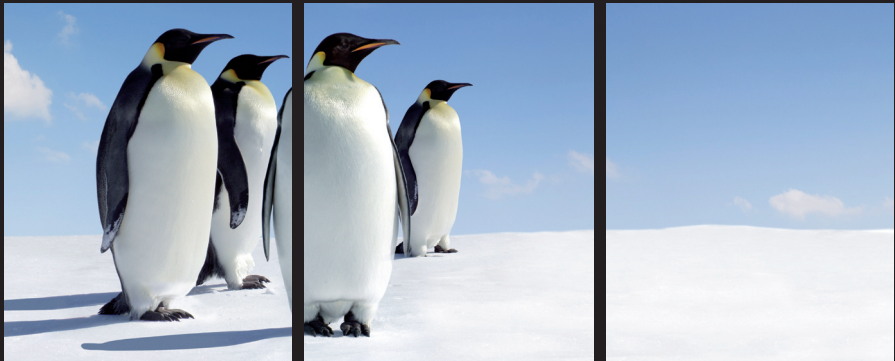


# Organisational Culture in Law Firms

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# Chapter 1: The meaning of organisational culture

IN RECENT years, law firms have followed the trend in business generally and seized on their culture and values as an important thing to address. The problem, though, is that there is considerable confusion with the concept of culture in an organisation and many very misleading statements have been made, both inside and outside firms. Comments that firms have adopted a new strategy and culture abound in the literature – and this new culture seems to have happened overnight in many cases. As Edgar Schein stated ‘Organisational culture is the most difficult thing to change in an organisation.’<sup>1</sup>

For example, the issue of culture change has come up very recently in numerous articles and comments on the impact of the Legal Services Act. The issue is whether the entry of external investors into a firm will lead to an impact on its culture. In a recent edition of the *Law Society Gazette*, writers Miguel Pereira and Fergus Payne stated in their article, ‘Changing law firms’ culture’ that:

‘In order to understand whether external investment may have an impact on the culture of the firm, one needs to ask what does “culture” actually mean? There is no one answer which applies to all firms but solicitors may argue that it can be best described as the common approach used by a firm’s members and/or management teams when handling various situations or making decisions. This will manifest itself in a number of ways from, for example, how internal policies on HR or recruitment are drawn up, to how budgetary and strategy decisions are made or conflicts handled.’<sup>2</sup>

The authors went on to conclude that they thought it unlikely that external investment would lead to a detrimental change in the culture of any firm accepting external investment. They argued that the investors would have investigated the culture along with the existing management and business plans prior to making the investment and decided that it was a business in which they would invest. In the event that a firm did not achieve the targets

that had been set then ‘...relationships may become strained and lead to different approaches being adopted.’

First, while the culture might vary between law firms it is not correct to state that ‘...there is no one answer which applies to all firms’. The elements that contribute to an organisational culture are universal and although there are many (and somewhat different) definitions of organisational culture, there is a common language regarding the critical elements that constitute it.

Second, while a strong organisational culture will tend to lead to a consistent approach to the way things are done, that is a *consequence* of the culture, *not* the culture itself. Examining policies, systems, and procedures in a law firm certainly can help to develop an understanding of the culture but they are not the culture itself. This suggests why the authors thought that the meaning of culture would be different between firms: but different cultures will produce different patterns of behaviour.

The third error in the article is the confusion of strategy and goals with culture. The comment that a failure to achieve agreed goals and targets could lead to ‘different approaches’ is completely ambiguous in an article dealing ostensibly with culture change. Will the investors demand a different approach to culture or to how the business is managed – and is that the same thing? Of course it might be; and it might not be. Maybe a firm will require a change in culture to achieve the goals that have been set but that will take some time. Or it could mean, simply, a better approach to managing the firm within the existing culture. Too many lawyers seem to think that almost any change in a firm is part of a culture change, when in fact it need not be.

The final comment about this article is about the timing of culture change. Because people take a superficial approach to culture (as the article does), this leads to inaccurate statements about a change to a firm’s culture. All sorts of organisational changes can be made in a law firm without a fundamental change in culture. A constant theme in this report is that a real and effective change in a firm’s culture takes a considerable amount of time, much more than many law firms seem to think.

