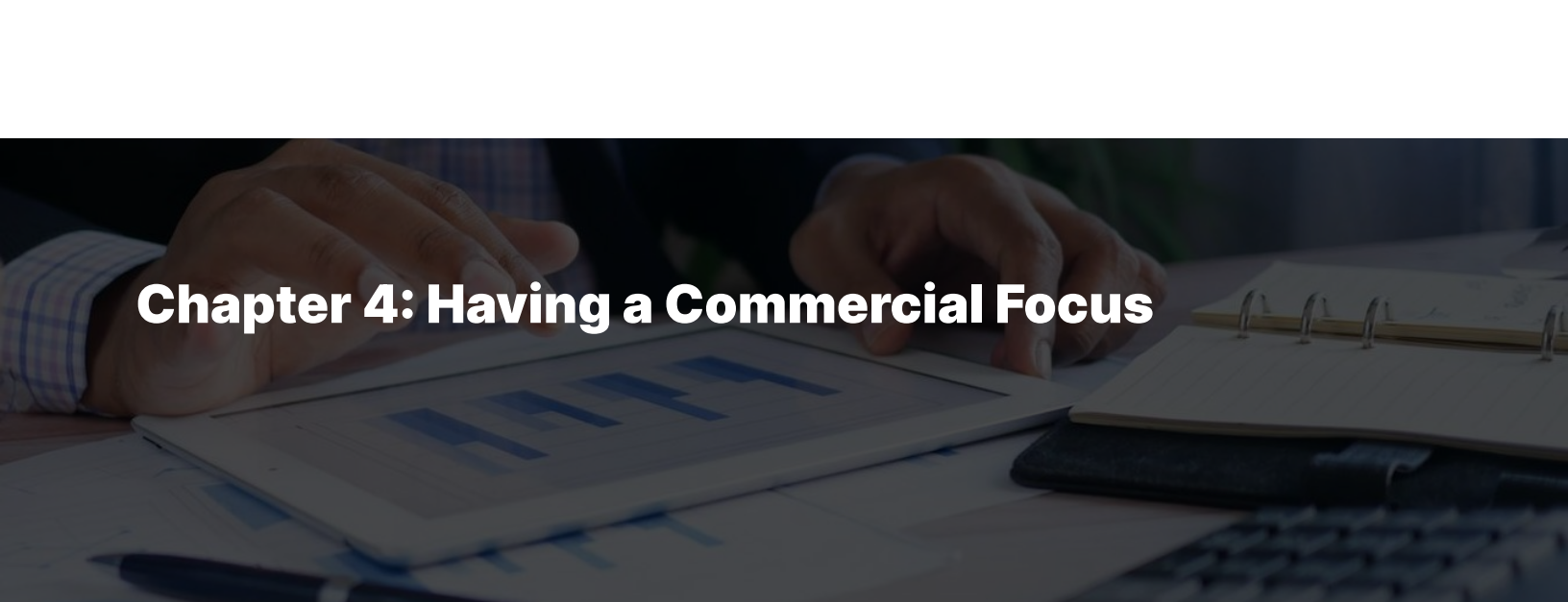




Chapter 4: Having a Commercial Focus



4.1 Introduction



4.2 Legal sectors



4.3 Commercial opportunities



4.4 Non-legal functions



Knowledge Check



4.5 Summary

4.1 Introduction



Lawyers who work for firms or an organisation need to have an understanding of commercial focus in order to achieve in their career and deliver the best service to their clients.

Legal advisors and case handlers are expected to be commercially aware of the 'bigger picture' as to what a firm or organisation is trying to achieve, regardless as to whether it is non-for-profit or otherwise.

A successful organisation needs to be efficient in order to make the best use of its staff and support staff.

