

THE CIRCLE LINE

Psychology at work

Special Issue: Law



A NEW ERA IN CITY LAW?



DECEMBER 2023 | LAW ISSUE

WHY

The “lawyer’s mind” is an intriguing thing. I had one myself as a former lawyer at Dentons from 2004. Through The Circle Line, my mind changed. Given that views on mindset and culture have shifted over the last 5 years, I wondered what’s changed in law firms.

So The Circle Line team embarked upon this piece of research with interest and enthusiasm. We talked with 28 people from 17 law firms over 75 days, a mix of partners and HR professionals, to talk law firm culture and mental health. **Three main themes emerged: workload, perfectionism and fear vs empathy. We heard the seeds of change.**

I found a mixed bag of attitudes: the same gruelling hours, some fear of speaking out, some with the same “sweat the assets” ethic, the odd quip about “soft & fluffy”. Some said lawyers just don’t really care. I thought of all the smart, funny lawyers I’ve worked and spent time with and I know that’s not true. Lawyers do care; so why doesn’t their culture seem to reflect that? Many firms seem to succeed *despite* their culture, not because of it.

By the end of the project I was hopeful. I’d met with many partners willing to talk, albeit confidentially, some wanting to innovate with new kinds of training programmes, and some making wellbeing part of their strategies. I’d met with Vernon Dennis, an insolvency partner convinced that culture is the reason businesses succeed or fail (see page 16). And then another partner emailed me saying he was glad to contribute to the research but noting that the participants were like-minded, yet the problems at law firms are created by the sceptics. I agreed about the echo-chamber but assured him that “the ripple effect” is well established, see Dr David Hamilton’s *The Contagious Power of Thinking*. His response: “Happy to be a part of the (positive) contagion, if that’s what it takes!” I smiled. It’s a great start.

We all hope this report creates one ripple in the City pond. If more lawyers in more firms care that bit more - about their colleagues, their impact, but ultimately about themselves - I’d bet money on it improving your PEP in the long run. We’re up for the challenge if you are.

Pip

With



PHILIPPA RICHARDSON
FOUNDER OF
THE CIRCLE LINE



THE CIRCLE LINE
Workplace mental fitness

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**“MOST LAWS OF
NATURE EXIST AS
PART OF A LARGER,
INTERCONNECTED
SYSTEM OF LAWS.”**

— STEPHEN HAWKING

THE NATURE OF LAW

BY PIP RICHARDSON, PSYCHOTHERAPIST & FOUNDER

The tide is turning in the legal industry. At a series of roundtables and interviews throughout October and November 2023, dozens of legal professionals came to the table with us to talk about culture - mental energy, empathy, communication. **We saw three key themes emerge: workload, perfectionism and fear vs empathy.** This sort of discussion didn't happen "in my day" at Dentons (2004), but in 2023 there's a will for change and a belief that it is possible.

The bread and butter of a lawyer is the transaction. Humans are transactional too and it's these transactions that make up a firm's culture. Everything we say and do after "Hello" is a transaction between people. Whether the next line is "Not bad, thanks, you?" or "Go away", you've just completed a transaction. Work, and life itself, is essentially one giant string of transactions.

Like law firms, humans are structured; their brains wired by the same processes, their behaviour showing the same patterns.

Like the law itself, humans have their underpinning rules and codes. These patterns have been observed, studied and codified in detail over the last 100-years or so of modern psychology.

With the right framework, anyone can learn the human laws. This is where Transactional Analysis can help, the framework and method I use as a psychotherapist and the primary methodology of my workplace psychology company The Circle Line. As a former lawyer myself, this analytical approach to culture, based on spotting, understanding and improving social and internal interactions, fits well.

Here then is an opportunity to bring together the nature of a law firm with the nature of a human, for the greater good of both. For won't that be the secret sauce of the future firm in the era of AI - harnessing the colour of human nature to work in harmony with AI and the black letter of the law. The participants of this piece of research believed so.

What would happen if City firms learnt the human laws? Where could it take the future firm? Could it create the same PEP with fewer hours? Would you want it to? In this report we seek to answer some of these questions.



WORKLOAD

Dominating the discussion at the roundtables was hours worked and the impact on quality of output and mental health. All agreed reducing urgency and late night & weekend working would require a change of commercial model or more “resource”. Most believed both to be unacceptable solutions as they may risk reducing PEP. That link is not however proven. Ruling out those solutions for now, the focus moves to managing the stressful hours and increasing autonomy. No one mentioned the potential of AI to help.

