



Going Solo

Setting up your own solicitor's firm



Setting up your

Susan Singleton writes on the rules and challenges of having your own business

Setting up your own solicitor's firm is not as difficult as many young lawyers imagine. Apart from having my five children, it is the best thing I ever did. First read the Law Society's 50 page booklet *Setting up in Practice* (see Further Information section below). Then consider where you might generate work from and have a contingency plan in case you try and fail. I set up my own firm in 1994 at which stage I had been qualified for 9 years. I probably should have done it a little earlier once it became clear my partnership prospects at my previous firm, Bristows, were not good. Nearly 12 years later it continues to thrive. Although I am not earning the £1m - £2m I might have earned as a partner had I stayed at Slaughter and May where I worked initially, my profits have rarely, after the first few years, dropped below £200,000 - £300,000. Even in my first year they matched my previous salary despite not taking a single client with me. I mention the income only *pour encourager les autres* and who knows whether I will be plunged into poverty next year. My grandfather, who was born in 1880, always said never take a partner or work with others. Seeing the disputes and problems many solicitors my age (44) have and arguments over compulsory early retirement from the partnership I often think he was right. I can choose to retire at 50 or 80. No one except me decides that. I pick my working hours. I decide when and how I work.

Many solicitors have telephoned me over the



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years to discuss how to set up a practice and I have always advised them that the principal issue is whether they will generate any work. Without work they starve, subject to savings, other income and a spouse's income. So anyone proposing to start on their own account needs to be the kind of person who knows how to find and keep clients. Ability to handle risk is crucial. I am sure in the next 30 years I will be sued by a client. I never have been to date, but the risk is always there and if you lie in bed at night worrying, which some lawyers always do, the pleasure is taken out of your working life. An attitude that you have done a good enough job to the best of your abilities and then to leave work behind and get on with the other important parts of your life is crucial to working for yourself. Anyone reading this who is just qualified however should realize concern about work is normal at that stage. I was only 21 when I started my training contract in 1984 at Nabarro Nathanson (I was a year young throughout school) and I remember when I started being very unsure including when I was newly qualified at Slaughter and May. That stage passes after a few years of practising.

Skill at the work itself is perhaps one of the most important aspects. When I started as a competition lawyer I could not have practised on my own. It took several years of experience for many clients, writing a book, lecturing in the subject, building up my own niche of expertise coupled with a marketing "bent" which I had had since childhood to enable me to start and succeed. I practise competition law, intellectual property/IT/Internet and commercial law. I am also on the board of the Direct Marketing Authority and do some data protection and freedom of information work.

Pick your legal area carefully. I am very biased in favour of commercial law. Pick a subject where if you charge £200 per hour you are cheap compared with your rivals rather than an area where the clients have no money or the Government pays you or lawyers have no work to do even in established practices. When I give talks at schools on legal careers I often say there is a divided profession - not between solicitors and barristers but between those who are working on low paid public sector work and those in the commercial law area.

Love your work. I found after a few years learning the ropes that I really enjoy work. The best advice my father, a psychiatrist, gave us was to pick work we would like. He worked until he was 76 and indeed hopes to return to work next year at 77 after a short illness. You will

spend most of the rest of your life working so it has to be something that intellectually challenges and interests you forever. Having a variety of clients, law which alters from one year to the next, huge potential to develop as an individual lawyer in your chosen field mean that most lawyers are able to make an exciting career in law. It should be fun to go to work most days. It is unlikely to be so when you are only just qualified so sit out that period and it will get better. Setting up your own practice gives you power and control. You might well choose to work all night for a particular client on occasion, but you have the ultimate control as to whether you take on that job and at least it is for your own profit.

Legal and IT requirements

The UK is one of the easiest business environments in the world for setting up a business of most kinds, as those reading this who more recently than I studied business and company law will know. Print notepaper and start. For solicitors you will also need to take out some indemnity insurance which I found nothing like as expensive and off putting as some people think. I have worked from home for over 10 years mostly by email and telephone. The Internet is invaluable. You will need a PC and ideally broadband Internet access, a printer, a mobile phone and possibly a fax machine. Many even younger lawyers already have a perfectly adequate laptop which they can use. I have virtually nothing else. You can buy time recording and accounting software. I have not done so, but there are many good packages to choose from. My business model has been "low spend", thus for example, I would review a book rather than buy it and I find most law I need on the Internet and I subscribe to virtually no legal products. Do not be seduced into thinking you need to buy a whole set of law reports. The Law Society library is free and helpful if you really cannot find what you need online.

If I need to see a client I usually go to them. Perhaps once a month someone comes here to my home. If you have picked a commercial business area of law then that is likely to be the same. Anyone wanting to set up a high street practice will have different considerations, find an office etc. Working from home means there are few expenses apart from rent. I never had a secretary before I set up on my own who typed faster than I do, so apart from buying in occasional services such as distribution of my newsletter, I do

not employ a secretary. I deal with my post/admin every day. Having no employees leads to a simple easy working life. Anyone who has studied employment law will know the complications employees bring. It has been hard enough having had two of my daily nannies go off on maternity leave over the last 21 years since my first daughter was born when I was a 22-year-old trainee. Avoid employees if you can. You have to pay their wages. I like to say I practise pure law - no partnership meetings, no colleagues, no employees, no negotiating to reach practice decisions.