Podcast: Having a commercial focus



3:35

1x



Audio Transcript

Most businesses and organisations exist to make a profit. Some are not for profits, but the majority of businesses and organisations in the UK do exist to make a profit. Even not for profit organisations still need to have targets and objectives in place to ensure that the work they are handling is handled efficiently and gets to the stage that it needs to be within a reasonable timescale. Different organisations and different sectors have different ways of working and different expectations of their staff.

In law, commercial opportunities can be very lucrative. Firms are always very keen to get their hands on work, which can be lucrative and profitable for the business. Therefore, it's important to always keep all clients up to date in terms of the progress and any updates of their case. Having a commercial focus can vary within each law firm. So, it's really important for you to establish what good looks like in the law firm, or department that you work in. If you're not sure what good looks like ask. Ask your supervisor, ask your manager, ask your senior colleagues, "what does good look like?", "what are the targets and expectations of working in this team or this department?". In some organisations targets might be in relation to timescales, such as on conveyancing cases, and the targets may be in relation to hours billed, or the amount of billing per case handler completed on a daily, monthly, or annual basis. Some firms may target their staff in relation to client feedback scores and have specific targets in place for client satisfaction.

Organisations are wise to set achievable targets and objectives for their staff and managers. This is to ensure that the business progresses effectively. Most departments within law firms are likely to have a combination of targets and objectives for staff, teams, and departments. Most departments within law firms are likely to have a combination of targets and objectives. Whether you're starting work in a law firm for the first time, or you're moving law firms, it's very important to establish early on what the expectations are of you, and what targets and objectives you need to be hitting in order to do a good job. Any new job usually involves a probation period, and you're likely to need to do a very good job and show that you're capable of hitting certain targets if you're going to pass your probation, as well as familiarising yourself with the targets and objectives that you're going to be set. You should also familiarise yourself with the service level agreements within your business. This usually tells you how

often you have to update your clients, and it's very important that these service level agreements and timescales are adhered to. Failure to do so may result in justified complaints. Case handlers should work proactively to avoid complaints, they should be sure to give excellent client care and to hit the targets and objectives that they have been set. If you don't know what good looks like in your department, then you're not standing yourself in good stead to achieve those targets. So, ask yourself, do you know what good looks like? Are you sure? It might be worth checking with the managers and supervisors in your departments to make sure that your efforts are going to give them the best possible work you can.

CONTINUE

4.2 Legal sectors

Legal practice

Legal practice can take many forms such as sole practitioners, partnerships, companies and Alternative Business Structures (ABS).

- Non-law firms can also include in-house legal professionals, such as those working as lawyers within businesses, government and social policy organisations, councils, the Police and the Crown Prosecution Service.
- Organisations may have a mix of legal practitioners including CILEX Lawyers and Solicitors, and paralegals.
- Law is also practiced by Barristers who are specialist legal advisors and court room advocates who have been called to the bar of England and Wales. They usually practice out of a chambers or may be in-house at another firm.

Some legal practices exist to serve clients and make a profit, but others exist as not-for-profit organisations or departments.

Legal regulators, ombudsmen, courts and course providers may also employ legal professionals but these are not considered practicing law firms.

Practitioners working in legal firms must have adequate training to ensure they have the legal skills and client care skills to do a good job and comply with expectations set by regulators.

Most law firms have access to case management systems to help them organise the handling of their caseloads and set reminders for key dates such as client updates, court dates and dates when payments are due. Case Management Systems often contain 'stock' letters which have been checked by senior members of the firm which can be used or adapted to provide advice, updates or further information to clients.

Legal service

Law firms offer a range of services on a range of topics. Some clients may wish to obtain legal advice only and this could be done face to face, via the telephone or via video call.

Some firms offer online legal services, such as will writing, often for a fixed fee.

Some clients may need to fully instruct a law firm for representation, mediation or arbitration



Before a client instructs a law firm on a contentious litigation matter, it is worth them checking if the firm mostly act for claimants/applicants, or more often for defendants/accused.

