Photographer: Liam Sharp © Firstlight

Succession Planning

By Irene E. Taylor

A REVIEW OF THE LITERATURE on succession planning yielded nothing new. A reread of William Rothwell's *Effective Succession Planning: Ensuring Leadership Continuity and Building Talent from Within* (New York, 2001), a leading text, and a slew of *Harvard Business Review* and other such articles, left me with the feeling of having read the same thing over and over again. All of the literature was full of strategic planning language, buzz words, models, flow-charts and lists of all types.

Who was to argue? Everyone knows that succession planning is fundamental to ensuring the continuity of the corporate crown jewels, i.e., leadership, vision, talent, et cetera. There is a science of how to do it. Right? Wrong.

LERNERS LLP IS A GREAT EXAMPLE of recent effective succession planning in the legal profession. This is what a number of senior lawyers told me off the record. One of my first calls for an interview went out to Earl

Cherniak, Q.C., the top-ranked senior litigator at Lerners. The London- and Toronto-based firm had recently pulled off an important acquisition—six lawyers from Toronto-based McDonald & Hayden LLP, including well-known David Nathanson (tax litigator), and Don Jack (civil litigation).

Rumour had it that Lerners was not only seeking to deepen its talent pool. The story was that the firm had also conducted its recruitment search with the goal of succession planning around such senior talent as Mr. Cherniak. The call went as follows:

Taylor: "Earl, I'm working on an article about how Canadian law firms go about succession planning. I'm calling to see if you are available for an interview."
Cherniak: "Why?" (Note: Voice tone is that of someone anticipating a serious waste of time. Such responses are generally a writer's kiss of death.)
Taylor: "Well, a number of your colleagues have referred me to Lerners as a recent good example of succession planning. Your recruitment of David Nathanson and Don Jack was viewed as a real coup, especially given that no one perceived Nathanson and Jack to be 'jumpers'. I'd like to interview you about when and how you targeted them and how Lerners goes about succession planning."
Cherniak: (Harrumph) "Well, it should be perfectly obvious. We're always looking for great people as we continue to grow. So, we go after them when we can."
(End of interview)

Crap. Cherniak had a point. It was something like Dorothy discovering who the Wizard really was in L. Frank Baum's *The Wonderful Wizard of Oz*. Like the Wizard, succession planning is wrapped in mystery and magic. Until, that is, you pull the curtain back. However, many people are unwilling to pull that curtain. This explains a lot, including the good number of senior lawyers who would only speak off the record about how their firms go about it.

IT'S MUCH LIKE a trip down Baum's yellow brick road. As I was repeatedly told, while law firms believe succession planning is critical to their future success, they do not believe they do such a hot job of it. They do not, for the most part, have anything even close to the models and flow-charts portrayed as "best practices" in the professional literature. This seems to make them feel inadequate.

Crap again. In reality many law firms do a pretty good job of succession planning. It is arguable, given the recent track record of a number of well-known Canadian and US corporations in succession planning matters, that business would be well served by taking a hard look at how some law firms go about it.

BACK OF THE ENVELOPE is not so bad. Most Canadian law firms engage in succession planning in a manner that can best be described as "back of the envelope." Clay Horner, Co-Chair of Osler, Hoskin & Harcourt LLP, explains it best. "We take succession planning very seriously and that means both the succession of talent within our firm and our clients' succession as well. We seldom think of one without the other. But we have no strategic plan, no competency model, or any of that stuff. What I can tell you is that we think about it and talk about it all the time."

The discussions at Oslers have a functionally interrelated internal and external focus. As Horner further explains, "We talk about the fact that we want to have about ten years of age, experience and life perspective difference between key leaders. We think and talk about all the ways we can provide the richest work-learning opportunities for lawyers who are in their mid-thirties to early forties. This is because they represent our future 15 years out. We talk about how to put teams together that match the succession of our clients. We want every client to have someone they can relate to and 'grow up' with. What I am talking about is 'face time' and that is what we consider to be the most important aspect of succession planning."

It is difficult to argue with Horner's line of reasoning. Law firms, however, do suffer from a cognitive dissonance regarding the methodology of succession planning used by business organizations. It doesn't "compute" for them. There is a simple explanation for this dissonance. It is provided by the over 400 in-depth confidential psychological assessments of top performing lawyers completed for various cover stories for *Lexpert* over the past two years ("Canada's Top 25 Corporate Litigators," "Top 40 Under 40," "Canada's Top 30 Corporate Deal Makers," "Canada's Top 25 Women Lawyers," "The Next Future Perfect," "Top 40: 40 and Under 40," in the July/August, September, November/December 2002, September 2003, September and November/December 2004 issues of *Lexpert*, respectively).

