

APRIL 2020

Mind the gap


Legal survey report

Now, for tomorrow

 **bakertilly**
STAPLES RODWAY

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This is the 6th annual Legal Survey first initiated by our Australian network member Pitcher Partners. We at Baker Tilly Staples Rodway are very pleased to join with them and bring a fully Australasian view to our legal colleagues in New Zealand. 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 and New Zealand recently, particularly when it comes to workload pressures for 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.

An increased focus on work-life balance amongst firms raises questions around how to drive change. While surcharges have been suggested for urgent late night and weekend work, the simple reality is that urgent situations will sometimes arise. However, a culture of constant urgency is becoming less of a badge of honour and more a sign of an inability to manage client expectations.

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. At the time of publication of this survey, New Zealand has been in a Covid-19 lockdown and the ability to work remotely has become critical for all lawyers. 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, in particular, anti-money laundering (AML) requirements, 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 New Zealand law firms include:

- Improving 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 looms.
- 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



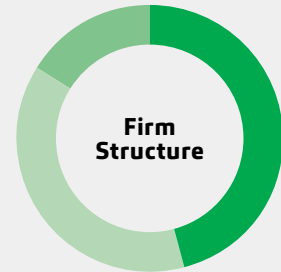
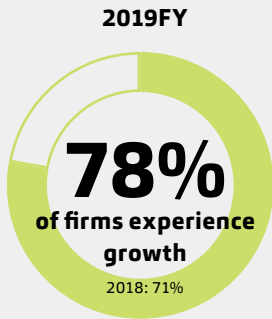
Attracting and retaining senior staff
46% (same rank as previous)



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



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

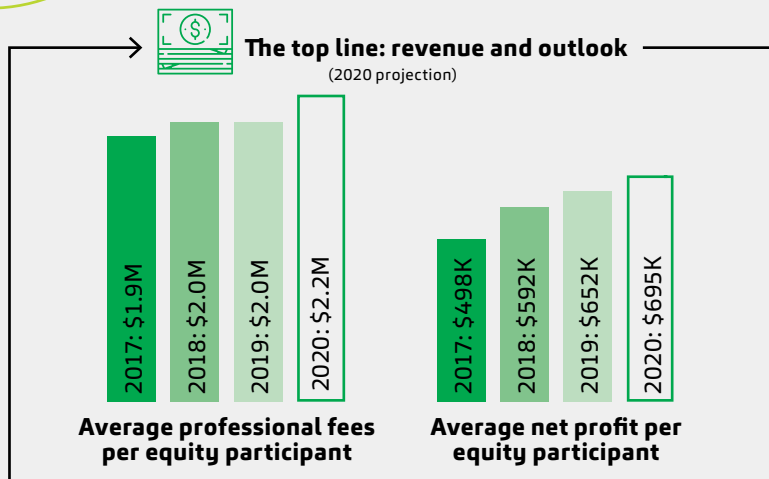
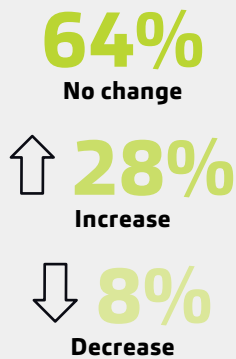
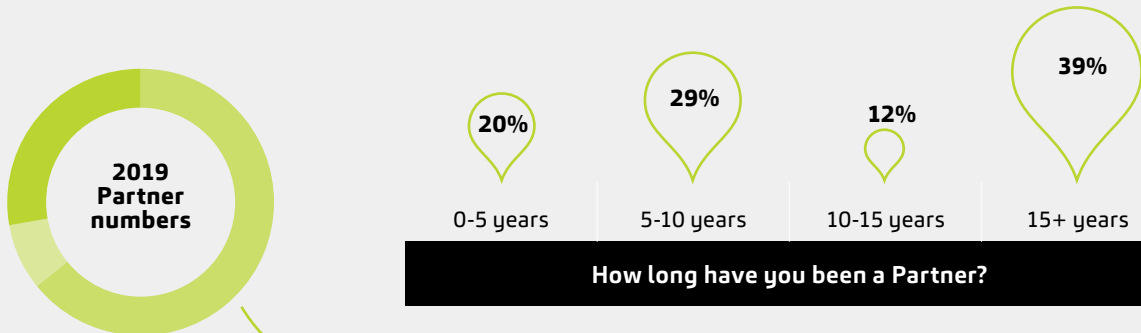
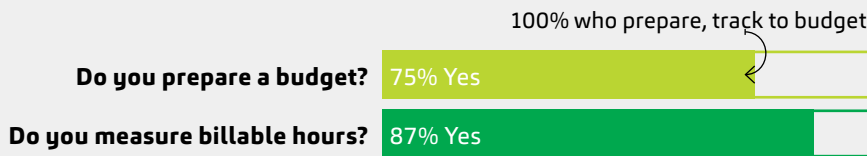


46%
Corporate entities

38%
Firm

16%
Sole Trader

Highlights



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 firm 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 firm 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 firm culture, with 45% saying they review cultural issues occasionally and 35% saying they review cultural issues often.