Law firms are able to give advice and representation on a range of topics such as:

- Civil Litigation (such as Personal Injury; Debt recovery; Housing; Tort law; Contract law)
- Criminal Litigation
- Family Law and Litigation
- Conveyancing & Property law
- Private Client (such as Finance; or Probate and Wills)
- Corporate (Company or Commercial law)
- Employment Law and Practice
- Public Law Work (such as working in a Local Authority; in Government; Welfare Benefits; or Immigration)
- Legal Practice (Practice Management; or Costs and Accounts Work)

Not every law firm practices every area of law so a full list of CILEX lawyers can be found at:

Find a Lawyer (Chartered Legal Executive / CILEx Practitioner) - CILEx Regulation

It is sensible to check that a person is genuine before you instruct them to do your legal work. Only practising Chartered Legal Executives and CILEX Practitioners authorised by us to carry out legal work in England and Wales appear on our registers.

[READ MORE CILEX REGULATION](#)

Contentious and non-contentious work

Legal practice can involve many types of work, some of which involves disputes between parties and some which does not.

CONTENTIOUS LEGAL WORK

NON-CONTENTIOUS LEGAL WORK

Contentious legal work involves disputes between two or more parties, and it can involve litigation through the courts, or other dispute resolution such as mediation or arbitration.

Legal work which involves the courts, can incur additional costs and, in some cases, be protracted.



CONTENTIOUS LEGAL WORK

NON-CONTENTIOUS LEGAL WORK

Non-contentious legal work is more efficient as it does not involve disputes between parties. Non-contentious work can include legal advice, the conveyancing of the sale of land, the drafting of a tenancy agreement, will writing and many more examples. This type of work does not involve differences between parties and in some cases may have standardised processes in place. It is unlikely you involve the courts.



It is important to note that a piece of legal work can start off as being non-contentious but turn contentious later on; for example a will may be written, but later on during probate that will may be contested and this dispute will be regarded as a contentious matter.

Organisational structures

The organisational structure of a law firm can very much depend on its size, geographical location, nature of work, budget and access to resources and technology.



Law firms are usually made up of up qualified and unqualified staff, with additional support functions. Staff are likely to range in qualification and experience, usually with the most experienced staff dealing with the more complex legal matters.