Partner A: I know of a number of major corporate clients who’d be horrified at instructing a law firm requiring crazy hours of their staff. There’s a client desire for their lawyers to have better balance.

HR Director: A client recently asked the pitch question: “How are fee earners mentally fresh when taking on our work?” It was a great question. Ensures we are reflecting on that.

“Do we work hard as it’s necessary, or do we value ourselves by how hard we work?”

Partner B: The effect of lack of sleep on your productivity and ability to think clearly is clear. Why would clients paying £1k an hour want

their lawyers working at 50% capacity as they’re so exhausted? It comes down to resourcing.

Partner C: And lawyers are very scared to have honest conversations with clients. We feel pressure to deliver work before it’s even asked for. Sometimes it’s urgent, but relatively rarely. Clients are human too - if you appeal to that side most understand. But it’s a shift for law firms to move away from the “get everything done fast” mentality that we’ve created. Something can be done there.

Partner D: Some clients say it’s ok, but when it comes down to it, it’s not. But with forward planning at the client end and mine, there’s usually plenty of time and you can do it.

Partner E: Partners at the coalface hear management’s wellbeing message but think “if I give this person I value time off between 5-8pm the work’s coming back to me.”

The Circle Line: There’s no proof PEP would reduce with a different model, but how much PEP would you risk/invest for a healthier culture?

HR Director: I think ultimately the risk is if we do NOT invest in culture. People will leave.



“HOW SOME LAW FIRMS WORK IS NOT COMPATIBLE WITH GOOD MENTAL HEALTH. IT JUST ISN’T.”

Nikki Edwards, Partner at
Howard Kennedy

“EXCELLENCE VS NICE IS A FALSE DICHOTOMY. THIS IS NOT THE ONLY WAY TO DO LAW.”

Matthew White, Partner at
Herbert Smith Freehills



MindForward Alliance UK: Long hours aren't always bad - the magic ingredient is autonomy, and having someone who's got your back, all being in the trenches together.

Partner E: Yes, autonomy. Trainees recognise they're not in control; fee-earners aren't either - the client is.

HR Manager: In the management consultancy I worked in [one of the big 4] we got the whole team together with the client at the start to talk about how to run the project. I don't see that in the legal world. It needs to be a robust two-way conversation with colleagues and clients. It needs to be a dialogue.

“The answer is resourcing.”

Partner E: In private equity this wouldn't happen. I tried running a deal with a big enough team to allow everyone sensible hours, but the timetable got compressed and in the end it wasn't pretty. The feedback was our team liked the fact I tried...

Partner F: We have to educate lawyers to deliver their best work without suffering and clients to have realistic expectations on timetables and deliverables.

Partner D: Some firms actually market themselves as not signed up to the mindful business charter.

Partner E: We have work allocation managers who put up red flags and have 1:1 conversations if utilisation is too high. It's a helpful tool but not very sophisticated. Then we have an EAP for when things get bad - but there's more we could do, we should be using more preventative measures.

Partner D: I notice this conversation is all about lawyers - the other 50% of the firm get forgotten. A firm is not just lawyers. All business functions are important and part of and experience the culture.

Partner G: At the end of the day, a high performance culture is no excuse for not looking after your people. There's always room for improvement.



**“PERFECTION ISN’T
ALWAYS COMMERCIAL.
LAWYERS OVERDO IT -
WE CAN’T CLAIM ALL
THAT TIME BACK.”**

Virginia Clegg, senior partner at DAC Beachcroft

PERFECTIONISM

Perfectionism is one of the Big 5 “Drivers” - the full set being Be Perfect, Be Strong, Try Hard, Please Others, Hurry Up. These may read like the pinnacle of good service, but actually they are counterproductive when in overdrive.

Partner H: 70% of lawyers have recently experienced mental health problems - can't just be the industry's problem. It has to be the people in it.

Partner D: The environment doesn't have to be toxic or harmful but it's as if the industry has given up. We mustn't surrender. We can do it better. But I think there are common traits: we're pleasers, with difficulties relaxing probably. Work is how you validate yourself. For many years I just pushed through. The more stressed I got at work, I saw only two solutions and working harder was more effective than getting drunk. Eventually it catches up with you. There needs to be a concept of the good enough lawyer. It wouldn't go down well. But why not?

