he had withdrawn at least \$26,000 from a practice account over several years, the amount is now thought to be around a whopping \$2.7 million and Raneberg is looking forward to a Christmas in prison as he awaits trial.

Quotes of 2011

"The majority [of firms] we come across are incredibly frightened of the media and very unaware about how to positively engage"

LINDA JULIAN, JULIAN
MIDWINTER & ASSOCIATES
MANAGING PARTNER, ON LAW
FIRM ENGAGEMENT WITH THE
MEDIA

"That was never going to happen"

PETER CHARLTON, CLIFFORD
CHANCE ASIA HEAD, TALKING
TO *LAWYERS WEEKLY* ABOUT
THE FAILED MERGER PLANS
WITH MALLESONS AT THE
CLIFFORD CHANCE LAUNCH
PARTY IN SYDNEY IN MAY

The tweetest thing

2011 saw a profession grounded in tradition embark on a love-hate relationship with new communication tools and, finally, begin to embrace them.

It has been a big year for law firms and social media.

Traditionally a sector slow to adopt it, this year we saw numerous firms getting on board and using various social media offerings in a significant way.

One firm which embraced social media like no other was Marque Lawyers. In what is believed to be a world first, the firm recruited their summer clerks via Twitter, and in less than a week, the number of Marque "followers" jumped from 70 to 500 as

hopefuls did what they could to stand out in 140 characters before the firm picked the best tweeters and invited them to send in applications.

In March, Kelly O'Shaughnessy filled Blake Dawson's newly created dedicated social media role and, after the success of a pilot program in Brisbane, the firm rolled out a Skype clerkship recruitment initiative nationally, enabling candidates to engage one-on-one with a lawyer from the practice group they were interested in.

In May, Mallesons Stephen Jaques launched a social media strategy aimed at luring graduates to the firm via Facebook, and is now using search methodology and professional networks, like LinkedIn, to find the best candidates.

"The traditional and often costly one-dimensional tools of the trade have been joined by the colourful, multi-dimensional and youthful sounding blogs, wikis, podcasts and apps ... social media is most definitely the new black," wrote

Mallesons head of communications Sue Ashe in an opinion piece.

Law firms are now giving lawyers and clients iPhones and iPads, and even creating their own apps.

This month, Corrs Chambers Westgarth launched "Corrs Briefcase", an iPad app which allows lawyers to organise, transport and review thousands of documents outside the office.

Minter Ellison also harnessed the power of social media through its niche "TMT" blog on technology, media and IP, from which the *Sydney Morning Herald* picked up and ran articles.

"Our clients really want to know that we're right on top of social media because it's so integral to their business now," said Minter's IP and technology partner Paul Kallenbach.

But despite the surge to incorporate social media into firm marketing and networking, many lawyers remain disengaged.

A *Lawyers Weekly* poll in April revealed that the majority of the 186 respondents (35 per cent) said social media had nothing to offer their career. Also this month, social media strategists began warning employers that ignoring, let alone banning, social media in the workplace is not an option.



jlegal wishes all our clients and candidates a very happy festive season...

The team at JLegal would like to thank our clients and candidates for their support in making 2011 one of JLegal's most successful years. We look forward to continuing to provide our distinctive personalised and professional service which consistently differentiates us in the market.



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