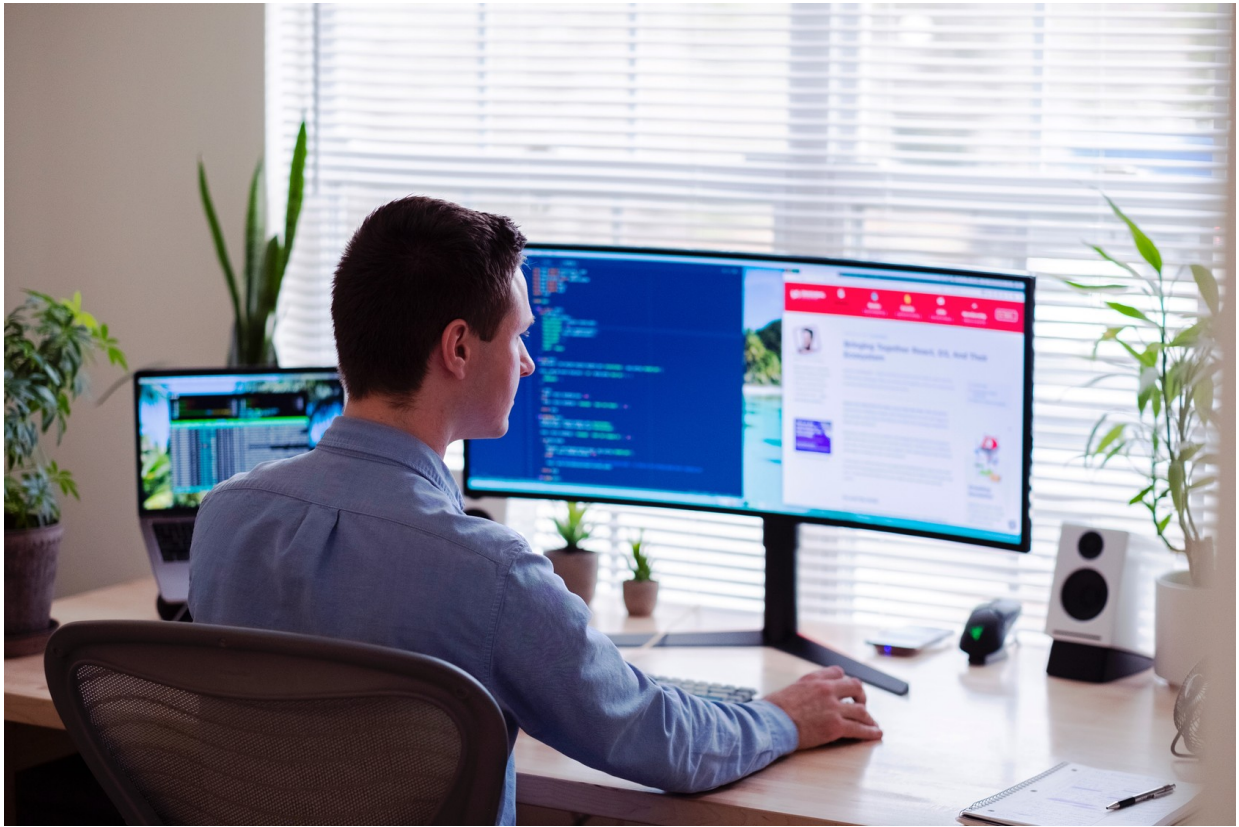
Support staff are not necessarily legally qualified. These may include admin roles, secretarial support, receptionists, cleaners etc. Some firms find it more

cost effective to outsource certain support functions, such as typing, admin, accounts, human resources, printing, posting and information technology.

- Some firms' organisation structures are designed around the areas of law they are involved in, such as contentious and non-contentious work or pre and post litigation.
- Some firms prefer to have cradle to grave case handling to avoid a case needing to change case handler at various stages.
- Others may prefer to have specialist teams who deal with certain advice or case handling relevant to their area of expertise, such as commercial departments which are separate to departments who deal with private clients.
- Some firms may have more of a process driven approach, where a case moves to a different team as it progresses to a different stage.
- Some firms may have support staff working within the legal departments, but some may prefer to keep them together, away from the legal departments.

Each firm is likely to have a management structure suitable to their supervisory performance and communication needs.

One firm may have only one branch, where as others may have several, possibly having some staff work between different sites. Some firms may be limited to office size due to their city location or budget.



With the increased availability of technology, and the Covid-19 pandemic, some firms are making more use of work from home arrangements for staff which can save on office space and overheads.

Some firms have invested in modern technology including automated computer processes, digital typing and post scanning to help run a more paperless and efficient office.

External factors can cause a firm to re-consider its organisational structure in order to stay competitive. For example, when regulators allowed for the creation of ABS', organisations who may not have previously owned law firms created their own.

Economic factors such as the job market or increased competition can prompt a law firm to review their structure and make decisions on office locations, overheads, staffing and technology.



Activity

Research what an Alternative Business Structure is and prepare a 5 minute presentation with your findings.



Complete the content above before moving on.

4.3 Commercial opportunities

Generating income



A law firm may have private clients but also commercial clients who send them work on a regular basis. This work will either attract a fixed fee, or the client may be charged for the time spent on the case.

Most firms have set service level agreements detailed in their terms of business which must be adhered to, such as stating how quickly phone calls, post or emails are responded to and how quickly complaints will be dealt with if they arise. The terms of business state how

much the firm charge for the work. Other fee arrangements may apply in certain types of cases, such as success fees in litigation. The document should state when payment is expected, such as in advance, during the case, or at the end of the case. The firm may also need to ask for certain fees upfront, such as for disbursements.