MindForward Alliance UK: Unhealthy perfectionism is different to healthy striving for excellence. The problem is perfectionism is rewarded in law firms.

HR Director: Yes and perfection isn't always best. Sometimes 90% is good enough.

Partner A: My old partner used to say “Is it ok, can I live with it?”. We need to be pragmatic, not perfectionist. The perfectionist lawyer fiddles with stuff forever which isn't getting the deal done for the client.

“There needs to be a concept of the good enough lawyer. But it wouldn't go down well.”

Partner C: Many very good lawyers are perfectionist but have no idea how to manage people. Some don't have a clue. Not every partner needs to be a brilliant people manager but they do need some ability. People are promoted to partner because they're excellent technical lawyers with high billing but may have no idea how to people manage. Historically it's not been anywhere near considered enough in partnership promotion.

Partner H: I agree. But I do think it requires a real effort to change the senior people's mindset. This roundtable is the more conscious end of the spectrum. But there absolutely are people saying “in my day...” Bringing your whole self into work is perhaps a bit idealistic. There's a professionalism required. But there's a difference between a boundary and a mask.

Partner E: Some partners do get it...

“PARTNERS NEED AT LEAST A BASELINE ABILITY WITH PEOPLE.”

Vanessa Whitman,
Partner at CMS



EMPATHY & FEAR

Participants experienced two key challenges at their firms: a lack of empathy and a climate of fear - fear of clients, of managers and partners, of missing a deadline, of making a mistake. I was surprised to hear of some law firms relying on charities for professional psych-education or counselling rather than making the investment.

Partner D: We can't have lawyers living in fear of messing up. The aviation industry is built on the acceptance that people *will* make mistakes - you have a support system and checks in place.

Trainee: You can smell our fear...

Partner E: The new generation do expect to be cared for. We have to care. I don't know how you train people to care if it doesn't come naturally.

Partner B: Hm, it's difficult to train people to care.

HR Director: We need to incentivise people to care. The line manager relationship is so critical. Building a culture where there's trust is really imperative. We have regular check-ins; wellbeing is first thing we talk about. Know how your colleagues usually work so you can proactively address any changes you spot and ask questions.

The Circle Line: You *can* train empathy. It takes time, commitment, but it absolutely is learnt.

Partner G: During COVID we were more supportive of each other - we should build on that.

"We live in fear. It's not healthy."

Partner D: All you have is the machine. You have to create a sense of belonging. A lot don't feel that. No spreadsheet tells you about daily interactions.

"The managing partners haven't changed for years. Those coming up have a very different philosophy, the team culture knocks up against the prevailing firm culture."

Partner C: We work with a third-party offering employees CBT but it's usually used for crises. We've shifted to sustaining good mental health, not just tackling crisis. Our "This is me" campaign started with crisis stories, but now we also discuss everyday mindset. It's really refreshing. Focussing on the full spectrum has helped move us forward.

Partner D: That's really strong. It's the much more subtle end of the spectrum we need to focus on. Mental health is becoming an unhelpful term - you can tell when you're speaking to a mental health eye-roller. It needs repackaging.

Partner G: We should talk about health and wellbeing so that we focus on all aspects, and before people reach crisis.



"PUTTING YOUR PEOPLE FIRST HAS TO BE GENUINE. YOU'VE GOT TO BELIEVE IN IT."

Martin Bunch, Managing Partner at Bates Wells

“WE REALLY TRY OUR HARDEST FOR OUR CLIENTS. BUT MANY LAWYERS LIVE IN FEAR. OF MISTAKES, OF CRITICISM, OF LOSING WORK. AND THAT CREATES PRESSURE.”

Robin Hilton, Partner
at Sheridans



SOLUTIONS

3 PRACTICAL STEPS THE CIRCLE LINE AND THE FIRMS INVOLVED IDENTIFIED AS REALISTIC, DOABLE AT SCALE, AND POTENTIALLY KEY TO C21ST SUCCESS.



Partner training

As Macfarlanes said “Culture is set from the top.” If you can’t afford to invest in firm-wide training, focus on new partners, due to their age and potential for change, longevity in the firm, impact on juniors and the Ripple Effect.

The desired outcome? As one partner at A&O said, “You want someone self-aware enough to work out how to be resilient and how to deal with difficult situations.”

