

Psychological flexibility is a key lawyerly skill

Mark Smith, Cambridge Judge Business School

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Consultant: On completion of his MBA, Mark Smith turned to academia. He had spent six years practising law at national and London City firms and now works as a consultant and executive coach to a number of law firms. Smith said that in a turbulent 21st century information economy, our brains are often operating on pre-historic software, in terms of our emotional responses. Our brains are prediction machines for working out what's likely to happen next. He urged the assembled in-house lawyers to assess every situation calmly in terms of risk or opportunity.

Brain training: What may initially present as a risk can often be reframed in terms of opportunity, if we train our brains to adapt. Lawyers are status-conscious, he said, and since we are social creatures, we attach importance to our high status and the priority access it gives. For lawyers, being right matters because it props up high status. Being proven wrong, particularly in a group situation, is associated with losing status.

Relatedness: But relatedness, and operating successfully in a group, is just as important as winning an argument because humans will always need other people. Smith pointed out that our brains can't operate well if our psyches are in threat mode. Feeling under threat is unlikely to result in high-quality creative thinking. Getting things wrong acts as a threat to our status, and by extension to the status of one's law firm or business.

Emotional response: Feeling under threat can trigger an emotional response but lawyers need to learn how to manage this. When we feel emotions, there are two potential responses – to express it, or suppress it. Mark Smith pointed to research that if one person in a two-way conversation is suppressing their emotions, the other party's blood pressure goes up.

Expressing rage: "Emotional suppression is bad for everyone," he said, but openly expressing rage is not wise either, in the workplace. He suggested that every situation can be reframed in a systematic, regular and thoughtful way. This is called the 'process model of emotion' whereby the meaning we make of each situation is reframed using the power of our brains.

Behaviours: A different emotional response prompts a different and more helpful set of behaviours. "This is about psychological flexibility and giving yourself more options," he told the assembled lawyers. Think differently and generate some other options, he advised. "As human beings, choice is better than no choice," he said. "Reframing is such a fundamental skill, it should be taught to all children in school," observed Smith. Simply naming an emotion can take some of the sting out of it. However, we shouldn't spend too much time ruminating on our feelings. While creating new emotional habits is simple, it's not easy, he said, because it means changing our brain pathways.

Fast-paced lawyers may not instinctively take the time to reframe threats as opportunities but doing so will lift the "threat load" they feel in work. A solutions-based approach that reframes threatening

situations will lead to higher productivity than rigidly over-analysing a problem. General counsel can prompt their teams with questions about a different way to think about issues that present themselves. Lawyers are trained to think about problems but reframing is more likely to lead to a lasting solution, that will work and endure, Smith said.

Language of emotions: Work is generally not good at the language of emotions since it concerns units of production and business gains, he said. Lawyers are trained to offer advice and believe that the value they create lies in the solutions they give. However, helping someone come to their own answers is more likely to result in a solution that “sticks” and actually works. “Ideally, hold off from offering advice and solutions and get [the client] to do the thinking first.” He said going straight to giving advice can lead to a loss of status and autonomy for the recipient. Smith pointed out that uncertainty puts us into threat mode but that quite often leadership will try to keep difficult news from staff.

Sense of injustice: If we sense that we have been treated unfairly, then a sense of injustice can burn for years, he observed. Mark Smith also said that lawyers tend towards hyper-specialisation, he said, but moving in-house may allow a more generalist approach to a career.