HIGH-ACHIEVING LAWYERS as a group think differently than most people. Personality assessments, such as Myers Briggs, show that about 75 per cent of people in the general population are "what you see is what you get" thinkers. In MBTI terms this is called sensing. They think through their senses. Literally, what they can see, smell, touch and hear, etc. “Sensing thinkers” are analytical, detail-oriented and practical. For example, they love models and flow-charts because concepts framed in this fashion give them a process or structure for thinking.

High-achieving lawyers think in an entirely different way. Over 80 per cent of the lawyers who completed the confidential assessments for the above noted *Lexpert* stories have a thinking style that is called intuitive in Myers Briggs terminology. What does this mean?

Basically these lawyers think more intuitively in terms of the “larger picture” context, future possibilities and gut hunches. It is not that they are incapable of analytical thinking or working with balance sheets and flow-charts. In fact, they are generally quite good at it. Law school and the demands of practice have provided them with the forum and discipline necessary to acquire these skills.

But the point is this: lawyers are often **mentally adverse** to many of the process driven models of the business world. They have the intelligence and skills required to apply analytical reasoning to client needs, although even here top lawyers apply more intuitive reasoning. However, when it comes down to their own backyard (and firm), they prefer to do things their way. This returns us to the back of the envelope approach. Successful lawyers strongly prefer “face time” and dialogue. It may not be out of the *Harvard Business Review*, but it works.

> ...lawyers are often mentally adverse to many of the process driven models of the business world. They have the intelligence and skills required to apply analytical reasoning to client needs, although even here top lawyers apply more intuitive reasoning. However, when it comes down to their own backyard (and firm), they prefer to do things their way.

IN MORE WAYS THAN ONE the worlds of law and business are converging. There is something to be said for the unease that senior lawyers feel around succession planning. Many know in their heart of hearts that they could, and should, do a better job.

A more disciplined approach to succession planning begins with a better understanding of how it actually works. The first step is deconstructing much of the jargon. In other words, pulling back the curtain and taking a good look at the Wizard.

What follows is the composite advice of a number of leading consultants. The kind contribution of Dr. Thane Crossley (Thane Crossley Partners), John Swain (Mercer Delta), Luanna McGowan (PricewaterhouseCoopers), and Bill Hamilton who, along with the author, cut through and adapted corporate succession planning models into an approach better suited for law firms, is gratefully acknowledged.

FOR SIMPLICITY’S SAKE the multiple levels of succession planning can be simplified to three. Firms that are at level three in their thinking and approach are best positioned to meet often sudden market changes and carry out smooth intergenerational succession. Firms that are at level one are simply reactive to events and generally lose important opportunities as a result of not being able to respond immediately by way of a diverse talent pool.

Level one is basically concerned with replacing key people. For example, the departure or serious illness of an important partner. It tends to be both reactive and short-term focused. Today most firms know that replacing a managing partner, senior rainmaker, etc., is one element of succession planning. But planning limited to this level is certainly not sufficient to effectively position the firm for future strength.

At level two the firm looks beyond its senior partners and takes a comprehensive inventory of its talent pool. Oslers, for example, likes to think in terms of generations that are approximately 10 years apart, from new associates up to senior partner level. “I am about 10 years younger than Brian Levitt,” notes Clay Horner. “Dale Ponder, our co-managing partner, is about 10 years younger than Tim Kennish, the other co-managing partner.”

At level two planning becomes more future oriented, moving away from individual replacements. The goal is building a rich and diverse pool or inventory of talent to draw from for future purposes. A distinguishing characteristic is that targeted candidates may not be “earmarked” for any specific future role. Planning is more focused on evaluating people than developing them. At this level the central question is who are our very best people and why?

Firms that are mature in their succession planning, operate at level three. At this level a firm takes a more holistic and developmental approach. It seeks to avoid the self-fulfilling prophecy of “we need outside laterals because we don’t have the right best people.” It looks to develop potential into performance and to balance external lateral recruitment (usually for growth purposes) with top-notch internal high potential programs and leadership development.

