

What Are “Best Practices” Right Now?

By [Michael D. Short](#) on August 19, 2014

When discussing significant changes to just about any aspect of their operations with a law firm leadership team, we know that someone will probably ask us, “What are the best-practices in this area right now?” The inquisitive parties are usually in their mid-fifties or older and may be “lifers”...Partners who have not moved around and experienced how other law firms operate.

Given the precedential nature of law and the way lawyers generally think, this question makes perfect sense. While not intended as such, we see this request as a trap that, if handled poorly, can result in mediocre advice and a less than optimal outcome because the appropriate response to this question has changed dramatically in a short period of time –

- Up through the late 90’s the response was to describe what the majority of firms were doing. This was a period of homogeneity in most marketplaces and few law firm leaders would venture off into unexplored tactics or solutions. There was great comfort in following the pack and copying that which most others were doing. The prevailing logic was that if many were doing something, it must be a sound approach and should be considered a “best practice.”
- Once Y2K came and went, strategic differentiation became a real goal for a majority of law firms. Still, breaking from the past – and the pack – felt dangerous and remained a tough sell internally. Consequently, “best practices” became what the leading firms were doing. The focus shifted from the ideas in the middle of the pack to what the lead dogs were implementing. The safe solution was still within the spectrum of existing experiences...even though these experiences were coming from a subset of innovative thinkers who were pushing beyond the bounds of conventional wisdom, thus moving the boundary for everyone.

It is important to note that the process used by the innovators and leading thinkers was strategic in nature – identify the area of study and the reason for potential change; objectively assess the current situation to determine which areas require changing; evaluate options with an open mind toward the application of technology, different staffing models, new processes, etc.; determine the impact on culture and profitability; create an implementation plan; test and sell the working concept to the Partners; get the vote and get to work.

- From the recession forward, for an ever-increasing number of firms the concept of “best practices” transitioned away from precedents and examples and has become the result from the process that the leading edge thinkers use (as described in the prior paragraph). Such a process should produce a firm-specific, tailored “best practice” that may not be in use by another law firm on the planet...and that’s perfectly acceptable. Each firm is unique and as most firms strive for strategic differentiation, they must also strive for unique solutions that result in competitive advantages. If everyone is doing the same thing, no one achieves an advantage.

Acting in a manner inconsistent with the pack is always a challenge. Human nature dictates that we derive comfort and confidence from following in others’ footsteps. However, in any given marketplace, whenever we see many firms doing the same thing we now worry because a new and important concept is missing – a “best practice” should be a unique result from a process...not just a commonly used practice.

For planning purposes today, you may still want to know what the traditional “best practices” are for your issue in your

marketplace – meaning specific examples. This time, however, you can use this information to test the results from your process to ensure that you have achieved both innovation and differentiation to truly develop your firm’s “best practice.”