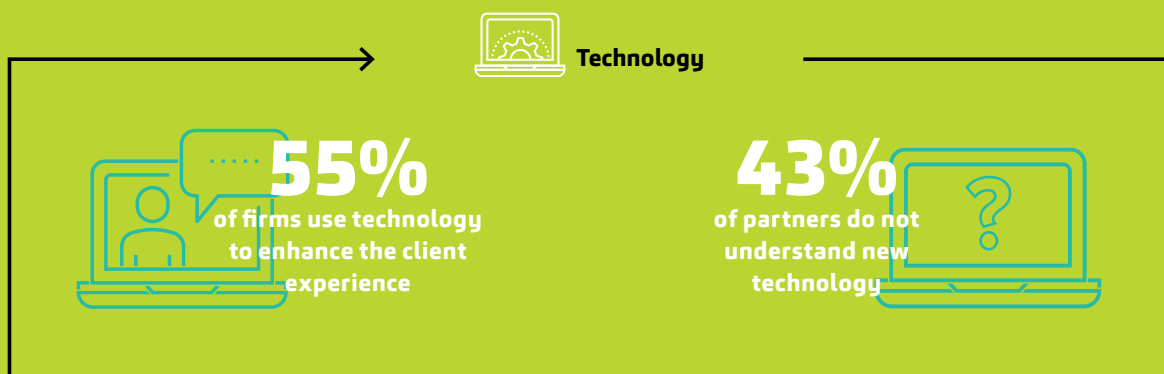
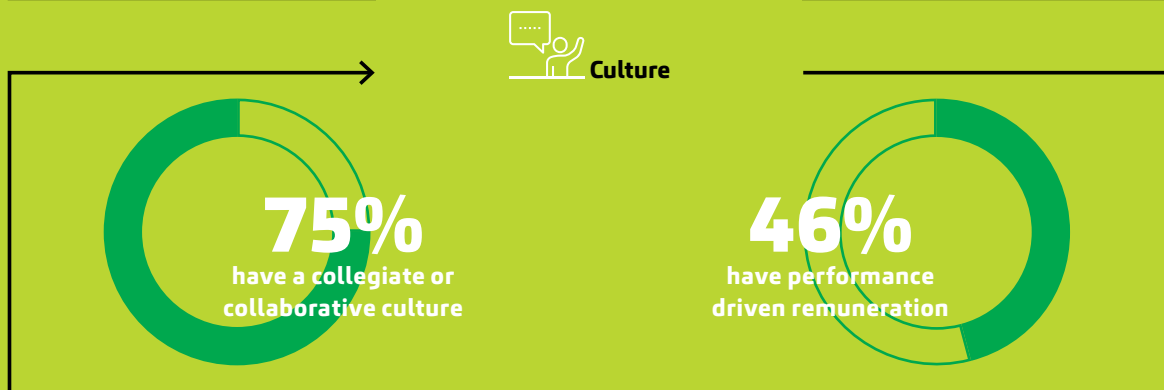
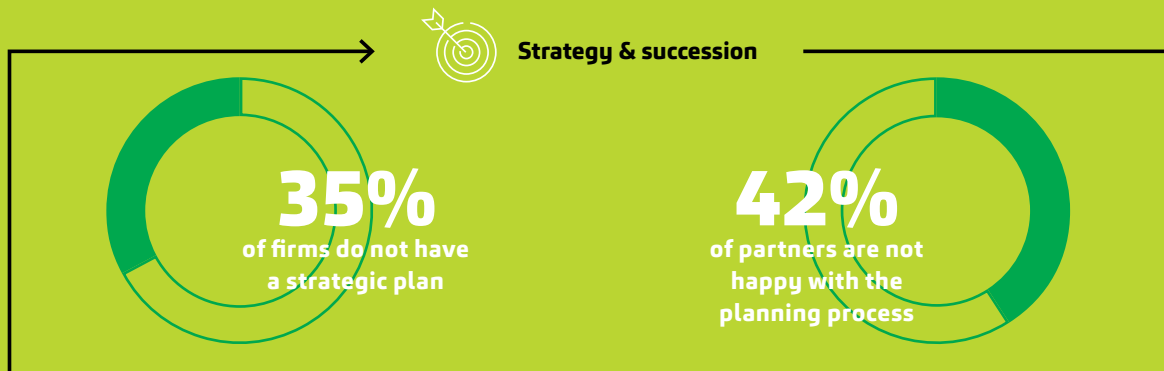
Female partners have a lower perception of whether management reviews cultural issues. Amongst the partners surveyed, 21% of female partners think management reviews cultural issues often, compared to 49% of male partners.