Succession planning at level three is integrated with other career systems such as training, compensation, 360 assessments, etc. As Thane Crossley at Thane Crossley Partners points out, "it is driven by the future strategy of the firm and continually seeks to answer such key questions as where will this firm ideally be 5, 10 or 15 years from now? Who leaves the competition scrambling to catch up? And who can adapt our strategy to current and future competitive demands?"

THERE ARE SEVEN GUIDELINES that encompass these three levels of succession planning. They are as follows:

1. STRENGTH REINFORCES STRENGTH.

Perhaps it is so obvious that it goes without saying. The starting point for successful succession planning begins from a position of strength. In the case of a law firm this means having a strong core or critical mass of successful partners in important practice areas. But this is not enough. The managing partners, along with the executive committee, must also be seen by firm members as the best possible people for their roles (in terms of integrity, intelligence, diplomacy, etc.). Where this is not the case, top talent can and generally will exit.

2. PUT CHECKS AND BALANCES IN PLACE.

In the corporate world a hallmark of professional succession planning is the active involvement of a strong board of directors. This affords many advantages including external referrals by board members, objective input and maintaining succession planning as a priority issue so the organization does not lose focus when under pressure from competing time demands (mergers, new product releases, etc.).

Most law firms do not have boards of directors. There is the danger of a firm becoming insular or sidetracked by other issues thus losing focus on future succession. There is the real danger of log-rolling and favouritism among partners with firm politics determining who moves into what slot.

Firms can deal with the need for maintaining the integrity of their succession planning process in a variety of ways. Oslers has a three-member subcommittee charged with this responsibility. The firm has also sought outside consulting assistance. The point is that the senior leadership of a firm should address what checks and balances are required and then put them in place.

3. ARTICULATE AND COMMUNICATE

what success looks like. In the corporate world competency models or profiles capture the characteristics that define success. At the Royal Bank of Canada, for example, these include being a developer of people, having a global mindset, intellectual curiosity and having business/profit acumen (among other factors).

A competency model is basically a snapshot of what determines success in key roles. How a law firm arrives at this "snapshot" is less important than making sure that lawyers—including young aspiring talent—understand, accept and develop these skill sets.

There are generic and obvious success factors which would show up in the competency profiles of any firm. They include intelligence, integrity, judgment, the ability to develop strong and profitable client relationships and so on. However, there are some factors that different firms will always place a premium on. These relate to firm culture.

For example, at a number of major firms a handsome premium is placed on the ability of managing partners to reconcile opposing views held by important partners and broker consensual decision-making. At other firms, this skill set does not have the same importance.

At Lenczner Slaght Royce Smith Griffin LLP, a high-profile Toronto-based litigation boutique, there are two central factors that determine success. The first is counsel skills. As explained by partners Ron Slaght, Q.C., and Glenn Smith, "We always ask whether he or she can 'dance'. We know that the distinguishing characteristic of all superb litigators is their ability to be effective when the scenery changes. When, for example, a judge asks something that you just don't have an answer for."

The second success factor at Lenczner Slaght is a hybrid of personality and character. "We have no growth plans," notes Ron Slaght. As Glenn Smith explains, "Enjoying ourselves and being able to work together is most important. This carries through to our personal touch with our clients. Our culture is built around a cult of personality."

4. MAKE CLEAR WHAT CONSTITUTES FAILURE.

Everyone knows at least one example of a talented lawyer who has self-destructed. Some of these individuals are able to pick up the pieces, learn from the painful experience and move on. Others never do.

There are many reasons for such career derailment. Burning the candle at both ends for too long is a principal culprit. When stress gets the upper hand it can lead to a multitude of problems: from alcohol or drug abuse to simply being overly negative, critical and unresponsive to the needs of others to the point where they simply don't want to be around such an individual. It is interesting, for example, how many firms and firm leaders will identify, as a success factor near the top of their list, people who are easy and enjoyable to work with.

Other derailment factors go straight to the heart of a firm's culture. In some firms it is seen as a weakness if one is not continually out in the market promoting him/herself. In other firms high billable hours are a sure sign of success. In others, and particularly at more senior levels, high billable hours is seen as a sign of hording work at the expense of one's team and juniors. Having a close relationship as a trusted advisor with a major client can similarly be interpreted as a major strength or, again, be viewed as lone star behaviour at the expense of the firm and team.