Service level agreements usually state how frequently a client must be updated and if there are any key updates at certain times, such as costs updates, to let a client know the costs which have so far been incurred on a file.



Commercial clients may have the buying power to take a batch of work elsewhere if they are unsatisfied that the work is being serviced in a cost or time effective manner. The loss of a contract for commercial work could be a big blow to a legal department which may be reliant on the work for

revenue. Such work is sometimes completed on a fixed fee basis, meaning the case handlers and supervisors involved must work efficiently.

Some commercial clients may have a batch of work with more than one law firm, so they are able to compare the service of each and potentially ask each firm to compete against each other to tender for work.

Commercial work can be very lucrative for a law firm and therefore there is competition for it. Firms who engage in commercial work may network in order to increase their commercial opportunities and build professional relationships.



Firms who wish to engage with private clients may advertise more locally or with specific publications or websites that their potential clients may read. Any law firm should have a good website with full details of their firm, the expertise they offer and contact details.

More technically advanced firms may host a “chat bot” on the website which may be able to help with answering questions from new or existing clients.

Regardless of whether a client is a private or commercial client, they should be kept fully updated in line with a firm's service level agreements and should be regularly updated on any costs relating to their case(s). No client should be surprised with a large legal bill at the end of their case; they should be kept updated throughout.



The use of case management systems can help case handlers and their supervisors stay on track with meeting deadlines, ensuring case progression and checking key client updates take place. It can also help with producing management information. The use of case management systems can help to keep client data secure, providing it is password protected.

Management information or statistics can help supervisors and managers keep track of the performance of case handlers or advisors, but other controls such as checking for backlogs of work, checking post, listening to advice telephone calls and conducting file audits are also recommended to ensure quality client care and accurate legal service is being provided.

Management information may even be requested by commercial clients who wish to gain a better picture as to their profile of cases with a particular firm. It is important to note that any requests for information may need to be run by a manager or GDPR representative to ensure that the information is permitted to leave the business.



Advisors, case handlers, teams and departments may have set objectives or targets to ensure good performance. Targets may be in relation to billing, chargeable time recording, cases progressing through milestones, or the number of completions.

Case handlers should be mindful of their performance, their competence, legal technical ability, good client care and their other regulatory expectations, such as abiding by the CILEX Code of Conduct, SRA Code of Conduct and the Solicitors Accounts Rules. SRA regulatory rules apply to all staff, including support staff.

Advisors or case handlers who consistently fall short of the expectations put on them may face further investigation and potentially disciplinary action.

Factors that can impact on an organisation's performance

Continued professional development —

Successful firms often have an ongoing theme of continued professional development in order to help their staff continually improve by recognising areas for training. This training may involve technical legal training but also the soft skills advisors and case handlers need to be able to build trusting relationships with clients.

Reputation —

The reputation of a legal firm is important and it will fail to attract new clients if numerous former clients have published negative reviews about them. Happy clients are more likely to return and offer repeat business. Prevention is better than cure when it comes to complaints. All staff should be trained in how to prevent them and how to conduct their work in an appropriate manner. Firms should review the complaints they receive, not just to try and resolve things for the client, but also to try and identify any issues

which need to be followed up with a case handler, or any trends which need to be investigated and resolved on a larger scale. The same should be applied for any data breaches which may occur. Mistakes can cost firms a lot of money, especially if they do not learn from them and put steps in place to prevent them happening again. The Legal Ombudsman can charge a firm if a client goes to them with a complaint which is found to be justified. They can also order that the firm pay compensation to the client.