While we have used this article to demonstrate the flawed thinking about culture change in law firms, we are not saying that the authors stand out for having views that differ from much of the legal profession. Indeed we have used this article because we see it reflecting some very common views about

culture change that run through the profession. A major purpose of this report is to clarify the situation and provide a set of principles about culture and culture change that can be applied by any law firm (or any professional firm for that matter).

So what *is* meant by organisational culture? One of the most respected writers on organisational culture, Edgar Schein, has defined it thus:

'A pattern of shared basic assumptions invented, discovered, or developed by a given group as it learns to cope with its problems of external adaptation and internal integration that have worked well enough to be considered valid and therefore, to be taught to new members as the correct way to perceive, think and feel in relation to those problems.'<sup>3</sup>

A similar definition is put forward by a number of other writers on the topic. For example, Ravasi and Schultz both define it as a set of shared mental assumptions guiding the interpretation of events leading to people adopting behaviour they judge to be appropriate for dealing with various situations in the organisation. They, and others, note also that the culture will be reflected in all aspects of an organisation and that sub cultures that differ from the overall culture can develop in large organisations.

On the other hand, Deal and Kennedy<sup>4</sup> define organisational culture as 'the way things are done around here' – which is far too simplistic. As noted on the earlier article, this defines the outcome, but does not define what culture is. The danger in applying this is that it makes it appear simple to change the culture: change what people do and, Eureka; we have a change of culture! As we noted above (and discuss in more detail later,) many things can change in an organisation without there being a change of culture.

This simplistic view of culture comes through strongly in law firm mergers. A question we ask often of the management of recently merged firms is how they went about assessing the culture of the two organisations before the merger took place. The most common answer is that the negotiating teams hit it off from the start, as did the partners from each practice group when they met. While there were always a few exceptions, most people got on well.

The second most common answer is that they knew each other very well in the time leading up to the merger discussions. They were often on different sides of deals and litigation matters. Many partners knew and respected those in the other firm generally and always got on well in meetings.

This is what a high proportion of law firms call a 'test of cultural compatibility'. (Even worse, there are consultants who actually recommend this as a valid process.) You might as well bring together a Frenchman, an Irishman, a Mexican, a German, an Australian, an Englishman, and an American, serve drinks to them for an hour, and assume that because no one shouted at or threw their drink over the others, their cultures are compatible. People are generally socially polite and will endeavour to get on with others in a social or business context, but it doesn't mean that they have the same deep-seated set of values. Would two law firms merge on the basis that the profits of the two firms looked about the same, and the accounts were prepared in a similar style, without carrying out in-depth due diligence? Unlikely. So why take a different approach to culture? (We touch on this again in Chapter 2.)

The critical point here is that culture in an organisation is much more than people 'getting on with each other', or being socially compatible. This problem can be seen clearly when individuals move firms. There are numerous examples of a firm having recruited a highly talented individual who was regarded as an excellent performer in their previous firm, but who does not perform as well in the new one. The recruit seems somewhat unhappy, is not highly motivated, and their performance is barely average. One could blame the individual, and assume that they were over-rated by their previous firm. The other, more likely, reason is that the individual has not changed, but does not fit comfortably into the culture of the new firm and so over time their performance is adversely affected.

Organisational culture can have a very powerful influence over the motivation and performance of people. Put a high-performing person or group of people into a culture in which they do not feel comfortable, and their performance will always worsen over time. While the content or quality of their work may not decline, other aspects of their performance will – they will become unhappy, frustrated, and increasingly disagreeable. They might appear to be quite friendly with others, but they will express dissatisfaction with the organisation, its management, and the way it operates. At some point they will either leave, or their overall performance will decline to such an extent that they will probably be forced out. However, put the same person or group in a more compatible culture, and they will thrive. Culture is a very potent tool, and is ignored at great peril.