Lack of wealth management strategies for non-equity and female partners is an area where firms could provide some 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%). Firms of individuals remained the second most popular vehicle.

 **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 firm culture as collegiate, 79% said they were happy with their firm's governance framework. The fact that 100% of firms who identified their firm 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.

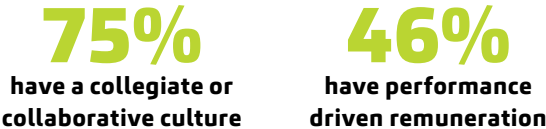
The respondents indicated that “54% of firms believe that the main driver for culture within a firm is the current partner group”. We were surprised that figure wasn’t higher as partners, or rather the firm, shapes and drives the culture of the firm – under the stewardship of the Managing Partner/CEO.

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

When it comes to understanding actual versus perceived culture, firms that seek feedback from staff are better placed than those relying on gut feel. It is important to know what people are saying and this information is power. Embrace the positives and analyse the negatives. This type of analysis will be crucial to bridging the “gap” between actual and perceived culture.

If the firm group is strong and cohesive, their prevailing behaviours drive the firm’s culture and become a part of the values of a firm.

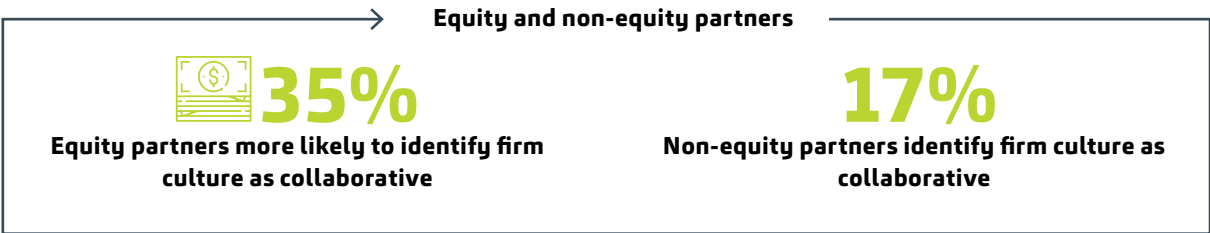
As most experienced professional services partners will know – there is no such thing as the perfect remuneration structure. There is however, a right one and a wrong one: that will or will not support the core values of the firm, support the execution of the firm’s strategic objectives and ultimately determine the culture of the firm.

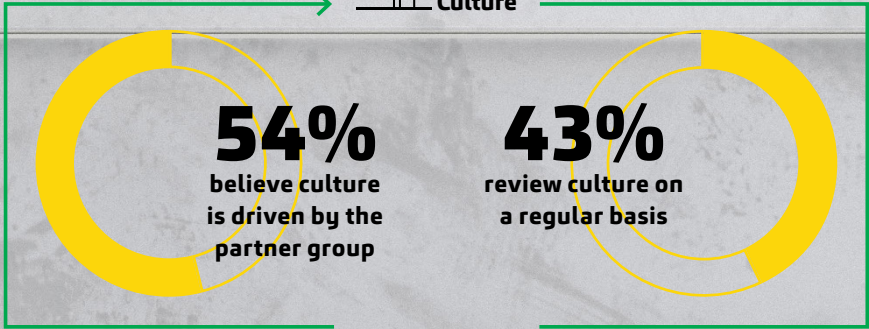


The survey highlights a gap between the majority of respondents seeing that they have a collegiate or collaborative culture (75%) and the 46% of remuneration structures driven by performance.