Coping with stress

Ongoing activation of the stress response is detrimental to both physical and mental health, and has negative impacts on business - sick days and lack of productivity. With stress a given, the task is learning how to activate the parasympathetic stress response (calming the nervous system) and shifting thought patterns. Both are skills that can be trained. We recommend this is part of a firm’s induction process, with regular 1:1 sessions for all.

Developing emotional intelligence

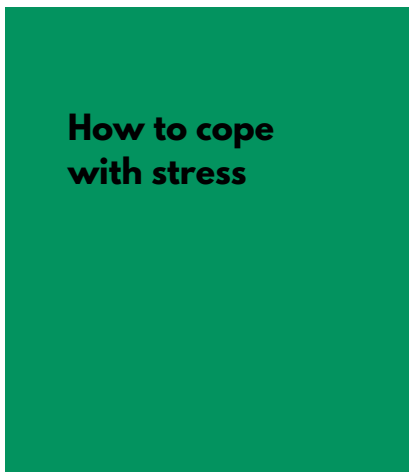
How you work together is as important as how much work you do. Colleague relations can make or break an employee’s experience.

Being respectful and “Adult” is key, and possible within the current commercial model. Consider:

- Giving control and autonomy over *how* work is done.
- Creating a shared framework and language for desired behaviour patterns as a guide.
- Training to build “soft skills”: awareness of your tone of voice, body language, implied messages, critical labels, clarity to build trust. Communication style tends to be ingrained but is changeable with training.
- 1:1 sessions recommended as well as group-work.



**New Partner
training**



**How to cope
with stress**



02.



03.

**Develop
emotional
intelligence**

BUILDING BETTER

MARTIN BUNCH, MANAGING PARTNER OF BATES WELLS, THE FIRST B CORP LAW FIRM, TALKS PEOPLE, PROFIT AND PURPOSE WITH POLLY BENTON & PIP RICHARDSON OF THE CIRCLE LINE.

"Putting your people first has to be genuine. You've got to believe in it," says Martin. It's quite an opener, as we settle into comfy seats in their modern open plan break-out area-come shared kitchen. The space looks like a modern law firm, but this doesn't quite sound like one.

Bates Wells is a B Corp. Many of the lawyers we spoke to for this research weren't familiar with the B Corp movement, big in the startup world. B Corp Certification aims to transform the global economy to benefit people, planet and communities. It is leading economic systems change to create an "inclusive, equitable, and regenerative economy".

B Corp status helps companies "make meaningful legal change on corporate accountability and social impact". (B Corp website). To achieve certification, a firm must:

- Demonstrate high social and environmental performance through a rigorous impact assessment.
- Make a legal commitment by changing their corporate governance structure to be accountable to all stakeholders, not just shareholders,
- Exhibit transparency by allowing information about their performance to be publicly available.

B Corp state: "We believe:

- That we must be the change we seek in the world.
- That all businesses ought to be conducted as if people and place mattered.
- That, through their products, practices and profits, businesses should aspire to do no harm and benefit all.
- To do so requires that we act with the understanding that we are each dependent upon one another and thus responsible for each other and future generations."

At Bates Wells this manifests in two ways a) their approach to their people, and b) their work with clients. Policies are consultative and include hybrid working with 2 days in the office, flexibility with 30% part-time, and a raft of wellbeing benefits: unlimited counselling, mental health first aiders, a nutritionist, personal training, menopause planning and champions, IVF parenting/caring support. In terms of team dynamics, they're Mindful Business Charter signatories and provide regular training on feedback, communication, personal confidence and conscious inclusion practices.

Bates Wells work with clients that align with their values and have a wider positive impact beyond profit. They target B Corps and purposeful businesses - by looking for clear tangible evidence of their relationships with community and stakeholders, their accreditations and charters. Then they help them drive their purpose. Reputational, environmental and social risks are part of their legal work. Instruct a Bates lawyer and you'll be challenged on your supply chains or treatment of employees - and they'll help

you embed meaningful and manageable measures and protect you from contracting against your values.

It sounds idyllic on paper. Does it work in practice? Martin tells me, "Well, a newly recruited partner told me over lunch the other week "Everything you told me in the interview is actually true". That meant a lot to me. You have to live it."

There's a collegiate atmosphere to the 250-strong firm. As HR Manager Gemma New says "It feels very cohesive here, nurturing, Bates is its own community." Could a larger firm follow suit? "Our approach is perfectly scaleable", says Martin, "If partners are willing to be a bit less greedy."