## Defining organisational culture

The starting point in understanding culture is to know what it is that we are trying to understand. As we touched upon above, the problem with many law firms is that they confuse behaviour with culture. While the two are indirectly related, the way people behave in an organisation is influenced by many things as well as culture. Hence, the saying 'culture is the way we do things around here' is a misstatement. It could be that 'our culture is reflected in the way we do things around here', which is somewhat different. Another incorrect statement is that culture is 'our internal environment' or 'our firm's climate'. Again, there will be a relationship between the two, but they are not the same thing: it is the culture that shapes the internal environment.

Behaviour, internal environment and climate, the systems and processes, the way a firm operates, and even its strategy and goals, are all manifestations of an organisation's culture, but they are not 'the culture'. Equally, not every act of every person can be attributed to culture. Some will simply follow common sense or other procedures that are driven more by good organisational practices than by culture. On the other hand, over time and across a firm, there will be some behavioural patterns that are followed by a large majority of people, and while these patterns are reflections of the culture, they are *outcomes*; they are not 'the culture'. The reasons behind why these behavioural patterns occur, why some systems are used and others not, why some people are comfortable with the organisation and others not, will provide a set of hypotheses about culture that can then be tested. In other words, a study of all these outcomes allows us to start to identify what might be the culture behind them along with the set of supporting values. But they are not the culture.

There is no single definition of organisational culture that satisfies everybody, but a definition that we have used successfully (in that it is understood and provides an effective framework for investigating the culture of a firm) is as follows:

At its deepest level, culture is a set of fundamental beliefs, values, and assumptions that are shared within a group (i.e. an organisation) and guide behaviour, processes, systems in, and the direction of, that group.

Organisational cultures are strongest where a high percentage of people hold a common set of beliefs, values, and attitudes in high esteem, even though they are not issues that people consciously share or discuss or, in many cases, are even near the surface in their day-to-day life. Take, for example, someone who has a profound and deeply held religious belief. That belief will shape much of their behaviour, and they will justify much of what they do on the basis of that belief, albeit usually subconsciously. If asked why they did a certain thing, they would say something like 'because it seemed right' or 'it was appropriate'. If pushed a bit further, they might say 'it was fair to others' or 'it seemed the action that would cause the least offence'. If pushed even further, they might start to talk about how they believe people should treat others, and, if pushed really far, they might articulate certain principles within their religious belief. In other words, respecting fellow human beings is a consequent value of their deeply held religious belief, but that is not the way they think about their actions unless interrogated quite strongly and persistently. Eventually they will articulate something about their deep-down belief but it is not where they start from, even though it is the principal driver of their actions.

Much of our behaviour is driven in this way. Each of us holds a deep-seated view of the way in which world works (and how to survive in 'our world'), about human nature, and how we believe we should interact with the world and with those around us. We develop these views as children – from our parents, siblings, school; in other words through the process of growing up. By the time we reach adulthood, most of us have developed a set of beliefs and assumptions about what drives and motivates people, how the world works, and how we need to interact in the world in order to achieve our goals in life. We rarely articulate these beliefs and values, and mostly take them for granted. They become embedded in our subconscious and rarely surface at the conscious level. If they were spelt out to us we would see them as normal and assume that they are what everyone believes. There would be a tacit assumption that they must be right 'if I am coping well with the world'; this relates to our attitude to past events. The following are statements that illustrate three different views about human nature and how the world works:

1. 'At the end of the day, when push comes to shove, people are motivated by money and nothing else. They can say what they like, but the end game is money.'



2. 'Fundamentally, people want to co-exist in a harmonious way, and we should be seeking to ensure this happens in everything we do. Our main task in life is to strive to overcome obstacles to this.'
3. 'At the end of it all, people will take all they can get so you have to protect what is yours.'

Each of these statements reflects a different view of 'the way the world works' and human nature. The people who hold them might well co-exist in an organisation with very little tension on a day-to-day basis. Come a crisis, however, and the attitude and behaviour of each person will be driven by their underlying beliefs and we will get a quite different reaction, and in some cases conflict in the actions taken.

