

# Thinning on top

Despite fears of an oversupply of law graduates, **Jenny Bourke** says a variety of factors have led to firms facing a shortage of skilled practitioners

**W**hat do skilled lawyers and hens' teeth have in common? Answer: candidate shortage". It's a phrase being bandied about a lot lately. So what exactly does it mean, and how is it impacting the legal industry?

We constantly hear that there are too many lawyers. The market is flooded, and the doomsayers declare it will have diabolical repercussions for the profession. Many have strong views on the easy accessibility to a law degree. Soon anybody will be able to acquire one – they have become the new arts degree. Surely this conflicts with the claim that there are not enough candidates?

Currently there is not so much a candidate shortage, but there is most definitely a *quality* candidate shortage. It is a specific shortage, at specific levels, involving specific skill sets. Recruitment consultants are panicking and jumping over one another to secure strong candidates for clients. Law firms are crying out for skilled staff, and becoming increasingly frustrated when they aren't appearing.

Last year, the Department of Employment and Workplace Relations issued its take on national and

state skill shortages, which covered the status of lawyers. Most states it would seem are being hit hard. New South Wales reported a distinct shortage of skilled lawyers, as did Queensland and Tasmania. Victoria, SA and WA were experiencing not so much a shortage of skilled lawyers, but certainly some difficulty recruiting skilled lawyers.

"Difficulty" recruiting staff can of course cover a multitude of factors – low remuneration on offer, poor working conditions, unsatisfactory working hours, highly specialised skill needs and poor image of some firms in the market to name a few. Regardless, the impact of this is being felt by firms. It's interesting to

note that these issues were looked at last year. They remain relevant – in many respects it has intensified over the past 18 months.

Industry experts believe that the lack of skilled lawyers will probably harangue us for at least another 18 months. Junior lawyers will then have acquired more experience. Business needs will undoubtedly



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alter and varying levels of experience will be sought. Many factors play a part and the result of this is generally a shift in the market.

### Why aren't skilled lawyers moving?

So why is it proving so difficult to secure staff at the slightly more senior level, when lawyers have a few years experience under their belts? The current situation, to a degree, seems to support the view that experienced lawyers simply aren't prepared to leave their jobs at the first whiff of a tempting salary package. In the current legal climate, money is being thrown at some lawyers to entice them away, yet it's the work that seems to be one of the important and determining factors in having them stay put.

### Has the work-life balance theory actually become practice?

We have to ask, is it partly a case of some firms getting "the mix" right? Is that elusive work-life balance

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actually being perfected? One would assume that when staff are being taken care of more effectively and when their internal structures are such that lawyers are getting more of what they want professionally and personally speaking, they stay.

We're not as naïve as to think that it's that simple. However, if firms continue to put time and energy into promoting and monitoring a healthy work-life balance, and become skilled captains, perhaps in some instances it may be a case of only a few wanting to jump ship.

### Are other countries pilfering our talent pool?

There will always be a large number of lawyers who want to have the overseas experience – to practise in a different country, enjoy a different culture, and acquire some practical experience that otherwise would not have been possible. Impressive salary packages add to the allure. With the market overseas being so much larger than Australia, the opportunities can often be grander.

We are noticing more of a marketing push by overseas firms and recruitment consultancies actively advertising in Australia, suggesting that they are also experiencing their own shortage of specific talent.

### Expectations of the new breed of lawyer

It is becoming more and more evident that many lawyers today have a very different outlook to some who started in the industry some time ago. There is a very real new breed of lawyer that exists with quite a different view from their predecessors of their place in the industry. Gone are the days when people chose a career and stuck with it until retirement.

More and more we are seeing lawyers at the five-year post admission level becoming disenchanted and leaving. However, they are not only leaving their firms; they are often leaving the law for good. This mass exodus, at this particular level, is resulting in lawyers at one of the most important levels becoming scarce.

### Everyone wants to get in – in-house that is

The popularity of in-house roles continues to rise. Lawyers are seeking roles where they can feel "part of a whole process", handle work where they can "see things from start to completion" and feel that they are contributing to one entity with tangible results. There is also still the perception (true or otherwise) that in-house functions are not driven by the almighty timesheet and that there is an opportunity to enjoy quality work while still managing a semblance of a life.

We don't see in-house positions becoming less popular. We believe they will continue to thrive. Securing in-house roles will continue to be at the top of many lawyers' wish lists. The impact on private practice of course is that with in-house positions, very few exit and return to private practice, which will impact some firms at a more senior level.

### Who is benefiting and who is suffering?

Obviously, for as long as this goes on, law firms desperately in need of skilled fee earners at specific levels will suffer. And certainly recruiters will be forced to do some naval gazing on ways they can effectively service their clients to the best of their ability in this environment.

What seems to be more worrying is that it is becoming a more frequent occurrence that lawyers may not just simply be leaving their firm – they may indeed be leaving the profession altogether. If this continues, the pool will certainly become emptier until more junior lawyers become more senior and the requisite level of experience is bolstered.

The ones who have the potential to benefit enormously are obviously skilled lawyers. Practitioners with a few years experience under their belt in the corporate/commercial/property/commercial litigation fields could enter a market, name their price and have it seriously considered.

### Will sponsorship become a more attractive option to employers?

Generally, if faced with a strong local candidate, and a strong lawyer from overseas seeking sponsorship, a firm would need to seriously take into account the "cons" of the sponsorship process. Some roles of course may require it for a specific type of experience, and of course it's a valuable option. However, it will be interesting over the coming months to see whether firms will become more flexible with the issue of sponsorship in order to secure those skilled staff that are proving difficult to secure locally.

This is an issue that will try us over the coming months, and there is really no easy answer. As with any industry, there will always be ebbs and flows of supply and demand. The only thing of which we can be certain is that they are very real.

Jenny Bourke is associate director at Cicero Corporation.



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