Understanding and communicating, either formally or informally, what can derail one's career provides a valuable lens for those who assess/evaluate candidates. It serves as an "early warning system" for feedback, mentoring and professional development needs. It is an essential part of long-range professional succession planning.

5. MAKE SUCCESSION PLANNING DEVELOPMENTAL. At its best, succession planning is much more than simply replacement planning. When it is approached as a way of developing the potential that young lawyers have and converting that potential into tangible results, it proactively addresses future replacement issues. Given the change and uncertainty that firms face today, this means having a pool of highly qualified people. It also means making the anticipation of client succession realities a priority.

6. PUT GOOD BASIC CAREER PLANNING IN PLACE. Most leading business organizations provide career planning tools and self-guided programs to all of their professional staff. Although this point receives little attention in the succession planning literature, good basic and continuous career planning is the foundation of professional development. It is a prerequisite to developing a high quality pool of talent from which one can select successors.

As John Swain at Mercer Delta points out, "Succession planning is a subset of a broader people strategy. This includes such things as multi-rater feedback, coaching and mentoring programs and cross-functional/geographical assignments."

Career/life planning programs are generally about 70 per cent self-assessments and focus on raising self-awareness. In many ways, however, career/life planning programs also provide many early signals to senior leaders about their people. As is emphasized by Swain, "These kinds of exercises (i.e., career planning) form the basis of predictive judgment calls about one's talent pool."

7. ENSURE THAT FIRM STRATEGY AND CULTURE are drivers of succession planning. Strategy and culture is where the rubber meets the road with respect to succession planning. While Lenczner Slaght's succession planning is focused on staying "on the edge" of excellence (and chaos), and cherry-picking young talent, Oslers seeks to provide as broad and as vibrant, a mix of opportunities to as many talented people as possible. Should the approach to succession planning be different with different types of firms?

The answer, of course, is yes. Lenczner Slaght's approach is very different in "process" from that of Oslers. For good reason. As Luanna McGowan at PricewaterhouseCoopers explains, "The approach we take with entrepreneurs and small business leaders is very different from the approach a large corporation takes to succession planning. Basically we facilitate dialogue and decision-making around key issues with the stakeholders of a business. It is a much safer approach. Effective communication is at the heart of everything we do. And this typically means lots of meetings, follow-up and face time. We help clients engage in succession planning as an ongoing process rather than as an event."

LENCZNER SLAGHT has 25 lawyers who have been chosen for excellence in one area of practice—litigation. The firm's succession planning is very much a bottom-up rather than top-down approach, i.e., growing its young talent base to follow on the heels of a core group of successful litigators.

Because of its size, the approach of Lenczner Slaght is much more "back of the envelope" than that of a large national firms such as Oslers. "We seek to keep the level of challenge and excitement as high as possible," notes Ron Slaght. "We deliberately keep ourselves on the edge of being understaffed and close to a kind of organized chaos because it keeps us 'dancing'. On a developmental level we know we need to give our young lawyers significant courtroom and trial experience, so we do as much work as we can for the Canadian Medical Protective Association." Slaght's examples illustrate how simply, yet elegantly, succession planning fits into their firm strategy.

Thomas Curry is a well-known litigator who recently left

McCarthy Tétrault LLP to join Lenczner Slaght as a partner. As Curry points out, "Once you decide your firm is in this for the long haul, you begin thinking and making decisions about people to ensure that the practice and the firm will successfully survive more than one generation. This was very important for me in coming to Lenczner Slaght, because this is a small boutique with a collection of big name litigators. When I conducted my due diligence, I wanted to be sure that the firm had plans in place to outlive this generation. That the firm saw this as part of their responsibility. The founders of this firm had brought that mindset and attitude with them from their former firm (McCarthys), so my due diligence was to ensure that the execution of that mindset was happening. It is in spades."

Lenczner Slaght's succession planning works for Lenczner Slaght. As Curry goes on to explain, "Our approach to succession planning is more conceptual than scientific. Although, having come from a large firm, I would say that the need for science and process grows with the dynamics of size."

Organizational flowchart models of succession planning are "super sized." They are drawn up for organizations, such as General Electric or financial institutions, with thousands of employees. Lenczner Slaght does not fit that model. It is a firm of 25 lawyers. As Ron Slaght notes, "We don't need to process and institutionalize a function or a person role to do succession planning."