Assume the firm in which these three people are partners suffers a very large fall in profit and they all suffer a major drop in income. In the debate that would surely follow, the person who holds view (a) would forecast the collapse of the firm because people will leave and go where they can earn more, and so urge management to cut costs to the bone so as to improve profit quickly. The person holding view (c) would argue for a change in the profit sharing arrangements and seek to manipulate the situation to improve his or her own position, justifying it by the value they have contributed above others (who would be blamed for the problem). The person holding (b) would be trying to achieve a consensus around the conflicting views in the room and would either end up trying to develop a compromise that might satisfy no one, or seek a solution around keeping status quo as people seemed to get on prior to the crisis. The different underlying beliefs lead to quite different views about the actions (i.e. behaviour) that should follow the profit collapse. Had they all had the same belief then they would have been likely to interpret the required actions in a similar way.

Just as each of us has our own view about human nature and the workings of the world, so the same is true of organisations. The founders of an organisation inject many of their beliefs, values, and assumptions into the structures, systems, and processes of their organisation. Over time, other strong leaders emerge and adapt these and reshape them, and a culture therefore evolves. In some organisations, the culture is very strong while, in others, it can be much weaker. Some people may find their organisation

an 'uncomfortable' place to work and complain 'it is very formal', 'they are always checking up on you', 'it is run by systems and procedures', 'there is no freedom', etc. Others may find that the same organisation operates the way they think it should as their beliefs are around the world needing to be a structured place. In contrast, the former hold a deep view about the world being a place where individual freedom is crucial for people to thrive and prosper.

The same principles underpin many of the differing political beliefs. Think about the beliefs that underpin the views of a person who is committed to socialism compared with those committed to a very liberal society where the role of the state is limited to an 'Adam Smith' type of world; or a democratic approach where policies are for the 'greatest good of the greatest number.'

Deep down in most organisations lays a set of beliefs and assumptions about human nature and how the world develops, and these are held by a percentage of the people in the organisation. A set of values flows from this, and it is the combination of these (i.e. the beliefs, assumptions, and values) that forms the culture of the organisation. This culture shapes the structures, systems, processes, and behaviour in an organisation. The culture, if it is strong, can provide direction, motivation, and purpose to people; if it is weak, then it will have an influence but will be accompanied by a considerable amount of divergent behaviour. It can also be wasted by leaders and managers who, in failing to understand the key aspects of their organisation's culture, start to reshape the structures, systems, and processes in ways that are contradictory to the underlying culture before they start to adapt the cultural norms. This is what can happen in a post-merger situation when the new leadership announces a 'new' culture for the merged firm, without being aware of the impact of the underlying cultures of the two antecedent organisations.

There are some organisations where there is almost no semblance of a firm-wide culture. We see this in many law firms who have developed in such a way that they consist of groups of sub-cultures and there is a constant tension between the groups over decisions and actions. This is due largely to the fact that culture tends to become much more important as a firm responds to competitive forces and needs to make choices about the actions it will take. The legal profession was quite benign generally in terms of competition until the late 1980s/early 1990s. In this environment, firms

promoted people into partnership with the sole or main criterion being their technical ability. The question as to whether there was a cultural fit was rarely, if ever, thought of, let alone discussed. The question might have been asked about whether they got on with people, but in an era when firms operated with low competitive challenges, the types of issues that could create a cultural divide rarely came up.

As a consequence there are many law firms (in the UK and US, as well as elsewhere) where there was no strong organisational culture prior to competition increasing and, as the firms have grown, the culture as such has become a series of sub-cultures. Over time people attached themselves to the group with whom they identified the most. The leadership and management over the years saw their main task as keeping the sub-cultures in some sort of equilibrium, rather than as attempting to forge an over-arching culture for the firm as a whole. In one sense this was a sensible approach, as any attempt to develop a firm-wide culture would almost certainly have led to a struggle as the sub-cultures all fought to be the dominant one. The outcome would have been that people would leave when they saw their group 'losing out' to others and some would have been strong performers. On the other hand, the preservation of the sub-cultures has led to many firms still being unable to move forward decisively on key issues because they cannot get agreement to what are some difficult decisions.

The sub-culture nature of these firms means that whatever the issue, there will always be opposition from a sizeable minority to any proposal and the end result is a watering down of recommendations in order to get a majority of partners to agree. The consequence is that the firm is unable to take the actions that will be effective in sustaining its competitiveness until a crisis hits; by then the firm probably will have lost considerable ground to the competition and might even be in a position of not surviving.

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