Objectives and targets —

Each firm will set their own objectives and targets for staff depending on the organisational outcomes they are looking to achieve. These targets must be communicated to staff. These targets may vary depending on the experience or qualification level of a member of staff, and whether they are legal or non-legal in the nature of their work. Most private law firms exist to make a profit so they firstly need to ensure they are breaking even. Firms need to monitor the performance of all staff to ensure they are reaching the expectations set. Firms also need to consider whether work will be charged on a fixed fee basis, or if the work will be charged based on the time spent on it. Certain types of work attract fixed fees only.

Efficiencies —

Efficiencies can be gained where a firm is able to tackle inefficient processes and streamline them. Efficiencies can also be gained where firms make use of technology. For example, in some firms incoming post is checked manually to check for complains or concerns raised by a client, but in another firm this post may be scanned in electronically where it can be searched for pre-set worry words such as 'complaint,' 'delay' or 'unhappy' and flag them with a manager or complaints team for further action.

Disaster recovery and business continuity planning —

A firm should be well prepared in terms of its disaster recovery and business continuity planning, as unplanned events can cause untold impact to the performance of an organisation, such as a large IT outage, flooded premises, or a pandemic where staff are prevented from working in an office together but do not have the ability to work from home.



Complete the content above before moving on.

4.4 Non-legal functions

Non-legal functions and support departments are vital to the smooth running of the legal functions.

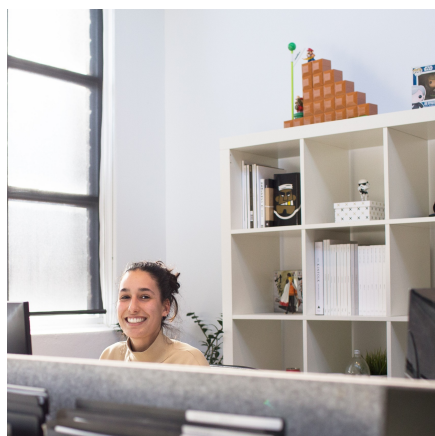
These can include receptionists, administrators, secretaries, accounts, IT, compliance and complaints teams.

- Receptionists and secretaries may greet clients and visitors, perform administrative and office tasks such as arrange meetings and taking telephone calls.
- Administrators may handle and process paperwork, post, emails and client documentation.
- IT teams tend to look after the information technology for the firm, including hardware and software.
- Compliance and complaints teams are there to ensure that the law firm is run in line with the SRA Code of Conduct and to deal with any shortfalls that may arise.

The non-law functions may be required to prepare files, book appointments, obtain information from clients, and handle post.

They may also be required to investigate a case if something goes wrong and provide feedback to the case handler, their manager and the client, if necessary with a proposed remedy.

As these other areas of a business can directly affect the law functions, strong communication and organisation is key.



Administrators and secretaries may be responsible for ensuring post reaches case handlers in a timely manner. As we have already discussed, this may be in a scanned format, possibly added directly to a case management system, or in hard copy. Even if the post is scanned, the case handler may still need the hardcopy of an item if it is an original such as a deed, a form of identification such as a birth certificate, or original court papers.

Secretaries or PAs may also be responsible for typing up dictation, although some firms now use technology instead. They may also be responsible for booking appointments and taking messages for the case handler so would need access to their work diary.

Case handlers may need the assistance of accounts staff when running their case. For example, if a sum of money is received into a firm's client account, they may need the help of the accounts team to establish where it has come from to be able to decide what should happen with it. If a sum of money needs to be sent, the case handler may again need the assistance of the accounts team and would need to give them clear instructions.

Office managers may be employed to oversee the work of some support functions such as administrators to ensure that processes are running smoothly, such as ingoing and outgoing post.

IT teams may need to give assistance in any situations involving technology, software or hardware.

Some law firms have their own law costs draftsmen to prepare bills of costs during or at the conclusion of cases and in some cases negotiate the settlement of these. Some firms outsource costs drafting to specialist law costs draftsmen. Law costs draftsmen are not usually required where work is conducted and charged on a fixed fee basis.