Change to law firm culture won't happen overnight. As Martin says, "it's about evolution not revolution." But in this era of AI, and given the increasingly human demands of clients and Gen Z, law firms will need to adapt. It'll be the firms with a solid purpose, and a deep recognition of the people achieving it, that will fly the highest.

WHY BUSINESSES FAIL

CULTURE IS THE ESSENCE OF ALL BUSINESS SUCCESS, AND IT HAS A RIPPLE EFFECT. BY VERNON DENNIS, HEAD OF THE RESTRUCTURING AND INSOLVENCY GROUP AT HOWARD KENNEDY

My sweet spot has been boardroom advisory focussing on insolvency and restructuring but increasingly this leads me to question why businesses fail, how they can improve, and what steps they need to take. This has led to my greater consideration of governance and ESG, getting involved in various ESG initiatives at Howard Kennedy and lecturing on ESG and Director's Duties, I've become most interested in ESG as a holistic approach to business analysis and increasingly lecture on the wider issues around staff engagement and culture - and in doing so the overriding view that I've formed is that culture is absolutely the essence of all business success and failure.

Culture is the fusion of the processes, procedures, and rules of your governance structure with the behaviours, attitudes, and views of your people. If you've got a misalignment of these inputs, you get a poor culture. With good alignment you get a good culture. The desired culture is a subjective assessment depending upon the nature of the business, its purpose and vision, and will be in a constant state of flux depending upon who leaves and who joins, external factors impacting the business and wider socio-economic changes.

In the last nine months, I've re-thought what ESG is and what it isn't. It started out as a supercharged CSR coming from corporate philanthropy, but it's more than that. While ESG has a whole raft of legislation and regulation it's more than just legal.

Is it about doing business better? An environmental and social justice imperative for businesses to view people, planet, and profit in equal measure, such as seen with the B Corp and Teal movements? The driver is "let's make the world better". However, I have come to believe that ESG is not about a business deciding what is or is not better for people and planet.

The reason for this is that ESG as a social justice movement is subject to a massive backlash, particularly from the United States, with Ron DeSantis and Vivek Ramaswamy, author of *Woke Inc*, talking about woke capitalism, stirring up the view that the purpose of business is profit, not to determine social and





environmental policy; that's for governments. It's got worse in the States because the insurance industry put together a Charter outlining their responsibilities to insure in a morally, socially, and environmentally responsible way. That fell apart after a number of actions in the southern states saying it was anti-competitive because it was preventing the cost-effective insurance of the tobacco, oil and gas industries, industries essential to those States. In the UK the business secretary, Kemi Badenoch, in a speech at the Alliance of Responsible Citizenship Conference in November 2023 added to this chorus saying that businesses are putting virtue signalling before profit, using certain initiatives to attract investment to hide poor business performance. Add to this criticisms that ESG is anti-innovation, causing 'safety-ism' and the wish to 'over protect'.

Then you get the problem that some businesses are being inauthentic. They say they're doing the right thing but are actually just "green washing" or "wellness washing". So, we've got the worst of both worlds; an attack on businesses doing the right thing, and businesses saying they're doing the right thing but not backing it up.

ESG is better viewed as the promotion of a good business culture. To promote "better" business, or as I prefer "impactful" business, directors need to do two things: 1) assess the impact of all activities on all stakeholders: employees, suppliers, customers and the community, whether local, domestic, or international. Then 2) implement a strategy to respond to that impact in accordance with your purpose and values. The adopted ESG strategy will accordingly be different for every business; a unique reflection of business impact and the authentic response to that impact. An oil company will be more concerned about environmental impact, a law firm more concerned about ethics, behaviours, attitudes of its people.

The company with a B Corp constitution does in fact contain pretty similar directors' duties to those in s.172 of the Companies Act 2006. Under s.172 a director has an overriding duty to promote the success of the company. Shareholders' interests will generally prevail, but not always. The interests of the company and its shareholders will align with different stakeholders at different times. In an insolvency, acting in the company's best interests means the creditors' interests prevail, not the shareholders'. At another time acting in the best interests of the company may well mean, for example, acting in the best interests of the community - these are not either/or decisions. It's a balance depending on the circumstances and acting in accordance with the interests of 'an enlightened shareholder'.

WHY BUSINESSES FAIL cont.