AT OSLERS there is a different model. While the dialogue and "face time" that Clay Horner spoke of remains central, a firm like Oslers is more comfortable with a position closer to a corporate-like model. With over 400 lawyers and offices in Montreal, Toronto, Calgary, Ottawa and New York, Oslers obviously has different strategy and market penetration goals that are more akin to the way modern corporate planners think.

Horner outlines his firm's approach as follows: "Client succession planning is an integral part of our overall succession planning. We focus on making sure that we can put together the most appropriate teams to serve clients. This means paying attention to such things as what is the mix of our clients, what are their demographics, the attitudes and preferences that accompany their age, background, etc. Who are moving into and out of key roles in their organizations and what new needs are emerging from their strategy and growth plans?

As far as we are concerned, these are the drivers of our succession planning. We spend a lot more time figuring out our client succession planning because it determines our needs and plans. It tells us, for example, if we should be developing a new specialty to meet their emerging needs and, generally, what mix of people we need to match their people.

One of the key goals of our succession planning, as a result of this, is diversification. We have multiple roles and take a far more team and inclusive approach. Diversifying your people takes care of much of the risks and uncertainty that goes with traditional replacement strategy types of succession planning."

What Horner has outlined in detail is a highly conceptual, anticipatory approach to law firm succession planning which closely resembles the fashion in which corporate planners now approach questions of market strategy. (See *On Strategy* in this issue of *Lexpert*.) Further, not only does the goal of talent diversification squarely address the overall risks associated with change, it also goes a long way towards blocking a central succession planning problem faced by professional partnerships, i.e., log-rolling or favouritism.

> "…. Effective communication is at the heart of everything we do. And this typically means lots of meetings, follow-up and face time. We help clients engage in succession planning as an ongoing process rather than as an event."

SUMMARY: THE BOTTOM LINE

The bottom line about succession planning is simply this: one can argue, endlessly, about best practices but, at the end of the day, the only evidence required is what you see in front of you. In other words, one only has to take a good look around, beginning with the leadership in one's own firm as compared to leadership in other firms, to know what the quality of the succession planning to date has been.

Taking that good, hard look around, most readers will know of one or more firms (hopefully not their own) suffering from a crisis of leadership. Such firms are generally recognizable because of the departure of some, or many, of their best people; their inability to recruit senior laterals; the absence of up-and-coming leaders; the fractional nature of partner relationships and the emergence of "camps"; and on and on. This is the signage of not attending to succession planning. Death by mediocrity.

During the interviews for this article the managing partner of a well-known firm related how the Young Presidents Organization (YPO) had declined their application for membership. The principle reason given was the short-term approach to leadership that law firms take. As explained by the managing partner, "they (the YPO) believe that senior leadership is a major responsibility that requires a full and continuous commitment. They just could not get their minds around any corporation, or even a family run business, appointing a CEO for three years, i.e., a normal term for a managing partner. When I thought about that within the context of the kinds of challenges I have experienced in my role, and the skills I have had to work very hard to develop, I could not disagree."

The position taken by the YPO makes perfect sense. It is a well researched and documented fact that the single most influential and predictive factor in the success of business organizations is leadership. The normal term of most managing partners is generally too short to facilitate the acquisition of many leadership skills.

We spend a lot more time figuring out our client succession planning because it determines our needs and plans. It tells us, for example, if we should be developing a new specialty to meet their emerging needs and, generally, what mix of people we need to match their people.

However, the real bottom line in succession planning is surprisingly obvious. Success is determined by the values a firm has about its people and the future of the firm itself, versus the immediate financial self-interest of partners. Ron Slaght at Lenczner Slaght said it best. "At the end of the day it comes down to what you are prepared to leave on the table." Right. Building a talent pool to draw on for succession purposes costs money.

As for the process, the competency models, and all the other mystery and magic of *The Wonderful Wizard of Oz*, they are simply tools that are used to understand and manage the uncertainty and risk that accompanies increased complexity and growth. One has to pull back the curtain, as Earl Cherniak did when he said "it should be perfectly obvious. We are always looking for great people as we continue to grow." Or Clay Horner's closing two-word definition of succession planning: "meaningful dialogue."

Irene E. Taylor is a leadership consultant with more than 25 years experience in coaching and advising senior and top talent in Canada and internationally. She writes for Lexpert *and leads Praxis, a talent assessment and coaching practice.*