Other support teams may include those who supervise GDPR, data protection and risk. They may need to investigate risk events and feed back to the rest of the firm on how it could have been prevented. They may also need to provide guidance to staff on how to avoid leaking client data which should remain confidential, and in the event of a breach they are likely to need to investigate.

There are other examples of non-law functions within a firm, but in order to achieve the best possible working relationships with these areas it is best to treat them in a similar way to a client relationship with clear timescales and service level agreements.



Chapter Case Study

Dan is a paralegal in the commercial defence litigation team of a law firm. Dan has been assisting his senior colleague, Jasmina who is a CILEX Lawyer, in putting together a summary of some management information relating to the performance statistics of the defence team ready for an internal team meeting. Dan is aware that the report includes stats for all of the team, and some are better than others. Dan is not sure if the report contains anything relating to work for another client as they have three big commercial clients at the moment, and they charge them each a slightly different fixed fee.

Dan receives a call while Jasmina is engaged in another meeting. The person is calling from their commercial client's office and needs the summary report to be sent over to them by email in the next 15 minutes. Dan is aware of how important this commercial client is as they regularly send work to the law firm, and they like things to be done efficiently.

Dan doesn't think there is time to check with Jasmina, or the firm's GDPR officer as 'the customer is always right' and time is of the essence if he wants to impress this commercial client.

Dan sends the report out to the external client via an unencrypted email but doesn't mention anything to Jasmina. Dan thinks that only qualified staff need to follow the regulations to the letter.

He will just wait for her to find out from the commercial client how efficient he had been.

Has Dan done the right thing? What could the consequences be of his actions? Explain your answer.



Complete the content above before moving on.

Knowledge Check

This knowledge check is a self-assessment to see how well you understood the content of this chapter and it does not count towards your course mark.

There are 5 questions in this knowledge check.

1. A law firm can be (choose the 2 correct answers):

- ☐ The Citizens Advice Bureau.
- ☐ A partnership of lawyers.
- ☐ A law firm that is a registered company.
- ☐ A company that does not practice law generally but has one 'in-house' lawyer.

SUBMIT



Complete the content above before moving on.

2. Contentious legal work:

- ☐ Does not involve litigation through the courts.
- ☐ Is legal practice work which involves disputes between parties.
- ☐ Does not involve additional costs.
- ☐ Is efficient as it does not involve disputes between parties.

SUBMIT



Complete the content above before moving on.

3. The organisational structure of a law firm can very much depend on (choose the 2 correct answers):

-
- ☐ The international languages spoken by the staff.
 - ☐ How many parking spaces there are at the building.
 - ☐ Its geographical location.
 - ☐ Access to resources and technology.

SUBMIT



Complete the content above before moving on.

4. Which of the following is true of commercial work (choose the 2 correct answers):

- ☐ Commercial work is never fixed fee.
- ☐ Commercial clients are very important to a firm as they send them work on a regular basis.
- ☐ Commercial work never involves a Service Level Agreement.

☐

A firm's terms of business state how much the firm charge for the work.

SUBMIT



Complete the content above before moving on.

5. What can affect a firm's performance? Choose the 2 correct answers.

☐

Efficiencies can be gained where a firm is able to tackle inefficient processes and streamline them.

☐

Efficiencies can also be gained where firms make use of technology.

☐

Technology should be jumped on quickly, testing takes too long.

☐

Management Information is very important to commercial clients – just sent it out quickly, do not delay by seeking data protection & GDPR advice first.

SUBMIT



Complete the content above before moving on.

4.5 Summary

(1) Lawyers with an outcome focussed approach are more likely to have an understanding of the needs of their clients and the needs of the organisation they work for.

(2) Lawyers need to continually professionally develop to ensure they provide the best legal service they can to their clients, and this ethos will help the reputation of an organisation.

(3) Lawyers need to be aware of their regulatory expectations as well as be up to scratch with their legal and client care skills.

You have completed Chapter 4.

EXIT