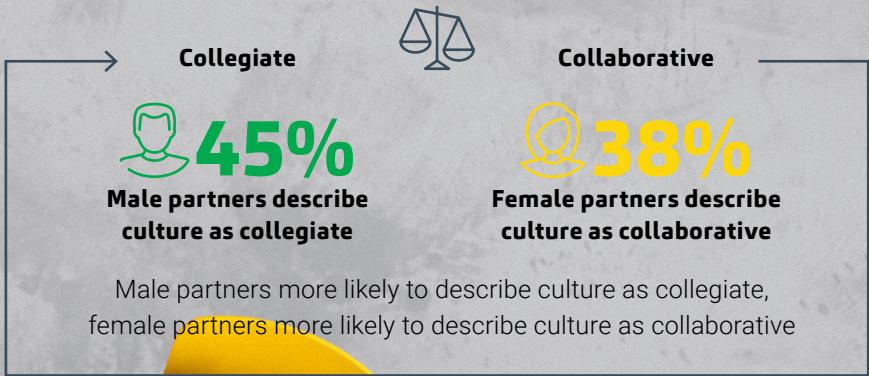
Most will also acknowledge that a profitable firm may not necessarily be a happy firm. Strong partner earnings will always be important, but successful firms will usually have achieved that goal and more with clearly articulated core values, a sound strategy, and a remuneration structure that incentivises and reinforces the right behaviours. These are common features of a strong culture.

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 firm journey.





Does your firm actively review cultural issues?



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

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. It certainly appears that the appointment of a person to a non-equity partner role may stall but won't stop their decision to move firms.

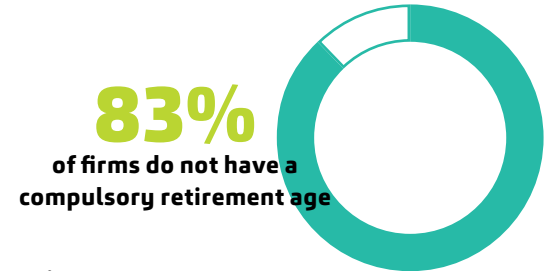
Interestingly, more female non-equity partners (40%) are planning to move firms than male non-equity partners (29%), perhaps indicating that women still feel the positions, conditions and recognition they want may not be available in their current firm.

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 firms appears to have materialised with 72% not purchasing goodwill when they entered the firm. 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 representing 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 non-equity 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

Firms

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



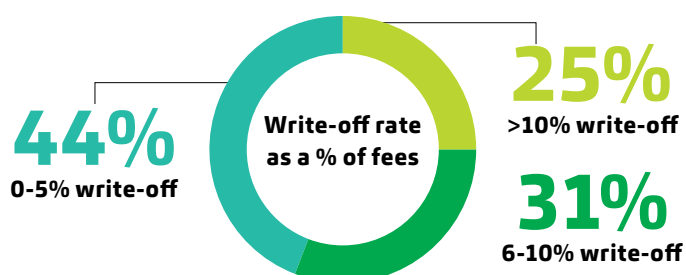
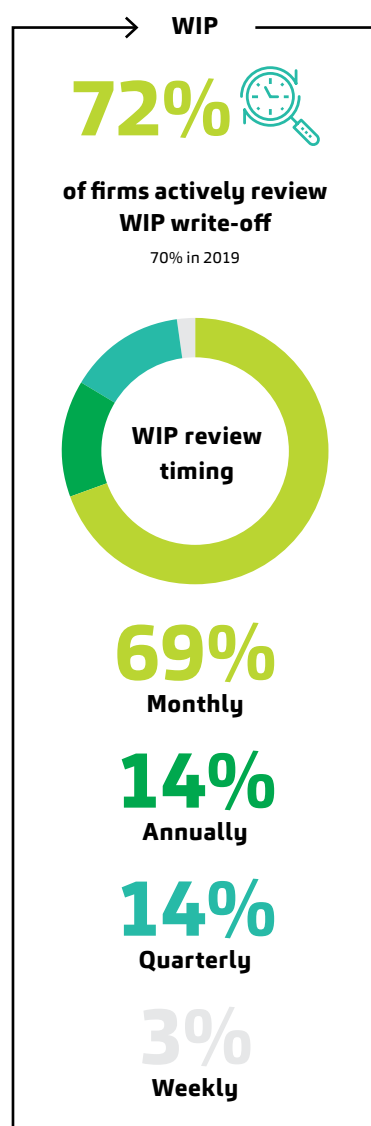
Fortunately, flat wage growth across Australia and New Zealand in recent years has provided relief to pressure on profit. However, an excess of graduate lawyers in the market raises the question of whether oversupply has kept wage growth down and therefore hidden declining performance. Further, if wage 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. Our experience is that firms that want to improve profitability will be continually 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 still important to keep track of hours spent, even as billing models and methodologies are changing.