I've heard "we can have profit, or we can have a good culture, not both" - it's rubbish. A wellness initiative that is inauthentic or short-term will be a cost to the business with no benefit to the bottom-line. For example promoting a family-friendly working culture is fundamentally undermined by processes and procedures that reward anti-social working practices. This is a misalignment of inputs.

By investing in creating a healthy workplace culture you'll end up being more profitable. It will be sustainable longer-term profit as opposed to short term profit that ultimately damages your business, bringing issues of breach of directors' duties, issues with your shareholders, and direct causes of action if you cause damage to stakeholders. Take Glencore; they have admitted historic bribery and corruption practices in subsidiary companies, leading to \$1 billion fine in the States, £480 million in the UK. Now 200 fund managers are bringing a class action for loss in share price and misrepresentation inducing investment. Poor culture damages the company itself, which in itself is a breach of the Director's Duties.

The Law Society Thematic Review, following Law Care's survey finding terrible statistics on mental health and discrimination, led to a change in the Solicitors' Code of Conduct so that we now have a responsibility to call out behaviour. Behaviour of individuals can pose an existential threat to a business. Look at Crispin Odey, a fund manager of a highly successful fund but the investigation into his alleged personal sexual misconduct has led to the collapse and closure of the fund. It's not the act complained of that is the cause of business failure, but the culture that the business allowed to persist, and then the business's response (or lack of appropriate response) to the behaviour.

In the past it was clear that businesses and industries (for example film and TV) have allowed poor behaviours and a toxic culture to persist because the talent brought in the revenue; the so-called 'rainmaker immunity'. You need a whistleblowing culture where people will say "that's wrong" and a business that, through its processes and procedures, will do something about it.



Change is hard. In a law firm full of risk-averse people it's even harder. Lawyers love inspecting documents and taking them apart. We seek the perfection of a particular plan and spend forever talking about it. Lawyers' risk analysis is fantastic, so they will always be able to tell you all the reasons why it won't work. In reality you need to try the thing. If it doesn't work, fine you change it.

We're introducing mandatory firm-wide training on the behaviours we expect of each other - not based on rules but principal-based frameworks authentic to what we collectively believe is appropriate for us. We'll start with a pilot and go from there.

Change is also slow. Ask people what they want, they tell you more of what they know, just quicker or less expensive. Henry Ford said 'If I'd asked people what they wanted, they'd have said faster horses'. I recognise that you don't know what you don't know. You need an innovator, someone to go first with a new idea, champions to pass it on, and gradually followers to get the idea supported throughout the majority of the business. When bringing in new things that haven't been done before you don't go for wholesale change accepted by everyone. Rather than going in with a blueprint, ideas have to be seeded in different parts of a business. It's a slow process but change is hard and slow - and possible if you want it.



Vernon Dennis, a highly experienced specialist in business transformation, is Head of Business Advisory at Howard Kennedy and leads the firms Restructuring and Insolvency group.

Vernon is a solicitor with 30 years' experience designing and implementing financial recovery and restructuring plans for business clients.

Known for his technical expertise and for making the complex simple, Vernon advises insolvency practitioners, creditors and debtors on a wide range of corporate recovery, reconstruction and business rescue issues. He specialises in strategic and advisory support for company boards when planning programmes of business turnaround, restructuring or transformation.

Vernon's expertise is of universal application in any business sector but he has extensive experience in retail and restaurant distress, property portfolio restructuring and cases known for their technical complexity.

Vernon is a Fellow of R3 (The Association of Business Recovery Professionals). A regular lecturer and commentator on insolvency, he is author of the Law Society's Insolvency Law Handbook now in its 4th Edition (published April 2021). He is also co-author of New Law of Insolvency (2003) and sole author of the Law Society's Insolvency Law series; Administration (2010), Liquidation (2011), and Bankruptcy (2012).

THE CIRCLE LINE WAY



CALLING PIONEERS.... ARE YOU READY TO INNOVATE? WHAT'S YOUR NEXT STEP?

Do you want more confident lawyers able to better handle clients, stress and create collaborative team dynamics?

At The Circle Line we offer you a new kind of experiential training programme...

- Neuroscience and Transactional Analysis based training - 1:1 and group
- Increasing emotional intelligence and self-awareness
- Igniting powerful ways of transacting with colleagues and clients.

Working with Prof. Devlin, Professor of Cognitive Neuroscience at UCL, and our team of accredited and vetted practitioners, our work is designed to have meaningful impact on mindset and culture in your firm.

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