The rules - three years

The Professional Conduct Guide says: "3.01 Setting up in practice
A firm must normally have at least one principal who has been admitted for three years. In addition, every solicitor who is a principal in private practice or who is employed in private practice in connection with the provision of any legal services must hold a practising certificate."

So the first consideration for any reader is whether they have practised for three years. In my view until about three years qualified most solicitors do not really have sufficient experience to set up on their own so the rule has merit. I believe if you can wait until you are five - eight years so much the better. You will also need to inform the Law Society. You will need to hold (and pay for) a practising certificate. For 2005/2006 the full fee is £1,020. It can be less, depending on years of qualification, so check. If you work from home and employ no staff this fee and your insurance and a bit of expenditure on paper and envelopes are really your only real expenses.

As the Law Society says "Where a partner fails to hold a practising certificate, not only will he or she commit serious breaches of the Solicitors Act 1974 and the Solicitors' Practice Rules, but also the partnership will be rendered illegal. This has the effect of dissolving the partnership under s.34 of the Partnership Act 1890 (see *Hudgell Yeates & Co. v. Watson* [1978] QB 451; and the appropriate authorities on partnership law)".

An important issue is whether you will provide financial services (the rules for which will not be covered in this article and in my own practice I have avoided falling within that area deliberately to keep matters simple) and if you will hold clients' money. I do not hold clients' money so I do not need to deliver an accountant's report each year on my practice and I do not even employ an accountant. I have always had a keen interest in tax law so enjoy dealing with that side of things myself. Giving commercial law advice does not require you to receive any money from clients. Your practice area may, however, be different. For example a conveyancing solicitor will need to hold clients' money.

Other rules

Most solicitors know what other business requirements there are when starting a business and there is not space to mention them all here. If you make profits you are obliged to pay tax and national insurance contributions. If your turnover exceeds the then relevant threshold (currently £60,000 a year) there is an obligation to pay VAT. I did not register for VAT in my first year but in fact found the requirements are fairly simple. The VAT Flat Rate Scheme which allows a business to assess a straight percentage of turnover for the purposes of VAT - 13%

for solicitors, rather than adding up all expenses serially. However, if your turnover will exceed £187,500 then that scheme cannot be used. In any event for tax purposes the business needs to keep receipts of business expenses. I have always accounted for expenses usually every evening or sometimes once a week. Doing this makes accounting easier and there is no backlog or build up. I have not formed a limited liability partnership but many may choose to do so. Clearly, it is wise also to set aside money for your own pension. I extract by standing order every month to a separate account what I will need for tax, VAT etc. I do not need to have a client account as I do not hold clients' money.

Those setting up a business will need to comply with all Law Society requirements from having an anti-discrimination policy to rules on money laundering. I have not found any of this too onerous. Scrupulous adherence to the rules is crucial. You will still need to obtain training/CPD. I give about 50 CPD courses a year. It is a lucrative additional part of my business and I obtain CPD credit for all those hours I give. I have never paid to attend for a course over the last 12 years. I also have written 30 law books and have lots of regular articles and columns. In a sense I am paid for my marketing and paid to keep up to date. It has worked very well for me, although not everyone can make the effort to write a book or force themselves to give a public course. There are lots of other ways to market a practice. However, do not think it is possible to print notepaper, pay for indemnity insurance and then the work will flow. Compliance with Law Society rules and obtaining insurance is the easy bit which any clever lawyer can easily grasp. The harder part is how you will generate business. I have never borrowed a penny for the business. I have never had an overdraft. I would exhort those setting up to avoid leasing expensive offices, taking on employees with large wages bills and paying for expensive advertising. Start small and grow if you then choose to do so and have the funds to do so.

Solicitors working for themselves need a constant marketing mind set and also need to keep generating work from their existing clients (all too often neglected but often the best source of new work). I am terrified that in 11 years I have never had a new client. ... November I bought an island in a warm tropical land. I am supporting my five children at private schools and university. I have a lovely home. Working for myself has made all these things possible and I would recommend it to any lawyer. I have felt much more secure surprisingly since I set up on my own than when I was an employee. Even partners one reads about every week are required to leave their firm or have pressure put upon them to retire early. Much more importantly than the financial rewards is that I love the work. I am hugely privileged to give advice on competition law and intellectual property to such a huge range of fascinating businesses. I achieve "flow" when working. I get engrossed in it. Solving a difficult legal problem is like being paid to do crossword puzzles all day. Every day is different. The most important ingredient of all is hard work. Your luck will improve immeasurably the more effort you put into it. So if you think you have the right personality to work for yourself go for it.

Further information

The Law Society downloadable booklet on *Setting up in Practice* is at: www.lawsociety.org.uk/professional/conduct/guideonline

Singletons' web site is at www.singlelaw.com