Personal

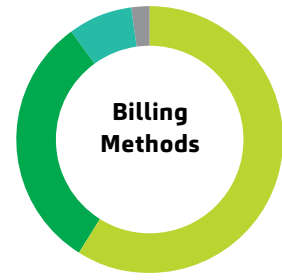
According to the survey results, 87% of respondents said they felt their assets are adequately protected, while 72% said they have a personal wealth accumulation strategy.

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.

In New Zealand, the income splitting issue was examined by the High Court and then the Court of Appeal in Penny & Hooper v CIR. While the case concerned orthopedic surgeons, the principles have been applied to other professions, including lawyers. Inland Revenue has provided guidelines that have helped firms to manage the potential tax risk.

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. This presents an opportunity to engage with female equity and non-equity partners to open a dialogue around remuneration.

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%

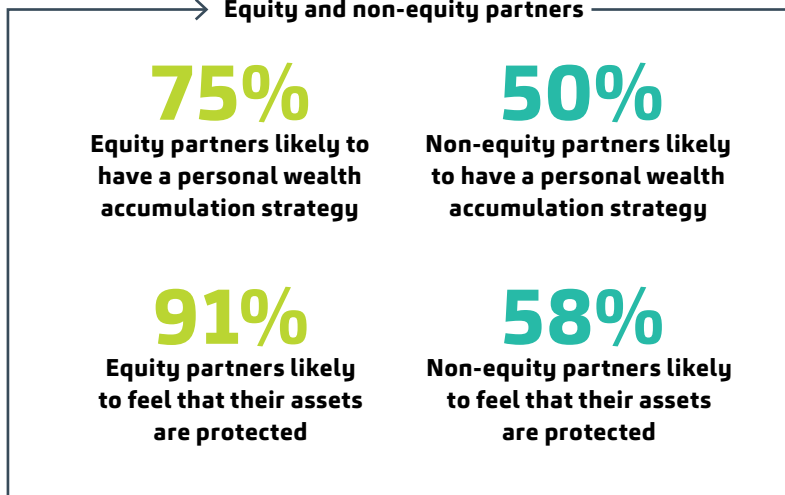
2%
Other
Last year: 7%

 **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



→ Equity and non-equity partners




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 should concern law firms that of 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

A critical issue for firms is whether legal service delivery should continue as is, given the risk of becoming 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 and New Zealand, 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?

In our view, the focus for law firms right now with their planning 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? Firms that understand the link between these elements will be more capable of moving forward. |

About Baker Tilly Staples Rodway

Baker Tilly Staples Rodway 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.

Baker Tilly Staples Rodway is a New Zealand-wide network of accountancy and business advisory firms providing practical, responsive, and business-focussed services to a broad range of clients from start-ups to significant businesses across all industry types.

We possess top-tier skills, experience and clients but our independence means we can operate in a lean and efficient manner to provide excellent value. We use our in-depth knowledge and connections across local, national and international markets to help you get the most out of your business.

We are a member of Baker Tilly International, a top ten global network of independent accounting and business advisory firms, whose member firms share our dedication to exceptional client service.

Our commercial services to businesses

Business advice

- Strategic and business planning
- Structuring your affairs
- Preparation of financial statements
- Preparation of tax returns
- Cashflow and projected financial statements
- Maintenance of Companies Office records
- Payroll
- Outsourcing
- Board and owner support
- Financial modelling

Information technology

- Cyber security
- Technology advisory
- Enterprise resource planning

Corporate advisory services

- Profit enhancement
- Risk management
- Cashflow modelling
- Capital raising
- Debt advisory
- Planning models
- Mergers and acquisitions
- Debt recovery
- Asset securitisation
- Due diligence

Audit & assurance

- Statutory audits
- Trust account audits
- Prospectus audits
- Review engagements
- Acquisition due diligence
- Enterprise risk management
- Internal audit
- Fraud prevention and investigation

Taxation

- Structuring
- Compliance
- Governance and tax risk management
- Assistance with Inland Revenue reviews
- Acquisition and mergers
- Tax efficient international structures
- Property and land issues
- Research and development

Human resources

- HR compliance
- Internal HR management
- Health and safety
- Recruitment and selection
- Organisational development
- Disciplinary procedures
- HR outsourcing
- Payroll services

We understand the legal sector

At Baker Tilly Staples Rodway 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



59 directors



450 people



8 locations

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About Baker Tilly Staples Rodway

Baker Tilly Staples Rodway is a national association of independent practices, with eight locations throughout New Zealand.

We are proud to be a member of Baker Tilly International, a top ten global network of independent accounting and business advisory firms, whose member firms share our dedication to exceptional client service.